

(127th General Assembly)
(Amended Substitute House Bill Number 100)

AN ACT

To amend sections 102.02, 102.06, 109.981, 119.01, 131.02, 1707.01, 3345.12, 3923.41, 3923.44, 3923.47, 4121.01, 4121.12, 4121.121, 4121.122, 4121.123, 4121.125, 4121.126, 4121.128, 4121.37, 4121.441, 4121.48, 4121.61, 4121.67, 4121.70, 4123.25, 4123.29, 4123.291, 4123.311, 4123.32, 4123.34, 4123.341, 4123.342, 4123.35, 4123.351, 4123.37, 4123.411, 4123.44, 4123.441, 4123.47, 4123.50, 4123.511, 4123.512, 4123.66, 4123.80, 4123.82, 4123.92, 4125.05, 4127.07, 4127.08, 4131.04, 4131.06, 4131.13, 4131.14, 4131.16, 4167.02, 4167.07, 4167.08, 4167.09, 4167.11, and 4167.14; to enact sections 121.52, 3923.43, 3923.441, 3923.442, 3923.443, 3923.444, 4121.129, 4121.75 to 4121.79, 4123.321, and 4123.442; to repeal section 4121.06 of the Revised Code; to amend Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly, as subsequently amended; and to amend Section 3 of Am. H.B. 67 of the 126th General Assembly, as subsequently amended, to abolish the Workers' Compensation Oversight Commission, the Internal Security Committee, and the Services Committee of the Workers' Compensation System; to create the Workers' Compensation Council, Bureau of Workers' Compensation Board of Directors, and specified working committees, to transfer the powers and duties of the Oversight Commission to the Board and the working committees, to make other changes in the Workers' Compensation Law, to make appropriations for the

Bureau of Workers' Compensation and the Industrial Commission for the biennium beginning July 1, 2007, and ending June 30, 2009, and to provide authorization and conditions for the operation of the Bureau's and the Commission's programs.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 101.01. That sections 102.02, 102.06, 109.981, 119.01, 131.02, 1707.01, 3345.12, 3923.41, 3923.44, 3923.47, 4121.01, 4121.12, 4121.121, 4121.122, 4121.123, 4121.125, 4121.126, 4121.128, 4121.37, 4121.441, 4121.48, 4121.61, 4121.67, 4121.70, 4123.25, 4123.29, 4123.291, 4123.311, 4123.32, 4123.34, 4123.341, 4123.342, 4123.35, 4123.351, 4123.37, 4123.411, 4123.44, 4123.441, 4123.47, 4123.50, 4123.511, 4123.512, 4123.66, 4123.80, 4123.82, 4123.92, 4125.05, 4127.07, 4127.08, 4131.04, 4131.06, 4131.13, 4131.14, 4131.16, 4167.02, 4167.07, 4167.08, 4167.09, 4167.11, and 4167.14 be amended; and sections 121.52, 3923.43, 3923.441, 3923.442, 3923.443, 3923.444, 4121.129, 4121.75, 4121.76, 4121.77, 4121.78, 4121.79, 4123.321, and 4123.442 of the Revised Code be enacted to read as follows:

Sec. 102.02. (A) Except as otherwise provided in division (H) of this section, all of the following shall file with the appropriate ethics commission the disclosure statement described in this division on a form prescribed by the appropriate commission: every person who is elected to or is a candidate for a state, county, or city office and every person who is appointed to fill a vacancy for an unexpired term in such an elective office; all members of the state board of education; the director, assistant directors, deputy directors, division chiefs, or persons of equivalent rank of any administrative department of the state; the president or other chief administrative officer of every state institution of higher education as defined in section 3345.011 of the Revised Code; the executive director and the members of the capitol square review and advisory board appointed or employed pursuant to section 105.41 of the Revised Code; the chief executive officer and the members of the board of each state retirement system; each employee of a state retirement board who is a state retirement system investment officer licensed pursuant to section 1707.163 of the Revised Code; the members of the Ohio retirement study council appointed pursuant to division (C) of section 171.01 of the Revised Code; employees of the Ohio retirement study

council, other than employees who perform purely administrative or clerical functions; the administrator of workers' compensation and each ~~voting~~ member of the bureau of workers' compensation oversight commission ~~board of directors~~; the bureau of workers' compensation director of investments; the chief investment officer of the bureau of workers' compensation; the director appointed by the workers' compensation council; all members of the board of commissioners on grievances and discipline of the supreme court and the ethics commission created under section 102.05 of the Revised Code; every business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center; every person who is elected to or is a candidate for the office of member of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district or of a governing board of an educational service center that has a total student count of twelve thousand or more as most recently determined by the department of education pursuant to section 3317.03 of the Revised Code; every person who is appointed to the board of education of a municipal school district pursuant to division (B) or (F) of section 3311.71 of the Revised Code; all members of the board of directors of a sanitary district that is established under Chapter 6115. of the Revised Code and organized wholly for the purpose of providing a water supply for domestic, municipal, and public use, and that includes two municipal corporations in two counties; every public official or employee who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code; members of the board of trustees and the executive director of the tobacco use prevention and control foundation; members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation; and every other public official or employee who is designated by the appropriate ethics commission pursuant to division (B) of this section.

The disclosure statement shall include all of the following:

(1) The name of the person filing the statement and each member of the person's immediate family and all names under which the person or members of the person's immediate family do business;

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section and except as otherwise provided in section 102.022 of the Revised Code, identification of every source of income, other than income from a legislative agent identified in division (A)(2)(b) of this section, received during the preceding calendar year, in the person's own name or by any other person for the

person's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. If the person filing the statement is a member of the general assembly, the statement shall identify the amount of every source of income received in accordance with the following ranges of amounts: zero or more, but less than one thousand dollars; one thousand dollars or more, but less than ten thousand dollars; ten thousand dollars or more, but less than twenty-five thousand dollars; twenty-five thousand dollars or more, but less than fifty thousand dollars; fifty thousand dollars or more, but less than one hundred thousand dollars; and one hundred thousand dollars or more. Division (A)(2)(a) of this section shall not be construed to require a person filing the statement who derives income from a business or profession to disclose the individual items of income that constitute the gross income of that business or profession, except for those individual items of income that are attributable to the person's or, if the income is shared with the person, the partner's, solicitation of services or goods or performance, arrangement, or facilitation of services or provision of goods on behalf of the business or profession of clients, including corporate clients, who are legislative agents. A person who files the statement under this section shall disclose the identity of and the amount of income received from a person who the public official or employee knows or has reason to know is doing or seeking to do business of any kind with the public official's or employee's agency.

(b) If the person filing the statement is a member of the general assembly, the statement shall identify every source of income and the amount of that income that was received from a legislative agent during the preceding calendar year, in the person's own name or by any other person for the person's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. Division (A)(2)(b) of this section requires the disclosure of clients of attorneys or persons licensed under section 4732.12 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code, if those clients or patients are legislative agents. Division (A)(2)(b) of this section requires a person filing the statement who derives income from a business or profession to disclose those individual items of income that constitute the gross income of that business or profession that are received from legislative agents.

(c) Except as otherwise provided in division (A)(2)(c) of this section, division (A)(2)(a) of this section applies to attorneys, physicians, and other persons who engage in the practice of a profession and who, pursuant to a section of the Revised Code, the common law of this state, a code of ethics

applicable to the profession, or otherwise, generally are required not to reveal, disclose, or use confidences of clients, patients, or other recipients of professional services except under specified circumstances or generally are required to maintain those types of confidences as privileged communications except under specified circumstances. Division (A)(2)(a) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in division (A)(2)(c) of this section to disclose the name, other identity, or address of a client, patient, or other recipient of professional services if the disclosure would threaten the client, patient, or other recipient of professional services, would reveal details of the subject matter for which legal, medical, or professional advice or other services were sought, or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services. Division (A)(2)(a) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in division (A)(2)(c) of this section to disclose in the brief description of the nature of services required by division (A)(2)(a) of this section any information pertaining to specific professional services rendered for a client, patient, or other recipient of professional services that would reveal details of the subject matter for which legal, medical, or professional advice was sought or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services.

(3) The name of every corporation on file with the secretary of state that is incorporated in this state or holds a certificate of compliance authorizing it to do business in this state, trust, business trust, partnership, or association that transacts business in this state in which the person filing the statement or any other person for the person's use and benefit had during the preceding calendar year an investment of over one thousand dollars at fair market value as of the thirty-first day of December of the preceding calendar year, or the date of disposition, whichever is earlier, or in which the person holds any office or has a fiduciary relationship, and a description of the nature of the investment, office, or relationship. Division (A)(3) of this section does not require disclosure of the name of any bank, savings and loan association, credit union, or building and loan association with which the person filing the statement has a deposit or a withdrawable share account.

(4) All fee simple and leasehold interests to which the person filing the statement holds legal title to or a beneficial interest in real property located within the state, excluding the person's residence and property used primarily for personal recreation;

(5) The names of all persons residing or transacting business in the state to whom the person filing the statement owes, in the person's own name or in the name of any other person, more than one thousand dollars. Division (A)(5) of this section shall not be construed to require the disclosure of debts owed by the person resulting from the ordinary conduct of a business or profession or debts on the person's residence or real property used primarily for personal recreation, except that the superintendent of financial institutions shall disclose the names of all state-chartered savings and loan associations and of all service corporations subject to regulation under division (E)(2) of section 1151.34 of the Revised Code to whom the superintendent in the superintendent's own name or in the name of any other person owes any money, and that the superintendent and any deputy superintendent of banks shall disclose the names of all state-chartered banks and all bank subsidiary corporations subject to regulation under section 1109.44 of the Revised Code to whom the superintendent or deputy superintendent owes any money.

(6) The names of all persons residing or transacting business in the state, other than a depository excluded under division (A)(3) of this section, who owe more than one thousand dollars to the person filing the statement, either in the person's own name or to any person for the person's use or benefit. Division (A)(6) of this section shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code, nor the disclosure of debts owed to the person resulting from the ordinary conduct of a business or profession.

(7) Except as otherwise provided in section 102.022 of the Revised Code, the source of each gift of over seventy-five dollars, or of each gift of over twenty-five dollars received by a member of the general assembly from a legislative agent, received by the person in the person's own name or by any other person for the person's use or benefit during the preceding calendar year, except gifts received by will or by virtue of section 2105.06 of the Revised Code, or received from spouses, parents, grandparents, children, grandchildren, siblings, nephews, nieces, uncles, aunts, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, or any person to whom the person filing the statement stands in loco parentis, or received by way of distribution from any inter vivos or testamentary trust established by a spouse or by an ancestor;

(8) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source and amount of every payment of expenses

incurred for travel to destinations inside or outside this state that is received by the person in the person's own name or by any other person for the person's use or benefit and that is incurred in connection with the person's official duties, except for expenses for travel to meetings or conventions of a national or state organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or any political subdivision or any office or agency of a political subdivision pays membership dues;

(9) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source of payment of expenses for meals and other food and beverages, other than for meals and other food and beverages provided at a meeting at which the person participated in a panel, seminar, or speaking engagement or at a meeting or convention of a national or state organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or any political subdivision or any office or agency of a political subdivision pays membership dues, that are incurred in connection with the person's official duties and that exceed one hundred dollars aggregated per calendar year;

(10) If the disclosure statement is filed by a public official or employee described in division (B)(2) of section 101.73 of the Revised Code or division (B)(2) of section 121.63 of the Revised Code who receives a statement from a legislative agent, executive agency lobbyist, or employer that contains the information described in division (F)(2) of section 101.73 of the Revised Code or division (G)(2) of section 121.63 of the Revised Code, all of the nondisputed information contained in the statement delivered to that public official or employee by the legislative agent, executive agency lobbyist, or employer under division (F)(2) of section 101.73 or (G)(2) of section 121.63 of the Revised Code.

A person may file a statement required by this section in person or by mail. A person who is a candidate for elective office shall file the statement no later than the thirtieth day before the primary, special, or general election at which the candidacy is to be voted on, whichever election occurs soonest, except that a person who is a write-in candidate shall file the statement no later than the twentieth day before the earliest election at which the person's candidacy is to be voted on. A person who holds elective office shall file the statement on or before the fifteenth day of April of each year unless the person is a candidate for office. A person who is appointed to fill a vacancy for an unexpired term in an elective office shall file the statement within

fifteen days after the person qualifies for office. Other persons shall file an annual statement on or before the fifteenth day of April or, if appointed or employed after that date, within ninety days after appointment or employment. No person shall be required to file with the appropriate ethics commission more than one statement or pay more than one filing fee for any one calendar year.

The appropriate ethics commission, for good cause, may extend for a reasonable time the deadline for filing a statement under this section.

A statement filed under this section is subject to public inspection at locations designated by the appropriate ethics commission except as otherwise provided in this section.

(B) The Ohio ethics commission, the joint legislative ethics committee, and the board of commissioners on grievances and discipline of the supreme court, using the rule-making procedures of Chapter 119. of the Revised Code, may require any class of public officials or employees under its jurisdiction and not specifically excluded by this section whose positions involve a substantial and material exercise of administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws and rules of the state or a county or city, or the execution of other public trusts, to file an annual statement on or before the fifteenth day of April under division (A) of this section. The appropriate ethics commission shall send the public officials or employees written notice of the requirement by the fifteenth day of February of each year the filing is required unless the public official or employee is appointed after that date, in which case the notice shall be sent within thirty days after appointment, and the filing shall be made not later than ninety days after appointment.

Except for disclosure statements filed by members of the board of trustees and the executive director of the tobacco use prevention and control foundation and members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation, disclosure statements filed under this division with the Ohio ethics commission by members of boards, commissions, or bureaus of the state for which no compensation is received other than reasonable and necessary expenses shall be kept confidential. Disclosure statements filed with the Ohio ethics commission under division (A) of this section by business managers, treasurers, and superintendents of city, local, exempted village, joint vocational, or cooperative education school districts or educational service centers shall be kept confidential, except that any person conducting an audit of any such school district or educational service center pursuant to section 115.56 or Chapter 117. of the Revised Code may examine the

disclosure statement of any business manager, treasurer, or superintendent of that school district or educational service center. The Ohio ethics commission shall examine each disclosure statement required to be kept confidential to determine whether a potential conflict of interest exists for the person who filed the disclosure statement. A potential conflict of interest exists if the private interests of the person, as indicated by the person's disclosure statement, might interfere with the public interests the person is required to serve in the exercise of the person's authority and duties in the person's office or position of employment. If the commission determines that a potential conflict of interest exists, it shall notify the person who filed the disclosure statement and shall make the portions of the disclosure statement that indicate a potential conflict of interest subject to public inspection in the same manner as is provided for other disclosure statements. Any portion of the disclosure statement that the commission determines does not indicate a potential conflict of interest shall be kept confidential by the commission and shall not be made subject to public inspection, except as is necessary for the enforcement of Chapters 102. and 2921. of the Revised Code and except as otherwise provided in this division.

(C) No person shall knowingly fail to file, on or before the applicable filing deadline established under this section, a statement that is required by this section.

(D) No person shall knowingly file a false statement that is required to be filed under this section.

(E)(1) Except as provided in divisions (E)(2) and (3) of this section, the statement required by division (A) or (B) of this section shall be accompanied by a filing fee of forty dollars.

(2) The statement required by division (A) of this section shall be accompanied by the following filing fee to be paid by the person who is elected or appointed to, or is a candidate for, any of the following offices:

For state office, except member of the state board of education	\$65
For office of member of general assembly	\$40
For county office	\$40
For city office	\$25
For office of member of the state board of education	\$25
For office of member of a city, local, exempted village, or cooperative education board of education or educational service	

center governing board	\$20
For position of business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or educational service center	\$20

(3) No judge of a court of record or candidate for judge of a court of record, and no referee or magistrate serving a court of record, shall be required to pay the fee required under division (E)(1) or (2) or (F) of this section.

(4) For any public official who is appointed to a nonelective office of the state and for any employee who holds a nonelective position in a public agency of the state, the state agency that is the primary employer of the state official or employee shall pay the fee required under division (E)(1) or (F) of this section.

(F) If a statement required to be filed under this section is not filed by the date on which it is required to be filed, the appropriate ethics commission shall assess the person required to file the statement a late filing fee of ten dollars for each day the statement is not filed, except that the total amount of the late filing fee shall not exceed two hundred fifty dollars.

(G)(1) The appropriate ethics commission other than the Ohio ethics commission shall deposit all fees it receives under divisions (E) and (F) of this section into the general revenue fund of the state.

(2) The Ohio ethics commission shall deposit all receipts, including, but not limited to, fees it receives under divisions (E) and (F) of this section and all moneys it receives from settlements under division (G) of section 102.06 of the Revised Code, into the Ohio ethics commission fund, which is hereby created in the state treasury. All moneys credited to the fund shall be used solely for expenses related to the operation and statutory functions of the commission.

(H) Division (A) of this section does not apply to a person elected or appointed to the office of precinct, ward, or district committee member under Chapter 3517. of the Revised Code; a presidential elector; a delegate to a national convention; village or township officials and employees; any physician or psychiatrist who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code and whose primary duties do not require the exercise of administrative discretion; or any member of a board, commission, or bureau of any county or city who receives less than one thousand dollars per year

for serving in that position.

Sec. 102.06. (A) The appropriate ethics commission shall receive and may initiate complaints against persons subject to this chapter concerning conduct alleged to be in violation of this chapter or section 2921.42 or 2921.43 of the Revised Code. All complaints except those by the commission shall be by affidavit made on personal knowledge, subject to the penalties of perjury. Complaints by the commission shall be by affidavit, based upon reasonable cause to believe that a violation has occurred.

(B) The appropriate ethics commission shall investigate complaints, may investigate charges presented to it, and may request further information, including the specific amount of income from a source, from any person filing with the commission a statement required by section 102.02 or 102.021 of the Revised Code, if the information sought is directly relevant to a complaint or charges received by the commission pursuant to this section. This information is confidential, except that the commission, in its discretion, may share information gathered in the course of any investigation with, or disclose the information to, the inspector general, any appropriate prosecuting authority, any law enforcement agency, or any other appropriate ethics commission. If the accused person is a member of the public employees retirement board, state teachers retirement board, school employees retirement board, board of trustees of the Ohio police and fire pension fund, or state highway patrol retirement board, or is a ~~voting~~ member of the bureau of workers' compensation oversight commission ~~board of directors~~, the appropriate ethics commission, in its discretion, also may share information gathered in the course of an investigation with, or disclose the information to, the attorney general and the auditor of state. The person so requested shall furnish the information to the commission, unless within fifteen days from the date of the request the person files an action for declaratory judgment challenging the legitimacy of the request in the court of common pleas of the county of the person's residence, the person's place of employment, or Franklin county. The requested information need not be furnished to the commission during the pendency of the judicial proceedings. Proceedings of the commission in connection with the declaratory judgment action shall be kept confidential except as otherwise provided by this section. Before the commission proceeds to take any formal action against a person who is the subject of an investigation based on charges presented to the commission, a complaint shall be filed against the person. If the commission finds that a complaint is not frivolous, and there is reasonable cause to believe that the facts alleged in a complaint constitute a violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 2921.42, or

2921.43 of the Revised Code, it shall hold a hearing. If the commission does not so find, it shall dismiss the complaint and notify the accused person in writing of the dismissal of the complaint. The commission shall not make a report of its finding unless the accused person requests a report. Upon the request of the accused person, the commission shall make a public report of its finding. The person against whom the complaint is directed shall be given reasonable notice by certified mail of the date, time, and place of the hearing and a statement of the charges and the law directly involved and shall be given the opportunity to be represented by counsel, to have counsel appointed for the person if the person is unable to afford counsel without undue hardship, to examine the evidence against the person, to produce evidence and to call and subpoena witnesses in the person's defense, to confront the person's accusers, and to cross-examine witnesses. The commission shall have a stenographic record made of the hearing. The hearing shall be closed to the public.

(C)(1)(a) If, upon the basis of the hearing, the appropriate ethics commission finds by a preponderance of the evidence that the facts alleged in the complaint are true and constitute a violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the Revised Code, it shall report its findings to the appropriate prosecuting authority for proceedings in prosecution of the violation and to the appointing or employing authority of the accused. If the accused person is a member of the public employees retirement board, state teachers retirement board, school employees retirement board, board of trustees of the Ohio police and fire pension fund, or state highway patrol retirement board, the commission also shall report its findings to the Ohio retirement study council.

(b) If the Ohio ethics commission reports its findings to the appropriate prosecuting authority under division (C)(1)(a) of this section and the prosecuting authority has not initiated any official action on those findings within ninety days after receiving the commission's report of them, the commission may publicly comment that no official action has been taken on its findings, except that the commission shall make no comment in violation of the Rules of Criminal Procedure or about any indictment that has been sealed pursuant to any law or those rules. The commission shall make no comment regarding the merits of its findings. As used in division (C)(1)(b) of this section, "official action" means prosecution, closure after investigation, or grand jury action resulting in a true bill of indictment or no true bill of indictment.

(2) If the appropriate ethics commission does not find by a preponderance of the evidence that the facts alleged in the complaint are

true and constitute a violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the Revised Code or if the commission has not scheduled a hearing within ninety days after the complaint is filed or has not finally disposed of the complaint within six months after it has been heard, it shall dismiss the complaint and notify the accused person in writing of the dismissal of the complaint. The commission shall not make a report of its finding unless the accused person requests a report. Upon the request of the accused person, the commission shall make a public report of the finding, but in this case all evidence and the record of the hearing shall remain confidential unless the accused person also requests that the evidence and record be made public. Upon request by the accused person, the commission shall make the evidence and the record available for public inspection.

(D) The appropriate ethics commission, or a member of the commission, may administer oaths, and the commission may issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and records. The commission shall issue subpoenas to compel the attendance of witnesses and the production of documents upon the request of an accused person. Section 101.42 of the Revised Code shall govern the issuance of these subpoenas insofar as applicable. Upon the refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the commission may apply to the court of common pleas of Franklin county under section 2705.03 of the Revised Code. The court shall hold proceedings in accordance with Chapter 2705. of the Revised Code. The commission or the accused person may take the depositions of witnesses residing within or without the state in the same manner as prescribed by law for the taking of depositions in civil actions in the court of common pleas.

(E) At least once each year, the Ohio ethics commission shall report on its activities of the immediately preceding year to the majority and minority leaders of the senate and house of representatives of the general assembly. The report shall indicate the total number of complaints received, initiated, and investigated by the commission, the total number of complaints for which formal hearings were held, and the total number of complaints for which formal prosecution was recommended or requested by the commission. The report also shall indicate the nature of the inappropriate conduct alleged in each complaint and the governmental entity with which any employee or official that is the subject of a complaint was employed at the time of the alleged inappropriate conduct.

(F) All papers, records, affidavits, and documents upon any complaint,

inquiry, or investigation relating to the proceedings of the appropriate ethics commission shall be sealed and are private and confidential, except as otherwise provided in this section and section 102.07 of the Revised Code.

(G)(1) When a complaint or charge is before it, the Ohio ethics commission or the appropriate prosecuting authority, in consultation with the person filing the complaint or charge, the accused, and any other person the commission or prosecuting authority considers necessary, may compromise or settle the complaint or charge with the agreement of the accused. The compromise or settlement may include mediation, restitution, rescission of affected contracts, forfeiture of any benefits resulting from a violation or potential violation of law, resignation of a public official or employee, or any other relief that is agreed upon between the commission or prosecuting authority and the accused.

(2) Any settlement agreement entered into under division (G)(1) of this section shall be in writing and be accompanied by a statement of the findings of the commission or prosecuting authority and the reasons for entering into the agreement. The commission or prosecuting authority shall retain the agreement and statement in the commission's or prosecuting authority's office and, in the commission's or prosecuting authority's discretion, may make the agreement, the statement, and any supporting information public, unless the agreement provides otherwise.

(3) If a settlement agreement is breached by the accused, the commission or prosecuting authority, in the commission's or prosecuting authority's discretion, may rescind the agreement and reinstitute any investigation, hearing, or prosecution of the accused. No information obtained from the accused in reaching the settlement that is not otherwise discoverable from the accused shall be used in any proceeding before the commission or by the appropriate prosecuting authority in prosecuting the violation. Notwithstanding any other section of the Revised Code, if a settlement agreement is breached, any statute of limitations for a violation of this chapter or section 2921.42 or 2921.43 of the Revised Code is tolled from the date the complaint or charge is filed until the date the settlement agreement is breached.

Sec. 109.981. If a ~~voting~~ member of the bureau of workers' compensation oversight commission board of directors breaches the member's fiduciary duty to the bureau of workers' compensation, the attorney general may maintain a civil action against the board member for harm resulting from that breach. Notwithstanding section 4121.128 of the Revised Code, after being informed of an allegation that the entire ~~oversight commission board~~ oversight commission board has breached its fiduciary duty, the ~~oversight commission~~

board may retain independent legal counsel, including legal counsel provided by the ~~oversight commission's~~ board's fiduciary insurance carrier, to advise the board and to represent the board. The attorney general may recover damages or be granted injunctive relief, which shall include the enjoinder of specified activities and the removal of the member from the board. Any damages awarded shall be paid to the bureau. The authority to maintain a civil action created by this section is in addition to any authority the attorney general possesses under any other provision of the Revised Code.

Sec. 119.01. As used in sections 119.01 to 119.13 of the Revised Code:

(A)(1) "Agency" means, except as limited by this division, any official, board, or commission having authority to promulgate rules or make adjudications in the civil service commission, the division of liquor control, the department of taxation, the industrial commission, the bureau of workers' compensation, the functions of any administrative or executive officer, department, division, bureau, board, or commission of the government of the state specifically made subject to sections 119.01 to 119.13 of the Revised Code, and the licensing functions of any administrative or executive officer, department, division, bureau, board, or commission of the government of the state having the authority or responsibility of issuing, suspending, revoking, or canceling licenses.

Except as otherwise provided in division (I) of this section, sections 119.01 to 119.13 of the Revised Code do not apply to the public utilities commission. Sections 119.01 to 119.13 of the Revised Code do not apply to the utility radiological safety board; to the controlling board; to actions of the superintendent of financial institutions and the superintendent of insurance in the taking possession of, and rehabilitation or liquidation of, the business and property of banks, savings and loan associations, savings banks, credit unions, insurance companies, associations, reciprocal fraternal benefit societies, and bond investment companies; to any action taken by the division of securities under section 1707.201 of the Revised Code; or to any action that may be taken by the superintendent of financial institutions under section 1113.03, 1121.06, 1121.10, 1125.09, 1125.12, 1125.18, 1157.01, 1157.02, 1157.10, 1165.01, 1165.02, 1165.10, 1349.33, 1733.35, 1733.361, 1733.37, or 1761.03 of the Revised Code.

Sections 119.01 to 119.13 of the Revised Code do not apply to actions of the industrial commission or the bureau of workers' compensation under sections 4123.01 to 4123.94 of the Revised Code with respect to all matters of adjudication, ~~and or~~ to the actions of the industrial commission, bureau of workers' compensation board of directors, and bureau of workers'

compensation under division (D) of section 4121.32, sections 4123.29, 4123.34, 4123.341, 4123.342, 4123.40, 4123.411, 4123.44, ~~and 4123.442, 4127.07,~~ divisions (B), (C), and (E) of section 4131.04, and divisions (B), (C), and (E) of section 4131.14 of the Revised Code with respect to all matters concerning the establishment of premium, contribution, and assessment rates.

(2) "Agency" also means any official or work unit having authority to promulgate rules or make adjudications in the department of job and family services, but only with respect to both of the following:

(a) The adoption, amendment, or rescission of rules that section 5101.09 of the Revised Code requires be adopted in accordance with this chapter;

(b) The issuance, suspension, revocation, or cancellation of licenses.

(B) "License" means any license, permit, certificate, commission, or charter issued by any agency. "License" does not include any arrangement whereby a person, institution, or entity furnishes medicaid services under a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(C) "Rule" means any rule, regulation, or standard, having a general and uniform operation, adopted, promulgated, and enforced by any agency under the authority of the laws governing such agency, and includes any appendix to a rule. "Rule" does not include any internal management rule of an agency unless the internal management rule affects private rights and does not include any guideline adopted pursuant to section 3301.0714 of the Revised Code.

(D) "Adjudication" means the determination by the highest or ultimate authority of an agency of the rights, duties, privileges, benefits, or legal relationships of a specified person, but does not include the issuance of a license in response to an application with respect to which no question is raised, nor other acts of a ministerial nature.

(E) "Hearing" means a public hearing by any agency in compliance with procedural safeguards afforded by sections 119.01 to 119.13 of the Revised Code.

(F) "Person" means a person, firm, corporation, association, or partnership.

(G) "Party" means the person whose interests are the subject of an adjudication by an agency.

(H) "Appeal" means the procedure by which a person, aggrieved by a finding, decision, order, or adjudication of any agency, invokes the jurisdiction of a court.

(I) "Rule-making agency" means any board, commission, department, division, or bureau of the government of the state that is required to file proposed rules, amendments, or rescissions under division (D) of section 111.15 of the Revised Code and any agency that is required to file proposed rules, amendments, or rescissions under divisions (B) and (H) of section 119.03 of the Revised Code. "Rule-making agency" includes the public utilities commission. "Rule-making agency" does not include any state-supported college or university.

(J) "Substantive revision" means any addition to, elimination from, or other change in a rule, an amendment of a rule, or a rescission of a rule, whether of a substantive or procedural nature, that changes any of the following:

(1) That which the rule, amendment, or rescission permits, authorizes, regulates, requires, prohibits, penalizes, rewards, or otherwise affects;

(2) The scope or application of the rule, amendment, or rescission.

(K) "Internal management rule" means any rule, regulation, or standard governing the day-to-day staff procedures and operations within an agency.

Sec. 121.52. There is hereby created in the office of the inspector general the office of deputy inspector general for the bureau of workers' compensation and industrial commission. The inspector general shall appoint the deputy inspector general, and the deputy inspector general shall serve at the pleasure of the inspector general. A person employed as the deputy inspector general shall have the same qualifications as those specified in section 121.49 of the Revised Code for the inspector general. The inspector general shall provide professional and clerical assistance to the deputy inspector general.

The deputy inspector general for the bureau of workers' compensation and the industrial commission shall investigate wrongful acts or omissions that have been committed by or are being committed by officers or employees of the bureau of workers' compensation and the industrial commission. The deputy inspector general has the same powers and duties regarding matters concerning the bureau and the commission as those specified in sections 121.42, 121.43, and 121.45 of the Revised Code for the inspector general. Complaints may be filed with the deputy inspector general in the same manner as prescribed for complaints filed with the inspector general under section 121.46 of the Revised Code. All investigations conducted and reports issued by the deputy inspector general are subject to section 121.44 of the Revised Code.

The members of the industrial commission, bureau of workers' compensation board of directors, workers' compensation audit committee,

workers' compensation actuarial committee, and workers' compensation investment committee, and the administrator of workers' compensation, and employees of the industrial commission and the bureau shall cooperate with and provide assistance to the deputy inspector general in the performance of any investigation conducted by the deputy inspector general. In particular, those persons shall make their premises, equipment, personnel, books, records, and papers readily available to the deputy inspector general. In the course of an investigation, the deputy inspector general may question any person employed by the industrial commission or the administrator and any person transacting business with the industrial commission, the board, the audit committee, the actuarial committee, the investment committee, the administrator, or the bureau and may inspect and copy any books, records, or papers in the possession of those persons or entities, taking care to preserve the confidentiality of information contained in responses to questions or the books, records, or papers that are made confidential by law.

In performing any investigation, the deputy inspector general shall avoid interfering with the ongoing operations of the entities being investigated, except insofar as is reasonably necessary to successfully complete the investigation.

At the conclusion of an investigation conducted by the deputy inspector general for the bureau of workers' compensation and industrial commission, the deputy inspector general shall deliver to the board, the administrator, the industrial commission, and the governor any case for which remedial action is necessary. The deputy inspector general shall maintain a public record of the activities of the office of the deputy inspector general to the extent permitted under this section, ensuring that the rights of the parties involved in each case are protected. The inspector general shall include in the annual report required under section 121.48 of the Revised Code a summary of the activities of the deputy inspector general during the previous year.

No person shall disclose any information that is designated as confidential in accordance with section 121.44 of the Revised Code or any confidential information that is acquired in the course of an investigation conducted under section 121.53 of the Revised Code to any person who is not legally entitled to disclosure of that information.

Sec. 131.02. (A) Except as otherwise provided in section 4123.37 and division ~~(J)~~(K) of section 4123.511 of the Revised Code, whenever any amount is payable to the state, the officer, employee, or agent responsible for administering the law under which the amount is payable shall immediately proceed to collect the amount or cause the amount to be collected and shall pay the amount into the state treasury or into the

appropriate custodial fund in the manner set forth pursuant to section 113.08 of the Revised Code. Except as otherwise provided in this division, if the amount is not paid within forty-five days after payment is due, the officer, employee, or agent shall certify the amount due to the attorney general, in the form and manner prescribed by the attorney general, and notify the director of budget and management thereof. In the case of an amount payable by a student enrolled in a state institution of higher education, the amount shall be certified within the later of forty-five days after the amount is due or the tenth day after the beginning of the next academic semester, quarter, or other session following the session for which the payment is payable. The attorney general may assess the collection cost to the amount certified in such manner and amount as prescribed by the attorney general.

For the purposes of this section, the attorney general and the officer, employee, or agent responsible for administering the law under which the amount is payable shall agree on the time a payment is due, and that agreed upon time shall be one of the following times:

(1) If a law, including an administrative rule, of this state prescribes the time a payment is required to be made or reported, when the payment is required by that law to be paid or reported.

(2) If the payment is for services rendered, when the rendering of the services is completed.

(3) If the payment is reimbursement for a loss, when the loss is incurred.

(4) In the case of a fine or penalty for which a law or administrative rule does not prescribe a time for payment, when the fine or penalty is first assessed.

(5) If the payment arises from a legal finding, judgment, or adjudication order, when the finding, judgment, or order is rendered or issued.

(6) If the payment arises from an overpayment of money by the state to another person, when the overpayment is discovered.

(7) The date on which the amount for which an individual is personally liable under section 5735.35, section 5739.33, or division (G) of section 5747.07 of the Revised Code is determined.

(8) Upon proof of claim being filed in a bankruptcy case.

(9) Any other appropriate time determined by the attorney general and the officer, employee, or agent responsible for administering the law under which the amount is payable on the basis of statutory requirements or ordinary business processes of the state agency to which the payment is owed.

(B)(1) The attorney general shall give immediate notice by mail or otherwise to the party indebted of the nature and amount of the

indebtedness.

(2) If the amount payable to this state arises from a tax levied under Chapter 5733., 5739., 5741., 5747., or 5751. of the Revised Code, the notice also shall specify all of the following:

- (a) The assessment or case number;
- (b) The tax pursuant to which the assessment is made;
- (c) The reason for the liability, including, if applicable, that a penalty or interest is due;
- (d) An explanation of how and when interest will be added to the amount assessed;

(e) That the attorney general and tax commissioner, acting together, have the authority, but are not required, to compromise the claim and accept payment over a reasonable time, if such actions are in the best interest of the state.

(C) The attorney general shall collect the claim or secure a judgment and issue an execution for its collection.

(D) Each claim shall bear interest, from the day on which the claim became due, at the rate per annum required by section 5703.47 of the Revised Code.

(E) The attorney general and the chief officer of the agency reporting a claim, acting together, may do any of the following if such action is in the best interests of the state:

- (1) Compromise the claim;
- (2) Extend for a reasonable period the time for payment of the claim by agreeing to accept monthly or other periodic payments. The agreement may require security for payment of the claim.
- (3) Add fees to recover the cost of processing checks or other draft instruments returned for insufficient funds and the cost of providing electronic payment options.

(F)(1) Except as provided in division (F)(2) of this section, if the attorney general finds, after investigation, that any claim due and owing to the state is uncollectible, the attorney general, with the consent of the chief officer of the agency reporting the claim, may do the following:

(a) Sell, convey, or otherwise transfer the claim to one or more private entities for collection;

(b) Cancel the claim or cause it to be canceled.

(2) The attorney general shall cancel or cause to be canceled an unsatisfied claim on the date that is forty years after the date the claim is certified.

(3) No initial action shall be commenced to collect any tax payable to

the state that is administered by the tax commissioner, whether or not such tax is subject to division (B) of this section, or any penalty, interest, or additional charge on such tax, after the expiration of the period ending on the later of the dates specified in divisions (F)(3)(a) and (b) of this section, provided that such period shall be extended by the period of any stay to such collection or by any other period to which the parties mutually agree. If the initial action in aid of execution is commenced before the later of the dates specified in divisions (F)(3)(a) and (b) of this section, any and all subsequent actions may be pursued in aid of execution of judgment for as long as the debt exists.

(a) Seven years after the assessment of the tax, penalty, interest, or additional charge is issued.

(b) Four years after the assessment of the tax, penalty, interest, or additional charge becomes final. For the purposes of division (F)(3)(b) of this section, the assessment becomes final at the latest of the following: upon expiration of the period to petition for reassessment, or if applicable, to appeal a final determination of the commissioner or decision of the board of tax appeals or a court, or, if applicable, upon decision of the United States supreme court.

For the purposes of division (F)(3) of this section, an initial action to collect a tax debt is commenced at the time when any action, including any action in aid of execution on a judgment, commences after a certified copy of the tax commissioner's entry making an assessment final has been filed in the office of the clerk of court of common pleas in the county in which the taxpayer resides or has its principal place of business in this state, or in the office of the clerk of court of common pleas of Franklin county, as provided in section 5739.13, 5741.14, 5747.13, or 5751.09 of the Revised Code or in any other applicable law requiring such a filing. If an assessment has not been issued and there is no time limitation on the issuance of an assessment under applicable law, an action to collect a tax debt commences when the action is filed in the courts of this state to collect the liability.

(4) If information contained in a claim that is sold, conveyed, or transferred to a private entity pursuant to this section is confidential pursuant to federal law or a section of the Revised Code that implements a federal law governing confidentiality, such information remains subject to that law during and following the sale, conveyance, or transfer.

Sec. 1707.01. As used in this chapter:

(A) Whenever the context requires it, "division" or "division of securities" may be read as "director of commerce" or as "commissioner of securities."

(B) "Security" means any certificate or instrument, or any oral, written, or electronic agreement, understanding, or opportunity, that represents title to or interest in, or is secured by any lien or charge upon, the capital, assets, profits, property, or credit of any person or of any public or governmental body, subdivision, or agency. It includes shares of stock, certificates for shares of stock, an uncertificated security, membership interests in limited liability companies, voting-trust certificates, warrants and options to purchase securities, subscription rights, interim receipts, interim certificates, promissory notes, all forms of commercial paper, evidences of indebtedness, bonds, debentures, land trust certificates, fee certificates, leasehold certificates, syndicate certificates, endowment certificates, interests in or under profit-sharing or participation agreements, interests in or under oil, gas, or mining leases, preorganization or reorganization subscriptions, preorganization certificates, reorganization certificates, interests in any trust or pretended trust, any investment contract, any life settlement interest, any instrument evidencing a promise or an agreement to pay money, warehouse receipts for intoxicating liquor, and the currency of any government other than those of the United States and Canada, but sections 1707.01 to 1707.45 of the Revised Code do not apply to the sale of real estate.

(C)(1) "Sale" has the full meaning of "sale" as applied by or accepted in courts of law or equity, and includes every disposition, or attempt to dispose, of a security or of an interest in a security. "Sale" also includes a contract to sell, an exchange, an attempt to sell, an option of sale, a solicitation of a sale, a solicitation of an offer to buy, a subscription, or an offer to sell, directly or indirectly, by agent, circular, pamphlet, advertisement, or otherwise.

(2) "Sell" means any act by which a sale is made.

(3) The use of advertisements, circulars, or pamphlets in connection with the sale of securities in this state exclusively to the purchasers specified in division (D) of section 1707.03 of the Revised Code is not a sale when the advertisements, circulars, and pamphlets describing and offering those securities bear a readily legible legend in substance as follows: "This offer is made on behalf of dealers licensed under sections 1707.01 to 1707.45 of the Revised Code, and is confined in this state exclusively to institutional investors and licensed dealers."

(4) The offering of securities by any person in conjunction with a licensed dealer by use of advertisement, circular, or pamphlet is not a sale if that person does not otherwise attempt to sell securities in this state.

(5) Any security given with, or as a bonus on account of, any purchase of securities is conclusively presumed to constitute a part of the subject of

that purchase and has been "sold."

(6) "Sale" by an owner, pledgee, or mortgagee, or by a person acting in a representative capacity, includes sale on behalf of such party by an agent, including a licensed dealer or salesperson.

(D) "Person," except as otherwise provided in this chapter, means a natural person, firm, partnership, limited partnership, partnership association, syndicate, joint-stock company, unincorporated association, trust or trustee except where the trust was created or the trustee designated by law or judicial authority or by a will, and a corporation or limited liability company organized under the laws of any state, any foreign government, or any political subdivision of a state or foreign government.

(E)(1) "Dealer," except as otherwise provided in this chapter, means every person, other than a salesperson, who engages or professes to engage, in this state, for either all or part of the person's time, directly or indirectly, either in the business of the sale of securities for the person's own account, or in the business of the purchase or sale of securities for the account of others in the reasonable expectation of receiving a commission, fee, or other remuneration as a result of engaging in the purchase and sale of securities. "Dealer" does not mean any of the following:

(a) Any issuer, including any officer, director, employee, or trustee of, or member or manager of, or partner in, or any general partner of, any issuer, that sells, offers for sale, or does any act in furtherance of the sale of a security that represents an economic interest in that issuer, provided no commission, fee, or other similar remuneration is paid to or received by the issuer for the sale;

(b) Any licensed attorney, public accountant, or firm of such attorneys or accountants, whose activities are incidental to the practice of the attorney's, accountant's, or firm's profession;

(c) Any person that, for the account of others, engages in the purchase or sale of securities that are issued and outstanding before such purchase and sale, if a majority or more of the equity interest of an issuer is sold in that transaction, and if, in the case of a corporation, the securities sold in that transaction represent a majority or more of the voting power of the corporation in the election of directors;

(d) Any person that brings an issuer together with a potential investor and whose compensation is not directly or indirectly based on the sale of any securities by the issuer to the investor;

(e) Any bank;

(f) Any person that the division of securities by rule exempts from the definition of "dealer" under division (E)(1) of this section.

(2) "Licensed dealer" means a dealer licensed under this chapter.

(F)(1) "Salesman" or "salesperson" means every natural person, other than a dealer, who is employed, authorized, or appointed by a dealer to sell securities within this state.

(2) The general partners of a partnership, and the executive officers of a corporation or unincorporated association, licensed as a dealer are not salespersons within the meaning of this definition, nor are clerical or other employees of an issuer or dealer that are employed for work to which the sale of securities is secondary and incidental; but the division of securities may require a license from any such partner, executive officer, or employee if it determines that protection of the public necessitates the licensing.

(3) "Licensed salesperson" means a salesperson licensed under this chapter.

(G) "Issuer" means every person who has issued, proposes to issue, or issues any security.

(H) "Director" means each director or trustee of a corporation, each trustee of a trust, each general partner of a partnership, except a partnership association, each manager of a partnership association, and any person vested with managerial or directory power over an issuer not having a board of directors or trustees.

(I) "Incorporator" means any incorporator of a corporation and any organizer of, or any person participating, other than in a representative or professional capacity, in the organization of an unincorporated issuer.

(J) "Fraud," "fraudulent," "fraudulent acts," "fraudulent practices," or "fraudulent transactions" means anything recognized on or after July 22, 1929, as such in courts of law or equity; any device, scheme, or artifice to defraud or to obtain money or property by means of any false pretense, representation, or promise; any fictitious or pretended purchase or sale of securities; and any act, practice, transaction, or course of business relating to the purchase or sale of securities that is fraudulent or that has operated or would operate as a fraud upon the seller or purchaser.

(K) Except as otherwise specifically provided, whenever any classification or computation is based upon "par value," as applied to securities without par value, the average of the aggregate consideration received or to be received by the issuer for each class of those securities shall be used as the basis for that classification or computation.

(L)(1) "Intangible property" means patents, copyrights, secret processes, formulas, services, good will, promotion and organization fees and expenses, trademarks, trade brands, trade names, licenses, franchises, any other assets treated as intangible according to generally accepted accounting

principles, and securities, accounts receivable, or contract rights having no readily determinable value.

(2) "Tangible property" means all property other than intangible property and includes securities, accounts receivable, and contract rights, when the securities, accounts receivable, or contract rights have a readily determinable value.

(M) "Public utilities" means those utilities defined in sections 4905.02, 4905.03, 4907.02, and 4907.03 of the Revised Code; in the case of a foreign corporation, it means those utilities defined as public utilities by the laws of its domicile; and in the case of any other foreign issuer, it means those utilities defined as public utilities by the laws of the situs of its principal place of business. The term always includes railroads whether or not they are so defined as public utilities.

(N) "State" means any state of the United States, any territory or possession of the United States, the District of Columbia, and any province of Canada.

(O) "Bank" means any bank, trust company, savings and loan association, savings bank, or credit union that is incorporated or organized under the laws of the United States, any state of the United States, Canada, or any province of Canada and that is subject to regulation or supervision by that country, state, or province.

(P) "Include," when used in a definition, does not exclude other things or persons otherwise within the meaning of the term defined.

(Q)(1) "Registration by description" means that the requirements of section 1707.08 of the Revised Code have been complied with.

(2) "Registration by qualification" means that the requirements of sections 1707.09 and 1707.11 of the Revised Code have been complied with.

(3) "Registration by coordination" means that there has been compliance with section 1707.091 of the Revised Code. Reference in this chapter to registration by qualification also includes registration by coordination unless the context otherwise indicates.

(R) "Intoxicating liquor" includes all liquids and compounds that contain more than three and two-tenths per cent of alcohol by weight and are fit for use for beverage purposes.

(S) "Institutional investor" means any corporation, bank, insurance company, pension fund or pension fund trust, employees' profit-sharing fund or employees' profit-sharing trust, any association engaged, as a substantial part of its business or operations, in purchasing or holding securities, or any trust in respect of which a bank is trustee or cotrustee. "Institutional

investor" does not include any business entity formed for the primary purpose of evading sections 1707.01 to 1707.45 of the Revised Code.

(T) A reference to a statute of the United States or to a rule, regulation, or form promulgated by the securities and exchange commission or by another federal agency means the statute, rule, regulation, or form as it exists at the time of the act, omission, event, or transaction to which it is applied under this chapter.

(U) "Securities and exchange commission" means the securities and exchange commission established by the Securities Exchange Act of 1934.

(V)(1) "Control bid" means the purchase of or offer to purchase any equity security of a subject company from a resident of this state if either of the following applies:

(a) After the purchase of that security, the offeror would be directly or indirectly the beneficial owner of more than ten per cent of any class of the issued and outstanding equity securities of the issuer.

(b) The offeror is the subject company, there is a pending control bid by a person other than the issuer, and the number of the issued and outstanding shares of the subject company would be reduced by more than ten per cent.

(2) For purposes of division (V)(1) of this section, "control bid" does not include any of the following:

(a) A bid made by a dealer for the dealer's own account in the ordinary course of business of buying and selling securities;

(b) An offer to acquire any equity security solely in exchange for any other security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, in good faith and not for the purpose of avoiding the provisions of this chapter, and not involving any public offering of the other security within the meaning of Section 4 of Title I of the "Securities Act of 1933," 48 Stat. 77, 15 U.S.C.A. 77d(2), as amended;

(c) Any other offer to acquire any equity security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, from not more than fifty persons, in good faith and not for the purpose of avoiding the provisions of this chapter.

(W) "Offeror" means a person who makes, or in any way participates or aids in making, a control bid and includes persons acting jointly or in concert, or who intend to exercise jointly or in concert any voting rights attached to the securities for which the control bid is made and also includes any subject company making a control bid for its own securities.

(X)(1) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability

of investing in, purchasing, or selling securities, or who, for compensation and as a part of regular business, issues or promulgates analyses or reports concerning securities.

(2) "Investment adviser" does not mean any of the following:

(a) Any attorney, accountant, engineer, or teacher, whose performance of investment advisory services described in division (X)(1) of this section is solely incidental to the practice of the attorney's, accountant's, engineer's, or teacher's profession;

(b) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation;

(c) A person who acts solely as an investment adviser representative;

(d) A bank holding company, as defined in the "Bank Holding Company Act of 1956," 70 Stat. 133, 12 U.S.C. 1841, that is not an investment company;

(e) A bank, or any receiver, conservator, or other liquidating agent of a bank;

(f) Any licensed dealer or licensed salesperson whose performance of investment advisory services described in division (X)(1) of this section is solely incidental to the conduct of the dealer's or salesperson's business as a licensed dealer or licensed salesperson and who receives no special compensation for the services;

(g) Any person, the advice, analyses, or reports of which do not relate to securities other than securities that are direct obligations of, or obligations guaranteed as to principal or interest by, the United States, or securities issued or guaranteed by corporations in which the United States has a direct or indirect interest, and that have been designated by the secretary of the treasury as exempt securities as defined in the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78c;

(h) Any person that is excluded from the definition of investment adviser pursuant to section 202(a)(11)(A) to (E) of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11), or that has received an order from the securities and exchange commission under section 202(a)(11)(F) of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11)(F), declaring that the person is not within the intent of section 202(a)(11) of the Investment Advisers Act of 1940.

(i) A person who acts solely as a state retirement system investment officer or as a bureau of workers' compensation chief investment officer;

(j) Any other person that the division designates by rule, if the division finds that the designation is necessary or appropriate in the public interest or for the protection of investors or clients and consistent with the purposes

fairly intended by the policy and provisions of this chapter.

(Y)(1) "Subject company" means an issuer that satisfies both of the following:

(a) Its principal place of business or its principal executive office is located in this state, or it owns or controls assets located within this state that have a fair market value of at least one million dollars.

(b) More than ten per cent of its beneficial or record equity security holders are resident in this state, more than ten per cent of its equity securities are owned beneficially or of record by residents in this state, or more than one thousand of its beneficial or record equity security holders are resident in this state.

(2) The division of securities may adopt rules to establish more specific application of the provisions set forth in division (Y)(1) of this section. Notwithstanding the provisions set forth in division (Y)(1) of this section and any rules adopted under this division, the division, by rule or in an adjudicatory proceeding, may make a determination that an issuer does not constitute a "subject company" under division (Y)(1) of this section if appropriate review of control bids involving the issuer is to be made by any regulatory authority of another jurisdiction.

(Z) "Beneficial owner" includes any person who directly or indirectly through any contract, arrangement, understanding, or relationship has or shares, or otherwise has or shares, the power to vote or direct the voting of a security or the power to dispose of, or direct the disposition of, the security. "Beneficial ownership" includes the right, exercisable within sixty days, to acquire any security through the exercise of any option, warrant, or right, the conversion of any convertible security, or otherwise. Any security subject to any such option, warrant, right, or conversion privilege held by any person shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by that person, but shall not be deemed to be outstanding for the purpose of computing the percentage of the class owned by any other person. A person shall be deemed the beneficial owner of any security beneficially owned by any relative or spouse or relative of the spouse residing in the home of that person, any trust or estate in which that person owns ten per cent or more of the total beneficial interest or serves as trustee or executor, any corporation or entity in which that person owns ten per cent or more of the equity, and any affiliate or associate of that person.

(AA) "Offeree" means the beneficial or record owner of any security that an offeror acquires or offers to acquire in connection with a control bid.

(BB) "Equity security" means any share or similar security, or any

security convertible into any such security, or carrying any warrant or right to subscribe to or purchase any such security, or any such warrant or right, or any other security that, for the protection of security holders, is treated as an equity security pursuant to rules of the division of securities.

(CC)(1) "Investment adviser representative" means a supervised person of an investment adviser, provided that the supervised person has more than five clients who are natural persons other than excepted persons defined in division (EE) of this section, and that more than ten per cent of the supervised person's clients are natural persons other than excepted persons defined in division (EE) of this section. "Investment adviser representative" does not mean any of the following:

(a) A supervised person that does not on a regular basis solicit, meet with, or otherwise communicate with clients of the investment adviser;

(b) A supervised person that provides only investment advisory services described in division (X)(1) of this section by means of written materials or oral statements that do not purport to meet the objectives or needs of specific individuals or accounts;

(c) Any other person that the division designates by rule, if the division finds that the designation is necessary or appropriate in the public interest or for the protection of investors or clients and is consistent with the provisions fairly intended by the policy and provisions of this chapter.

(2) For the purpose of the calculation of clients in division (CC)(1) of this section, a natural person and the following persons are deemed a single client: Any minor child of the natural person; any relative, spouse, or relative of the spouse of the natural person who has the same principal residence as the natural person; all accounts of which the natural person or the persons referred to in division (CC)(2) of this section are the only primary beneficiaries; and all trusts of which the natural person or persons referred to in division (CC)(2) of this section are the only primary beneficiaries. Persons who are not residents of the United States need not be included in the calculation of clients under division (CC)(1) of this section.

(3) If subsequent to March 18, 1999, amendments are enacted or adopted defining "investment adviser representative" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "investment adviser representative" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the substance of the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(DD) "Supervised person" means a natural person who is any of the following:

(1) A partner, officer, or director of an investment adviser, or other person occupying a similar status or performing similar functions with respect to an investment adviser;

(2) An employee of an investment adviser;

(3) A person who provides investment advisory services described in division (X)(1) of this section on behalf of the investment adviser and is subject to the supervision and control of the investment adviser.

(EE) "Excepted person" means a natural person to whom any of the following applies:

(1) Immediately after entering into the investment advisory contract with the investment adviser, the person has at least seven hundred fifty thousand dollars under the management of the investment adviser.

(2) The investment adviser reasonably believes either of the following at the time the investment advisory contract is entered into with the person:

(a) The person has a net worth, together with assets held jointly with a spouse, of more than one million five hundred thousand dollars.

(b) The person is a qualified purchaser as defined in division (FF) of this section.

(3) Immediately prior to entering into an investment advisory contract with the investment adviser, the person is either of the following:

(a) An executive officer, director, trustee, general partner, or person serving in a similar capacity, of the investment adviser;

(b) An employee of the investment adviser; other than an employee performing solely clerical, secretarial, or administrative functions or duties for the investment adviser, which employee, in connection with the employee's regular functions or duties, participates in the investment activities of the investment adviser, provided that, for at least twelve months, the employee has been performing such nonclerical, nonsecretarial, or nonadministrative functions or duties for or on behalf of the investment adviser or performing substantially similar functions or duties for or on behalf of another company.

If subsequent to March 18, 1999, amendments are enacted or adopted defining "excepted person" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "excepted person" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the substance of the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not

necessary for the protection of investors or in the public interest.

(FF)(1) "Qualified purchaser" means either of the following:

(a) A natural person who owns not less than five million dollars in investments as defined by rule by the division of securities;

(b) A natural person, acting for the person's own account or accounts of other qualified purchasers, who in the aggregate owns and invests on a discretionary basis, not less than twenty-five million dollars in investments as defined by rule by the division of securities.

(2) If subsequent to March 18, 1999, amendments are enacted or adopted defining "qualified purchaser" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "qualified purchaser" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(GG)(1) "Purchase" has the full meaning of "purchase" as applied by or accepted in courts of law or equity and includes every acquisition of, or attempt to acquire, a security or an interest in a security. "Purchase" also includes a contract to purchase, an exchange, an attempt to purchase, an option to purchase, a solicitation of a purchase, a solicitation of an offer to sell, a subscription, or an offer to purchase, directly or indirectly, by agent, circular, pamphlet, advertisement, or otherwise.

(2) "Purchase" means any act by which a purchase is made.

(3) Any security given with, or as a bonus on account of, any purchase of securities is conclusively presumed to constitute a part of the subject of that purchase.

(HH) "Life settlement interest" means the entire interest or any fractional interest in an insurance policy or certificate of insurance, or in an insurance benefit under such a policy or certificate, that is the subject of a life settlement contract.

For purposes of this division, "life settlement contract" means an agreement for the purchase, sale, assignment, transfer, devise, or bequest of any portion of the death benefit or ownership of any life insurance policy or contract, in return for consideration or any other thing of value that is less than the expected death benefit of the life insurance policy or contract. "Life settlement contract" includes a viatical settlement contract as defined in section 3916.01 of the Revised Code, but does not include any of the following:

(1) A loan by an insurer under the terms of a life insurance policy, including, but not limited to, a loan secured by the cash value of the policy;

(2) An agreement with a bank that takes an assignment of a life insurance policy as collateral for a loan;

(3) The provision of accelerated benefits as defined in section 3915.21 of the Revised Code;

(4) Any agreement between an insurer and a reinsurer;

(5) An agreement by an individual to purchase an existing life insurance policy or contract from the original owner of the policy or contract, if the individual does not enter into more than one life settlement contract per calendar year;

(6) The initial purchase of an insurance policy or certificate of insurance from its owner by a viatical settlement provider, as defined in section 3916.01 of the Revised Code, that is licensed under Chapter 3916. of the Revised Code.

(II) "State retirement system" means the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, and state highway patrol retirement system.

(JJ) "State retirement system investment officer" means an individual employed by a state retirement system as a chief investment officer, assistant investment officer, or the person in charge of a class of assets or in a position that is substantially equivalent to chief investment officer, assistant investment officer, or person in charge of a class of assets.

(KK) "Bureau of workers' compensation chief investment officer" means an individual employed by the ~~bureau~~ administrator of workers' compensation as a chief investment officer or in a position that is substantially equivalent to a chief investment officer.

Sec. 3345.12. (A) As used in this section and sections 3345.07 and 3345.11 of the Revised Code, in other sections of the Revised Code that make reference to this section unless the context does not permit, and in related bond proceedings unless otherwise expressly provided:

(1) "State university or college" means each of the state universities identified in section 3345.011 of the Revised Code and the northeastern Ohio universities college of medicine, and includes its board of trustees.

(2) "Institution of higher education" or "institution" means a state university or college, or a community college district, technical college district, university branch district, or state community college, and includes the applicable board of trustees or, in the case of a university branch district, any other managing authority.

(3) "Housing and dining facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, to be used for or in connection with dormitories or other living quarters and accommodations, or related dining halls or other food service and preparation facilities, for students, members of the faculty, officers, or employees of the institution of higher education, and their spouses and families.

(4) "Auxiliary facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, to be used for or in connection with student activity or student service facilities, housing and dining facilities, dining halls, and other food service and preparation facilities, vehicular parking facilities, bookstores, athletic and recreational facilities, faculty centers, auditoriums, assembly and exhibition halls, hospitals, infirmaries and other medical and health facilities, research, and continuing education facilities.

(5) "Education facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, to be used for or in connection with, classrooms or other instructional facilities, libraries, administrative and office facilities, and other facilities, other than auxiliary facilities, to be used directly or indirectly for or in connection with the conduct of the institution of higher education.

(6) "Facilities" means housing and dining facilities, auxiliary facilities, or education facilities, and includes any one, part of, or any combination of such facilities, and further includes site improvements, utilities, machinery, furnishings, and any separate or connected buildings, structures, improvements, sites, open space and green space areas, utilities or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by, such facilities.

(7) "Obligations" means bonds or notes or other evidences of obligation, including interest coupons pertaining thereto, authorized to be issued under this section or section 3345.07, 3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code.

(8) "Bond service charges" means principal, including any mandatory sinking fund or redemption requirements for the retirement of obligations, interest, or interest equivalent and other accreted amounts, and any call premium required to be paid on obligations.

(9) "Bond proceedings" means the resolutions, trust agreement, indenture, and other agreements and credit enhancement facilities, and

amendments and supplements to the foregoing, or any one or more or combination thereof, authorizing, awarding, or providing for the terms and conditions applicable to, or providing for the security or liquidity of, obligations, and the provisions contained in those obligations.

(10) "Costs of facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing facilities, and the financing thereof, including the cost of clearance and preparation of the site and of any land to be used in connection with facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the institution of higher education or state agency, cost of engineering, architectural services, design, plans, specifications and surveys, estimates of cost, legal fees, fees and expenses of trustees, depositories, bond registrars, and paying agents for the obligations, cost of issuance of the obligations and financing costs and fees and expenses of financial advisers and consultants in connection therewith, interest on the obligations from the date thereof to the time when interest is to be covered by available receipts or other sources other than proceeds of the obligations, amounts necessary to establish reserves as required by the bond proceedings, costs of audits, the reimbursements of all moneys advanced or applied by or borrowed from the institution or others, from whatever source provided, including any temporary advances from state appropriations, for the payment of any item or items of cost of facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of facilities, the financing thereof and the placing of them in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(11) "Available receipts" means all moneys received by the institution of higher education, including income, revenues, and receipts from the operation, ownership, or control of facilities, grants, gifts, donations, and pledges and receipts therefrom, receipts from fees and charges, and the proceeds of the sale of obligations, including proceeds of obligations issued to refund obligations previously issued, but excluding any special fee, and receipts therefrom, charged pursuant to division (D) of section 154.21 of the Revised Code.

(12) "Credit enhancement facilities" has the meaning given in division (H) of section 133.01 of the Revised Code.

(13) "Financing costs" has the meaning given in division (K) of section 133.01 of the Revised Code.

(14) "Interest" or "interest equivalent" has the meaning given in division (R) of section 133.01 of the Revised Code.

(B) Obligations issued under section 3345.07 or 3345.11 of the Revised Code by a state university or college shall be authorized by resolution of its board of trustees. Obligations issued by any other institution of higher education shall be authorized by resolution of its board of trustees, or managing directors in the case of certain university branch districts, as applicable. Sections 9.96 and 9.98 to 9.983 of the Revised Code apply to obligations. Obligations may be issued to pay costs of facilities even if the institution anticipates the possibility of a future state appropriation to pay all or a portion of such costs.

(C) Obligations shall be secured by a pledge of and lien on all or such part of the available receipts of the institution of higher education as it provides for in the bond proceedings, excluding moneys raised by taxation and state appropriations. Such pledge and lien may be made prior to all other expenses, claims, or payments, excepting any pledge of such available receipts previously made to the contrary and except as provided by any existing restrictions on the use thereof, or such pledge and lien may be made subordinate to such other expenses, claims, or payments, as provided in the bond proceedings. Obligations may be additionally secured by covenants of the institution to make, fix, adjust, collect, and apply such charges, rates, fees, rentals, and other items of available receipts as will produce pledged available receipts sufficient to meet bond service charges, reserve, and other requirements provided for in the bond proceedings. Notwithstanding this and any other sections of the Revised Code, the holders or owners of the obligations shall not be given the right and shall have no right to have excises or taxes levied by the general assembly for the payment of bond service charges thereon, and each such obligation shall bear on its face a statement to that effect and to the effect that the right to such payment is limited to the available receipts and special funds pledged to such purpose under the bond proceedings.

All pledged available receipts and funds and the proceeds of obligations are trust funds and, subject to the provisions of this section and the applicable bond proceedings, shall be held, deposited, invested, reinvested, disbursed, applied, and used to such extent, in such manner, at such times, and for such purposes, as are provided in the bond proceedings.

(D) The bond proceedings for obligations shall provide for the purpose thereof and the principal amount or maximum principal amount, and provide

for or authorize the manner of determining the principal maturity or maturities, the sale price including any permitted discount, the interest rate or rates, which may be a variable rate or rates, or the maximum interest rate, the date of the obligations and the date or dates of payment of interest thereon, their denominations, the manner of sale thereof, and the establishment within or without the state of a place or places of payment of bond service charges. The bond proceedings also shall provide for a pledge of and lien on available receipts of the institution of higher education as provided in division (C) of this section, and a pledge of and lien on such fund or funds provided in the bond proceedings arising from available receipts, which pledges and liens may provide for parity with obligations theretofore or thereafter issued by the institution. The available receipts so pledged and thereafter received by the institution and the funds so pledged are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding against all parties having claims of any kind against the institution, irrespective of whether such parties have notice thereof, and shall create a perfected security interest for all purposes of Chapter 1309. of the Revised Code, without the necessity for separation or delivery of funds or for the filing or recording of the bond proceedings by which such pledge is created or any certificate, statement, or other document with respect thereto; and the pledge of such available receipts and funds shall be effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation.

(E) The bond proceedings may contain additional provisions customary or appropriate to the financing or to the obligations or to particular obligations, including:

(1) The acquisition, construction, reconstruction, equipment, furnishing, improvement, operation, alteration, enlargement, maintenance, insurance, and repair of facilities, and the duties of the institution of higher education with reference thereto;

(2) The terms of the obligations, including provisions for their redemption prior to maturity at the option of the institution of higher education at such price or prices and under such terms and conditions as are provided in the bond proceedings;

(3) Limitations on the purposes to which the proceeds of the obligations may be applied;

(4) The rates or rentals or other charges for the use of or right to use the facilities financed by the obligations, or other properties the revenues or receipts from which are pledged to the obligations, and rules for assuring

use and occupancy thereof, including limitations upon the right to modify such rates, rentals, other charges, or regulations;

(5) The use and expenditure of the pledged available receipts in such manner and to such extent as shall be determined, which may include provision for the payment of the expenses of operation, maintenance, and repair of facilities so that such expenses, or part thereof, shall be paid or provided as a charge prior or subsequent to the payment of bond service charges and any other payments required to be made by the bond proceedings;

(6) Limitations on the issuance of additional obligations;

(7) The terms of any trust agreement or indenture securing the obligations or under which the same may be issued;

(8) The deposit, investment, and application of funds, and the safeguarding of funds on hand or on deposit without regard to Chapter 131. or 135. of the Revised Code, and any bank or trust company or other financial institution that acts as depository of any moneys under the bond proceedings shall furnish such indemnifying bonds or pledge such securities as required by the bond proceedings or otherwise by the institution of higher education;

(9) The binding effect of any or every provision of the bond proceedings upon such officer, board, commission, authority, agency, department, or other person or body as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;

(10) Any provision that may be made in a trust agreement or indenture;

(11) Any other or additional agreements with respect to the facilities of the institution of higher education, their operation, the available receipts and funds pledged, and insurance of facilities and of the institution, its officers and employees.

(F) Such obligations may have the seal of the institution of higher education or a facsimile thereof affixed thereto or printed thereon and shall be executed by such officers as are designated in the bond proceedings, which execution may be by facsimile signatures. Any obligations may be executed by an officer who, on the date of execution, is the proper officer although on the date of such obligations such person was not the proper officer. In case any officer whose signature or a facsimile of whose signature appears on any such obligation ceases to be such officer before delivery thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if the person had remained such officer until such delivery; and in case the seal of the institution has been changed after a

facsimile of the seal has been imprinted on such obligations, such facsimile seal continues to be sufficient as to such obligations and obligations issued in substitution or exchange therefor.

(G) All such obligations are negotiable instruments and securities under Chapter 1308. of the Revised Code, subject to the provisions of the bond proceedings as to registration. The obligations may be issued in coupon or in registered form, or both. Provision may be made for the registration of any obligations with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations so registered, and for the conversion or reconversion into obligations with coupons attached thereto of any obligations registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion.

(H) Pending preparation of definitive obligations, the institution of higher education may issue interim receipts or certificates which shall be exchanged for such definitive obligations.

(I) Such obligations may be secured additionally by a trust agreement or indenture between the institution of higher education and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without this state but authorized to exercise trust powers within this state. Any such agreement or indenture may contain the resolution authorizing the issuance of the obligations, any provisions that may be contained in the bond proceedings as authorized by this section, and other provisions which are customary or appropriate in an agreement or indenture of such type, including:

(1) Maintenance of each pledge, trust agreement, and indenture, or other instrument comprising part of the bond proceedings until the institution of higher education has fully paid the bond service charges on the obligations secured thereby, or provision therefor has been made;

(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the institution of higher education made as a part of the contract under which the obligations were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;

(3) The rights and remedies of the holders of obligations and of the trustee, and provisions for protecting and enforcing them, including limitations on rights of individual holders of obligations;

(4) The replacement of any obligations that become mutilated or are destroyed, lost, or stolen;

(5) Such other provisions as the trustee and the institution of higher education agree upon, including limitations, conditions, or qualifications relating to any of the foregoing.

(J) Each duty of the institution of higher education and its officers or employees, undertaken pursuant to the bond proceedings or any related agreement or lease made under authority of law, is hereby established as a duty of such institution, and of each such officer or employee having authority to perform such duty, specially enjoined by law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The persons who are at the time the members of the board of trustees or the managing directors of the institution or its officers or employees are not liable in their personal capacities on such obligations, or lease, or other agreement of the institution.

(K) The authority to issue obligations includes authority to:

(1) Issue obligations in the form of bond anticipation notes and to renew them from time to time by the issuance of new notes. Such notes are payable solely from the available receipts and funds that may be pledged to the payment of such bonds, or from the proceeds of such bonds or renewal notes, or both, as the institution of higher education provides in its resolution authorizing such notes. Such notes may be additionally secured by covenants of the institution to the effect that it will do such or all things necessary for the issuance of such bonds or renewal notes in appropriate amount, and either exchange such bonds or renewal notes therefor or apply the proceeds thereof to the extent necessary, to make full payment of the bond service charges on such notes at the time or times contemplated, as provided in such resolution. Subject to the provisions of this division, all references to obligations in this section apply to such anticipation notes.

(2) Issue obligations to refund, including funding and retirement of, obligations previously issued to pay costs of facilities. Such obligations may be issued in amounts sufficient for payment of the principal amount of the obligations to be so refunded, any redemption premiums thereon, principal maturities of any obligations maturing prior to the redemption of any other obligations on a parity therewith to be so refunded, interest accrued or to accrue to the maturity date or dates of redemption of such obligations, and any expenses incurred or to be incurred in connection with such refunding or the issuance of the obligations.

(L) Obligations are lawful investments for banks, societies for savings, savings and loan associations, deposit guarantee associations, trust companies, trustees, fiduciaries, insurance companies, including domestic for life and domestic not for life, trustees or other officers having charge of

sinking and bond retirement or other special funds of political subdivisions and taxing districts of this state, the commissioners of the sinking fund, the administrator of workers' compensation in accordance with the investment policy ~~established~~ approved by the bureau of workers' compensation oversight commission ~~board of directors~~ pursuant to section 4121.12 of the Revised Code, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant thereto by any state agency with respect to investments by them, and are also acceptable as security for the deposit of public moneys.

(M) All facilities purchased, acquired, constructed, or owned by an institution of higher education, or financed in whole or in part by obligations issued by an institution, and used for the purposes of the institution or other publicly owned and controlled college or university, is public property used exclusively for a public purpose, and such property and the income therefrom is exempt from all taxation and assessment within this state, including ad valorem and excise taxes. The obligations, the transfer thereof, and the income therefrom, including any profit made on the sale thereof, are at all times free from taxation within the state. The transfer of tangible personal property by lease under authority of this section or section 3345.07, 3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code is not a sale as used in Chapter 5739. of the Revised Code.

(N) The authority granted by this section is cumulative with the authority granted to institutions of higher education under Chapter 154. of the Revised Code, and nothing in this section impairs or limits the authority granted by Chapter 154. of the Revised Code. In any lease, agreement, or commitment made by an institution of higher education under Chapter 154. of the Revised Code, it may agree to restrict or subordinate any pledge it may thereafter make under authority of this section.

(O) Title to lands acquired under this section and sections 3345.07 and 3345.11 of the Revised Code by a state university or college shall be taken in the name of the state.

(P) Except where costs of facilities are to be paid in whole or in part from funds appropriated by the general assembly, section 125.81 of the Revised Code and the requirement for certification with respect thereto under section 153.04 of the Revised Code do not apply to such facilities.

(Q) A state university or college may sell or lease lands or interests in land owned by it or by the state for its use, or facilities authorized to be acquired or constructed by it under section 3345.07 or 3345.11 of the

Revised Code, to permit the purchasers or lessees thereof to acquire, construct, equip, furnish, reconstruct, alter, enlarge, remodel, renovate, rehabilitate, improve, maintain, repair, or maintain and operate thereon and to provide by lease or otherwise to such institution, facilities authorized in section 3345.07 or 3345.11 of the Revised Code. Such land or interests therein shall be sold for such appraised value, or leased, and on such terms as the board of trustees determines. All deeds or other instruments relating to such sales or leases shall be executed by such officer of the state university or college as the board of trustees designates. The state university or college shall hold, invest, or use the proceeds of such sales or leases for the same purposes for which proceeds of borrowings may be used under sections 3345.07 and 3345.11 of the Revised Code.

(R) An institution of higher education may pledge available receipts, to the extent permitted by division (C) of this section with respect to obligations, to secure the payments to be made by it under any lease, lease with option to purchase, or lease-purchase agreement authorized under this section or section 3345.07, 3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code.

Sec. 3923.41. As used in sections 3923.41 to 3923.48 of the Revised Code:

(A) "Long-term care insurance" means any insurance policy or rider advertised, marketed, offered, or designed to provide coverage for not less than one year for each covered person on an expense incurred, indemnity, prepaid, or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. "Long-term care insurance" includes group and individual annuities and life insurance policies or riders that provide directly or supplement long-term care benefits, and policies or riders that provide for payment of benefits based on cognitive impairment or the loss of functional capacity. "Long-term care insurance" includes group and individual policies or riders whether issued by insurers, fraternal benefit societies, or health insuring corporations. "Long-term care insurance" includes qualified long-term care insurance contracts. "Long-term care insurance" does not include any insurance policy that is offered primarily to provide basic medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

With regard to life insurance, "long-term care insurance" does not include life insurance policies that accelerate the death benefits specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement; that provide the option of a lump sum payment for those benefits; and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

Notwithstanding any other provision contained in sections 3923.41 to 3923.48 of the Revised Code, any product advertised, marketed, or offered as long-term care insurance shall be subject to sections 3923.41 to 3923.48 of the Revised Code.

(B) "Applicant" means either of the following:

(1) In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits;

(2) In the case of a group long-term care insurance policy, the proposed certificate holder.

(C) "Certificate" means any certificate issued under a group long-term care insurance policy that has been delivered, issued for delivery, or used in or outside this state.

(D) "Group long-term care insurance" means ~~a form of long-term care insurance covering any group of two or more employees, members, or other persons, with or without one or more of their dependents and members of their immediate families. Such insurance may be offered to groups without regard to the purpose or type of group or the occupation of the employees, members, and other persons insured under the policy~~ a long-term care insurance policy that is delivered or issued for delivery in this state to any of the following:

(1) One or more employers or labor organizations, or a trust or the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, established for either of the following:

(a) Employees or former employees or a combination thereof;

(b) Members of the labor organization, or former members of the labor organization, or a combination thereof.

(2) Any professional, trade, or occupational association for its members or former or retired members, or a combination thereof, if the association satisfies both of the following requirements:

(a) It is composed of individuals all of whom are or were actively engaged in the same profession, trade, or occupation.

(b) It is maintained in good faith for purposes other than obtaining

insurance.

(3) An association or trust of the trustees of a fund established, created, or maintained for the benefit of members of one or more associations that meets the requirements of section 3923.43 of the Revised Code;

(4) A group other than as described in divisions (D)(1), (2), and (3) of this section about whom the superintendent of insurance finds that all of the following are true:

(a) The issuance of the group policy is not contrary to the best interest of the public.

(b) The issuance of the group policy would result in economies of acquisition or administration.

(c) The benefits of the group policy are reasonable in relation to the premiums charged.

(E) "Policy" means any policy, contract, rider, or endorsement delivered, issued for delivery, or used in or outside this state by an insurer, fraternal benefit society, or health insuring corporation.

(F)(1) "Qualified long-term care insurance contract" or "federally tax-qualified long-term care insurance contract" means an individual or group insurance contract of which all of the following are true pursuant to division (b) of section 7702B of the "Internal Revenue Code of 1986." 26 U.S.C. 7702B, as amended:

(a) The only insurance protection provided under the contract is coverage of qualified long-term care services including payments made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

(b) The contract does not pay or reimburse expenses incurred for services or items to the extent that the expenses are reimbursable under Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq., as amended, or would be so reimbursable but for the application of a deductible or coinsurance amount. The contract may pay or reimburse expenses that are reimbursable under Title XVIII of the Social Security Act as a secondary payer. A contract may allow payments to be made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

(c) The contract is guaranteed renewable, within the meaning of division (b)(1)(C) of section 7702B of the "Internal Revenue Code of 1986." 26 U.S.C. 7702B, as amended.

(d) The contract does not provide for a cash surrender value or other money that can be paid, assigned, pledged as collateral for a loan, or borrowed except as provided in division (F)(1)(e) of this section.

(e) All refunds of premiums, and all policy holder dividends or similar amounts, under the contract shall be applied to a reduction in future premiums or to increase future benefits, except that a refund in the event of death of the insured or in the event of a complete surrender or cancellation of the contract shall not exceed the aggregate premiums paid under the contract.

(f) The contract meets the consumer protection provisions set forth in division (g) of section 7702B of the "Internal Revenue Code of 1986," 26 U.S.C. 7702B, as amended.

(2) "Qualified long-term care insurance contract" or "federally tax-qualified long-term care insurance contract" also means the portion of a life insurance contract that provides long-term care insurance coverage by a rider or as part of the contract and that satisfies the requirements of divisions (b) and (e) of section 7702B of the Internal Revenue Code of 1986, 26 U.S.C. 7702B, as amended.

(G) "State long-term care partnership program" or "partnership program" means a program established under division (b) of section 1917 of the "Social Security Act," 42 U.S.C. 1396p, as amended.

(H) "Insurance agent" or "agent" means a person licensed under Chapter 3905. of the Revised Code to sell, solicit, or negotiate insurance.

(I) "Insurer" means any person authorized under Title XXXIX of the Revised Code to engage in the business of insurance in this state or any health insuring corporation authorized under Chapter 1751. of the Revised Code to do business in this state that issues long-term care insurance policies or certificates.

Sec. 3923.43. (A) Prior to advertising, marketing, or offering a policy within this state, the association or the insurer of the association described in division (D)(3) of section 3923.41 of the Revised Code, shall file evidence with the superintendent of insurance that the association has at the outset a minimum of one hundred persons and has been organized and maintained in good faith for purposes other than that of obtaining insurance, has been in active existence for at least one year, and has a constitution and bylaws that provide all of the following:

(1) The association holds regular meetings not less than annually to further the purposes of the members;

(2) Except for credit unions, the association collects dues or solicits contributions from members;

(3) The association's members have voting privileges and representation on the governing board and committees of the association.

(B) Thirty days after the evidence filing, the association is deemed to

satisfy the organizational requirements listed in division (A) of this section unless the superintendent makes a specific finding that the association does not satisfy the organizational requirements.

Sec. 3923.44. (A) The superintendent of insurance, pursuant to Chapter 119. of the Revised Code, may adopt rules that include standards for full and fair disclosure setting forth the manner, content, and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of coverage, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, and definitions of terms. Such rules may include provisions related to the state long-term care partnership program, including, but not limited to, requirements related to offers to exchange partnership program policies for previously issued policies and for consumer disclosures related to the state long-term care partnership program.

(B) No long-term care insurance policy shall:

(1) Be canceled, nonrenewed, or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder;

(2) Contain a provision establishing a new waiting period if existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder;

(3) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care;

(4) Use a definition of "preexisting condition" that is more restrictive than the following: "Preexisting condition" means a condition for which medical advice or treatment was recommended by, or received from, a provider of health care services, within six months preceding the effective date of coverage of an insured person.

(5) Exclude coverage for a loss or confinement that is the result of a preexisting condition unless the loss or confinement begins within six months following the effective date of coverage of an insured person.

(C) The superintendent may extend the limitation periods set forth in divisions (B)(4) and (5) of this section as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.

(D) "Preexisting condition" does not prohibit an insurer from using an

application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in division (B)(5) of this section expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in division (B)(5) of this section.

(E)(1) No long-term care insurance policy shall do any of the following:

(a) Condition eligibility for any institutional benefits on a requirement of prior hospitalization;

(b) Condition eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care;

(c) Condition eligibility for any institutional benefits, other than waiver of premium or post-confinement, post-acute care, or recuperative benefits, on a requirement of prior institutionalization.

(2) Every long-term care insurance policy that conditions eligibility for noninstitutional benefits on the prior receipt of institutional care is subject to both of the following:

(a) The policy shall not require a prior institutional stay of more than thirty days.

(b) The policy shall provide that eligibility for noninstitutional benefits shall be established by the alternative of a period of hospitalization of not more than three days.

(3) No long-term care insurance policy, except for the policy described in division (E)(2) of this section, shall condition eligibility for noninstitutional benefits on the requirement of prior hospitalization.

(4) No long-term care insurance policy that provides benefits only following institutionalization shall condition the benefits upon admission to a facility for the same or related conditions within a period of less than thirty days after discharge from the institution.

(F) A long-term care insurance policy that provides post-confinement, post-acute care, or recuperative benefits shall state any limitations or conditions on eligibility for benefits, including any required period of prior institutionalization as permitted in division (E)(1)(c) of this section, in a separate paragraph of the policy or certificate and shall label that paragraph "Limitations or Conditions on Eligibility for Benefits."

(G) The superintendent, pursuant to Chapter 119. of the Revised Code, may adopt rules establishing loss ratio standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the rule.

(H)(1) A person insured under a long-term care insurance policy may return the policy or certificate in accordance with the procedures and requirements provided for individual policyholders under section 3923.31 of the Revised Code, except that the person has thirty days from the date of delivery to return the policy or certificate and have the premium refunded.

(2) A notice of the policyholder's or certificate holder's rights under division (H)(1) of this section and section 3923.31 of the Revised Code shall be printed prominently on the first page of the policy or certificate or attached to the policy or certificate.

(I) ~~An~~ Except as provided in division (M) of this section, an outline of coverage and a notice that consumer information is available from the department of insurance under section 3923.49 of the Revised Code shall be delivered to a prospective applicant for long-term care insurance at the time of the initial solicitation through means that prominently direct the attention of the prospective applicant to the outline of coverage, the purpose of the outline of coverage, and the notice. In the case of agent solicitations, the agent shall deliver the outline of coverage and notice prior to the presentation of an application or enrollment form. In the case of direct response solicitations, the insurer shall deliver the outline of coverage and notice in conjunction with any application or enrollment form. The superintendent shall prescribe by rule the content and format of the outline of coverage and notice, including the style, overall appearance, size, color and prominence of type, and the arrangement of text and captions. The outline of coverage shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy;

(2) A statement of the principal exclusions, reductions, and limitations contained in the policy;

(3) A statement of the terms under which the individual policy or certificate or the group policy or certificate may be renewed and the terms under which cancellation is permitted, including any reservation in the policy of a right to change premiums. Continuation or conversion provisions of group long-term care insurance shall be specifically described.

(4) A description of the terms under which the policy or certificate may be returned and the premium refunded;

(5) A brief description of the relationship of the cost of care and

benefits;

(6) A statement that the outline of coverage is a summary of the policy issued or applied for, and that the policy or group master policy should be consulted to determine governing contractual provisions;

(7) A statement that discloses to the policyholder or certificate holder whether the policy is intended to be a federally tax-qualified long-term care insurance contract.

(J) A certificate issued pursuant to a group long-term care insurance policy that is delivered, issued for delivery, or used in or outside this state shall include all of the following:

(1) A description of the principal benefits and coverage provided in the policy;

(2) A statement of the principal exclusions, reductions, and limitations contained in the policy;

(3) A statement that the group master policy determines governing contractual provisions.

(K) If an individual life insurance policy provides long-term care benefits within the policy or by rider, a policy summary shall be delivered to an applicant for the policy at the time of policy delivery. In the case of direct response solicitations, the insurer shall deliver the policy summary to the applicant upon the applicant's request. If no such request is made, the insurer shall deliver the policy summary no later than at the time of policy delivery. In addition to any other information required by this section, the policy summary shall include all of the following:

(1) A statement that explains how the terms of the policy that provide benefits for long-term care insurance affect the other terms of the policy, including how the payment of these benefits would reduce the death benefits payable by the policy;

(2) A description of the amount of benefits for long-term care insurance that is available under the policy, the length of time these benefits could be paid by the policy, and any guaranteed lifetime benefits provided by the policy, for each insured under the policy;

(3) A statement of the exclusions, reductions, and limitations on benefits for long-term care insurance that are contained in the policy;

(4) A statement of the effects of exercising other rights under the policy;

(5) A statement of the guarantees, if any, with respect to the policy costs of providing benefits for long-term care insurance;

(6) A statement of all current and projected maximum lifetime benefits;

(7) A statement of whether long-term care inflation protection is available under the policy.

~~(L)(1) Except as provided in division (L)(2) of this section, during the time that benefits are being paid under a life insurance policy or rider for long term care insurance, the insurer shall provide to the policyholder a semiannual report that includes~~ During the time when a long-term care benefit, funded through a life insurance vehicle by the acceleration of the death benefit, is in benefit payment status, the insurer shall provide a monthly report to the policyholder. The report shall include all of the following:

~~(a)(1) A description of all benefits for long-term care insurance that were paid by the policy during that reporting period~~ month;

~~(b) A description~~ (2) An explanation of any reductions ~~changes in the other available benefits under the policy, including death benefits or cash values due to the payout of long-term care benefits;~~

~~(c)(3) A statement of the amount of benefits for long-term care insurance that is still available under the policy.~~

~~(2) During the six month period immediately preceding the expiration of benefits being paid under a life insurance policy or rider for long term care insurance, the insurer, every sixty days, shall provide to the policyholder the report described in division (L)(1) of this section.~~

(M) In case of a policy issued to a group defined in division (D)(1) of section 3923.41 of the Revised Code, an outline of coverage shall not be required to be delivered, provided that the information described in division (I) of this section is contained in other materials relating to enrollment and, upon request, these other materials are made available to the superintendent.

(N)(1) Policies that are intended to qualify under the state long-term care partnership program shall comply with all state and federal requirements applicable to policies issued in connection with the state long-term care partnership program.

(2)(a) For policies intended to qualify under the state long-term care partnership program, the agent or insurer shall deliver to the applicant a long-term care partnership policy disclosure form along with the outline of coverage specified in division (I) of this section.

(b) In the case of a policy issued to a group where an outline of coverage is not delivered, the long-term care partnership policy disclosure form is delivered with enrollment forms.

(c) In the case of a life insurance policy that offers long-term care insurance within the policy or as a rider, the disclosure form is provided with the policy summary.

(O) No insurer shall issue a policy intended to qualify as a state partnership program policy that fails to satisfy the following inflation

protection requirements:

(1) For a person who is less than sixty-one years of age as of the date of purchase of the policy, the policy provides annual inflation protection of at least three per cent compounded annually per year or a rate, compounded annually, that is equal to the annual consumer price index.

(2) For a person who is at least sixty-one years of age but less than seventy-six years of age as of the date of purchase of the policy, the policy provides annual inflation protection of at least three per cent simple or a rate equal to the annual consumer price index.

(3) For a person who is at least seventy-six years of age as of the date of purchase of the policy, the policy may provide inflation protection.

(P) As used in this section, "consumer price index" means consumer price index for all urban consumers, U.S. city average, all items, as determined by the bureau of labor statistics of the United States department of labor.

(O) For purposes of division (O) of this section, the superintendent may approve an alternative index to be used in place of the consumer price index.

(R) The superintendent shall prescribe by rule pursuant to Chapter 119. of the Revised Code the content and format of the state long-term care partnership program policy disclosure form required by division (N)(2) of this section.

(S) No policy may be advertised, marketed, or offered as long-term care insurance unless it complies with sections 3923.41 to 3923.48 of the Revised Code.

~~(N)~~(T) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code to establish minimum standards for marketing practices, agent compensation, agent testing, and reporting practices for long-term care insurance.

Sec. 3923.441. (A) Except as otherwise provided in division (C) of this section and notwithstanding division (B) of section 3923.04 of the Revised Code, no insurer shall rescind a long-term care insurance policy or certificate or deny an otherwise valid claim based upon a misrepresentation by the applicant without adhering to one of the following:

(1) For a policy or certificate that has been in force for less than six months, an insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim if the insurer can demonstrate that the insured misrepresented facts that were material to the insurer's offer of coverage to the insured.

(2) For a policy or certificate that has been in force for at least six months but less than two years, an insurer may rescind a long-term care

insurance policy or certificate or deny an otherwise valid long-term care insurance claim if the insurer can demonstrate that the insured misrepresented facts that were both material to the insurer's offer of coverage to the insured and that pertain to the condition for which the insured sought benefits.

(3) After a policy or certificate has been in force for at least two years, an insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim if the insurer can demonstrate that the insured knowingly and intentionally misrepresented relevant facts relating to the insured's health in the insured's application for the policy.

(B) No insurer shall recover from the insured benefits that were paid under a long-term care insurance policy or certificate prior to the rescission of the policy or certificate pursuant to this section.

(C) In the event of the death of the insured, the remaining death benefits under a life insurance policy that accelerates benefits for long-term care are governed by section 3923.04 of the Revised Code.

Sec. 3923.442. (A)(1) Except as provided in division (B) of this section, no insurer shall deliver or issue for delivery a long-term care insurance policy or certificate in this state without offering the policyholder or certificate holder the option of purchasing a nonforfeiture benefit.

(2) An insurer's offer of a nonforfeiture benefit pursuant to this section may be in the form of a rider that is attached to the policy.

(3) If the policyholder or certificate holder declines the nonforfeiture benefit offered pursuant to this section, the insurer shall provide a contingent benefit upon lapse that shall be available for a period of time specified in the policy or certificate following a substantial increase in premium rates.

(B)(1) For a group long-term care insurance policy, the insurer shall make the offer required by division (A) of this section to the group policyholder.

(2) For a group long-term care insurance policy as defined by division (D)(4) of section 3923.41 of the Revised Code, other than to a continuing care retirement community or other similar entity, the insurer shall make the offer required by division (A) of this section to each proposed certificate holder.

(C) The superintendent of insurance may adopt rules specifying the type of nonforfeiture benefits insurers may offer as part of long-term care insurance policies and certificates, the standards for nonforfeiture benefits, and the rules regarding contingent benefit upon lapse, including a

determination of the specified period of time during which a contingent benefit upon lapse will be available and the substantial premium rate increase that triggers a contingent benefit upon lapse as described in division (A) of this section.

Sec. 3923.443. (A)(1) No agent shall sell, solicit, or negotiate long-term care insurance on or after September 1, 2008, without completing an initial eight-hour partnership program training course as described in division (B) of this section.

(2)(a) Any agent that sells, solicits, or negotiates any long-term care insurance shall complete at least four hours of continuing education in every twenty-four-month period commencing on the first day of January of the year immediately following the year of the issuance of the agent's license.

(b) No agent shall fail to complete the continuing education requirements in division (A)(2)(a) of this section in the twenty-four-month period described in that division.

(B) The initial training course and continuing education required under division (A) of this section may be approved by the superintendent of insurance as continuing education courses under sections 3905.481 to 3905.486 of the Revised Code and shall consist of combined topics related to long-term care insurance, long-term care services, and state long-term care insurance partnership programs, including all of the following:

(1) State and federal regulations and requirements and the relationship between state long-term care insurance partnership programs and other public and private coverage of long-term care services, including medicaid;

(2) Available long-term care services and providers;

(3) Changes or improvements in long-term care services or providers;

(4) Alternatives to the purchase of private long-term care insurance;

(5) The effect of inflation on benefits and the importance of inflation protection;

(6) Consumer suitability standards and guidelines;

(7) Any other topics required by the superintendent.

(C) The initial training and continuing education required by division (A) of this section shall not include training that is specific to a particular insurer or company product or that includes any sales or marketing information, materials, or training other than those required by state or federal law.

(D) An agent may complete the training and continuing education required by division (A) of this section by completing partnership program training requirements in any other state, provided that the course is approved by the superintendent prior to the agent taking the course.

(E) Each insurer shall maintain records of the initial training and continuing education completed by agents of that insurer pursuant to division (A) of this section as well as the training completed by the insurer's agents concerning the distribution of the insurer's partnership program policies and shall make those records available to the superintendent upon request.

(F) The superintendent shall certify to the director of job and family services that the superintendent has verified that all agents selling, soliciting, or negotiating long-term care insurance in Ohio have completed the training and continuing education required by division (A) of this section including training concerning the partnership program policies and their relationship to public and private coverage of long-term care in this state, including medicaid. The superintendent shall make the records provided to the superintendent pursuant to division (E) of this section available to the director.

Sec. 3923.444. (A) No agent or third-party administrator shall field issue a long-term care insurance policy or certificate if the compensation to the agent or third-party administrator is not based on the number of policies or certificates issued.

(B) As used in this section, "field issue" means to issue a policy or certificate pursuant to the underwriting authority granted to an agent or third-party administrator by an insurer using the insurer's underwriting guidelines.

Sec. 3923.47. The superintendent of insurance shall, pursuant to Chapter 119. of the Revised Code, adopt rules to carry out the purposes of sections 3923.41 to 3923.48 of the Revised Code including rules related to the state long-term care partnership program.

Sec. 4121.01. (A) As used in sections 4121.01 to 4121.29 of the Revised Code:

(1) "Place of employment" means every place, whether indoors or out, or underground, and the premises appurtenant thereto, where either temporarily or permanently any industry, trade, or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade, or business, is carried on and where any person is directly or indirectly employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service or agricultural pursuits which do not involve the use of mechanical power.

(2) "Employment" means any trade, occupation, or process of manufacture or any method of carrying on such trade, occupation, or process

of manufacture in which any person may be engaged, except in such private domestic service or agricultural pursuits as do not involve the use of mechanical power.

(3) "Employer" means every person, firm, corporation, agent, manager, representative, or other person having control or custody of any employment, place of employment, or employee.

(4) "Employee" means every person who may be required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go, or work, or be at any time in any place of employment.

(5) "Frequenter" means every person, other than an employee, who may go in or be in a place of employment under circumstances which render the person other than a trespasser.

(6) "Deputy" means any person employed by the industrial commission or the bureau of workers' compensation, designated as a deputy by the commission or the administrator of workers' compensation, who possesses special, technical, scientific, managerial, professional, or personal abilities or qualities in matters within the jurisdiction of the commission or the bureau, and who may be engaged in the performance of duties under the direction of the commission or the bureau calling for the exercise of such abilities or qualities.

(7) "Order" means any decision, rule, regulation, direction, requirement, or standard, or any other determination or decision that the bureau is empowered to and does make.

(8) "General order" means an order that applies generally throughout the state to all persons, employments, or places of employment, or all persons, employments, or places of employment of a class under the jurisdiction of the bureau. All other orders shall be considered special orders.

(9) "Local order" means any ordinance, order, rule, or determination of the legislative authority of any municipal corporation, or any trustees, or board or officers of any municipal corporation upon any matter over which the bureau has jurisdiction.

(10) "Welfare" means comfort, decency, and moral well-being.

(11) "Safe" or "safety," as applied to any employment or a place of employment, means such freedom from danger to the life, health, safety, or welfare of employees or frequenters as the nature of the employment will reasonably permit, including requirements as to the hours of labor with relation to the health and welfare of employees.

(12) "Employee organization" means any labor or bona fide organization in which employees participate and that exists for the purpose.

in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment.

(B) As used in the Revised Code:

(1) "Industrial commission" means the chairperson of the three-member industrial commission created pursuant to section 4121.02 of the Revised Code when the context refers to the authority vested in the chairperson as the chief executive officer of the three-member industrial commission pursuant to divisions (A), (B), (C), and (D) of section 4121.03 of the Revised Code.

(2) "Industrial commission" means the three-member industrial commission created pursuant to section 4121.02 of the Revised Code when the context refers to the authority vested in the three-member industrial commission pursuant to division (E) of section 4121.03 of the Revised Code.

(3) "Industrial commission" means the industrial commission as a state agency when the context refers to the authority vested in the industrial commission as a state agency.

Sec. 4121.12. (A) There is hereby created the bureau of workers' compensation oversight commission board of directors consisting of eleven members, ~~of which members to be appointed by the governor shall appoint five with the advice and consent of the senate. Of the five members the governor appoints, two~~ One member shall be individuals an individual who, on account of their the individual's previous vocation, employment, or affiliations, can be classed as a representative of employees; at least one of whom is representative of employees who are members of an; two members shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representatives of employee organization organizations and at least one of these two individuals shall be a member of the executive committee of the largest statewide labor federation; two three members shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representative representatives of employers, one of whom represents self-insuring employers and, one of whom has experience as an employer in compliance with section 4123.35 of the Revised Code other than a self-insuring employer is a state fund employer who employs one hundred or more employees, and one of those two representatives also shall represent employers whose employees are not members of an employee organization whom is a state fund employer who employs less than one hundred employees; two members shall be individuals who, on account of their vocation, employment, or affiliations, can be classed as investment and

securities experts who have direct experience in the management, analysis, supervision, or investment of assets and are residents of this state; one member who shall be a certified public accountant; one member who shall be an actuary who is a member in good standing with the American academy of actuaries or who is an associate or fellow with the society of actuaries; and one member shall represent the public and also be an individual who, on account of the individual's previous vocation, employment, or affiliations, cannot be classed as either predominantly representative of employees or of employers. The governor shall select the chairperson of the ~~commission board~~ who shall serve as chairperson at the pleasure of the governor. ~~No more than three members appointed by the governor shall belong to or be affiliated with the same political party.~~

~~Each~~ None of these five the members of the board, within one year immediately preceding the member's appointment, shall have at least three years' experience in the field of insurance, finance, been employed by the bureau of workers' compensation, law, accounting, actuarial, personnel, investments, or data processing, or in the management of an organization whose size is commensurate with that of the bureau of workers' compensation. At least one of these five members shall be an attorney licensed under Chapter 4705. of the Revised Code to practice law in this state by any person, partnership, or corporation that has provided to the bureau services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(B) Of the initial appointments made to the ~~commission board~~, the governor shall appoint ~~one the~~ member who represents employees ~~to a term ending one year after September 1, 1995,~~ one member who represents employers ~~to a term ending two years after September 1, 1995,~~ and the member who represents the public to a term ending ~~three years~~ one year after ~~September 1, 1995,~~ the effective date of this amendment; one member who represents ~~employees~~ employers, one member who represents employee organizations, one member who is an investment and securities expert, and the member who is a certified public accountant to a term ending ~~four~~ two years after ~~September 1, 1995,~~ the effective date of this amendment; and one member who represents employers, ~~one member who represents employee organizations,~~ one member who is an investment and securities expert, and the member who is an actuary to a term ending ~~five~~ three years after ~~September 1, 1995~~ the effective date of this amendment. Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until

the end of the term for which the member was appointed.

~~The governor shall not appoint any person to more than two full terms of office on the commission. This restriction does not prevent the governor from appointing a person to fill a vacancy caused by the death, resignation, or removal of a commission member and also appointing that person twice to full terms on the commission, or from appointing a person previously appointed to fill less than a full term twice to full terms on the commission.~~ Members may be reappointed. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) In making appointments to the ~~commission board~~, the governor shall select the members from the list of names submitted by the workers' compensation ~~oversight commission board of directors~~ nominating committee pursuant to this division. ~~Within fourteen days after the governor calls the initial meeting of the nominating committee pursuant to division (C) of section 4121.123 of the Revised Code, the~~ The nominating committee shall submit to the governor, ~~for the initial appointments,~~ a list containing four separate names for each of the members on the ~~commission board~~. Within fourteen days after the submission of the list, the governor shall appoint individuals from the list.

~~For the appointment of the member who is representative of employees who are members of an employee organization, both for initial appointments and for the filling of vacancies, the list of four names submitted by the nominating committee shall be comprised of four individuals who are members of the executive committee of the largest statewide labor federation.~~

~~Thereafter, within~~ Within sixty days after a vacancy occurring as a result of the expiration of a term and within thirty days after other vacancies occurring on the ~~commission board~~, the nominating committee shall submit ~~a~~ an initial list containing four names for each vacancy. Within fourteen days after the submission of the initial list, the governor ~~either~~ shall appoint individuals from ~~the~~ that list or request the nominating committee to submit another list of four names for each member the governor has not appointed from the initial list, which list the nominating committee shall submit to the governor within fourteen days after the governor's request. The governor then shall appoint, within seven days after the submission of the second list, one of the individuals from either list to fill the vacancy for which the

governor has not made an appointment from the initial list. With respect to the filling of vacancies, the nominating committee shall provide the governor with a list of four individuals who are, in the judgment of the nominating committee, the most fully qualified to accede to membership on the commission board. ~~The nominating committee shall not include the name of an individual upon the list for the filling of vacancies if the appointment of that individual by the governor would result in more than three members of the commission belonging to or being affiliated with the same political party. The committee shall include on the list for the filling of vacancies only the names of attorneys admitted to practice law in this state if, to fulfill the requirement of division (A) of section 4121.12 of the Revised Code, the vacancy must be filled by an attorney.~~

In order for the name of an individual to be submitted to the governor under this division, the nominating committee shall approve the individual by an affirmative vote of a majority of its members.

~~(D) The commission shall also consist of two members, known as the investment expert members. One investment expert member shall be appointed by the treasurer of state and one investment expert member shall be jointly appointed by the speaker of the house of representatives and the president of the senate. Each investment expert member shall have the following qualifications:~~

~~(1) Be a resident of this state;~~

~~(2) Within the three years immediately preceding the appointment, not have been employed by the bureau of workers' compensation or by any person, partnership, or corporation that has provided to the bureau services of a financial or investment nature, including the management, analysis, supervision, or investment of assets;~~

~~(3) Have direct experience in the management, analysis, supervision, or investment of assets.~~

~~Terms of office of the investment expert members shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office for the date of the member's appointment until the end of the term for which the member was appointed. The president, speaker, and treasurer shall not appoint any person to more than two full terms of office on the commission. This restriction does not prevent the president, speaker, and treasurer from appointing a person to fill a vacancy caused by the death, resignation, or removal of a commission member and also appointing that person twice to full terms on the commission, or from appointing a person previously appointed to fill less than a full term twice to full terms on the commission. Any investment~~

~~expert member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office until the end of that term. The member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.~~

~~The investment expert members of the oversight commission shall vote only on investment matters.~~

~~(E) The remaining four members of the commission shall be the chairperson and ranking minority member of the standing committees of the house of representatives and of the senate to which legislation concerning this chapter and Chapters 4123., 4127., and 4131. of the Revised Code normally are referred, or a designee of the chairperson or ranking minority member, provided that the designee is a member of the standing committee. Legislative members shall serve during the session of the general assembly to which they are elected and for as long as they are members of the general assembly. Legislative members shall serve in an advisory capacity to the commission and shall have no voting rights on matters coming before the commission. Membership on the commission by legislative members shall not be deemed as holding a public office.~~

~~(F) All members of the commission board shall receive their reasonable and necessary expenses pursuant to section 126.31 of the Revised Code while engaged in the performance of their duties as members. Members appointed by the governor and the investment expert members also shall receive an annual salary not to exceed eighteen sixty thousand dollars in total, payable on the following basis:~~

~~(1) Except as provided in division ~~(F)~~(D)(2) of this section, a member shall receive two thousand five hundred dollars during a month in which the member attends one or more meetings of the commission board and shall receive no payment during a month in which the member attends no meeting of the commission board.~~

~~(2) A member may receive no more than the annual eighteen thirty thousand ~~dollar salary~~ dollars per year to compensate the member for attending meetings of the board, regardless of the number of meetings held by the commission board during a year or the number of meetings in excess of nine twelve within a year that the member attends.~~

~~(3) Except as provided in division (D)(4) of this section, if a member serves on the workers' compensation audit committee, workers' compensation actuarial committee, or the workers' compensation investment committee, the member shall receive two thousand five hundred dollars~~

during a month in which the member attends one or more meetings of the committee on which the member serves and shall receive no payment during any month in which the member attends no meeting of that committee.

(4) A member may receive no more than thirty thousand dollars per year to compensate the member for attending meetings of any of the committees specified in division (D)(3) of this section, regardless of the number of meetings held by a committee during a year or the number of committees on which a member serves.

The chairperson of the ~~commission~~ board shall set the meeting dates of the ~~commission~~ board as necessary to perform the duties of the ~~commission~~ board under this chapter and Chapters 4123., ~~4125.~~, 4127., ~~and 4131., and 4167.~~ of the Revised Code. The ~~commission~~ board shall meet at least ~~nine~~ twelve times ~~during the period commencing on the first day of September and ending on the thirty first day of August of the following a year.~~ The administrator of workers' compensation shall provide professional and clerical assistance to the ~~commission~~ board, as the ~~commission~~ board considers appropriate.

~~(G)~~(E) Before entering upon the duties of office, each appointed member of the board shall take an oath of office as required by sections 3.22 and 3.23 of the Revised Code and file in the office of the secretary of state the bond required under section 4121.127 of the Revised Code.

(F) The ~~commission~~ board shall:

(1) Establish the overall administrative policy for the bureau for the purposes of this chapter and Chapters 4123., ~~4125.~~, 4127., 4131., and 4167. of the Revised Code;

(2) Review progress of the bureau in meeting its cost and quality objectives and in complying with this chapter and Chapters 4123., ~~4125.~~, 4127., ~~and 4131., and 4167.~~ of the Revised Code;

(2) ~~Issue~~ (3) ~~Submit~~ an annual report ~~on the cost and quality objectives of the bureau~~ to the president of the senate, the speaker of the house of representatives, ~~and the governor,~~ and the workers' compensation council and include all of the following in that report:

(a) An evaluation of the cost and quality objectives of the bureau;

(b) A statement of the net assets available for the provision of compensation and benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as of the last day of the fiscal year;

(c) A statement of any changes that occurred in the net assets available, including employer premiums and net investment income, for the provision of compensation and benefits and payment of administrative expenses, between the first and last day of the fiscal year immediately preceding the

date of the report:

(d) The following information for each of the six consecutive fiscal years occurring previous to the report:

(i) A schedule of the net assets available for compensation and benefits;

(ii) The annual cost of the payment of compensation and benefits;

(iii) Annual administrative expenses incurred;

(iv) Annual employer premiums allocated for the provision of compensation and benefits.

(e) A description of any significant changes that occurred during the six years for which the board provided the information required under division (F)(3)(d) of this section that affect the ability of the board to compare that information from year to year.

~~(3)~~(4) Review all independent financial audits of the bureau. The administrator shall provide access to records of the bureau to facilitate the review required under this division.

~~(4)~~(5) Study issues as requested by the administrator or the governor;

~~(5)~~(6) Contract with ~~an~~ all of the following:

(a) An independent actuarial firm to assist the ~~commission board~~ in making recommendations to the administrator regarding premium rates;

~~(6) Establish objectives, policies, and criteria for the administration of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines, and monitor the administrator's progress in implementing the objectives, policies, and criteria on a quarterly basis. The commission shall not specify in the objectives, policies, and criteria that the administrator or employees of the bureau are prohibited from conducting business with an investment management firm, any investment management professional associated with that firm, any third party solicitor associated with that firm, or any political action committee controlled by that firm or controlled by an investment management professional of that firm based on criteria that are more restrictive than the restrictions described in divisions (Y) and (Z) of section 3517.13 of the Revised Code. The commission shall review~~

(b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties;

(c) An independent fiduciary counsel to assist the board in the performance of its duties.

(7) Approve the investment policy developed by the workers' compensation investment committee pursuant to section 4121.129 of the Revised Code if the policy satisfies the requirements specified in section

4123.442 of the Revised Code.

~~(8) Review and publish the objectives, policies, and criteria investment policy no less than annually and shall make copies available to interested parties. The commission shall prohibit~~

~~(9) Prohibit, on a prospective basis, any specific investment it finds to be contrary to its the investment objectives, policies, and criteria.~~

~~The objectives, policies, and criteria adopted by the commission for the operation of the investment program shall prohibit investing assets of funds, directly or indirectly, in vehicles that target any of the following:~~

- ~~(a) Coins;~~
- ~~(b) Artwork;~~
- ~~(c) Horses;~~
- ~~(d) Jewelry or gems;~~
- ~~(e) Stamps;~~
- ~~(f) Antiques;~~
- ~~(g) Artifacts;~~
- ~~(h) Collectibles;~~
- ~~(i) Memorabilia;~~

~~(j) Similar unregulated investments that are not commonly part of an institutional portfolio, that lack liquidity, and that lack readily determinable valuation policy approved by the board.~~

~~(7) Specify in the objectives, policies, and criteria for the investment program that the administrator is permitted (10) Vote to open each investment class and allow the administrator to invest in an investment class only if the commission board, by a majority vote, opens that class. After the commission opens;~~

~~(11) After opening a class but prior to the administrator investing in that class, the commission shall adopt rules establishing due diligence standards for employees of the bureau to follow when investing in that class and shall establish policies and procedures to review and monitor the performance and value of each investment class. The commission shall submit;~~

~~(12) Submit a report annually on the performance and value of each investment class to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The commission may vote to close any investment class.~~

~~(8)(13) Advise and consent on all of the following:~~

(a) Administrative rules the administrator submits to it pursuant to division (B)(5) of section 4121.121 of the Revised Code for the classification of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and

systems of rating, rate revisions, and merit rating;

~~(b) The overall policy of the bureau of workers' compensation as set by the administrator;~~

~~(e)~~ The duties and authority conferred upon the administrator pursuant to section 4121.37 of the Revised Code;

~~(d)~~(c) Rules the administrator adopts 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;

~~(e)~~(d) Rules the administrator submits to it pursuant to Chapter 4167. of the Revised Code regarding the public employment risk reduction program and the protection of public health care workers from exposure incidents.

As used in this division, "public health care worker" and "exposure incident" have the same meanings as in section 4167.25 of the Revised Code.

~~(9)~~(14) Perform all duties required under ~~section 4121.125~~ this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(15) Meet with the governor on an annual basis to discuss the administrator's performance of the duties specified in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(16) Develop and participate in a bureau of workers' compensation board of directors education program that consists of all of the following:

(a) An orientation component for newly appointed members;

(b) A continuing education component for board members who have served for at least one year;

(c) A curriculum that includes education about each of the following topics:

(i) Board member duties and responsibilities;

(ii) Compensation and benefits paid pursuant to this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(iii) Ethics;

(iv) Governance processes and procedures;

(v) Actuarial soundness;

(vi) Investments;

(vii) Any other subject matter the board believes is reasonably related to the duties of a board member.

(17) Submit the program developed pursuant to division (F)(16) of this section to the workers' compensation council for approval;

(18) Hold all sessions, classes, and other events for the program developed pursuant to division (F)(16) of this section in this state.

(G) The board may do both of the following:

(1) Vote to close any investment class;

(2) Create any committees in addition to the workers' compensation audit committee, the workers' compensation actuarial committee, and the workers' compensation investment committee that the board determines are necessary to assist the board in performing its duties.

(H) The office of a member of the ~~commission board~~ who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. The vacancy shall be filled in the same manner as the original appointment. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible to be a member of the ~~commission board~~. A member who receives a bill of indictment for any of the offenses specified in this section shall be automatically suspended from the ~~commission board~~ pending resolution of the criminal matter.

(I) ~~As used in this section, "employee organization" means any labor or bona fide organization in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, hours, terms and other conditions of employment~~ For the purposes of division (G)(1) of section 121.22 of the Revised Code, the meeting between the governor and the board to review the administrator's performance as required under division (F)(15) of this section shall be considered a meeting regarding the employment of the administrator.

Sec. 4121.121. (A) There is hereby created the bureau of workers' compensation, which shall be administered by the administrator of workers' compensation. A person appointed to the position of administrator shall possess significant management experience in effectively managing an organization or organizations of substantial size and complexity. A person appointed to the position of administrator also shall possess a minimum of five years of experience in the field of workers' compensation insurance or in another insurance industry, except as otherwise provided when the conditions specified in division (C) of this section are satisfied. The governor shall appoint the administrator as provided in section 121.03 of the Revised Code, and the administrator shall serve at the pleasure of the governor. The governor shall fix the administrator's salary on the basis of the administrator's experience and the administrator's responsibilities and duties under this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code. The governor shall not appoint to the position of

administrator any person who has, or whose spouse has, given a contribution to the campaign committee of the governor in an amount greater than one thousand dollars during the two-year period immediately preceding the date of the appointment of the administrator.

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 the bureau ~~of workers' compensation~~ and for the discharge of all administrative duties imposed upon the administrator in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code, and in the discharge thereof shall do all of the following:

(1) ~~Establish the overall administrative policy of the bureau for the purposes of this chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised Code, and perform~~ 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 that is required of and vested in the ~~oversight commission~~ bureau of workers' compensation board of directors or the industrial commission pursuant to those chapters. The treasurer of state shall honor all warrants signed by the administrator, or by one or more of the administrator's employees, authorized by the administrator in writing, or bearing the facsimile signature of the administrator or such employee under sections 4123.42 and 4123.44 of the Revised Code.

(2) Employ, direct, and supervise all employees required in connection with the performance of the duties assigned to the bureau by this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code, including an actuary, and may establish job classification plans and compensation for all employees of the bureau provided that this grant of authority shall not be construed as affecting any employee for whom the state employment relations board has established an appropriate bargaining unit under section 4117.06 of the Revised Code. All positions of employment in the bureau are in the classified civil service except those employees the administrator may appoint to serve at the administrator's pleasure in the unclassified civil service pursuant to section 124.11 of the

Revised Code. The administrator shall fix the salaries of employees the administrator appoints to serve at the administrator's pleasure, including the chief operating officer, staff physicians, and other senior management personnel of the bureau and shall establish the compensation of staff attorneys of the bureau's legal section and their immediate supervisors, and take whatever steps are necessary to provide adequate compensation for other staff attorneys.

The administrator may appoint a person who holds a certified position in the classified service within the bureau to a position in the unclassified service within the bureau. A person appointed pursuant to this division to a position in the unclassified service shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment in the unclassified service, regardless of the number of positions the person held in the unclassified service. An employee's right to resume a position in the classified service may only be exercised when the administrator demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the unclassified service. An employee forfeits the right to resume a position in the classified service when the employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of this chapter or Chapter 124., 4123., ~~4125.~~ 4127., 4131., or 4167. of the Revised Code, violation of the rules of the director of administrative services or the administrator ~~of workers' compensation~~, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. An employee also forfeits the right to resume a position in the classified service upon transfer to a different agency.

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 department 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 bureau 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 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 during the person's time of service in the position in the unclassified service.

(3) Reorganize the work of the bureau, its sections, departments, and offices to the extent necessary to achieve the most efficient performance of its functions and to that end may establish, change, or abolish positions and assign and reassign duties and responsibilities of every employee of the bureau. All persons employed by the commission in positions that, after November 3, 1989, are supervised and directed by the administrator under this section are transferred to the bureau in their respective classifications but subject to reassignment and reclassification of position and compensation as the administrator determines to be in the interest of efficient administration. The civil service status of any person employed by the commission is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

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

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

(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 administrator by section 4123.44 of the Revised Code in accordance with the investment ~~objectives, policies, and criteria established~~ policy approved by the ~~oversight commission~~ board pursuant to section 4121.12 of the Revised

Code and in consultation with the chief investment officer of the bureau of workers' compensation. The administrator shall not engage in any prohibited investment activity specified by the ~~oversight commission board~~ pursuant to division ~~(G)(6)(F)(9)~~ of section 4121.12 of the Revised Code and shall not invest in any type of investment specified in divisions ~~(G)(6)(a)(B)(1)~~ to ~~(j)(10)~~ of ~~that~~ section 4123.442 of the Revised Code. All business shall be transacted, all funds invested, all warrants for money drawn and payments made, and all cash and securities and other property held, in the name of the bureau, or in the name of its nominee, provided that nominees are authorized by the administrator solely for the purpose of facilitating the transfer of securities, and restricted to the administrator and designated employees.

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

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

(10) Separately Prepare and submit to the board an annual budget for internal operating purposes for the board's approval. The administrator also shall, separately from the budget the industrial commission submits, prepare and submit to the director of budget and management a budget for each biennium. The budget budgets submitted to the board and the director shall include estimates of the costs and necessary expenditures of the bureau in the discharge of any duty imposed by law.

(11) As promptly as possible in the course of efficient administration, decentralize and relocate such of the personnel and activities of the bureau as is appropriate to the end that the receipt, investigation, determination, and payment of claims may be undertaken at or near the place of injury or the residence of the claimant and for that purpose establish regional offices, in such places as the administrator considers proper, capable of discharging as many of the functions of the bureau as is practicable so as to promote prompt and efficient administration in the processing of claims. All active and inactive lost-time claims files shall be held at the service office

responsible for the claim. A claimant, at the claimant's request, shall be provided with information by telephone as to the location of the file pertaining to the claimant's claim. The administrator shall ensure that all service office employees report directly to the director for their service office.

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

(13) Set standards for the reasonable and maximum handling time of claims payment functions, ensure, by rules, the impartial and prompt treatment of all claims and employer risk accounts, and establish a secure, accurate method of time stamping all incoming mail and documents hand delivered to bureau employees.

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

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

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

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

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

(c) Audit fee bill payments;

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

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

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

(18) Pursuant to section 4123.65 of the Revised Code, approve applications for the final settlement of claims for 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.

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

(20) Adopt, with the advice and consent of the ~~oversight commission board~~, rules for the operation of the bureau.

(21) Prepare and submit to the ~~oversight commission board~~ information the administrator considers pertinent or the ~~oversight commission board~~ requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the ~~oversight commission 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 senate, shall appoint a chief operating officer who has ~~significant~~ a minimum of five years of experience in the field of workers' compensation insurance or ~~other in another~~ similar insurance industry ~~experience~~ if the administrator does not possess such experience. The chief operating officer shall not commence

the chief operating officer's duties until after the senate consents to the chief operating officer's appointment. The chief operating officer shall serve in the unclassified civil service of the state.

Sec. 4121.122. (A) The administrator of workers' compensation, for employees of the bureau of workers' compensation, and the industrial commission, for employees of the commission may discipline, suspend, demote or discharge any employee for misfeasance, malfeasance, or nonfeasance. In the case of any deputy administrator, or of any employee assigned to the investigation or determination of claims, and finding of the administrator or the commission that such person is not efficient, impartial, or judicious, if supported by any evidence and not promoted by personal, political, racial, or religious discrimination shall be accepted as a fact justifying the action taken by the administrator or commission.

(B) The administrator and the commission shall jointly adopt, in the form of a rule, a code of ethics for all employees of the bureau and the commission and post copies of the rule in a conspicuous place in every bureau and commission office.

(C) The administrator and the commission shall jointly adopt rules setting forth procedures designed to eliminate outside influence on bureau and commission employees, produce an impartial workers' compensation claims handling process, and avoid favoritism in the claims handling process. Failure to adopt and enforce these rules constitutes grounds for removal of the administrator and the members of the commission.

~~(D) The commission and the administrator shall appoint a six member internal security committee composed of three bureau employees appointed by the administrator and three commission employees appointed by the commission. The administrator shall supply to the committee the services of trained investigative personnel and clerical assistance necessary to the committee's duties. The committee shall investigate all claims or cases of criminal violations, abuse of office, or misconduct on the part of bureau or commission employees and shall conduct a program of random review of the processing of workers' compensation claims.~~

~~The committee shall deliver to the administrator, the commission, or the governor any case for which remedial action is necessary. The committee shall maintain a public record of its activities, ensuring that the rights of innocent parties are protected, and, once every six months, shall report to the governor, the general assembly, the administrator, and commission, the committee's findings and the corrective actions subsequently taken in cases considered by the committee.~~

Sec. 4121.123. (A) There is hereby created the workers' compensation

~~oversight commission~~ board of directors nominating committee consisting of the following:

(1) Three individuals who are members of affiliated employee organizations of the Ohio chapter of the American federation of labor-congress of industrial organizations, who are selected by the Ohio chapter of the American federation of labor-congress of industrial organizations and who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employees who are members of an employee organization. Terms of office shall be for one year, with each term ending on the same day of the same month as did the term that it succeeds.

(2) Two individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representative of employees, one of whom shall be an injured worker with a valid, open, and active workers' compensation claim and at least one of these two representatives also shall represent employees who are not members of an employee organization. The president of the senate and the speaker of the house of representatives each shall appoint annually one of these members. The member who is an injured worker shall serve his for a full term even if ~~his~~ the member's workers' compensation claim is invalidated, closed, or inactivated during ~~his~~ the member's term.

(3) The chief executive officer, or the equivalent of the chief executive officer, of the Ohio chamber of commerce, the Ohio manufacturers' association, the Ohio self-insurers' association, the Ohio council of retail merchants, and of either the national federation of independent business or the Ohio farm bureau as jointly selected by the national federation of independent business and the Ohio farm bureau;

(4) The director of development;

(5) The president of the Ohio municipal league, the Ohio township association, and the Ohio county commissioners association, or, in the event of a vacancy in the presidency, a designee appointed by the governing body authorized to appoint the president. A designee so appointed shall serve on the nominating committee only until the vacancy in the presidency is filled.

(B) ~~Within fourteen days after the effective date of this section, the speaker of the house of representatives, the president of the senate, and the Ohio chapter of the American federation of labor congress of industrial organizations shall make their initial appointments to the nominating committee as required in divisions (A)(1) and (2) of this section.~~ Each member appointed under divisions (A)(1) and (2) of this section shall hold office from the date of the member's appointment until the end of the term

for which the member was appointed. Such members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any such member appointed to fill a vacancy occurring prior to the expiration date of the term for which ~~his~~ the member's predecessor was appointed shall hold office as a member for the remainder of that term. Such a member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) ~~At the time of the initial appointment of the members to the nominating committee, the governor immediately shall call a meeting of the nominating committee and request the nominating committee to submit its initial recommendations for the appointment of workers' compensation oversight commission members under section 4121.12 of the Revised Code. Thereafter, the~~ The nominating committee shall meet at the request of the governor or as the nominating committee determines appropriate in order to make recommendations to the governor for the appointment of ~~oversight commission~~ members of the bureau of workers' compensation board of directors under section 4121.12 of the Revised Code.

(D) The director of development shall serve as chairperson of the nominating committee and have no voting rights on matters coming before the nominating committee, except that the director may vote in the event of a tie vote of the nominating committee. Annually, the nominating committee shall select a secretary from among its members. The nominating committee may adopt by-laws governing its proceedings.

(E) Members of the nominating committee shall be paid their reasonable and necessary expenses pursuant to section 126.31 of the Revised Code while engaged in the performance of their duties as members of the nominating committee.

(F) The nominating committee shall:

(1) Review and evaluate possible appointees for the ~~oversight commission board~~. In reviewing and evaluating possible appointees for the ~~oversight commission board~~, the nominating committee may accept comments from, cooperate with, and request information from any person.

(2) Make recommendations to the governor for the appointment of members to the ~~oversight commission board~~ as provided in division (C) of section 4121.12 of the Revised Code.

(G) The nominating committee may make recommendations to the general assembly concerning changes in legislation that will assist the nominating committee in the performance of its duties.

~~(H) As used in this section, "employee organization" means any labor or~~

~~bona fide organization in which employees participate and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, hours, terms and other conditions of employment.~~

Sec. 4121.125. (A) The bureau of workers' compensation ~~oversight commission~~ board of directors, based upon recommendations of the workers' compensation actuarial committee, may contract with one or more outside actuarial firms and other professional persons, as the ~~oversight commission~~ board determines necessary, to assist the ~~oversight commission~~ board in measuring the performance of Ohio's workers' compensation system and in comparing Ohio's workers' compensation system to other state and private workers' compensation systems. The ~~oversight commission~~ board, actuarial firm or firms, and professional persons shall make such measurements and comparisons using accepted insurance industry standards, including, but not limited to, standards promulgated by the National Council on Compensation Insurance.

(B) The ~~oversight commission~~ board may contract with one or more outside firms to conduct management and financial audits of the workers' compensation system, including audits of the reserve fund belonging to the state insurance fund, and to establish objective quality management principles and methods by which to review the performance of the workers' compensation system.

(C) The board shall do all of the following:

(1) Contract to have prepared annually by or under the supervision of an actuary a report that meets the requirements specified under division (E) of this section and that consists of an actuarial valuation of the assets, liabilities, and funding requirements of the state insurance fund and all other funds specified in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(2) Require that the actuary or person supervised by an actuary referred to in division (C)(1) of this section complete the valuation in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries;

(3) Submit the report referred to in division (C)(1) of this section to the workers' compensation council and the standing committees of the house of representatives and the senate with primary responsibility for workers' compensation legislation not later than the first day of September following the year for which the valuation was made;

(4) Have an actuary or a person who provides actuarial services under the supervision of an actuary, at such time as the board determines, and at

least once during the five-year period that commences on the effective date of this amendment and once within each five-year period thereafter, conduct an actuarial investigation of the experience of employers, the mortality, service, and injury rate of employees, and the payment of temporary total disability, permanent partial disability, and permanent total disability under sections 4123.56 to 4123.58 of the Revised Code to update the actuarial assumptions used in the report required by division (C)(1) of this section;

(5) Submit the report required under division (F) of this section to the council and the standing committees of the house of representatives and the senate with primary responsibility for workers' compensation legislation not later than the first day of November following the fifth year of the period that the report covers;

(6) Have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the workers' compensation system;

(7) Submit the report required under division (G) of this section to the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for workers' compensation legislation, and the council not later than sixty days after the date of introduction of the legislation.

(D) The administrator of workers' compensation and the industrial commission shall compile information and provide access to records of the bureau and the industrial commission to the ~~oversight commission~~ board to the extent necessary for fulfillment of both of the following requirements:

(1) Conduct of the measurements and comparisons described in division (A) of this section;

(2) Conduct of the management and financial audits and establishment of the principles and methods described in division (B) of this section.

~~(D)~~(E) The firm or person with whom the board contracts pursuant to division (C)(1) of this section shall prepare a report of the valuation and submit the report to the board. The firm or person shall include all of the following information in the report that is required under division (C)(1) of this section:

(1) A summary of the compensation and benefit provisions evaluated;

(2) A summary of the census data and financial information used in the valuation;

(3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation;

(4) A summary of findings that includes a statement of the actuarial accrued compensation and benefit liabilities and unfunded actuarial accrued

compensation and benefit liabilities:

(5) A schedule showing the effect of any changes in the compensation and benefit provisions, actuarial assumptions, or cost methods since the previous annual actuarial valuation report was submitted to the board.

(F) The actuary or person whom the board designates to conduct an actuarial investigation under division (C)(4) of this section shall prepare a report of the actuarial investigation and shall submit the report to the board. The actuary or person shall prepare the report and make any recommended changes in actuarial assumptions in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary or person shall include all of the following information in the report:

(1) A summary of relevant decrement and economic assumption experience;

(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (C)(1) of this section;

(3) A measurement of the financial effect of the recommended changes in actuarial assumptions.

(G) The actuary or person whom the board designates to conduct the actuarial analysis under division (C)(6) of this section shall prepare a report of the actuarial analysis and shall submit that report to the board. The actuary or person shall complete the analysis in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary or person shall include all of the following information in the report:

(1) A summary of the statutory changes being evaluated;

(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;

(3) A description of the participant group or groups included in the report;

(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in employer premiums, in actuarial accrued liabilities, and, if an increase in actuarial accrued liabilities is predicted, the per cent of premium increase that would be required to amortize the increase in those liabilities as a level per cent of employer premiums over a period not to exceed thirty years.

(5) A statement of whether the employer premiums paid to the bureau of workers' compensation after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

(H) The board may, at any time, request an actuary to make any studies

or actuarial valuations to determine the adequacy of the premium rates established by the administrator in accordance with sections 4123.29 and 4123.34 of the Revised Code, and may adjust those rates as recommended by the actuary.

(I) ~~The oversight commission board~~ shall have an independent auditor, at least once every ten years, conduct a fiduciary performance audit of the investment program of the bureau of workers' compensation. That audit shall include an audit of the investment policies ~~of approved by the oversight commission board~~ and investment procedures of the bureau. The ~~oversight commission board~~ shall submit a copy of that audit to the auditor of state.

~~(E)(J)~~ The ~~bureau of workers' compensation administrator~~, with the advice and consent of the ~~oversight commission board~~, shall employ an internal auditor who shall report findings directly to the ~~oversight commission on investment matters board, workers' compensation audit committee, and administrator, except that the internal auditor shall not report findings directly to the administrator when those findings involve malfeasance, misfeasance, or nonfeasance on the part of the administrator.~~ The ~~oversight commission board and the workers' compensation audit committee~~ may request and review internal audits conducted by the internal auditor.

~~(F)(K)~~ The administrator shall pay the expenses incurred by the ~~oversight commission board~~ to effectively fulfill its duties and exercise its powers under this section as the administrator pays other operating expenses of the bureau.

Sec. 4121.126. Except as provided in this chapter, no member of the bureau of workers' compensation ~~oversight commission board of directors~~ or employee of the bureau of workers' compensation shall have any direct or indirect interest in the gains or profits of any investment made by the administrator of workers' compensation or shall receive directly or indirectly any pay or emolument for the member's or employee's services. No member or person connected with the bureau directly or indirectly, for self or as an agent or partner of others, shall borrow any of its funds or deposits or in any manner use the funds or deposits except to make current and necessary payments that are authorized by the administrator. No member of the ~~oversight commission board~~ or employee of the bureau shall become an indorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the bureau.

The administrator shall make no investments through or purchases from, or otherwise do any business with, any individual who is, or any partnership,

association, or corporation that is owned or controlled by, a person who within the preceding three years was employed by the bureau, a board member of, or an officer of the ~~oversight commission~~ board, or a person who within the preceding three years was employed by or was an officer holding a fiduciary, administrative, supervisory, or trust position, or any other position in which such person would be involved, on behalf of the person's employer, in decisions or recommendations affecting the investment policy of the bureau, and in which such person would benefit by any monetary gain.

Sec. 4121.128. The attorney general shall be the legal adviser of the bureau of workers' compensation ~~oversight commission~~ board of directors and the workers' compensation council.

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

(1) Recommend to the board an accounting firm to perform the annual audits required under section 4123.47 of the Revised Code;

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

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

(4) Monitor the implementation of any action plans created pursuant to division (A)(3) of this section;

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

(B) There is hereby created the workers' compensation actuarial committee consisting of at least three members. One member shall be the member of the board who is an actuary. The board, by majority vote, shall appoint two additional members of the board to serve on the actuarial

committee and may appoint additional members who are not board members, as the board determines necessary. Members of the actuarial committee serve at the pleasure of the board and the board, by majority vote, may remove any member except the member of the committee who is the actuary member of the board. The board, by majority vote, shall determine how often the actuarial committee shall meet and report to the board. If the actuarial committee meets on the same day as the board holds a meeting, no member shall be compensated for more than one meeting held on that day. The actuarial committee shall do both of the following:

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

(2) Review calculations on rate schedules and performance prepared by the actuarial consultants with whom the board enters into a contract.

(C)(1) There is hereby created the workers' compensation investment committee consisting of at least four members. Two of the members shall be the members of the board who serve as the investment and securities experts on the board. The board, by majority vote, shall appoint two additional members of the board to serve on the investment committee and may appoint additional members who are not board members. Each additional member the board appoints shall have at least one of the following qualifications:

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

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

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

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

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

(b) Submit the investment policy developed pursuant to division

(C)(2)(a) of this section to the board for approval;

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

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

(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 that the best possible return on investment is achieved.

Sec. 4121.37. 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 ~~oversight commission~~ 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, investigators, clerks, and stenographers for the efficient operation of a division of safety and hygiene of the bureau of workers' compensation, which is hereby created.

The administrator ~~of workers' compensation~~, with the advice and consent of the ~~oversight commission~~ 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, the expenses of investigations and researches for the prevention of industrial accidents and diseases, and for operating the long-term care loan fund program established under section 4121.48 of the Revised Code. All investment earnings of the fund shall be credited to the fund. The administrator has the same powers to invest any of the funds belonging to the fund as are delegated to the administrator under section 4123.44 of the Revised Code with respect to the state insurance fund. The superintendent, under the direction of the administrator, with the advice and consent of the ~~oversight commission~~ board, shall conduct investigations and researches for the prevention of industrial accidents and diseases, conduct loss prevention programs and

courses for employers, establish and administrate cooperative programs with employers for the purchase of individual safety equipment for employees, and print and distribute information as may be of benefit to employers and employees. The administrator shall pay from the safety and hygiene fund the salary of the superintendent of the division of safety and hygiene, the compensation of the other employees of the division of safety and hygiene, the expenses necessary or incidental to investigations and researches for the prevention of industrial accidents and diseases, and the cost of printing and distributing such information.

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

The superintendent shall be a competent person with at least five years' experience in industrial accident or disease prevention work. The superintendent and up to six positions in the division of safety and hygiene as the administrator, with the advice and consent of the ~~oversight commission~~ board, designates are in the unclassified civil service of the state as long as the administrator, with the advice and consent of the ~~oversight commission~~ board, determines the positions subordinate to the superintendent are primarily and distinctively administrative, managerial, or professional in character. All other full-time employees of the division of safety and hygiene are in the classified civil service of the state.

Sec. 4121.441. (A) The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation ~~oversight commission~~ board of directors, shall adopt rules under Chapter 119. of the Revised Code for the health care partnership program administered by the bureau of workers' compensation to provide medical, surgical, nursing, drug, hospital, and rehabilitation services and supplies to an employee for an injury or occupational disease that is compensable under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code.

The rules shall include, but are not limited to, the following:

(1) Procedures for the resolution of medical disputes between an employer and an employee, an employee and a provider, or an employer and a provider, prior to an appeal under section 4123.511 of the Revised Code.

Rules the administrator adopts pursuant to division (A)(1) of this section may specify that the resolution procedures shall not be used to resolve disputes concerning medical services rendered that have been approved through standard treatment guidelines, pathways, or presumptive authorization guidelines.

(2) Prohibitions against discrimination against any category of health care providers;

(3) Procedures for reporting injuries to employers and the bureau by providers;

(4) Appropriate financial incentives to reduce service cost and insure proper system utilization without sacrificing the quality of service;

(5) Adequate methods of peer review, utilization review, quality assurance, and dispute resolution to prevent, and provide sanctions for, inappropriate, excessive or not medically necessary treatment;

(6) A timely and accurate method of collection of necessary information regarding medical and health care service and supply costs, quality, and utilization to enable the administrator to determine the effectiveness of the program;

(7) Provisions for necessary emergency medical treatment for an injury or occupational disease provided by a health care provider who is not part of the program;

(8) Discounted pricing for all in-patient and out-patient medical services, all professional services, and all pharmaceutical services;

(9) Provisions for provider referrals, pre-admission and post-admission approvals, second surgical opinions, and other cost management techniques;

(10) Antifraud mechanisms;

(11) Standards and criteria for the bureau to utilize in certifying or recertifying a health care provider or a vendor for participation in the health partnership program;

(12) Standards and criteria for the bureau to utilize in penalizing or decertifying a health care provider or a vendor from participation in the health partnership program.

(B) The administrator shall implement the health partnership program according to the rules the administrator adopts under this section for the provision and payment of medical, surgical, nursing, drug, hospital, and rehabilitation services and supplies to an employee for an injury or occupational disease that is compensable under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code.

Sec. 4121.48. (A) The bureau of workers' compensation shall operate a long-term care loan fund program. The administrator of workers'

compensation may adopt rules, employ personnel, and do all things necessary for that purpose.

(B) The administrator shall use the long-term care loan fund program to make loans without interest to employers that are nursing homes or hospitals for the purpose of allowing those employers to purchase, improve, install, or erect sit-to-stand floor lifts, ceiling lifts, other lifts, and fast electric beds, and to pay for the education and training of personnel, in order to implement a facility policy of no manual lifting of residents by employees.

The administrator, with the advice and consent of the bureau of workers' compensation ~~oversight commission~~ board of directors, may adopt rules establishing criteria for loan eligibility, maximum loan amounts, loan periods, default penalties, and any other terms the administrator considers necessary for a loan.

(C) There is hereby created in the state treasury the long-term care loan fund. The fund shall consist of money the administrator, with the advice and consent of the ~~oversight commission~~ board, requests the director of budget and management to transfer from the safety and hygiene fund created in section 4121.37 of the Revised Code. The fund shall be used solely for purposes identified in this section. All investment earnings of the fund shall be credited to the fund. All money the administrator receives for payment of a default penalty assessed or for repayment of any loan made pursuant to this section shall be credited to the safety and hygiene fund created under section 4121.37 of the Revised Code.

(D) As used in this section, "nursing:"

(1) "Hospital" has the same meaning as in section 3701.01 of the Revised Code;

(2) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.

Sec. 4121.61. The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation ~~oversight commission~~ board of directors, shall adopt rules, take measures, and make expenditures as it deems necessary to aid claimants who have sustained compensable injuries or incurred compensable occupational diseases pursuant to Chapter 4123., 4127., or 4131. of the Revised Code to return to work or to assist in lessening or removing any resulting handicap.

Sec. 4121.67. The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation ~~oversight commission~~ board of directors, shall adopt rules:

(A) For the encouragement of reemployment of claimants who have successfully completed prescribed rehabilitation programs by payment from

the surplus fund established by section 4123.34 of the Revised Code to employers who employ or re-employ the claimants. The period or periods of payments shall not exceed six months in the aggregate, unless the administrator or ~~his~~ the administrator's designee determines that the claimant will be benefited by an extension of payments.

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

Sec. 4121.70. (A) There is hereby created the labor-management government advisory council consisting of twelve members appointed as follows:

(1) The governor, with the advice and consent of the senate, shall appoint three members who, by training and vocation, are representative of labor and three members who, by training and vocation, are representative of employers.

(2) Ex officio, the chairpersons of the standing committees of the house of representatives and the senate to which legislation concerned with workers' compensation is customarily referred. A chairperson may designate the vice-chairperson of the committee to serve instead.

(3) One person who by training and vocation represents labor and one person who by training and vocation represents employers of differing political parties appointed by the speaker of the house of representatives.

(4) One person who by training and vocation represents labor and one person who by training and vocation represents employers of differing political parties appointed by the president of the senate.

(B) Members appointed by the governor shall serve for a term of six years with each term ending on the same day of the year in which the member was first appointed, except that each member shall serve for a period of sixty additional days at the end of the member's term or until the member's successor is appointed and qualifies, whichever date occurs first. Of the members first appointed to the council by the governor, one member

each representing labor and management shall serve an initial term of two years, one member each representing labor and management shall serve a term of four years, and the remaining two members shall serve full six-year terms. The members initially appointed by the speaker of the house of representatives and the president of the senate shall serve a term of six years. Thereafter, members shall be appointed to and serve full six-year terms. Members are eligible for reappointment to any number of additional terms.

Legislative members shall serve a term that coincides with the two-year legislative session in which they are first appointed with each term ending on the thirty-first day of December of the even-numbered year. Legislative members are eligible for reappointment.

Vacancies on the council shall be filled in the same manner as the original appointment. All members of the council shall serve without additional compensation but shall be reimbursed by the bureau of workers' compensation for actual and necessary expenses.

The council shall advise the bureau of workers' compensation ~~oversight commission~~ board of directors and the administrator of workers' compensation on the quality and effectiveness of rehabilitation services and make recommendations pertaining to the bureau's rehabilitation program, including the operation of that program.

The labor-management government advisory council shall recommend to the administrator three candidates for the position of director of rehabilitation. The candidates shall be chosen for their ability and background in the field of rehabilitation. The administrator shall select a director from the list of candidates.

Sec. 4121.75. (A) There is hereby created the workers' compensation council, which is created for the purpose of reviewing the soundness of the workers' compensation system and legislation involving or affecting the workers' compensation system. The council shall not be involved in the daily operations and oversight of the bureau of workers' compensation or the industrial commission. Members of the council shall be appointed as follows:

(1) Three members of the senate, appointed by the president of the senate, not more than two of whom may be members of the same political party;

(2) Three members of the house of representatives, appointed by the speaker of the house of representatives, not more than two of whom may be members of the same political party;

(3) Five members jointly appointed by the president of the senate and

the speaker of the house of representatives, not more than three of whom shall be members of the same political party, one of whom shall represent employers who employ one hundred or more employees, one of whom shall represent employers who employ less than one hundred employees, one of whom shall represent employees, one of whom shall represent injured workers, and one of whom shall represent the public and also be an individual who, on account of the individual's previous vocation, employment, or affiliations, cannot be classed as either predominantly representative of employees or of employers. Of these five members, at least one shall be a person with investment expertise.

(B) The council also shall consist of the chairperson of the industrial commission and the administrator of workers' compensation, who shall be nonvoting ex officio members of the council.

(C) The president of the senate and the speaker of the house of representatives shall make the initial appointments required under divisions (A)(1) and (2) of this section not later than thirty days after the effective date of this section. The members of the council who are appointed from the membership of the senate and the house of representatives shall serve during their terms as members of the general assembly. Notwithstanding the adjournment of the general assembly of which the member is a member or the expiration of the member's term as a member of such general assembly, a member shall continue in office subsequent to the expiration date of the member's term on the council until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(D) The president of the senate and the speaker of the house of representatives shall make the initial appointments required under division (A)(3) of this section not later than ninety days after the effective date of this section. Of these initial appointments to the council, one member shall be appointed for a term ending one year after the effective date of this section, two members shall be appointed for terms ending two years after the effective date of this section, and two members shall be appointed for terms ending three years after the effective date of this section. Thereafter, terms shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member appointed under division (A)(3) of this section shall hold office from the date of appointment until the end of the term for which the appointment was made. Members may be reappointed. Any member appointed pursuant to division (A)(3) of this section to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Each member appointed pursuant to division (A)(3)

of this section shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(E) Vacancies shall be filled in the manner prescribed for original appointments.

Sec. 4121.76. Meetings of the workers' compensation council shall be called in the manner and at the times prescribed by rules adopted by the council. A majority of the voting members of the council constitutes a quorum and no action shall be taken by the council unless approved by at least five voting members. The council shall organize by selecting a chairperson, vice-chairperson, and any other officers as it determines are necessary. The council shall select the chairperson and vice-chairperson from the members of the council who also are members of the general assembly, and each of those members shall serve as chairperson or vice-chairperson during their terms as members of the general assembly. The council shall rotate the selection of the chairperson and vice-chairperson between the two houses. The council shall adopt rules for the conduct of its business and the election of its officers. Each member of the council, before entering upon the member's official duties shall take and subscribe to an oath of office, to uphold the Constitution and laws of the United States and this state and to perform the duties of the office honestly, faithfully, and impartially. Members of the council appointed pursuant to division (A)(3) of section 4121.75 of the Revised Code shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties. Legislative members shall not receive compensation or expenses.

Sec. 4121.77. The workers' compensation council may do any of the following:

(A) Appoint a director to manage and direct the duties of the staff of the council. The director shall be a person who has had training and experience in areas related to the duties of the council.

(B) Appoint professional, technical, and clerical employees as necessary, and employ or hire on a consulting basis persons to provide actuarial, legal, investment, or other technical services required for the performance of the council's duties. For purposes of section 4117.01 of the Revised Code, employees of the council shall be considered employees of the general assembly.

(C) Fix the compensation of the director and all other employees of the council;

(D) Require the members of the industrial commission, bureau of

workers' compensation board of directors, workers' compensation audit committee, workers' compensation actuarial committee, and workers' compensation investment committee, the administrator of workers' compensation, and employees of the industrial commission and the bureau of workers' compensation, and any agency or official of this state or its political subdivisions to provide the council with any information necessary to carry out its duties;

(E) Administer oaths and hold public hearings at times and places within the state as necessary to accomplish the purposes of sections 4121.75 to 4121.79 of the Revised Code;

(F) Establish regular reporting requirements for any report that the chairperson of the industrial commission, chairperson of the board, members of the committees specified in division (D) of this section, and the administrator are required to submit to the council;

(G) Request that the auditor of state perform or contract for the performance of a financial or special audit of the bureau;

(H) Request that the auditor of state perform or contract for the performance of a special or fiduciary audit of the workers' compensation system.

Sec. 4121.78. The workers' compensation council shall do all of the following:

(A) Study all changes to this chapter and Chapters 4123., 4125., 4127., and 4131. of the Revised Code proposed to the general assembly and report to the general assembly on their probable costs, actuarial implications, and desirability as a matter of public policy;

(B) Review for solvency, as the council determines necessary, all financial, actuarial, and fiduciary audits performed on the funds specified in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code and the actuarial policies of the bureau of workers' compensation;

(C) Have prepared by an independent actuary, at least once every ten years, an actuarial review of the annual actuarial valuations and quinquennial actuarial investigations prepared by the bureau of workers' compensation board of directors pursuant to section 4121.125 of the Revised Code, including a review of the actuarial assumptions and methods and the data underlying the valuations and investigations;

(D) Submit to the governor and the general assembly a report summarizing the review required under division (C) of this section.

(E) Submit an annual report summarizing the activities and findings of the council during the year preceding the annual report to the president and minority leader of the senate, speaker and minority leader of the house of

representatives, and the members of the standing committees of the house of representatives and of the senate to which matters concerning this chapter and Chapters 4123., 4127., and 4131. of the Revised Code normally are referred.

Sec. 4121.79. The compensation of all employees of the workers' compensation council and other expenses of the council shall be paid upon vouchers approved by the director and the chairperson of the council.

The administrator of workers' compensation shall pay the annual expenses of the council. The council shall prepare and submit to the administrator on or before the thirtieth day of June of each year an itemized estimate of the amounts necessary to pay the expenses of the council during the following year.

The council shall establish policies and procedures for purchasing goods and services on a competitive basis and maintaining tangible personal property. The policies and procedures shall be designed to safeguard the use of funds received by the council. An audit performed under Chapter 117. of the Revised Code shall include a determination of the council's compliance with those policies and procedures.

The council is not subject to Chapter 123., 124., 125., 126., or 127. of the Revised Code.

Sec. 4123.25. (A) No employer shall knowingly misrepresent to the bureau of workers' compensation the amount or classification of payroll upon which the premium under this chapter is based. Whoever violates this division shall be liable to the state in an amount determined by the administrator of workers' compensation for not more than ten times the amount of the difference between the premium paid and the amount the employer should have paid. The liability to the state under this division may be enforced in a civil action in the name of the state, and all sums collected under this division shall be paid into the state insurance fund.

(B) No self-insuring employer shall knowingly misrepresent the amount of paid compensation paid by such employer for purposes of the assessments provided under this chapter and Chapter 4121. of the Revised Code as required by section 4123.35 of the Revised Code. Whoever violates this division is liable to the state in an amount determined by the self-insuring employers evaluation board pursuant to division (C) of section 4123.352 of the Revised Code or for an amount the board determines that is not more than ten times the amount of the difference between the assessment paid and the amount of the assessment that should have been paid. The liability to the state under this division may be enforced in a civil action in the name of the state and all sums collected under this division

shall be paid into the self-insurance assessment fund created pursuant to division (K) of section 4123.35 of the Revised Code.

(C) The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation oversight commission board of directors, shall adopt rules establishing criteria for determining both of the following:

(1) The amount of the penalty assessed against an employer for a violation of division (A) of this section;

(2) Acts or omissions that do not constitute a violation of division (A) or (B) of this section.

Sec. 4123.29. (A) The administrator of workers' compensation, subject to the approval of the bureau of workers' compensation oversight commission board of directors, shall do all of the following:

(1) Classify occupations or industries with respect to their degree of hazard and determine the risks of the different classes according to the categories the national council on compensation insurance establishes that are applicable to employers in this state;

(2) Fix the rates of premium of the risks of the classes based upon the total payroll in each of the classes of occupation or industry sufficiently large to provide a fund for the compensation provided for in this chapter and to maintain a state insurance fund from year to year. The administrator shall set the rates at a level that assures the solvency of the fund. Where the payroll cannot be obtained or, in the opinion of the administrator, is not an adequate measure for determining the premium to be paid for the degree of hazard, the administrator may determine the rates of premium upon such other basis, consistent with insurance principles, as is equitable in view of the degree of hazard, and whenever in this chapter reference is made to payroll or expenditure of wages with reference to fixing premiums, the reference shall be construed to have been made also to such other basis for fixing the rates of premium as the administrator may determine under this section.

The administrator in setting or revising rates shall furnish to employers an adequate explanation of the basis for the rates set.

(3) Develop and make available to employers who are paying premiums to the state insurance fund alternative premium plans. Alternative premium plans shall include retrospective rating plans. The administrator may make available plans under which an advanced deposit may be applied against a specified deductible amount per claim.

(4)(a) Offer to insure the obligations of employers under this chapter under a plan that groups, for rating purposes, employers, and pools the risk

of the employers within the group provided that the employers meet all of the following conditions:

~~(a)~~(i) All of the employers within the group are members of an organization that has been in existence for at least two years prior to the date of application for group coverage;

~~(b)~~(ii) The organization was formed for purposes other than that of obtaining group workers' compensation under this division;

~~(c)~~(iii) The employers' business in the organization is substantially similar such that the risks which are grouped are substantially homogeneous;

~~(d)~~(iv) The group of employers consists of at least one hundred members or the aggregate workers' compensation premiums of the members, as determined by the administrator, are expected to exceed one hundred fifty thousand dollars during the coverage period;

~~(e)~~(v) The formation and operation of the group program in the organization will substantially improve accident prevention and claims handling for the employers in the group;

~~(f)~~(vi) Each employer seeking to enroll in a group for workers' compensation coverage has an industrial insurance account in good standing with the bureau of workers' compensation such that at the time the agreement is processed no outstanding premiums, penalties, or assessments are due from any of the employers.

(b) If an organization sponsors more than one employer group to participate in group plans established under this section, that organization may submit a single application that supplies all of the information necessary for each group of employers that the organization wishes to sponsor.

(c) In providing employer group plans under division (A)(4) of this section, the administrator shall consider an employer group as a single employing entity for purposes of retrospective rating. No employer may be a member of more than one group for the purpose of obtaining workers' compensation coverage under this division.

(d) At the time the administrator revises premium rates pursuant to this section and section 4123.34 of the Revised Code, if the premium rate of an employer who participates in a group plan established under this section changes from the rate established for the previous year, the administrator, in addition to sending the invoice with the rate revision to that employer, shall send a copy of that invoice to the third-party administrator that administers the group plan for that employer's group.

(e) In providing employer group plans under division (A)(4) of this

section, the administrator shall establish a program designed to mitigate the impact of a significant claim that would come into the experience of a private, state fund group-rated employer for the first time and be a contributing factor in that employer being excluded from a group-rated plan. The administrator shall establish eligibility criteria and requirements that such employers must satisfy in order to participate in this program. For purposes of this program, the administrator shall establish a discount on premium rates applicable to employers who qualify for the program.

(f) In no event shall division (A)(4) of this section be construed as granting to an employer status as a self-insuring employer.

(g) The administrator shall develop classifications of occupations or industries that are sufficiently distinct so as not to group employers in classifications that unfairly represent the risks of employment with the employer.

(5) Generally promote employer participation in the state insurance fund through the regular dissemination of information to all classes of employers describing the advantages and benefits of opting to make premium payments to the fund. To that end, the administrator shall regularly make employers aware of the various workers' compensation premium packages developed and offered pursuant to this section.

(6) Make available to every employer who is paying premiums to the state insurance fund a program whereby the employer or the employer's agent pays to the claimant or on behalf of the claimant the first ~~five~~ fifteen thousand dollars of a compensable workers' compensation medical-only claim filed by that claimant that is related to the same injury or occupational disease. No formal application is required; however, an employer must elect to participate by telephoning the bureau after July 1, 1995. Once an employer has elected to participate in the program, the employer will be responsible for all bills in all medical-only claims with a date of injury the same or later than the election date, unless the employer notifies the bureau within fourteen days of receipt of the notification of a claim being filed that it does not wish to pay the bills in that claim, or the employer notifies the bureau that the fifteen thousand dollar maximum has been paid, or the employer notifies the bureau of the last day of service on which it will be responsible for the bills in a particular medical-only claim. If an employer elects to enter the program, the administrator shall not reimburse the employer for such amounts paid and shall not charge the first ~~five~~ fifteen thousand dollars of any medical-only claim paid by an employer to the employer's experience or otherwise use it in merit rating or determining the risks of any employer for the purpose of payment of premiums under this

chapter. If an employer elects to enter the program and the employer fails to pay a bill for a medical-only claim included in the program, the employer shall be liable for that bill and the employee for whom the employer failed to pay the bill shall not be liable for that bill. The administrator shall adopt rules to implement and administer division (A)(6) of this section. Upon written request from the bureau, the employer shall provide documentation to the bureau of all medical-only bills that they are paying directly. Such requests from the bureau may not be made more frequently than on a semiannual basis. Failure to provide such documentation to the bureau within thirty days of receipt of the request may result in the employer's forfeiture of participation in the program for such injury. The provisions of this section shall not apply to claims in which an employer with knowledge of a claimed compensable injury or occupational disease, has paid wages in lieu of compensation or total disability.

(B) The administrator, with the advice and consent of the ~~oversight commission~~ board, by rule, may do both of the following:

(1) Grant an employer who makes the employer's semiannual premium payment at least one month prior to the last day on which the payment may be made without penalty, a discount as the administrator fixes from time to time;

(2) Levy a minimum annual administrative charge upon risks where semiannual premium reports develop a charge less than the administrator considers adequate to offset administrative costs of processing.

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

(B) An employer who is adversely affected by a decision of an adjudicating committee appointed by the administrator may appeal the decision of the committee to the administrator or the administrator's designee. The employer shall file the appeal in writing within thirty days after the employer receives the decision of the adjudicating committee. The administrator or the designee shall hear the appeal and hold a hearing, provided that the decision of the adjudicating committee relates to one of the following:

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

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

(3) An employer petition objecting to the assessment of a premium pursuant to section 4123.37 of the Revised Code and the rules adopted pursuant to that section;

(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;

(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;

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

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

(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.

Sec. 4123.311. (A) The administrator of workers' compensation may do all of the following:

(1) Utilize direct deposit of funds by electronic transfer for all disbursements the administrator is authorized to pay under this chapter and Chapters 4121., 4127., and 4131. of the Revised Code;

(2) Require any payee to provide a written authorization designating a financial institution and an account number to which a payment made according to division (A)(1) of this section is to be credited, notwithstanding division (B) of section 9.37 of the Revised Code;

(3) Contract with an agent to do both of the following:

(a) Supply debit cards for claimants to access payments made to them pursuant to this chapter and Chapters 4121., 4127., and 4131. of the Revised Code;

(b) Credit the debit cards described in division (A)(3)(a) of this section with the amounts specified by the administrator pursuant to this chapter and Chapters 4121., 4127., and 4131. of the Revised Code by utilizing direct deposit of funds by electronic transfer.

(4) Enter into agreements with financial institutions to credit the debit

cards described in division (A)(3)(a) of this section with the amounts specified by the administrator pursuant to this chapter and Chapters 4121., 4127., and 4131. of the Revised Code by utilizing direct deposit of funds by electronic transfer.

(B) The administrator shall inform claimants about the administrator's utilization of direct deposit of funds by electronic transfer under this section and section 9.37 of the Revised Code, furnish debit cards to claimants as appropriate, and provide claimants with instructions regarding use of those debit cards.

(C) The administrator, with the advice and consent of the bureau of workers' compensation oversight commission board of directors, shall adopt rules in accordance with Chapter 119. of the Revised Code regarding utilization of the direct deposit of funds by electronic transfer under this section and section 9.37 of the Revised Code.

Sec. 4123.32. The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation oversight commission board of directors, shall adopt rules with respect to the collection, maintenance, and disbursements of the state insurance fund including all of the following:

~~(A) A rule providing that in the event there is developed as of any given rate revision date a surplus of earned premium over all losses which, in the judgment of the administrator, is larger than is necessary adequately to safeguard the solvency of the fund, the administrator may return such excess surplus to the subscriber to the fund in either the form of cash refunds or a reduction of premiums, regardless of when the premium obligations have accrued;~~

~~(B)~~ A rule providing that the premium security deposit collected from any employer entitles the employer to the benefits of this chapter for the remainder of the six months and also for an additional adjustment period of two months, and, thereafter, if the employer pays the premium due at the close of any six-month period, coverage shall be extended for an additional eight-month period beginning from the end of the six-month period for which the employer pays the premium due;

~~(C)~~ (B) A rule providing for ascertaining the correctness of any employer's report of estimated or actual expenditure of wages and the determination and adjustment of proper premiums and the payment of those premiums by the employer for or during any period less than eight months and notwithstanding any payment or determination of premium made when exceptional conditions or circumstances in the judgment of the administrator justify the action;

~~(D)~~(C) Such special rules as the administrator considers necessary to safeguard the fund and that are just in the circumstances, covering the rates to be applied where one employer takes over the occupation or industry of another or where an employer first makes application for state insurance, and the administrator may require that if any employer transfers a business in whole or in part or otherwise reorganizes the business, the successor in interest shall assume, in proportion to the extent of the transfer, as determined by the administrator, the employer's account and shall continue the payment of all contributions due under this chapter;

~~(E)~~(D) A rule providing for all of the following:

(1) If, within two months immediately after the expiration of the six-month period, an employer fails to file a report of the employer's actual payroll expenditures for the period, the premium found to be due from the employer for the period shall be increased in an amount equal to one per cent of the premium, but the increase shall not be less than three nor more than fifteen dollars;

(2) The premium determined by the administrator to be due from an employer shall be payable on or before the end of the coverage period established by the premium security deposit, or within the time specified by the administrator if the period for which the advance premium has been paid is less than eight months. If an employer fails to pay the premium when due, the administrator may add a late fee penalty of not more than thirty dollars to the premium plus an additional penalty amount as follows:

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

(b) For a premium from ninety-one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the premium due;

(c) For a premium from one hundred twenty-one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the premium due;

(d) For a premium from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the premium due;

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

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

the premium due.

(3) Notwithstanding the interest rates specified in division ~~(E)~~(D)(2) of this section, at no time shall the additional penalty amount assessed under division ~~(E)~~(D)(2) of this section exceed fifteen per cent of the premium due.

(4) An employer may appeal a late fee penalty or additional penalty to an adjudicating committee pursuant to section 4123.291 of the Revised Code.

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

(5) If the employer files an appropriate payroll report, within the time provided by law or within the time specified by the administrator if the period for which the employer paid an estimated premium is less than eight months, the employer shall not be in default and division ~~(E)~~(D)(2) of this section shall not apply if the employer pays the premiums within fifteen days after being first notified by the administrator of the amount due.

(6) Any deficiencies in the amounts of the premium security deposit paid by an employer for any period shall be subject to an interest charge of six per cent per annum from the date the premium obligation is incurred. In determining the interest due on deficiencies in premium security deposit payments, a charge in each case shall be made against the employer in an amount equal to interest at the rate of six per cent per annum on the premium security deposit due but remaining unpaid sixty days after notice by the administrator.

(7) Any interest charges or penalties provided for in divisions ~~(E)~~(D)(2) and (6) of this section shall be credited to the employer's account for rating purposes in the same manner as premiums.

~~(F)~~(E) A rule providing that each employer, on the occasion of instituting coverage under this chapter, shall submit a premium security deposit. The deposit shall be calculated equivalent to thirty per cent of the semiannual premium obligation of the employer based upon the employer's estimated expenditure for wages for the ensuing six-month period plus thirty per cent of an additional adjustment period of two months but only up to a maximum of one thousand dollars and not less than ten dollars. The administrator shall review the security deposit of every employer who has submitted a deposit which is less than the one-thousand-dollar maximum. The administrator may require any such employer to submit additional money up to the maximum of one thousand dollars that, in the

administrator's opinion, reflects the employer's current payroll expenditure for an eight-month period.

(F) A rule providing that each employer, on the occasion of instituting coverage under this chapter, shall submit an application for coverage that completely provides all of the information required for the administrator to establish coverage for that employer, and that the employer's failure to provide all of the information completely may be grounds for the administrator to deny coverage for that employer.

(G) A rule providing that, in addition to any other remedies permitted in this chapter, the administrator may discontinue an employer's coverage if the employer fails to pay the premium due on or before the premium's due date.

(H) A rule providing that if after a final adjudication it is determined that an employer has failed to pay an obligation, billing, account, or assessment that is greater than one thousand dollars on or before its due date, the administrator may discontinue the employer's coverage in addition to any other remedies permitted in this chapter, and that the administrator shall not discontinue an employer's coverage pursuant to this division prior to a final adjudication regarding the employer's failure to pay such obligation, billing, account, or assessment on or before its due date.

(I) As used in divisions (G) and (H) of this section:

(1) "Employer" has the same meaning as in division (B) of section 4123.01 of the Revised Code except that "employer" does not include the state, a state hospital, or a state university or college.

(2) "State university or college" has the same meaning as in section 3345.12 of the Revised Code and also includes the Ohio agricultural research and development center and the Ohio state university cooperative extension service.

(3) "State hospital" means the Ohio state university hospital and its ancillary facilities and the medical university of Ohio at Toledo hospital.

Sec. 4123.321. The bureau of workers' compensation board of directors, based upon recommendations of the workers' compensation actuarial committee, shall adopt a rule with respect to the collection, maintenance, and disbursements of the state insurance fund providing that in the event there is developed as of any given rate revision date a surplus of earned premium over all losses that, in the judgment of the board, is larger than is necessary adequately to safeguard the solvency of the fund, the board may return such excess surplus to the subscribers to the fund in either the form of cash refunds or a reduction of premiums, regardless of when the premium obligations have accrued.

Sec. 4123.34. It shall be the duty of the bureau of workers' compensation board of directors and the administrator of workers' compensation to safeguard and maintain the solvency of the state insurance fund and all other funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code. The administrator of ~~workers' compensation~~, in the exercise of the powers and discretion conferred upon the administrator in section 4123.29 of the Revised Code, shall fix and maintain, with the advice and consent of the ~~workers' compensation oversight commission~~ board, for each class of occupation or industry, the lowest possible rates of premium consistent with the maintenance of a solvent state insurance fund and the creation and maintenance of a reasonable surplus, after the payment of legitimate claims for injury, occupational disease, and death that the administrator authorizes to be paid from the state insurance fund for the benefit of injured, diseased, and the dependents of killed employees. In establishing rates, the administrator shall take into account the necessity of ensuring sufficient money is set aside in the premium payment security fund to cover any defaults in premium obligations. The administrator shall observe all of the following requirements in fixing the rates of premium for the risks of occupations or industries:

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

(B) Ten per cent of the money paid into the state insurance fund shall be set aside for the creation of a surplus until the surplus amounts to the sum of one hundred thousand dollars, after which time, whenever necessary in the judgment of the administrator to guarantee a solvent state insurance fund, a sum not exceeding five per cent of all the money paid into the state insurance fund shall be credited to the surplus fund. A revision of basic rates shall be made annually on the first day of July.

Notwithstanding any provision of the law to the contrary, one hundred eighty days after the effective date on which self-insuring employers first may elect under division (D) of section 4121.66 of the Revised Code to directly pay for rehabilitation expenses, the administrator shall calculate the deficit, if any, in the portion of surplus fund that is used for reimbursement to self-insuring employers for all expenses other than handicapped

reimbursement under section 4123.343 of the Revised Code. ~~Without regard to whether a self-insuring employer makes the election under division (D) of section 4121.66 of the Revised Code, the administrator shall assess all self-insuring employers the amount the administrator determines necessary to reduce the deficit over a period not to exceed five years from October 20, 1993. After the initial assessment, the administrator~~ The administrator, from time to time, may determine whether the surplus fund has such a deficit and may assess all self-insuring employers who participated in the portion of the surplus fund during the accrual of the deficit and who during that time period have not made the election under division (D) of section 4121.66 of the Revised Code the amount the administrator determines necessary to reduce the deficit.

Revisions of basic rates shall be in accordance with the oldest four of the last five calendar years of the combined accident and occupational disease experience of the administrator in the administration of this chapter, as shown by the accounts kept as provided in this section, excluding the experience of employers that are no longer active if the administrator determines that the inclusion of those employers would have a significant negative impact on the remainder of the employers in a particular manual classification; and the administrator shall adopt rules, with the advice and consent of the ~~oversight commission~~ board, governing rate revisions, the object of which shall be to make an equitable distribution of losses among the several classes of occupation or industry, which rules shall be general in their application.

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

(D) The administrator, from the money paid into the state insurance fund, shall set aside into an account of the state insurance fund titled a premium payment security fund sufficient money to pay for any premiums due from an employer and uncollected that are in excess of the employer's premium security deposit.

The fund shall be in the custody of the treasurer of state. All investment earnings of the fund shall be deposited in the fund. Disbursements from the fund shall be made by the bureau of workers' compensation upon order of the administrator to the state insurance fund. The use of the moneys held by

the premium payment security fund is restricted to reimbursement to the state insurance fund of premiums due and uncollected in excess of an employer's premium security deposit. The moneys constituting the premium payment security fund shall be maintained without regard to or reliance upon any other fund. This section does not prevent the deposit or investment of the premium payment security fund with any other fund created by this chapter, but the premium payment security fund is separate and distinct for every other purpose and a strict accounting thereof shall be maintained.

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

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

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

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

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

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

Sec. 4123.341. The administrative costs of the industrial commission, the bureau of workers' compensation ~~oversight commission~~ board of directors, and the bureau of workers' compensation shall be those costs and expenses that are incident to the discharge of the duties and performance of the activities of the industrial commission, the ~~oversight commission board~~, and the bureau under this chapter and Chapters 4121. and 4123., 4125., 4127., 4131., and 4167. of the Revised Code, and all such costs shall be borne by the state and by other employers amenable to this chapter as follows:

(A) In addition to the contribution required of the state under sections

4123.39 and 4123.40 of the Revised Code, the state shall contribute the sum determined to be necessary under section 4123.342 of the Revised Code.

(B) The director of budget and management may allocate the state's share of contributions in the manner ~~he~~ the director finds most equitably apportions the costs.

(C) The counties and taxing districts therein shall contribute such sum as may be required under section 4123.342 of the Revised Code.

(D) The private employers shall contribute the sum required under section 4123.342 of the Revised Code.

Sec. 4123.342. (A) The administrator of workers' compensation shall allocate among counties and taxing districts therein as a class, the state and its instrumentalities as a class, private employers who are insured under the private fund as a class, and self-insuring employers as a class their fair shares of the administrative costs which are to be borne by such employers under division (D) of section 4123.341 of the Revised Code, separately allocating to each class those costs solely attributable to the activities of the industrial commission, and those costs solely attributable to the activities of the bureau of workers' compensation ~~oversight commission board of directors~~, and the bureau of workers' compensation in respect of the class, allocating to any combination of classes those costs attributable to the activities of the industrial commission, ~~oversight commission board~~, or bureau in respect of the classes, and allocating to all four classes those costs attributable to the activities of the industrial commission, ~~oversight commission board~~, and bureau in respect of all classes. The administrator shall separately calculate each employer's assessment in the class, except self-insuring employers, on the basis of the following three factors: payroll, paid compensation, and paid medical costs of the employer for those costs solely attributable to the activities of the ~~oversight commission board~~ and the bureau. The administrator shall separately calculate each employer's assessment in the class, except self-insuring employers, on the basis of the following three factors: payroll, paid compensation, and paid medical costs of the employer for those costs solely attributable to the activities of the industrial commission. The administrator shall separately calculate each self-insuring employer's assessment in accordance with section 4123.35 of the Revised Code for those costs solely attributable to the activities of the ~~oversight commission board~~ and the bureau. The administrator shall separately calculate each self-insuring employer's assessment in accordance with section 4123.35 of the Revised Code for those costs solely attributable to the activities of the industrial commission. In a timely manner, the industrial commission shall provide to the administrator, the information

necessary for the administrator to allocate and calculate, with the approval of the chairperson of the industrial commission, for each class of employer as described in this division, the costs solely attributable to the activities of the industrial commission.

(B) The administrator shall divide the administrative cost assessments collected by the administrator into two administrative assessment accounts within the state insurance fund. One of the administrative assessment accounts shall consist of the administrative cost assessment collected by the administrator for the industrial commission. The other administrative assessment account shall consist of the administrative cost assessments collected by the administrator for the bureau and the ~~workers' compensation oversight commission~~ board. The administrator may invest the administrative cost assessments in these accounts on behalf of the bureau and the industrial commission as authorized in section 4123.44 of the Revised Code. In a timely manner, the administrator shall provide to the industrial commission the information and reports the commission deems necessary for the commission to monitor the receipts and the disbursements from the administrative assessment account for the industrial commission.

(C) The administrator or the administrator's designee shall transfer moneys as necessary from the administrative assessment account identified for the bureau and the ~~workers' compensation oversight commission~~ board to the workers' compensation fund for the use of the bureau and the ~~oversight commission~~ board. As necessary and upon the authorization of the industrial commission, the administrator or the administrator's designee shall transfer moneys from the administrative assessment account identified for the industrial commission to the industrial commission operating fund created under section 4121.021 of the Revised Code. To the extent that the moneys collected by the administrator in any fiscal biennium of the state equal the sum appropriated by the general assembly for administrative costs of the industrial commission, ~~oversight commission~~ board, and bureau for the biennium, the moneys shall be paid into the workers' compensation fund and the industrial commission operating fund of the state and any remainder shall be retained in the state insurance fund and applied to reduce the amount collected during the next biennium. Sections 4123.41, 4123.35, and 4123.37 of the Revised Code apply to the collection of assessments from public and private employers respectively, except that for boards of county hospital trustees that are self-insuring employers, only those provisions applicable to the collection of assessments for private employers apply.

Sec. 4123.35. (A) Except as provided in this section, every employer mentioned in division (B)(2) of section 4123.01 of the Revised Code, and

every publicly owned utility shall pay semiannually in the months of January and July into the state insurance fund the amount of annual premium the administrator of workers' compensation fixes for the employment or occupation of the employer, the amount of which premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator. The employer shall pay semiannually a further sum of money into the state insurance fund as may be ascertained to be due from the employer by applying the rules of the administrator, and a receipt or certificate certifying that payment has been made, along with a written notice as is required in section 4123.54 of the Revised Code, shall be mailed immediately to the employer by the bureau of workers' compensation. The receipt or certificate is prima-facie evidence of the payment of the premium, and the proper posting of the notice constitutes the employer's compliance with the notice requirement mandated in section 4123.54 of the Revised Code.

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

An employer as defined in division (B)(2) of section 4123.01 of the Revised Code who has contracted with a subcontractor is liable for the unpaid premium due from any subcontractor with respect to that part of the payroll of the subcontractor that is for work performed pursuant to the contract with the employer.

Division (A) of this section providing for the payment of premiums semiannually does not apply to any employer who was a subscriber to the state insurance fund prior to January 1, 1914, or who may first become a subscriber to the fund in any month other than January or July. Instead, the semiannual premiums shall be paid by those employers from time to time upon the expiration of the respective periods for which payments into the fund have been made by them.

The administrator shall adopt rules to permit employers to make periodic payments of the semiannual premium due under this division. The rules shall include provisions for the assessment of interest charges, where appropriate, and for the assessment of penalties when an employer fails to make timely premium payments. An employer who timely pays the amounts due under this division is entitled to all of the benefits and protections of this chapter. Upon receipt of payment, the bureau immediately shall mail a receipt or certificate to the employer certifying that payment has been made, which receipt is prima-facie evidence of payment. Workers' compensation

coverage under this chapter continues uninterrupted upon timely receipt of payment under this division.

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

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

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

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

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

(b) The employer has operated in this state for a minimum of two years, provided that an employer who has purchased, acquired, 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;

(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;

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

(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.

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

(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

(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 be honored by a financial institution in this state.

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

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

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

(a) For the two-year period preceding application under this section, the public employer has maintained an unvoted debt capacity equal to at least two times the amount of the current annual premium established by the administrator under this chapter for that public employer for the year

immediately preceding the year in which the public employer makes application under this section.

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

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

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

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

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

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

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

(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 shall not approve the application of a public

employer, except for a board of county commissioners described in division (G) of section 4123.01 of the Revised Code, a board of a county hospital, or publicly owned utility, who does not satisfy all of the requirements listed in division (B)(2) of this section.

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

- (1) The board as an employer employs a minimum of five hundred employees in this state;
- (2) The board has operated in this state for a minimum of two years;
- (3) Where the board previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;
- (4) The sufficiency of the board's assets located in this state to insure the board's solvency in paying compensation directly;
- (5) The financial records, documents, and data, certified by a certified

public accountant, necessary to provide the board's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.

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

(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;

(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;

(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.

(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.

(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 the bureau and signed by the administrator. If the bureau determines not to grant the status as a self-insuring employer, the bureau shall notify the employer of the determination and require the employer to continue to pay its full premium into the state insurance fund. The administrator also shall adopt rules establishing a minimum level of performance as a criterion for granting and maintaining the status as a self-insuring employer and fixing time limits beyond which failure of the self-insuring employer to provide for the necessary medical examinations and evaluations may not delay a decision on a claim.

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

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

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

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

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

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

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

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

(2) Multiply the quotient in division (J)(1) of this section by the total amount of paid compensation for the previous calendar year that is attributable to the individual self-insuring employer for whom the assessment is being determined. Each self-insuring employer shall pay the

assessment that results from this calculation, unless the assessment resulting from this calculation falls below a minimum assessment, which minimum assessment the administrator shall determine on the first day of July of each year with the advice and consent of the bureau of workers' compensation oversight commission ~~board of directors~~, in which event, the self-insuring employer shall pay the minimum assessment.

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

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

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

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for reimbursement to a self-insuring employer under division (H) of section 4123.512 of the Revised Code in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in

reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code.

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

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

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

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

(2) If an employer fails to pay the assessment when due, the administrator may add a late fee penalty of not more than five hundred

dollars to the assessment plus an additional penalty amount as follows:

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

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

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

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

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

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

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

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

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

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

(N) Should any section of this chapter or Chapter 4121. of the Revised

Code providing for self-insuring employers' assessments based upon compensation paid be declared unconstitutional by a final decision of any court, then that section of the Revised Code declared unconstitutional shall revert back to the section in existence prior to November 3, 1989, providing for assessments based upon payroll.

(O) The administrator may grant a self-insuring employer the privilege to self-insure a construction project entered into by the self-insuring employer that is scheduled for completion within six years after the date the project begins, and the total cost of which is estimated to exceed one hundred million dollars or, for employers described in division (R) of this section, if the construction project is estimated to exceed twenty-five million dollars. The administrator may waive such cost and time criteria and grant a self-insuring employer the privilege to self-insure a construction project regardless of the time needed to complete the construction project and provided that the cost of the construction project is estimated to exceed fifty million dollars. 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 contractor or subcontractor is added or eliminated from inclusion under the certificate.

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

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

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

employees' employment on that construction project.

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

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

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

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

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

(1) Communicate with and provide information to employees who are injured in the course of, or whose injury arises out of employment on the

construction project, or who contract an occupational disease in the course of employment on the construction project;

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

(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.

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.

(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:

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

(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;

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

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

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

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

(1) A state institution of higher education;

(2) A school district;

(3) A county school financing district;

(4) An educational service center;

(5) A community school established under Chapter 3314. of the Revised

Code.

(S) As used in this section:

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

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

Sec. 4123.351. (A) The administrator of workers' compensation shall require every self-insuring employer to pay a contribution, calculated under this section, to the self-insuring employers' guaranty fund established pursuant to this section. The fund shall provide for payment of compensation and benefits to employees of the self-insuring employer in order to cover any default in payment by that employer.

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

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

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

(2) The administrator ~~of workers' compensation~~ has the same powers to invest any of the surplus or reserve belonging to the fund as are delegated to ~~him~~ the administrator under section 4123.44 of the Revised Code with

respect to the state insurance fund. The administrator shall apply interest earned solely to the reduction of assessments for contributions from self-insuring employers and to the payments required due to defaults.

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

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

(b) ~~Pay~~ Require the administrator to pay the cost of reinsurance from the fund;

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

(E) The administrator, with the advice and consent of the ~~workers' compensation oversight commission~~ board, may adopt rules pursuant to Chapter 119. of the Revised Code for the implementation of this section, including a rule, notwithstanding division (C) of this section, requiring self-insuring employers to provide security in addition to the contribution to the self-insuring employers' guaranty fund required by this section. The additional security required by the rule, as the administrator determines appropriate, shall be sufficient and adequate to provide for financial assurance to meet the obligations of self-insuring employers under this chapter and Chapter 4121. of the Revised Code.

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

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

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

Except for a gross abuse of discretion, neither the ~~oversight commission~~ board, nor the individual members thereof, nor the administrator shall incur any obligation or liability respecting the assessments for contributions, the

administration of the self-insuring employers' guaranty fund, the investment of the fund, or the payment of liabilities therefrom.

Sec. 4123.37. In this section "amenable employer" ~~means an employer subject to~~ has the same meaning as "employer" as defined in division (B)(2)(O) of section 4123.04 4123.32 of the Revised Code.

If the administrator of workers' compensation finds that any person, firm, or private corporation, including any public service corporation, is, or has been at any time after January 1, 1923, an amenable employer and has not complied with section 4123.35 of the Revised Code the administrator shall determine the period during which the person, firm, or corporation was an amenable employer and shall forthwith give notice of the determination to the employer. Within twenty days thereafter the employer shall furnish the bureau with the payroll covering the period included in the determination and, if the employer is an amenable employer at the time of the determination, shall pay a premium security deposit for the eight months next succeeding the date of the determination and shall pay into the state insurance fund the amount of premium applicable to such payroll.

If the employer does not furnish the payroll and pay the applicable premium and premium security deposit within the twenty days, the administrator shall forthwith make an assessment of the premium due from the employer for the period the administrator determined the employer to be an amenable employer including the premium security deposit according to section 4123.32 of the Revised Code if the employer is an amenable employer at the time of the determination, basing the assessment upon the information in the possession of the administrator.

The administrator shall give to the employer assessed written notice of the assessment. The notice shall be mailed to the employer at ~~his~~ the employer's residence or usual place of business by certified mail. Unless the employer to whom the notice of assessment is directed files with the bureau within twenty days after receipt thereof, a petition in writing, verified under oath by the employer, or ~~his~~ the employer's authorized agent having knowledge of the facts, setting forth with particularity the items of the assessment objected to, together with the reason for the objections, the assessment shall become conclusive and the amount thereof shall be due and payable from the employer so assessed to the state insurance fund. When a petition objecting to an assessment is filed the bureau shall assign a time and place for the hearing of the same and shall notify the petitioner thereof by certified mail. When an employer files a petition the assessment made by the administrator shall become due and payable ten days after notice of the finding made at the hearing has been sent by certified mail to the party

assessed. An appeal may be taken from any finding to the court of common pleas of Franklin county upon the execution by the party assessed of a bond to the state in double the amount found due and ordered paid by the bureau conditioned that the party will pay any judgment and costs rendered against it for the premium.

When no petition objecting to an assessment is filed or when a finding is made affirming or modifying an assessment after hearing, a certified copy of the assessment as affirmed or modified may be filed by the administrator in the office of the clerk of the court of common pleas in any county in which the employer has property or in which the employer has a place of business. The clerk, immediately upon the filing of the assessment, shall enter a judgment for the state against the employer in the amount shown on the assessment. The judgment may be filed by the clerk in a loose leaf book entitled "special judgments for state insurance fund." The judgment shall bear the same rate of interest, have the same effect as other judgments, and be given the same preference allowed by law on other judgments rendered for claims for taxes. An assessment or judgment under this section shall not be a bar to the adjustment of the employer's account upon the employer furnishing ~~his~~ the employer's payroll records to the bureau.

The administrator, for good cause shown, may waive a default in the payment of premium where the default is of less than sixty days' duration, and upon payment by the employer of the premium for the period, ~~he~~ the employer and ~~his~~ the employer's employees are entitled to all of the benefits and immunities provided by this chapter.

Sec. 4123.411. (A) For the purpose of carrying out sections 4123.412 to 4123.418 of the Revised Code, the administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation ~~oversight commission board of directors~~, shall levy an assessment against all employers at a rate, of at least five but not to exceed ten cents per one hundred dollars of payroll, such rate to be determined annually for each employer group listed in divisions (A)(1) to (3) of this section, which will produce an amount no greater than the amount the administrator estimates to be necessary to carry out such sections for the period for which the assessment is levied. In the event the amount produced by the assessment is not sufficient to carry out such sections the additional amount necessary shall be provided from the income produced as a result of investments made pursuant to section 4123.44 of the Revised Code.

Assessments shall be levied according to the following schedule:

(1) Private fund employers, except self-insuring employers--in January and July of each year upon gross payrolls of the preceding six months;

(2) Counties and taxing district employers therein, except county hospitals that are self-insuring employers--in January of each year upon gross payrolls of the preceding twelve months;

(3) The state as an employer--in January, April, July, and October of each year upon gross payrolls of the preceding three months.

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

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

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

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

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

Sec. 4123.44. The ~~voting~~ members of the bureau of workers' compensation oversight commission ~~board of directors~~, the administrator of workers' compensation, and the bureau of workers' compensation chief investment officer are the trustees of the state insurance fund. The

administrator ~~of workers' compensation~~, in accordance with sections 4121.126 and 4121.127 of the Revised Code and the investment ~~objectives, policies, and criteria established~~ policy approved by the ~~workers' compensation oversight commission~~ board pursuant to section 4121.12 of the Revised Code, and in consultation with the bureau of workers' compensation chief investment officer, may invest any of the surplus or reserve belonging to the state insurance fund. The administrator and the bureau of workers' compensation chief investment officer shall not deviate from the investment policy approved by the board without the approval of the workers' compensation investment committee and the board.

The administrator shall not invest in any type of investment specified in divisions ~~(G)(6)(a)(B)(1) to (i)(10)~~ of section ~~4121.12~~ 4123.442 of the Revised Code.

The administrator and other fiduciaries shall discharge their duties with respect to the funds with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and by diversifying the investments of the assets of the funds so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

To facilitate investment of the funds, the administrator may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as amended, or any other legal entity authorized to transact business in this state.

When reporting on the performance of investments, the administrator shall comply with the performance presentation standards established by the association for investment management and research.

All investments shall be purchased at current market prices and the evidences of title to the investments shall be placed in the custody of the treasurer of state, who is hereby designated as custodian, or in the custody of the treasurer of state's authorized agent. Evidences of title of the investments so purchased may be deposited by the treasurer of state for safekeeping with an authorized agent selected by the treasurer of state who is a qualified trustee under section 135.18 of the Revised Code. The treasurer of state or the agent shall collect the principal, dividends, distributions, and interest as they become due and payable and place them when collected into the state insurance fund.

The treasurer of state shall pay for investments purchased by the administrator on receipt of written or electronic instructions from the

administrator or the administrator's designated agent authorizing the purchase, and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent. The administrator may sell investments held by the administrator, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser, on receipt of written or electronic instructions from the administrator or the administrator's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed in the state insurance fund. The administrator and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.

No purchase or sale of any investment shall be made under this section, except as authorized by the administrator.

Any statement of financial position distributed by the administrator shall include the fair value, as of the statement date, of all investments held by the administrator under this section.

When in the judgment of the administrator it is necessary to provide available funds for the payment of compensation or benefits under this chapter, the administrator may borrow money from any available source and pledge as security a sufficient amount of bonds or other securities in which the state insurance fund is invested. The aggregate unpaid amount of loans existing at any one time for money so borrowed shall not exceed ten million dollars. The bonds or other securities so pledged as security for such loans to the administrator shall be the sole security for the payment of the principal and interest of any such loan. The administrator shall not be personally liable for the payment of the principal or the interest of any such loan. No such loan shall be made for a longer period of time than one year. Such loans may be renewed but no one renewal shall be for a period in excess of one year. Such loans shall bear such rate of interest as the administrator determines and in negotiating the loans, the administrator shall endeavor to secure as favorable interest rates and terms as circumstances will permit.

The treasurer of state may deliver to the person or governmental agency making such loan, the bonds or other securities which are to be pledged by the administrator as security for such loan, upon receipt by the treasurer of state of an order of the administrator authorizing such loan. Upon payment of any such loan by the administrator, the bonds or other securities pledged as security therefor shall be returned to the treasurer of state as custodian of

such bonds.

The administrator may pledge with the treasurer of state such amount of bonds or other securities in which the state insurance fund is invested as is reasonably necessary as security for any certificates issued, or paid out, by the treasurer of state upon any warrants drawn by the administrator.

The administrator may secure investment information services, consulting services, and other like services to facilitate investment of the surplus and reserve belonging to the state insurance fund. The administrator shall pay the expense of securing such services from the state insurance fund.

Sec. 4123.441. (A) The ~~bureau~~ administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation oversight commission board of directors shall employ a person or designate an employee of the bureau of workers' compensation who is designated as a chartered financial analyst by the CFA institute and who is licensed by the division of securities in the department of commerce as a bureau of workers' compensation chief investment officer to be the chief investment officer for the bureau of workers' compensation. After ninety days after ~~the effective date of this section~~ September 29, 2005, the bureau of workers' compensation may not employ a bureau of workers' compensation chief investment officer, as defined in section 1707.01 of the Revised Code, who does not hold a valid bureau of workers' compensation chief investment officer license issued by the division of securities in the department of commerce. The ~~oversight commission board~~ board shall notify the division of securities of the department of commerce in writing of its designation and of any change in its designation within ten calendar days after the designation or change.

(B) The bureau of workers' compensation chief investment officer shall reasonably supervise employees of the bureau who handle investment of assets of funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code with a view toward preventing violations of Chapter 1707. of the Revised Code, the "Commodity Exchange Act," 42 Stat. 998, 7 U.S.C. 1, the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 77a, the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, and the rules and regulations adopted under those statutes. This duty of reasonable supervision shall include the adoption, implementation, and enforcement of written policies and procedures reasonably designed to prevent employees of the bureau who handle investment of assets of the funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code, from misusing material, nonpublic information in violation

of those laws, rules, and regulations.

For purposes of this division, no bureau of workers' compensation chief investment officer shall be considered to have failed to satisfy the officer's duty of reasonable supervision if the officer has done all of the following:

(1) Adopted and implemented written procedures, and a system for applying the procedures, that would reasonably be expected to prevent and detect, insofar as practicable, any violation by employees handling investments of assets of the funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code;

(2) Reasonably discharged the duties and obligations incumbent on the bureau of workers' compensation chief investment officer by reason of the established procedures and the system for applying the procedures when the officer had no reasonable cause to believe that there was a failure to comply with the procedures and systems;

(3) Reviewed, at least annually, the adequacy of the policies and procedures established pursuant to this section and the effectiveness of their implementation.

(C) The bureau of workers' compensation chief investment officer shall establish and maintain a policy to monitor and evaluate the effectiveness of securities transactions executed on behalf of the bureau.

Sec. 4123.442. When developing the investment policy for the investment of the assets of the funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code, the workers' compensation investment committee shall do all of the following:

(A) Specify the asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines;

(B) Prohibit investing the assets of those funds, directly or indirectly, in vehicles that target any of the following:

(1) Coins;

(2) Artwork;

(3) Horses;

(4) Jewelry or gems;

(5) Stamps;

(6) Antiques;

(7) Artifacts;

(8) Collectibles;

(9) Memorabilia;

(10) Similar unregulated investments that are not commonly part of an institutional portfolio, that lack liquidity, and that lack readily determinable

valuation.

(C) Specify that the administrator of workers' compensation may invest in an investment class only if the bureau of workers' compensation board of directors, by a majority vote, opens that class:

(D) Prohibit investing the assets of those funds in any class of investments the board, by majority vote, closed, or any specific investment in which the board prohibits the administrator from investing:

(E) Not specify in the investment policy that the administrator or employees of the bureau of workers' compensation are prohibited from conducting business with an investment management firm, any investment management professional associated with that firm, any third party solicitor associated with that firm, or any political action committee controlled by that firm or controlled by an investment management professional of that firm based on criteria that are more restrictive than the restrictions described in divisions (Y) and (Z) of section 3517.13 of the Revised Code.

Sec. 4123.47. (A) The administrator of workers' compensation shall have actuarial audits of the state insurance fund and all other funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code made at least once each year. The audits shall be made and certified by recognized insurance actuaries who shall be selected ~~as the administrator determines~~ by the bureau of workers' compensation board of directors. The audits shall cover the premium rates, classifications, and all other matters involving the administration of the state insurance fund and all other funds specified in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code. The expense of the audits shall be paid from the state insurance fund. The administrator shall make copies of the audits available to the workers' compensation audit committee at no charge and to the public at cost.

(B) The auditor of state annually shall conduct an audit of the administration of this chapter by the industrial commission and the bureau of workers' compensation and the safety and hygiene fund. The cost of the audit shall be charged to the administrative costs of the bureau as defined in section 4123.341 of the Revised Code. The audit shall include audits of all fiscal activities, claims processing and handling, and employer premium collections. The auditor shall prepare a report of the audit together with recommendations and transmit copies of the report to the industrial commission, ~~the workers' compensation oversight commission board,~~ the administrator, the governor, and to the general assembly. The auditor shall make copies of the report available to the public at cost.

(C) The administrator may retain the services of a recognized actuary on a consulting basis for the purpose of evaluating the actuarial soundness of

premium rates and classifications and all other matters involving the administration of the state insurance fund. The expense of services provided by the actuary shall be paid from the state insurance fund.

Sec. 4123.50. (A) Each member of a firm, and the president, secretary, general manager, or managing agent of each private corporation, including any public service corporation mentioned in section 4123.01 of the Revised Code or publicly owned utility, shall cause the firm or corporation to comply with section 4123.35 of the Revised Code and, for self-insuring employers, to comply with the assessment based upon paid compensation provisions of this chapter and Chapter 4121. of the Revised Code. No person mentioned in section 4123.01 of the Revised Code and no member of the firms and no officer of the corporations or publicly owned utilities referred to in this section shall fail to comply with section 4123.35 of the Revised Code and, for self-insuring employers, to comply with the assessment based upon paid compensation provisions of this chapter and Chapter 4121. of the Revised Code. All fines collected for a violation of this section shall be paid to the general fund of the political subdivision where the case is prosecuted.

(B) The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation ~~oversight commission~~ board of directors, shall adopt rules governing treatment of employers found in violation of division (A) of this section. The rules shall cover enforcement and prosecution procedures and methods and grounds for settlement of liability of a noncomplying employer.

Sec. 4123.511. (A) Within seven days after receipt of any claim under this chapter, the bureau of workers' compensation shall notify the claimant and the employer of the claimant of the receipt of the claim and of the facts alleged therein. If the bureau receives from a person other than the claimant written or facsimile information or information communicated verbally over the telephone indicating that an injury or occupational disease has occurred or been contracted which may be compensable under this chapter, the bureau shall notify the employee and the employer of the information. If the information is provided verbally over the telephone, the person providing the information shall provide written verification of the information to the bureau according to division (E) of section 4123.84 of the Revised Code. The receipt of the information in writing or facsimile, or if initially by telephone, the subsequent written verification, and the notice by the bureau shall be considered an application for compensation under section 4123.84 or 4123.85 of the Revised Code, provided that the conditions of division (E) of section 4123.84 of the Revised Code apply to information provided

verbally over the telephone. Upon receipt of a claim, the bureau shall advise the claimant of the claim number assigned and the claimant's right to representation in the processing of a claim or to elect no representation. If the bureau determines that a claim is determined to be a compensable lost-time claim, the bureau shall notify the claimant and the employer of the availability of rehabilitation services. No bureau or industrial commission employee shall directly or indirectly convey any information in derogation of this right. This section shall in no way abrogate the bureau's responsibility to aid and assist a claimant in the filing of a claim and to advise the claimant of the claimant's rights under the law.

The administrator of workers' compensation shall assign all claims and investigations to the bureau service office from which investigation and determination may be made most expeditiously.

The bureau shall investigate the facts concerning an injury or occupational disease and ascertain such facts in whatever manner is most appropriate and may obtain statements of the employee, employer, attending physician, and witnesses in whatever manner is most appropriate.

The administrator ~~of workers' compensation~~, with the advice and consent of the bureau of workers' compensation oversight commission board of directors, may adopt rules that identify specified medical conditions that have a historical record of being allowed whenever included in a claim. The administrator may grant immediate allowance of any medical condition identified in those rules upon the filing of a claim involving that medical condition and may make immediate payment of medical bills for any medical condition identified in those rules that is included in a claim. If an employer contests the allowance of a claim involving any medical condition identified in those rules, and the claim is disallowed, payment for the medical condition included in that claim shall be charged to and paid from the surplus fund created under section 4123.34 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, in claims other than those in which the employer is a self-insuring employer, if the administrator determines under division (A) of this section that a claimant is or is not entitled to an award of compensation or benefits, the administrator shall issue an order no later than twenty-eight days after the sending of the notice under division (A) of this section, granting or denying the payment of the compensation or benefits, or both as is appropriate to the claimant. Notwithstanding the time limitation specified in this division for the issuance of an order, if a medical examination of the claimant is required by statute, the administrator promptly shall schedule the claimant for that examination and shall issue an order no later than twenty-eight days after

receipt of the report of the examination. The administrator shall notify the claimant and the employer of the claimant and their respective representatives in writing of the nature of the order and the amounts of compensation and benefit payments involved. The employer or claimant may appeal the order pursuant to division (C) of this section within fourteen days after the date of the receipt of the order. The employer and claimant may waive, in writing, their rights to an appeal under this division.

(2) Notwithstanding the time limitation specified in division (B)(1) of this section for the issuance of an order, if the employer certifies a claim for payment of compensation or benefits, or both, to a claimant, and the administrator has completed the investigation of the claim, the payment of benefits or compensation, or both, as is appropriate, shall commence upon the later of the date of the certification or completion of the investigation and issuance of the order by the administrator, provided that the administrator shall issue the order no later than the time limitation specified in division (B)(1) of this section.

(3) If an appeal is made under division (B)(1) or (2) of this section, the administrator shall forward the claim file to the appropriate district hearing officer within seven days of the appeal. In contested claims other than state fund claims, the administrator shall forward the claim within seven days of the administrator's receipt of the claim to the industrial commission, which shall refer the claim to an appropriate district hearing officer for a hearing in accordance with division (C) of this section.

(C) If an employer or claimant timely appeals the order of the administrator issued under division (B) of this section or in the case of other contested claims other than state fund claims, the commission shall refer the claim to an appropriate district hearing officer according to rules the commission adopts under section 4121.36 of the Revised Code. The district hearing officer shall notify the parties and their respective representatives of the time and place of the hearing.

The district hearing officer shall hold a hearing on a disputed issue or claim within forty-five days after the filing of the appeal under this division and issue a decision within seven days after holding the hearing. The district hearing officer shall notify the parties and their respective representatives in writing of the order. Any party may appeal an order issued under this division pursuant to division (D) of this section within fourteen days after receipt of the order under this division.

(D) Upon the timely filing of an appeal of the order of the district hearing officer issued under division (C) of this section, the commission shall refer the claim file to an appropriate staff hearing officer according to

its rules adopted under section 4121.36 of the Revised Code. The staff hearing officer shall hold a hearing within forty-five days after the filing of an appeal under this division and issue a decision within seven days after holding the hearing under this division. The staff hearing officer shall notify the parties and their respective representatives in writing of the staff hearing officer's order. Any party may appeal an order issued under this division pursuant to division (E) of this section within fourteen days after receipt of the order under this division.

(E) Upon the filing of a timely appeal of the order of the staff hearing officer issued under division (D) of this section, the commission or a designated staff hearing officer, on behalf of the commission, shall determine whether the commission will hear the appeal. If the commission or the designated staff hearing officer decides to hear the appeal, the commission or the designated staff hearing officer shall notify the parties and their respective representatives in writing of the time and place of the hearing. The commission shall hold the hearing within forty-five days after the filing of the notice of appeal and, within seven days after the conclusion of the hearing, the commission shall issue its order affirming, modifying, or reversing the order issued under division (D) of this section. The commission shall notify the parties and their respective representatives in writing of the order. If the commission or the designated staff hearing officer determines not to hear the appeal, within fourteen days after the filing of the notice of appeal, the commission or the designated staff hearing officer shall issue an order to that effect and notify the parties and their respective representatives in writing of that order.

Except as otherwise provided in this chapter and Chapters 4121., 4127., and 4131. of the Revised Code, any party may appeal an order issued under this division to the court pursuant to section 4123.512 of the Revised Code within sixty days after receipt of the order, subject to the limitations contained in that section.

(F) Every notice of an appeal from an order issued under divisions (B), (C), (D), and (E) of this section shall state the names of the claimant and employer, the number of the claim, the date of the decision appealed from, and the fact that the appellant appeals therefrom.

(G) All of the following apply to the proceedings under divisions (C), (D), and (E) of this section:

(1) The parties shall proceed promptly and without continuances except for good cause;

(2) The parties, in good faith, shall engage in the free exchange of information relevant to the claim prior to the conduct of a hearing according

to the rules the commission adopts under section 4121.36 of the Revised Code;

(3) The administrator is a party and may appear and participate at all administrative proceedings on behalf of the state insurance fund. However, in cases in which the employer is represented, the administrator shall neither present arguments nor introduce testimony that is cumulative to that presented or introduced by the employer or the employer's representative. The administrator may file an appeal under this section on behalf of the state insurance fund; however, except in cases arising under section 4123.343 of the Revised Code, the administrator only may appeal questions of law or issues of fraud when the employer appears in person or by representative.

(H) Except as provided in section 4121.63 of the Revised Code and division ~~(H)~~(K) of this section, payments of compensation to a claimant or on behalf of a claimant as a result of any order issued under this chapter shall commence upon the earlier of the following:

(1) Fourteen days after the date the administrator issues an order under division (B) of this section, unless that order is appealed;

(2) The date when the employer has waived the right to appeal a decision issued under division (B) of this section;

(3) If no appeal of an order has been filed under this section or to a court under section 4123.512 of the Revised Code, the expiration of the time limitations for the filing of an appeal of an order;

(4) The date of receipt by the employer of an order of a district hearing officer, a staff hearing officer, or the industrial commission issued under division (C), (D), or (E) of this section.

(I) ~~No Payments of~~ medical benefits payable under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code are payable until shall commence upon the earlier of the following:

(1) The date of the issuance of the staff hearing officer's order under division (D) of this section;

(2) The date of the final administrative or judicial determination.

(J) The administrator shall charge the compensation payments made in accordance with division (H) of this section or medical benefits payments made in accordance with division (I) of this section to an employer's experience immediately after the employer has exhausted the employer's administrative appeals as provided in this section or has waived the employer's right to an administrative appeal under division (B) of this section, subject to the adjustment specified in division (H) of section 4123.512 of the Revised Code.

(K) Upon the final administrative or judicial determination under this

section or section 4123.512 of the Revised Code of an appeal of an order to pay compensation, if a claimant is found to have received compensation pursuant to a prior order which is reversed upon subsequent appeal, the claimant's employer, if a self-insuring employer, or the bureau, shall withhold from any amount to which the claimant becomes entitled pursuant to any claim, past, present, or future, under Chapter 4121., 4123., 4127., or 4131. of the Revised Code, the amount of previously paid compensation to the claimant which, due to reversal upon appeal, the claimant is not entitled, pursuant to the following criteria:

(1) No withholding for the first twelve weeks of temporary total disability compensation pursuant to section 4123.56 of the Revised Code shall be made;

(2) Forty per cent of all awards of compensation paid pursuant to sections 4123.56 and 4123.57 of the Revised Code, until the amount overpaid is refunded;

(3) Twenty-five per cent of any compensation paid pursuant to section 4123.58 of the Revised Code until the amount overpaid is refunded;

(4) If, pursuant to an appeal under section 4123.512 of the Revised Code, the court of appeals or the supreme court reverses the allowance of the claim, then no amount of any compensation will be withheld.

The administrator and self-insuring employers, as appropriate, are subject to the repayment schedule of this division only with respect to an order to pay compensation that was properly paid under a previous order, but which is subsequently reversed upon an administrative or judicial appeal. The administrator and self-insuring employers are not subject to, but may utilize, the repayment schedule of this division, or any other lawful means, to collect payment of compensation made to a person who was not entitled to the compensation due to fraud as determined by the administrator or the industrial commission.

~~(K)~~(L) If a staff hearing officer or the commission fails to issue a decision or the commission fails to refuse to hear an appeal within the time periods required by this section, payments to a claimant shall cease until the staff hearing officer or commission issues a decision or hears the appeal, unless the failure was due to the fault or neglect of the employer or the employer agrees that the payments should continue for a longer period of time.

~~(L)~~(M) Except as otherwise provided in this section or section 4123.522 of the Revised Code, no appeal is timely filed under this section unless the appeal is filed with the time limits set forth in this section.

~~(M)~~(N) No person who is not an employee of the bureau or commission

or who is not by law given access to the contents of a claims file shall have a file in the person's possession.

~~(N)(O)~~ Upon application of a party who resides in an area in which an emergency or disaster is declared, the industrial commission and hearing officers of the commission may waive the time frame within which claims and appeals of claims set forth in this section must be filed upon a finding that the applicant was unable to comply with a filing deadline due to an emergency or a disaster.

As used in this division:

(1) "Emergency" means any occasion or instance for which the governor of Ohio or the president of the United States publicly declares an emergency and orders state or federal assistance to save lives and protect property, the public health and safety, or to lessen or avert the threat of a catastrophe.

(2) "Disaster" means any natural catastrophe or fire, flood, or explosion, regardless of the cause, that causes damage of sufficient magnitude that the governor of Ohio or the president of the United States, through a public declaration, orders state or federal assistance to alleviate damage, loss, hardship, or suffering that results from the occurrence.

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

If an action has been commenced in a court of a county other than a

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

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

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

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

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

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

The claimant shall, within thirty days after the filing of the notice of appeal, file a petition containing a statement of facts in ordinary and concise language showing a cause of action to participate or to continue to participate in the fund and setting forth the basis for the jurisdiction of the court over the action. Further pleadings shall be had in accordance with the

Rules of Civil Procedure, provided that service of summons on such petition shall not be required and provided that the claimant may not dismiss the complaint without the employer's consent if the employer is the party that filed the notice of appeal to court pursuant to this section. The clerk of the court shall, upon receipt thereof, transmit by certified mail a copy thereof to each party named in the notice of appeal other than the claimant. Any party may file with the clerk prior to the trial of the action a deposition of any physician taken in accordance with the provisions of the Revised Code, which deposition may be read in the trial of the action even though the physician is a resident of or subject to service in the county in which the trial is had. The bureau of workers' compensation shall pay the cost of the stenographic deposition filed in court and of copies of the stenographic deposition for each party from the surplus fund and charge the costs thereof against the unsuccessful party if the claimant's right to participate or continue to participate is finally sustained or established in the appeal. In the event the deposition is taken and filed, the physician whose deposition is taken is not required to respond to any subpoena issued in the trial of the action. The court, or the jury under the instructions of the court, if a jury is demanded, shall determine the right of the claimant to participate or to continue to participate in the fund upon the evidence adduced at the hearing of the action.

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

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

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

(H) An appeal from an order issued under division (E) of section 4123.511 of the Revised Code or any action filed in court in a case in which an award of compensation or medical benefits has been made shall not stay

the payment of compensation or medical benefits under the award, or payment ~~of compensation~~ for subsequent periods of total disability or medical benefits during the pendency of the appeal. If, in a final administrative or judicial action, it is determined that payments of compensation or benefits, or both, made to or on behalf of a claimant should not have been made, the amount thereof shall be charged to the surplus fund under division ~~(B)~~(A) of section 4123.34 of the Revised Code. In the event the employer is a state risk, the amount shall not be charged to the employer's experience, and the administrator shall adjust the employer's account accordingly. In the event the 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.

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

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

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

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

Code.

Sec. 4123.66. (A) In addition to the compensation provided for in this chapter, the administrator of workers' compensation shall disburse and pay from the state insurance fund the amounts for medical, nurse, and hospital services and medicine as the administrator deems proper and, in case death ensues from the injury or occupational disease, the administrator shall disburse and pay from the fund reasonable funeral expenses in an amount not to exceed fifty-five hundred dollars. The bureau of workers' compensation shall reimburse anyone, whether dependent, volunteer, or otherwise, who pays the funeral expenses of any employee whose death ensues from any injury or occupational disease as provided in this section. The administrator may adopt rules, with the advice and consent of the bureau of workers' compensation oversight commission board of directors, with respect to furnishing medical, nurse, and hospital service and medicine to injured or disabled employees entitled thereto, and for the payment therefor. In case an injury or industrial accident that injures an employee also causes damage to the employee's eyeglasses, artificial teeth or other denture, or hearing aid, or in the event an injury or occupational disease makes it necessary or advisable to replace, repair, or adjust the same, the bureau shall disburse and pay a reasonable amount to repair or replace the same.

(B)(1) If an employer or a welfare plan has provided to or on behalf of an employee any benefits or compensation for an injury or occupational disease and that injury or occupational disease is determined compensable under this chapter, the employer or a welfare plan may request that the administrator reimburse the employer or welfare plan for the amount the employer or welfare plan paid to or on behalf of the employee in compensation or benefits. The administrator shall reimburse the employer or welfare plan for the compensation and benefits paid if, at the time the employer or welfare plan provides the benefits or compensation to or on behalf of employee, the injury or occupational disease had not been determined to be compensable under this chapter and if the employee was not receiving compensation or benefits under this chapter for that injury or occupational disease. The administrator shall reimburse the employer or welfare plan in the amount that the administrator would have paid to or on behalf of the employee under this chapter if the injury or occupational disease originally would have been determined compensable under this chapter. If the employer is a merit-rated employer, the administrator shall adjust the amount of premium next due from the employer according to the amount the administrator pays the employer. The administrator shall adopt

rules, in accordance with Chapter 119. of the Revised Code, to implement this division.

(2) As used in this division, "welfare plan" has the same meaning as in division (1) of 29 U.S.C.A. 1002.

Sec. 4123.80. No agreement by an employee to waive an employee's rights to compensation under this chapter is valid, except that:

(A) An employee who is blind may waive the compensation that may become due to the employee for injury or disability in cases where the injury or disability may be directly caused by or due to the employee's blindness. The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation ~~oversight commission~~ board of directors, may adopt and enforce rules governing the employment of such persons and the inspection of their places of employment.

(B) An employee may waive the employee's rights to compensation or benefits as authorized pursuant to division (C)(3) of section 4123.01 or section 4123.15 of the Revised Code.

No agreement by an employee to pay any portion of the premium paid by the employee's employer into the state insurance fund is valid.

Sec. 4123.82. (A) All contracts and agreements are void which undertake to indemnify or insure an employer against loss or liability for the payment of compensation to workers or their dependents for death, injury, or occupational disease occasioned in the course of the workers' employment, or which provide that the insurer shall pay the compensation, or which indemnify the employer against damages when the injury, disease, or death arises from the failure to comply with any lawful requirement for the protection of the lives, health, and safety of employees, or when the same is occasioned by the willful act of the employer or any of ~~his~~ the employer's officers or agents, or by which it is agreed that the insurer shall pay any such damages. No license or authority to enter into any such agreements or issue any such policies of insurance shall be granted or issued by any public authority in this state. Any corporation organized or admitted under the laws of this state to transact liability insurance as defined in section 3929.01 of the Revised Code may by amendment of its articles of incorporation or by original articles of incorporation, provide therein for the authority and purpose to make insurance in states, territories, districts, and counties, other than the state of Ohio, and in the state of Ohio in respect of contracts permitted by division (B) of this section, indemnifying employers against loss or liability for payment of compensation to workers and employees and their dependents for death, injury, or occupational disease occasioned in the course of the employment and to insure and indemnify

employers against loss, expense, and liability by risk of bodily injury or death by accident, disability, sickness, or disease suffered by workers and employees for which the employer may be liable or has assumed liability.

(B) Notwithstanding division (A) of this section:

(1) No contract because of that division is void which undertakes to indemnify a self-insuring employer against all or part of such employer's loss in excess of at least fifty thousand dollars from any one disaster or event arising out of the employer's liability under this chapter, but no insurance corporation shall, directly or indirectly, represent an employer in the settlement, adjudication, determination, allowance, or payment of claims. The superintendent of insurance shall enforce this prohibition by such disciplinary orders directed against the offending insurance corporation as the superintendent of insurance deems appropriate in the circumstances and the administrator of workers' compensation shall enforce this prohibition by such disciplinary orders directed against the offending employer as the administrator deems appropriate in the circumstances, which orders may include revocation of the insurance corporation's right to enter into indemnity contracts and revocation of the employer's status as a self-insuring employer.

(2) The administrator may enter into a contract of indemnity with any such employer upon such terms, payment of such premium, and for such amount and form of indemnity as the administrator determines and the ~~administrator~~ bureau of workers' compensation board of directors may procure reinsurance of the liability of the public and private funds under this chapter, or any part of the liability in respect of either or both of the funds, upon such terms and premiums or other payments from the fund or funds as the administrator deems prudent in the maintenance of a solvent fund or funds from year to year. When making the finding of fact which the administrator is required by section 4123.35 of the Revised Code to make with respect to the financial ability of an employer, no contract of indemnity, or the ability of the employer to procure such a contract, shall be considered as increasing the financial ability of the employer.

Sec. 4123.92. Upon the request of the industrial commission or the administrator of workers' compensation, the attorney general, or under ~~his~~ the attorney general's direction the prosecuting attorney of any county in cases arising within the county, shall institute and prosecute the necessary actions or proceedings for the enforcement of this chapter, or for the recovery of any money due the state insurance fund, or any penalty, and shall defend in like manner all suits, actions, or proceedings brought against the administrator, the bureau of workers' compensation ~~oversight~~

~~commission board of directors~~, industrial commission, or the members of the ~~oversight commission board~~, or industrial commission in their official capacity.

Sec. 4125.05. (A) Not later than thirty days after ~~the effective date of this section~~ November 5, 2004, or not later than thirty days after the formation of a professional employer organization, whichever date occurs later, a professional employer organization operating in this state shall register with the administrator of the bureau of workers' compensation on forms provided by the administrator. Following initial registration, each professional employer organization shall register with the administrator annually on or before the thirty-first day of December.

(B) Initial registration and each annual registration renewal shall include all of the following:

(1) A list of each of the professional employer organization's client employers current as of the date of registration for purposes of initial registration or current as of the date of annual registration renewal, or within fourteen days of adding or releasing a client, that includes the client employer's name, address, federal tax identification number, and bureau of workers' compensation risk number;

(2) A fee as determined by the administrator;

(3) The name or names under which the professional employer organization conducts business;

(4) The address of the professional employer organization's principal place of business and the address of each office it maintains in this state;

(5) The professional employer organization's taxpayer or employer identification number;

(6) A list of each state in which the professional employer organization has operated in the preceding five years, and the name, corresponding with each state, under which the professional employer organization operated in each state, including any alternative names, names of predecessors, and if known, successor business entities.

(C)(1) The administrator, with the advice and consent of the bureau of workers' compensation ~~oversight commission board of directors~~, shall adopt rules in accordance with Chapter 119. of the Revised Code to require, except as otherwise specified in division (C)(2) of this section, a professional employer organization to provide security in the form of a bond or letter of credit assignable to the Ohio bureau of workers' compensation not to exceed an amount equal to the premiums and assessments incurred for the two most recent payroll periods, prior to any discounts or dividends, to meet the financial obligations of the professional employer organization

pursuant to this chapter and Chapters 4121. and 4123. of the Revised Code.

(2) As an alternative to providing security in the form of a bond or letter of credit, the administrator shall permit a professional employer organization to make periodic payments of prospective premiums and assessments to the bureau or to submit proof of being certified by either a nationally recognized organization that certifies professional employer organizations or by a government entity approved by the administrator.

(3) A professional employer organization may appeal the amount of the security required pursuant to rules adopted under division (C)(1) of this section in accordance with section 4123.291 of the Revised Code.

(D) Notwithstanding division (C) of this section, a professional employer organization that qualifies for self-insurance or retrospective rating under section 4123.29 or 4123.35 of the Revised Code shall abide by the financial disclosure and security requirements pursuant to those sections and the rules adopted under those sections in place of the requirements specified in division (C) of this section or specified in rules adopted pursuant to that division.

(E) Except to the extent necessary for the administrator to administer the statutory duties of the administrator and for employees of the state to perform their official duties, all records, reports, client lists, and other information obtained from a professional employer organization under divisions (A) and (B) of this section are confidential and shall be considered trade secrets and shall not be published or open to public inspection.

(F) The list described in division (B)(1) of this section shall be considered a trade secret.

(G) The administrator shall establish the fee described in division (B)(2) of this section in an amount that does not exceed the cost of the administration of the initial and renewal registration process.

Sec. 4127.07. Every employer shall contribute to the public work-relief employees' compensation fund the amount of money determined by the administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation ~~oversight commission~~ board of directors. The contributions may be made in whole or in part out of any relief funds or any other available public funds, regardless of the manner in which the funds were raised. The officer of any employer having charge of the expenditures of funds for relief purposes, shall set aside and maintain as a special fund out of which contributions to the work-relief employees' compensation fund may be made, an amount equal to the percentage of the work-relief funds as the administrator determines on an actuarial basis as is reasonably necessary to cover the premium obligations of the employer. The

manner of determining the contributions and classifications of employers, shall be the same as is provided in sections 4123.39 to 4123.41 and 4123.48 of the Revised Code, and such sections shall apply in so far as they are applicable to the employers, but rates of premium shall be applied to insure solvency of the public work-relief employees' compensation fund at all times.

The state relief commission or any other state agency having supervision or control of work-relief employees, either directly or through agencies, shall file reports and make payments of premiums out of any fund under its control or supervision, in the amount and manner, and at the time, as is determined by the administrator; and the furnishing of the reports and the payment of the premiums by the state agency, for work-relief employees, shall relieve the state of the obligations set forth in sections 4123.40, 4123.41, and 4123.48 of the Revised Code, with respect to contributing to the public work-relief employees' compensation fund for work-relief employees.

Sec. 4127.08. The administrator of workers' compensation, under special circumstances and with the advice and consent of the bureau of workers' compensation ~~oversight commission~~ board of directors, may adjust the rate of disbursements of compensation of benefits, which shall not in any instance exceed the maximum reimbursable relief award established by the state which the claimant would have been entitled to had ~~he~~ the claimant not been injured.

Sec. 4131.04. (A) For the purpose of sections 4131.01 to 4131.06 of the Revised Code, each subscriber shall pay premiums upon the basis and at the intervals determined by the administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation ~~oversight commission~~ board of directors.

(B) The administrator shall fix and maintain for each class of occupation and type of mining the lowest possible rates of premiums consistent with the maintenance of a solvent fund and the creation and maintenance of a reasonable surplus after providing for payment to maturity of all liabilities insured pursuant to the federal act.

(C) The administrator may adjust the rates of premium at any time. Each adjustment order shall become effective on the date prescribed by ~~him~~ the administrator.

(D) The administrator, by rule, may prescribe procedures for subscription, payroll reporting, premium payment, termination of subscription, reinstatement, and all other matters pertinent to subscriber participation in the coal-workers pneumoconiosis fund.

(E) In addition to premiums required to be paid into the fund, the administrator, with the advice and consent of the ~~oversight commission board~~, shall fix and may adjust at any time an additional premium for the cost of administering the fund. The additional premium shall be paid by each subscriber as a part of the subscriber's total premium payment.

Sec. 4131.06. (A) The collection of premiums, the administration and investment of the coal-workers pneumoconiosis fund, and the payment of benefits therefrom shall not create any liability upon the state.

(B) Except for a gross abuse of discretion, the industrial commission and the individual members thereof, the bureau of workers' compensation oversight commission board of directors and the individual members thereof, and the administrator of workers' compensation shall not incur any obligation or liability respecting the collection of premiums, the administration or investment of the fund, or the payment of benefits therefrom.

Sec. 4131.13. (A) For the relief of persons who are entitled to receive benefits by virtue of the federal act, there is hereby established a marine industry fund, which shall be separate from the funds established and administered pursuant to Chapter 4123. of the Revised Code. The marine industry fund shall consist of premiums and other payments thereto by marine industry employers who apply to the bureau of workers' compensation for permission to subscribe to the fund to insure the payment of benefits required by the federal act.

By rule, the administrator of workers' compensation shall establish criteria for the acceptance or rejection of applications by marine industry employers who apply to subscribe to the fund.

(B) The marine industry fund shall be in the custody of the treasurer of state. The bureau shall make disbursements from the fund to those persons entitled to payment therefrom and in the amounts required pursuant to the federal act. The auditor of state annually shall complete a fiscal audit of the fund. All investment earnings of the fund shall be credited to the fund.

(C) The administrator shall have the same powers to invest any of the surplus or reserve belonging to the marine industry fund as are delegated to him under section 4123.44 of the Revised Code with respect to the state insurance fund.

(D) If the ~~administrator~~ bureau of workers' compensation board of directors determines that reinsurance of the risks of the marine industry fund is necessary to assure solvency of the fund, ~~he~~ the board may:

(1) Enter into contracts for the purchase of reinsurance coverage of the risks of the fund with any company or agency authorized by law to issue

contracts of reinsurance;

(2) ~~Pay~~ Require the administrator to pay the cost of reinsurance from the fund;

(3) Include the costs of reinsurance as a liability and estimated liability of the fund.

(E) For the purpose of maintaining the solvency of the marine industry fund, the administrator may borrow money from the state insurance fund as is necessary. Money borrowed from the state insurance fund shall be repaid from the marine industry fund together with an appropriate interest rate not to exceed the average yield of fixed income investments of the state insurance fund for the six-month period ended on the last day of the month preceding the month in which the money is borrowed. Loans made pursuant to this division are a proper investment of the surplus or reserve of the state insurance fund.

(F) In no event shall any of the assets of any of the funds created and administered pursuant to Chapter 4123. of the Revised Code be disbursed in payment of any cost or obligation of or insured by the marine industry fund. This division shall not be construed to prohibit as a proper investment loans made from the state insurance fund to the marine industry fund pursuant to division (E) of this section.

Sec. 4131.14. (A) For the purpose of sections 4131.11 to 4131.16 of the Revised Code, each subscriber shall pay premiums upon the basis and at the intervals determined by the administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation ~~oversight commission~~ board of directors.

(B) The administrator shall fix and maintain for each class of occupation and type of business the lowest possible rates of premiums consistent with the maintenance of a solvent fund and the creation and maintenance of a reasonable surplus after providing for payment to maturity of all liabilities insured pursuant to the federal act. The administrator, by rule, may provide for merit rating of subscribers.

(C) The administrator, with the advice and consent of the ~~oversight commission~~ board, may adjust the rates of premium at any time. Each adjustment order is effective on the date prescribed by the administrator.

(D) The administrator, by rule adopted pursuant to Chapter 119. of the Revised Code, may prescribe procedures for subscription, payroll reporting, premium payment, payment of an advance security deposit by subscribers to secure payments of premiums when due, termination of subscription, reinstatement, and all other matters pertinent to subscriber participation in the marine industry fund.

(E) In addition to premiums required to be paid into the fund, the administrator, with the advice and consent of the ~~oversight commission board~~, shall fix and may adjust at any time an additional premium for the cost of administering the fund. The additional premium shall be paid by each subscriber as a part of the subscriber's total premium payment.

Sec. 4131.16. (A) The collection of premiums, the administration and investment of the marine industry fund, and the payment of benefits therefrom shall not create any liability upon the state.

(B) Except for a gross abuse of discretion, the industrial commission and the individual members thereof, the bureau of workers' compensation ~~oversight commission board of directors~~ and the individual members thereof, and the administrator of workers' compensation shall not incur any obligation or liability respecting the collection of premiums, the administration or investment of the fund, or the payment of benefits therefrom.

Sec. 4167.02. (A) The administrator of worker's compensation shall operate and enforce the public employment risk reduction program created by this chapter.

(B) The administrator shall do all of the following:

(1) Adopt rules, with the advice and consent of the bureau of workers' compensation ~~oversight commission board of directors~~ and in accordance with Chapter 119. of the Revised Code, for the administration and enforcement of this chapter, including rules covering standards the administrator shall follow in issuing an emergency temporary Ohio employment risk reduction standard under section 4167.08 of the Revised Code and a temporary variance and a variance from an Ohio employment risk reduction standard or part thereof under section 4167.09 of the Revised Code;

(2) Do all things necessary and appropriate for the administration and enforcement of this chapter.

(C) In carrying out the responsibilities of this chapter, the administrator may use, with the consent of any federal, state, or local agency, the services, facilities, and personnel of such agency, with or without reimbursement, and may retain or contract with experts, consultants, and organizations for services or personnel on such terms as the administrator determines appropriate.

Sec. 4167.07. (A) The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation ~~oversight commission board of directors~~, shall adopt rules that establish employment risk reduction standards. Except as provided in division (B) of this section,

in adopting these rules, the administrator shall do both of the following:

(1) By no later than July 1, 1994, adopt as a rule and an Ohio employment risk reduction standard every federal occupational safety and health standard then adopted by the United States secretary of labor pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, as amended;

(2) By no later than one hundred twenty days after the United States secretary of labor adopts, modifies, or revokes any federal occupational safety and health standard, by rule do one of the following:

(a) Adopt the federal occupational safety and health standard as a rule and an Ohio employment risk reduction standard;

(b) Amend the existing rule and Ohio employment risk reduction standard to conform to the modification of the federal occupational safety and health standard;

(c) Rescind the existing rule and Ohio employment risk reduction standard that corresponds to the federal occupational safety and health standard the United States secretary of labor revoked.

(B) The administrator, with the advice and consent of the bureau of workers' compensation ~~oversight commission~~ board of directors, may decline to adopt any federal occupational safety and health standard as a rule and an Ohio employment risk reduction standard or to modify or rescind any existing rule and Ohio employment risk reduction standard to conform to any federal occupational safety and health standard modified or revoked by the United States secretary of labor or may adopt as a rule and an Ohio employment risk reduction standard any occupational safety and health standard that is not covered under the federal law or that differs from one adopted or modified by the United States secretary of labor, if the administrator determines that existing rules and Ohio employment risk reduction standards provide protection at least as effective as that which would be provided by the existing, new, or modified federal occupational safety and health standard or if the administrator determines that local conditions warrant a different standard from that of the existing federal occupational safety and health standard or from standards the United States secretary of labor adopts, modifies, or revokes.

(C) In adopting, modifying, or rescinding any rule or Ohio employment risk reduction standard dealing with toxic materials or harmful physical agents, the administrator, with the advice and consent of the bureau of workers' compensation ~~oversight commission~~ board of directors, shall do all of the following:

(1) Set the employment risk reduction standard to most adequately

assure, to the extent technologically feasible and on the basis of the best available evidence, that no public employee will suffer material impairment of health or functional capacity as a result of the hazards dealt with by the rule or Ohio employment risk reduction standard for the period of the public employee's working life;

(2) Base the development of these rules and Ohio employment risk reduction standards on research, demonstrations, experiments, and other information as is appropriate and upon the technological feasibility of the rule and standard, using the latest available scientific data in the field and the experience gained in the workplace under this chapter and other health and safety laws, to establish the highest degree of safety and health for the public employee;

(3) Whenever practicable, express the rule and Ohio employment risk reduction standard in terms of objective criteria and of the performance desired;

(4) Prescribe the use of labels or other appropriate forms of warning as are necessary to ensure that public employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure where appropriate;

(5) Prescribe suitable protective equipment and control procedures to be used in connection with the hazards;

(6) Provide for measuring or monitoring public employee exposure in a manner necessary for the protection of the public employees;

(7) Where appropriate, prescribe the type and frequency of medical examinations or other tests the public employer shall make available, at the cost of the public employer, to the public employees exposed to the hazards in order to determine any adverse effect from the exposure.

(D) In determining the priority for adopting rules and Ohio employment risk reduction standards under this section, the administrator shall give due regard to the urgency of need and recommendations of the department of health regarding that need for mandatory employment risk reduction standards for particular trades, crafts, occupations, services, and workplaces.

(E)(1) Except for rules adopted under division (A) of this section, the administrator, with the advice and consent of the bureau of workers' compensation oversight commission board of directors, shall adopt all rules under this section in accordance with Chapter 119. of the Revised Code, provided that notwithstanding that chapter, the administrator may delay the effective date of any rule or Ohio employment risk reduction standard for the period the administrator determines necessary to ensure that affected

public employers and public employees will be informed of the adoption, modification, or rescission of the rule and Ohio employment risk reduction standard and have the opportunity to familiarize themselves with the specific requirements of the rule and standard. In no case, however, shall the administrator delay the effective date of a rule adopted pursuant to Chapter 119. of the Revised Code in excess of ninety days beyond the otherwise required effective date.

(2) In regard to the rules for which the administrator does not have to comply with Chapter 119. of the Revised Code, the administrator shall file two certified copies of the rules and Ohio employment risk reduction standards adopted with the secretary of state and the director of the legislative service commission.

Sec. 4167.08. (A) In the event of an emergency or unusual situation, the administrator of workers' compensation shall issue an emergency temporary Ohio employment risk reduction standard to take immediate effect upon publication in newspapers of general circulation in Cleveland, Columbus, Cincinnati, and Toledo if the administrator finds both of the following:

(1) Public employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards;

(2) The emergency temporary Ohio employment risk reduction standard is necessary to protect employees from the danger.

(B)(1) Except as provided in division (B)(2) of this section an emergency temporary Ohio employment risk reduction standard issued by the administrator under division (A) of this section shall be in effect no longer than fifteen days, unless the ~~commission~~ bureau of workers' compensation board of directors approves the emergency temporary Ohio employment risk reduction standard as issued by the administrator, in which case, the emergency temporary Ohio employment risk reduction standard shall be in effect no longer than one hundred twenty days after the date the administrator issues it.

(2) The administrator may renew an emergency temporary Ohio employment risk reduction standard that has been approved by the ~~workers' compensation oversight commission~~ board for an additional time period not to exceed one hundred days if the administrator finds that the conditions identified in divisions (A)(1) and (2) of this section continue to exist.

On or before the expiration date of the emergency temporary Ohio employment risk reduction standard or renewal thereof, if the conditions identified in divisions (A)(1) and (2) of this section continue to exist, the administrator, with the advice and consent of the ~~oversight commission~~

board, shall adopt a permanent Ohio employment risk reduction standard pursuant to section 4167.07 of the Revised Code as a rule to replace the emergency temporary Ohio employment risk reduction standard.

Sec. 4167.09. (A) Any public employer affected by a proposed rule or Ohio employment risk reduction standard or any provision of a standard proposed under section 4167.07 or 4167.08 of the Revised Code may apply to the administrator of workers' compensation for an order granting a temporary variance from the standard or provision. The application for the order and any extension of the order shall contain a reasonable application fee, as determined by the bureau of workers' compensation ~~oversight commission~~ board of directors, and all of the following information:

(1) A specification of the Ohio public employment risk reduction standard or provision of it from which the public employer seeks the temporary variance;

(2) A representation by the public employer, supported by representations from qualified persons having firsthand knowledge of the facts represented, that the public employer is unable to comply with the Ohio employment risk reduction standard or provision of it and a detailed statement of the reasons for the inability to comply;

(3) A statement of the steps that the public employer has taken and will take, with dates specified, to protect employees against the hazard covered by the standard;

(4) A statement of when the public employer expects to be able to comply fully with the Ohio employment risk reduction standard and what steps the public employer has taken and will take, with dates specified, to come into full compliance with the standard;

(5) A certification that the public employer has informed the public employer's public employees of the application by giving a copy of the application to the public employee representative, if any, and by posting a statement giving a summary of the application and specifying where a copy of the application may be examined at the place or places where notices to public employees are normally posted, and by any other appropriate means of public employee notification. The public employer also shall inform the public employer's public employees of their rights to a hearing under section 4167.15 of the Revised Code. The certification also shall contain a description of how public employees have been informed of the application and of their rights to a hearing.

(B) The administrator shall issue an order providing for a temporary variance if the public employer files an application that meets the requirements of division (A) of this section and establishes that all of the

following pertaining to the public employer are true:

(1) The public employer is unable to comply with the Ohio employment risk reduction standard or a provision of it by its effective date because of the unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the Ohio employment risk reduction standard or provision of it or because necessary construction or alteration of facilities cannot be completed by the effective date of the standard.

(2) The public employer is taking all available steps to safeguard the public employer's public employees against the hazards covered by the Ohio employment risk reduction standard.

(3) The public employer has an effective program for coming into compliance with the Ohio employment risk reduction standard as quickly as practicable.

(4) The granting of the variance will not create an imminent danger of death or serious physical harm to public employees.

(C)(1) If the administrator issues an order providing for a temporary variance under division (B) of this section, the administrator shall prescribe the practices, means, methods, operations, and processes that the public employer must adopt and use while the order is in effect and state in detail the public employer's program for coming into compliance with the Ohio employment risk reduction standard. The administrator may issue the order only after providing notice to affected public employees and their public employee representative, if any, and an opportunity for a hearing pursuant to section 4167.15 of the Revised Code, provided that the administrator may issue one interim order granting a temporary order to be effective until a decision on a hearing is made. Except as provided in division (C)(2) of this section, no temporary variance may be in effect for longer than the period needed by the public employer to achieve compliance with the Ohio employment risk reduction standard or one year, whichever is shorter.

(2) The administrator may renew an order issued under division (C) of this section up to two times provided that the requirements of divisions (A), (B), and (C)(1) of this section and section 4167.15 of the Revised Code are met and the public employer files an application for renewal with the administrator at least ninety days prior to the expiration date of the order.

(D) Any public employer affected by an Ohio employment risk reduction standard or any provision of it proposed, adopted, or otherwise issued under section 4167.07 or 4167.08 of the Revised Code may apply to the administrator for an order granting a variance from the standard or provision. The administrator shall provide affected public employees and

their public employee representative, if any, notice of the application and shall provide an opportunity for a hearing pursuant to section 4167.15 of the Revised Code. The administrator shall issue the order granting the variance if the public employer files an application that meets the requirements of division (B) of this section, and after an opportunity for a hearing pursuant to section 4167.15 of the Revised Code, and if the public employer establishes to the satisfaction of the administrator that the conditions, practices, means, methods, operations, or processes used or proposed to be used by the public employer will provide employment and places of employment to the public employer's public employees that are as safe and healthful as those that would prevail if the public employer complied with the Ohio employment risk reduction standard. The administrator shall prescribe in the order granting the variance the conditions the public employer must maintain, and the practices, means, methods, operations, and processes the public employer must adopt and utilize in lieu of the Ohio employment risk reduction standard that would otherwise apply. The administrator may modify or revoke the order upon application of the public employer, public employee, or public employee representative, or upon the administrator's own motion in the manner prescribed for the issuance of an order under this division at any time during six months after the date of issuance of the order.

Sec. 4167.11. (A) In order to further the purposes of this chapter, the administrator of workers' compensation shall develop and maintain, for public employers and public employees, an effective program of collection, compilation, and analysis of employment risk reduction statistics.

(B) To implement and maintain division (A) of this section, the administrator, with the advice and consent of the bureau of workers' compensation oversight commission board of directors, shall adopt rules in accordance with Chapter 119. of the Revised Code that extend to all of the following:

(1) Requiring each public employer to make, keep, and preserve, and make available to the administrator, reports and records regarding the public employer's activities, as determined by the rule that are necessary or appropriate for the enforcement of this chapter or for developing information regarding the causes and prevention of occupational accidents and illnesses. The rule shall prescribe which of these reports and records shall or may be furnished to public employees and public employee representatives.

(2) Requiring every public employer, through posting of notices or other appropriate means, to keep their public employees informed of public

employees' rights and obligations under this chapter, including the provisions of applicable Ohio employment risk reduction standards;

(3) Requiring public employers to maintain accurate records of public employee exposure to potentially toxic materials, carcinogenic materials, and harmful physical agents that are required to be monitored or measured under rules adopted under the guidelines of division (C) of section 4167.07 of the Revised Code. The rule shall provide public employees or public employee representatives an opportunity to observe the monitoring or measuring, and to have access on request to the records thereof, and may provide public employees or public employee representatives an opportunity to participate in and to undertake their own monitoring or measuring. The rules also shall permit each current or former public employee to have access to the records that indicate their own exposure to toxic materials, carcinogenic materials, or harmful agents.

(C) The administrator shall obtain any information under division (B) of this section with a minimum burden upon the public employer and shall, to the maximum extent feasible, reduce unnecessary duplication of efforts in obtaining the information.

Sec. 4167.14. (A) Any court of common pleas has jurisdiction, upon petition of the administrator of workers' compensation, to restrain any conditions or practices in any places of employment that present a danger that could reasonably be expected to cause death or serious harm or contribute significantly to occupationally related illness immediately or before the imminence of the danger can be eliminated through the enforcement procedures provided in this chapter. Any order issued under this section may require that steps be taken as necessary to avoid, correct, or remove the imminent danger and prohibit the employment or presence of any individual in locations or under conditions where the imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove the imminent danger.

(B) Upon the filing of a petition under division (A) of this section, the court of common pleas may grant injunctive relief or a temporary restraining order pending the outcome of an enforcement proceeding pursuant to this chapter, except that no temporary restraining order issued without notice is effective for a period longer than five calendar days.

(C) If the administrator or the administrator's designee responsible for inspections determines that the imminent danger as described in division (A) of this section is such that immediate action is necessary, and further determines that there is not sufficient time in light of the nature, severity, and imminence of the danger to seek and obtain a temporary restraining

order or injunction, the administrator or the administrator's designee immediately shall file a petition with the court under division (A) of this section and issue an order requiring action to be taken as is necessary to avoid, correct, or remove the imminent danger.

The administrator, with the advice and consent of the bureau of workers' compensation oversight commission board of directors, shall adopt rules, in accordance with Chapter 119. of the Revised Code, to permit a public employer expeditious informal reconsideration of any order issued by the administrator under this division. Unless the administrator reverses an order pursuant to the informal reconsideration, the order remains in effect pending the court's determination under this section. If the administrator modifies an order pursuant to the informal reconsideration, the administrator shall provide the court with whom the administrator filed the petition under this section with a copy of the modified order. The modified order remains in effect pending the court's determination under this section.

SECTION 101.02. That existing sections 102.02, 102.06, 109.981, 119.01, 131.02, 1707.01, 3345.12, 3923.41, 3923.44, 3923.47, 4121.01, 4121.12, 4121.121, 4121.122, 4121.123, 4121.125, 4121.126, 4121.128, 4121.37, 4121.441, 4121.48, 4121.61, 4121.67, 4121.70, 4123.25, 4123.29, 4123.291, 4123.311, 4123.32, 4123.34, 4123.341, 4123.342, 4123.35, 4123.351, 4123.37, 4123.411, 4123.44, 4123.441, 4123.47, 4123.50, 4123.511, 4123.512, 4123.66, 4123.80, 4123.82, 4123.92, 4125.05, 4127.07, 4127.08, 4131.04, 4131.06, 4131.13, 4131.14, 4131.16, 4167.02, 4167.07, 4167.08, 4167.09, 4167.11, and 4167.14 of the Revised Code are hereby repealed.

SECTION 105.01. That section 4121.06 of the Revised Code is hereby repealed.

SECTION 201.10. All items in this section are hereby appropriated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this act, those in the first column are for fiscal year 2008, and those in the second column are for fiscal year 2009.

FND AI	AI TITLE	Appropriations	
BWC BUREAU OF WORKERS' COMPENSATION			
Workers' Compensation Fund Group			
023 855-401	William Green Lease	\$ 20,436,600	\$ 20,686,500
	Payments to OBA		
023 855-407	Claims, Risk & Medical Management	\$ 140,367,719	\$ 140,367,719

023	855-408	Fraud Prevention	\$	11,772,551	\$	11,772,551
023	855-409	Administrative Services	\$	122,962,388	\$	122,962,388
023	855-410	Attorney General Payments	\$	4,444,085	\$	4,444,085
822	855-606	Coal Workers' Fund	\$	91,894	\$	91,894
823	855-608	Marine Industry	\$	53,952	\$	53,952
825	855-605	Disabled Workers Relief Fund	\$	488,282	\$	492,500
826	855-609	Safety & Hygiene Operating	\$	20,734,750	\$	20,734,750
826	855-610	Safety Grants Program	\$	4,000,000	\$	4,000,000
829	855-604	Long Term Care Loan Program	\$	2,000,000	\$	2,000,000
TOTAL WCF Workers' Compensation Fund Group			\$	327,352,221	\$	327,606,339
Federal Special Revenue Fund Group						
349	855-601	OSHA Enforcement	\$	1,604,140	\$	1,604,140
TOTAL FED Federal Special Revenue Fund Group			\$	1,604,140	\$	1,604,140
TOTAL ALL BUDGET FUND GROUPS			\$	328,956,361	\$	329,210,479

WILLIAM GREEN LEASE PAYMENTS

The foregoing appropriation item 855-401, William Green Lease Payments to OBA, shall be used for lease payments to the Ohio Building Authority, and these appropriations shall be used to meet all payments at the times they are required to be made during the period from July 1, 2007, to June 30, 2009, by the Bureau of Workers' Compensation to the Ohio Building Authority pursuant to leases and agreements made under Chapter 152. of the Revised Code and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. Of the amounts received in Fund 023, appropriation item 855-401, William Green Lease Payments to OBA, up to \$41,123,100 shall be restricted for lease rental payments to the Ohio Building Authority. If it is determined that additional appropriations are necessary for such purpose, such amounts are hereby appropriated.

Notwithstanding any other provision of law to the contrary, all tenants of the William Green Building not funded by the Workers' Compensation Fund (Fund 023) shall pay their fair share of the costs of lease payments to the Workers' Compensation Fund (Fund 023) by intrastate transfer voucher.

WORKERS' COMPENSATION FRAUD UNIT

The Workers' Compensation Section Fund (Fund 195) shall receive payments from the Bureau of Workers' Compensation at the beginning of each quarter of each fiscal year to fund expenses of the Workers' Compensation Fraud Unit of the Attorney General's Office. Of the foregoing appropriation item 855-410, Attorney General Payments, \$796,346 in fiscal year 2008 and \$796,346 in fiscal year 2009 shall be used to provide these payments.

SAFETY AND HYGIENE

Notwithstanding section 4121.37 of the Revised Code, the

Administrator of Workers' Compensation shall transfer moneys from the State Insurance Fund so that appropriation item 855-609, Safety and Hygiene Operating, is provided \$20,734,750 in fiscal year 2008 and \$20,734,750 in fiscal year 2009.

OSHA ON-SITE CONSULTATION PROGRAM

The Bureau of Workers' Compensation may designate a portion of appropriation item 855-609, Safety and Hygiene Operating, to be used to match federal funding for the federal Occupational Safety and Health Administration's (OSHA) on-site consultation program.

VOCATIONAL REHABILITATION

The Bureau of Workers' Compensation and the Rehabilitation Services Commission shall enter into an interagency agreement for the provision of vocational rehabilitation services and staff to mutually eligible clients. The bureau shall provide \$605,407 in fiscal year 2008 and \$605,407 in fiscal year 2009 from the State Insurance Fund to fund vocational rehabilitation services and staff in accordance with the interagency agreement.

FUND BALANCE

Any unencumbered cash balance in excess of \$45,000,000 in the Workers' Compensation Fund (Fund 023) on the thirtieth day of June of each fiscal year shall be used to reduce the administrative cost rate charged to employers to cover appropriations for Bureau of Workers' Compensation operations.

HOLDING ACCOUNT

On July 1, 2007, or as soon as possible thereafter, the Director of Budget and Management shall transfer the remaining cash balance in the Camera Center Fund (Fund R46) to the Administrative Fund (Fund 023). After the transfer, the Camera Center Fund is abolished.

SECTION 211.10. Notwithstanding division (D) of section 4121.03, division (B)(10) of section 4121.121, and section 101.532 of the Revised Code regarding the requirement that the budget for the bureau of workers' compensation and the budget for the industrial commission be enacted in separate bills, all items in this section are hereby appropriated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this section, those in the first column are for fiscal year 2008, and those in the second column are for fiscal year 2009.

FND AI	AI TITLE	Appropriations	
		FY 2008	FY 2009
	OIC INDUSTRIAL COMMISSION		
	Workers' Compensation Fund Group		

Am. Sub. H. B. No. 100

2471

5W3 845-321	Operating Expenses	\$	51,778.924	\$	51,778.924
5W3 845-402	Rent - William Green Building	\$	6,299.960	\$	6,299.960
5W3 845-410	Attorney General Payments	\$	3,558.634	\$	3,558.634
821 845-605	Program Support	\$	161.847	\$	161.847
TOTAL WCF Workers' Compensation					
Fund Group		\$	61,799.365	\$	61,799.365
TOTAL ALL BUDGET FUND GROUPS		\$	61,799.365	\$	61,799.365

RENT - WILLIAM GREEN BUILDING

The foregoing appropriation item 845-402, Rent - William Green Building, shall be used for rent and operating expenses for the space occupied by the Industrial Commission in the William Green Building.

PROGRAM SUPPORT

The foregoing appropriation item 845-605, Program Support, shall be used for any expense related to revenues collected and deposited in Fund 821, such as the purchase of copiers, copier maintenance and related supplies, coin copier expense, coin changer purchases, expenses related to conferences that produce revenue, publications that produce revenue, and replacement of furniture and equipment.

SECTION 303.10. Law contained in the main operating appropriations act of the 127th General Assembly that applies generally to the appropriations made in that act also applies generally to the appropriations made in this act.

SECTION 403.03. That Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly, as amended by Am. Sub. H.B. 66 and Sub. S.B. 124 of the 126th General Assembly, be amended to read as follows:

Sec. 4. The following agencies shall be retained pursuant to division (D) of section 101.83 of the Revised Code and shall expire on December 31, 2010:

AGENCY NAME	REVISED CODE OR UNCODIFIED SECTION
Administrator, Interstate Compact on Mental Health	5119.50
Administrator, Interstate Compact on Placement of Children	5103.20
Advisory Board of Governor's Office of Faith-Based and Community Initiatives	107.12
Advisory Boards to the EPA for Air Pollution	121.13

Advisory Boards to the EPA for Water Pollution	121.13
Advisory Committee of the State Veterinary Medical Licensing Board	4741.03(D)(3)
Advisory Committee on Livestock Exhibitions	901.71
Advisory Council on Amusement Ride Safety	1711.51
Advisory Board of Directors for Prison Labor	5145.162
Advisory Council for Each Wild, Scenic, or Recreational River Area	1517.18
Advisory Councils or Boards for State Departments	107.18 or 121.13
Advisory Group to the Ohio Water Resources Council	1521.19(C)
Alzheimer's Disease Task Force	173.04(F)
AMBER Alert Advisory Committee	5502.521
Apprenticeship Council	4139.02
Armory Board of Control	5911.09
Automated Title Processing Board	4505.09(C)(1)
Banking Commission	1123.01
Board of Directors of the Ohio Health Reinsurance Program	3924.08
Board of Voting Machine Examiners	3506.05(B)
Brain Injury Advisory Committee	3304.231
Capitol Square Review and Advisory Board	105.41
Child Support Guideline Advisory Council	3119.024
Children's Trust Fund Board	3109.15
Citizens Advisory Committee (BMV)	4501.025
Citizen's Advisory Councils (Dept. of Mental Retardation and Developmental Disabilities)	5123.092
Clean Ohio Trail Advisory Board	1519.06
Coastal Resources Advisory Council	1506.12
Commission on African-American Males	4112.12
Commission on Hispanic-Latino Affairs	121.31
Commission on Minority Health	3701.78
Committee on Prescriptive Governance	4723.49
Commodity Advisory Commission	926.32
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353
Community Oversight Council	3311.77
Compassionate Care Task Force	Section 3,

	H.B. 474, 124th GA
Continuing Education Committee (for Sheriffs)	109.80
Coordinating Committee, Agricultural Commodity Marketing Programs	924.14
Council on Alcohol and Drug Addiction Services	3793.09
Council on Unreclaimed Strip Mined Lands	1513.29
Council to Advise on the Establishment and Implementation of the Birth Defects Information System	3705.34
County Sheriffs' Standard Car-Marking and Uniform Commission	311.25
Credit Union Council	1733.329
Criminal Sentencing Advisory Committee	181.22
Day-Care Advisory Council	5104.08
Dentist Loan Repayment Advisory Board	3702.92
Development Financing Advisory Council	122.40
Education Commission of the States (Interstate Compact for Education)	3301.48
Electrical Safety Inspector Advisory Committee	3783.08
Emergency Response Commission	3750.02
Engineering Experiment Station Advisory Committee	3335.27
Environmental Education Council	3745.21
EPA Advisory Boards or Councils	121.13
Farmland Preservation Advisory Board	901.23
Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05
Financial Planning & Supervision Commission for School District	3316.05
Forestry Advisory Council	1503.40
Governance Authority for a State University or College	3345.75
Governor's Advisory Council on Physical Fitness, Wellness, & Sports	3701.77
Governor's Council on People with Disabilities	3303.41
Governor's Residence Advisory Commission	107.40
Great Lakes Commission (Great Lakes Basin Compact)	6161.01
Gubernatorial Transition Committee	107.29

Head Start Partnership Study Council	Section 41.35, H.B. 95, 125th GA
Hemophilia Advisory Subcommittee	3701.0210
Housing Trust Fund Advisory Committee	175.25
Industrial Commission Nominating Council	4121.04
Industrial Technology and Enterprise Advisory Council	122.29
Infant Hearing Screening Subcommittee	3701.507
Insurance Agent Education Advisory Council	3905.483
Interagency Council on Hispanic/Latino Affairs	121.32(J)
Interstate Mining Commission (Interstate Mining Compact)	1514.30
Interstate Rail Passenger Advisory Council (Interstate High Speed Intercity Rail Passenger Network Compact)	4981.35
Joint Council on MR/DD	101.37
Joint Select Committee on Volume Cap	133.021
Labor-Management Government Advisory Council	4121.70
Legal Rights Service Commission	5123.60
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51
Maternal and Child Health Council	3701.025
Medically Handicapped Children's Medical Advisory Council	3701.025
Midwest Interstate Passenger Rail Compact Commission (Ohio members)	4981.361
Military Activation Task Force	5902.15
Milk Sanitation Board	917.03
Mine Subsidence Insurance Governing Board	3929.51
Minority Development Financing Board	122.72
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA
Multidisciplinary Council	3746.03
Muskingum River Advisory Council	1501.25
National Museum of Afro-American History and Culture Planning Committee	149.303
Ohio Advisory Council for the Aging	173.03
Ohio Aerospace & Defense Advisory Council	122.98
Ohio Arts Council	3379.02

Ohio Business Gateway Steering Committee	5703.57
Ohio Cemetery Dispute Resolution Commission	4767.05
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)
Ohio Commercial Insurance Joint Underwriting Association Board Of Governors	3930.03
Ohio Commercial Market Assistance Plan Executive Committee	3930.02
Ohio Commission on Dispute Resolution and Conflict Management	179.02
Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA
Ohio Community Service Council	121.40
Ohio Council for Interstate Adult Offender Supervision	5149.22
Ohio Cultural Facilities Commission	3383.02
Ohio Developmental Disabilities Council	5123.35
Ohio Expositions Commission	991.02
Ohio Family and Children First Cabinet Council	121.37
Ohio Geology Advisory Council	1505.11
Ohio Grape Industries Committee	924.51
Ohio Hepatitis C Advisory Commission	3701.92
Ohio Historic Site Preservation Advisory Board	149.301
Ohio Historical Society Board of Trustees	149.30
Ohio Judicial Conference	105.91
Ohio Lake Erie Commission	1506.21
Ohio Medical Malpractice Commission	Section 4, S.B. 281, 124th GA and Section 3, S.B. 86, 125th GA
Ohio Medical Quality Foundation	3701.89
Ohio Parks and Recreation Council	1541.40
Ohio Peace Officer Training Commission	109.71
Ohio Public Defender Commission	120.01
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by

	H.B. 284, 121st GA
Ohio Quarter Horse Development Commission	3769.086
Ohio Small Government Capital Improvements Commission	164.02
Ohio Soil and Water Conservation Commission	1515.02
Ohio Standardbred Development Commission	3769.085
Ohio Steel Industry Advisory Council	122.97
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)
Ohio Thoroughbred Racing Advisory Committee	3769.084
Ohio Tuition Trust Authority	3334.03
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10
Ohio Vendors Representative Committee	3304.34
Ohio War Orphans Scholarship Board	5910.02
Ohio Water Advisory Council	1521.031
Ohio Water Resources Council	1521.19
Ohioana Library Association, Martha Kinney Cooper Memorial	3375.62
Oil and Gas Commission	1509.35
Operating Committee, Agricultural Commodity Marketing Programs	924.07
Organized Crime Investigations Commission	177.01
Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81
Physician Loan Repayment Advisory Board	3702.81
Power Siting Board	4906.02
Prequalification Review Board	5525.07
Private Water Systems Advisory Council	3701.346
Public Employment Risk Reduction Advisory Commission	4167.02
Public Health Council	3701.33
Public Utilities Commission Nominating Council	4901.021
Public Utility Property Tax Study Committee	5727.85
Radiation Advisory Council	3748.20
Reclamation Commission	1513.05
Recreation and Resources Commission	1501.04
Recycling and Litter Prevention Advisory Council	1502.04
Rehabilitation Services Commission Consumer	3304.24

Advisory Committee	
Savings & Loans Associations & Savings Banks Board	1181.16
Schools and Ministerial Lands Divestiture Committee	501.041
Second Chance Trust Fund Advisory Committee	2108.17
Services Committee of the Workers' Compensation System	4121.06
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19
Solid Waste Management Advisory Council	3734.51
State Agency Coordinating Group	1521.19
State Board of Emergency Medical Services Subcommittees	4765.04
State Council of Uniform State Laws	105.21
State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities	4115.32
State Criminal Sentencing Commission	181.21
State Fire Commission	3737.81
State Racing Commission	3769.02
State Victims Assistance Advisory Committee	109.91
Student Tuition Recovery Authority	3332.081
Tax Credit Authority	122.17
Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35
Technical Advisory Council on Oil and Gas	1509.38
Transportation Review Advisory Council	5512.07
Unemployment Compensation Review Commission	4141.06
Unemployment Compensation Advisory Council	4141.08
Utility Radiological Safety Board	4937.02
Vehicle Management Commission	125.833
Veterans Advisory Committee	5902.02(K)
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02
Water and Sewer Commission	1525.11(C)
Waterways Safety Council	1547.73
Wildlife Council	1531.03
Workers' Compensation System Oversight	4121.12

~~Commission~~

Workers' Compensation ~~Oversight Commission~~ 4121.123
Board of Directors Nominating Committee

SECTION 403.04. That existing Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly, as amended by Am. Sub. H.B. 66 and Sub. S.B. 124 of the 126th General Assembly, is hereby repealed.

SECTION 403.10. That Section 3 of Am. H.B. 67 of the 126th General Assembly, as amended by Am. Sub. H.B. 66 of the 126th General Assembly, be amended to read as follows:

Sec. 3. All items in this section are hereby appropriated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this act, those in the first column are for fiscal year 2006, and those in the second column are for fiscal year 2007.

FND	AI	AI TITLE	Appropriations			
BWC BUREAU OF WORKERS' COMPENSATION						
Workers' Compensation Fund Group						
023	855-401	William Green Lease	\$	19,736,600	\$	20,125,900
		Payments to OBA				
023	855-407	Claims, Risk & Medical	\$	140,052,037	\$	140,052,037
		Management				
023	855-408	Fraud Prevention	\$	11,713,797	\$	11,713,797
023	855-409	Administrative Services	\$	119,246,553	\$	119,246,553
023	855-410	Attorney General Payments	\$	4,314,644	\$	4,314,644
822	855-606	Coal Workers' Fund	\$	91,894	\$	91,894
823	855-608	Marine Industry	\$	53,952	\$	53,952
825	855-605	Disabled Workers Relief Fund	\$	693,764	\$	693,764
826	855-609	Safety & Hygiene Operating	\$	20,130,820	\$	20,130,820
826	855-610	Safety Grants Program	\$	4,000,000	\$	4,000,000
TOTAL WCF Workers' Compensation						
Fund Group			\$	320,034,061	\$	320,423,361
Federal Special Revenue Fund Group						
349	855-601	OSHA Enforcement	\$	1,527,750	\$	1,604,140
TOTAL FED Federal Special Revenue Fund			\$	1,527,750	\$	1,604,140
Group						
TOTAL ALL BUDGET FUND GROUPS			\$	321,561,811	\$	322,027,501

WILLIAM GREEN LEASE PAYMENTS

The foregoing appropriation item 855-401, William Green Lease Payments to OBA, shall be used for lease payments to the Ohio Building Authority, and these appropriations shall be used to meet all payments at the times they are required to be made during the period from July 1, 2005, to June 30, 2007, by the Bureau of Workers' Compensation to the Ohio Building Authority pursuant to leases and agreements made under Chapter

152. of the Revised Code and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. Of the amounts received in Fund 023, appropriation item 855-401, William Green Lease Payments to OBA, up to \$39,862,500 shall be restricted for lease rental payments to the Ohio Building Authority. If it is determined that additional appropriations are necessary for such purpose, such amounts are hereby appropriated.

Notwithstanding any other provision of law to the contrary, all tenants of the William Green Building not funded by the Workers' Compensation Fund (Fund 023) shall pay their fair share of the costs of lease payments to the Workers' Compensation Fund (Fund 023) by intrastate transfer voucher.

~~WORKERS' COMPENSATION OVERSIGHT COMMISSION~~

~~Of the foregoing appropriation item 855-409, Administrative Services, up to \$18,000 per calendar year shall be used to pay the annual compensation of each investment expert member of the Workers' Compensation Oversight Commission, as provided in divisions (D) and (F) of section 4121.12 of the Revised Code. Each investment expert member shall also receive reasonable and necessary expenses while engaged in the performance of his or her duties, as provided in division (F) of section 4121.12 of the Revised Code.~~

WORKERS' COMPENSATION FRAUD UNIT

The Workers' Compensation Section Fund (Fund 195) shall receive payments from the Bureau of Workers' Compensation at the beginning of each quarter of each fiscal year to fund expenses of the Workers' Compensation Fraud Unit of the Attorney General's Office. Of the foregoing appropriation item 855-410, Attorney General Payments, \$773,151 in fiscal year 2006 and \$773,151 in fiscal year 2007 shall be used to provide these payments.

SAFETY AND HYGIENE

Notwithstanding section 4121.37 of the Revised Code, the Administrator of Workers' Compensation shall transfer moneys from the State Insurance Fund so that appropriation item 855-609, Safety and Hygiene Operating, is provided \$20,130,820 in fiscal year 2006 and \$20,130,820 in fiscal year 2007.

LONG-TERM CARE LOAN FUND

Upon the request of the Administrator of the Bureau of Workers' Compensation and with the advice and consent of the Bureau of Workers' Compensation Oversight Commission, the Director of Budget and Management shall transfer cash in the amounts requested from the Safety and Hygiene Operating Fund (Fund 826) to the Long-Term Care Loan Fund (Fund 829) created in section 4121.48 of the Revised Code. The amounts

transferred are hereby appropriated.

OSHA ON-SITE CONSULTATION PROGRAM

The Bureau of Workers' Compensation may designate a portion of appropriation item 855-609, Safety and Hygiene Operating, to be used to match federal funding for the federal Occupational Safety and Health Administration's (OSHA) on-site consultation program.

VOCATIONAL REHABILITATION

The Bureau of Workers' Compensation and the Rehabilitation Services Commission shall enter into an interagency agreement for the provision of vocational rehabilitation services and staff to mutually eligible clients. The bureau shall provide \$587,774 in fiscal year 2006 and \$605,407 in fiscal year 2007 from the State Insurance Fund to fund vocational rehabilitation services and staff in accordance with the interagency agreement.

FUND BALANCE

Any unencumbered cash balance in excess of \$45,000,000 in the Workers' Compensation Fund (Fund 023) on the thirtieth day of June of each fiscal year shall be used to reduce the administrative cost rate charged to employers to cover appropriations for Bureau of Workers' Compensation operations.

OSHA ENFORCEMENT FUND TRANSFER

On July 1, 2005, or as soon thereafter as possible, the Director of Budget and Management shall transfer the OSHA Enforcement Fund (Fund 349) from the Department of Commerce to the Bureau of Workers' Compensation. At the request of the Director of the Department of Commerce, the Director of Budget and Management may cancel encumbrances in this fund from appropriation item 800-626, OSHA Enforcement, within the budget of the Department of Commerce, and reestablish those encumbrances or parts of those encumbrances in fiscal year 2006 for the same purpose and to the same vendor to appropriation item 855-601, OSHA Enforcement, within the budget of the Bureau of Workers' Compensation. As determined by the Director of Budget and Management, the appropriation authority necessary to reestablish encumbrances or parts of encumbrances in fiscal year 2006 for the Bureau of Workers' Compensation is hereby granted.

SECTION 403.11. That existing Section 3 of Am. H.B. 67 of the 126th General Assembly, as amended by Am. Sub. H.B. 66 of the 126th General Assembly, is hereby repealed.

SECTION 512.10. In making appointments of initial members to the Workers' Compensation Board of Directors, the Governor shall select the members from the list of names submitted by the Workers' Compensation Board of Directors Nominating Committee in accordance with sections 4121.12 and 4121.123 of the Revised Code. The Nominating Committee shall submit the initial list of names to the Governor within thirty days after the effective date of this section. Notwithstanding the deadline described in division (C) of section 4121.12 of the Revised Code, within fourteen days after the submission of the initial list the Governor either shall appoint individuals from that list or request the Nominating Committee to submit another list of four names for each member the Governor has not appointed from the initial list, which list the nominating committee shall submit to the Governor within seven days after the Governor's request. The Governor then shall appoint, within seven days after the submission of the second list, one of the individuals from either list to fill the vacancy for which the Governor has not made an appointment from the initial list. The Nominating Committee shall not include on its list of names, and the Governor shall not appoint as a member of the Board, any individual who, on the effective date of this section, is a member of the Workers' Compensation Oversight Commission. The Oversight Commission is hereby abolished on the date the Governor appoints the last member to the Board in accordance with this section and section 4121.12 of the Revised Code, as amended by this act. The Board shall supersede the Oversight Commission and its members and succeed to and have and perform all the duties, powers, and obligations pertaining to the duties, powers, and obligations of the Oversight Commission and its members. For the purpose of the institution, conduct, and completion of matters relating to its succession, the Board is deemed to be the continuation of and successor under law to the Oversight Commission and its members. All rules, actions, determinations, commitments, resolutions, decisions, and agreements pertaining to those duties, powers, obligations, functions, and rights in force or in effect on the effective date of this section shall continue in force and effect subject to any further lawful action thereon by the Board. Wherever the Oversight Commission or its members are referred to in any provision of law, or in any agreement or document that pertains to those duties, powers, obligations, functions, and rights, the reference is to the Board.

All authorized obligations and supplements thereto of the Oversight Commission and its members pertaining to the duties, powers, and obligations transferred are binding on the Board, and nothing in this act

impairs the obligations or rights thereunder or under any contract. The abolition of the Oversight Commission and the transfer of the Oversight Commission's duties, powers, and obligations do not affect the validity of agreements or obligations made by the Oversight Commission or its members pursuant to Chapters 4121., 4123., 4125., 4127., 4131., and 4167. of the Revised Code or any other provisions of law.

In connection with the transfer of duties, powers, obligations, functions, and rights and abolition of the Oversight Commission, all real property and interest therein, documents, books, money, papers, records, machinery, furnishings, office equipment, furniture, and all other property over which the Oversight Commission has control pertaining to the duties, powers, and obligations transferred and the rights of the Oversight Commission to enforce or receive any of the aforesaid is automatically transferred to the Board without necessity for further action on the part of the Board. Additionally, all appropriations or reappropriations made to the Oversight Commission for the purposes of the performance of its duties, powers, and obligations, are transferred to the Board to the extent of the remaining unexpended or unencumbered balance thereof, whether allocated or unallocated, and whether obligated or unobligated.

SECTION 512.20. The Bureau of Workers' Compensation Board of Directors shall appoint the members of the Workers' Compensation Audit Committee, Workers' Compensation Actuarial Committee, and the Workers' Compensation Investment Committee in accordance with section 4121.129 of the Revised Code, as enacted by this act, not later than ninety days after the effective date of this section.

SECTION 512.30. On the effective date of this section, the Services Committee of the Workers' Compensation System is hereby abolished.

SECTION 512.40. On the effective date of section 4121.122 of the Revised Code, as amended by this act, the Internal Security Committee is hereby abolished.

SECTION 512.45. The Workers' Compensation Council shall contract with an independent actuary to have that actuary perform an actuarial valuation of the assets, liabilities, and funding requirements of the funds specified in Chapters 4121., 4123., 4127., and 4131. of the Revised Code.

The actuary with whom the Council contracts under this section shall prepare a report of the valuation in accordance with the standards of practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries and shall submit that report to the Council. The actuary shall include all of the following information in the report:

- (A) A summary of the compensation and benefit provisions evaluated;
- (B) A summary of the census data and financial information used in the valuation;
- (C) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation;
- (D) A summary of the findings that includes a statement of the actuarial accrued compensation and benefit liabilities and unfounded actuarial accrued compensation and benefit liabilities.

The Council shall submit to the governor and the general assembly a report summarizing the valuation required under this section not later than two years after the effective date of section 4121.75 of the Revised Code, as enacted by this act.

SECTION 512.50. (A) The Administrator of Workers' Compensation shall commission a reputable outside consulting firm that the Bureau of Workers' Compensation has not retained to conduct similar reports over the five years prior to the effective date of this section to perform a comprehensive review of the base rate of premiums paid by employers and of all of the rating programs used by the Administrator to determine an employer's premium rate under Chapters 4121., 4123., 4127., and 4131. of the Revised Code. In conducting the review required under this section, the Administrator shall do all of the following:

- (1) Compare the rates and programs used in this state to the rates and programs used in other states;
- (2) Study the effect of the rates in reducing the number and severity of workers' compensation claims in this state;
- (3) Study the effect that saving money has had on safety in workplaces in this state;
- (4) Identify methods of rate setting and reserving that the Administrator could use to make the rate setting and reserving process more transparent for employers and employees.

(B) The Administrator shall commission a reputable outside consulting firm that the Bureau has not retained to conduct similar reports over the five years prior to the effective date of this section to perform a comprehensive review of the adequacy of the Surplus Fund created under section 4123.34

of the Revised Code and the general reserving methods used for the State Insurance Fund and all other funds specified in Chapters 4121., 4123., 4127., and 4131. of the Revised Code.

(C) The Administrator shall provide a summary of the reviews required under this section and shall present recommendations based on the review to the General Assembly and the Bureau of Workers' Compensation Board of Directors not later than two years after the effective date of this section.

(D) This section of law, as enacted by this act, is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, this section takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against this section of law as enacted by this act, this section of law as enacted, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 512.60. On or before nine months after the effective date of this section, the Administrator of Workers' Compensation shall employ an actuary as required under division (B)(2) of section 4121.121 of the Revised Code as amended by this act.

SECTION 512.70. The Administrator of Workers' Compensation shall completely transition from use of the Micro Insurance Reserve Analysis System to a different system or different version of that system to determine the reserves for use in establishing premium rates assessed for the purposes of Chapter 4121., 4123., 4127., or 4131. of the Revised Code on or before June 30, 2008. A contract between the Administrator and a vendor for the System in existence on the effective date of this section shall expire in accordance with the terms of the contract, and the Administrator may renew or extend that contract only for a period of time that does not extend past June 30, 2008.

The Administrator shall transition to a reserve analysis system that is characterized as transparent in nature and for that purpose of transparency, satisfies both of the following criteria:

(A) The manner in which the system uses data can be understood in general terms by employers who are subject to Chapters 4121., 4123., 4127., and 4131. of the Revised Code and other persons interested in use of the system;

(B) The type of data the system uses in making reserve analysis can be explained to employers who are subject to Chapters 4121., 4123., 4127., and

4131. of the Revised Code and other persons interested in use of the system.

The Administrator shall communicate information describing the manner in which the new reserve analysis system uses data and the type of data the system uses in making reserve analysis to employers who are subject to Chapters 4121., 4123., 4127., and 4131. of the Revised Code and to any other persons who request such information.

SECTION 603.10. The items of law contained in this act, and their applications, are severable. If any item of law contained in this act, or if any application of any item of law contained in this act, is held invalid, the invalidity does not affect other items of law contained in this act and their applications that can be given effect without the invalid item of law or application.

SECTION 606.10. An item that composes the whole or part of an uncoded section contained in this act has no effect after June 30, 2009, unless the context clearly indicates otherwise.

SECTION 609.03. Except as otherwise specifically provided in this act, the codified sections of law amended or enacted in this act, and the items of law of which the codified sections of law amended or enacted in this act are composed, are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the codified sections of law amended or enacted by this act, and the items of law of which the codified sections of law as amended or enacted by this act are composed, take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such codified section of law as amended or enacted by this act, or against any item of law of which any such codified section of law as amended or enacted by this act is composed, the codified section of law as amended or enacted, or item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 609.05. Except as otherwise specifically provided in this act, the repeal by this act of a codified section of law is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the repeal by this act of a codified section of law takes effect on the ninety-first day after this act is filed with

the Secretary of State. If, however, a referendum petition is filed against any such repeal, the repeal, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 612.03. The codified section of law amended by this act that is listed in this section, and the items of law of which such section as amended or enacted by this act are composed, is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, such section as amended by this act, and the items of law of which such section as amended by this act are composed, goes into immediate effect when this act becomes law.

Section 4121.12 of the Revised Code.

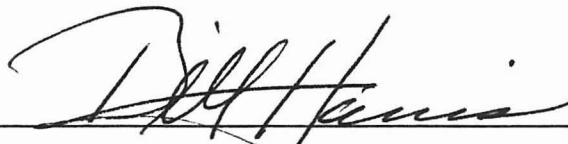
SECTION 612.09. The enactment of section 4121.129 of the Revised Code by this act is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, section 4121.129 of the Revised Code takes effect sixty days after the effective date of this section.

SECTION 615.03. Except as otherwise provided in Section 512.50 of this act, the uncodified sections of law contained in this act, and the items of law of which the uncodified sections of law contained in this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the uncodified sections of law contained in this act, and the items of law of which the uncodified sections of law contained in this act are composed, go into immediate effect when this act becomes law.

SECTION 618.03. Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 66 and Sub. S.B. 124 of the 126th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.



Speaker _____ of the House of Representatives.



President _____ of the Senate.

Passed May 23, 2007

Approved June 11, 2007



Governor.

Am. Sub. H. B. No. 100

2488

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

James W. Burley

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the 11th day of June, A. D. 2007.

James B. Brown

Secretary of State.

File No. 8

Effective Date 09/10/07

Some sections of law effective 06/11/07
Certain sections effective on other dates