

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 268**

**Representative Henne**

**Cosponsors: Representatives Butler, Romanchuk, Brenner, McColley, Becker,  
Hood, Retherford, Seitz, Scherer, Thompson, Goodman, Kick**

---

**A BILL**

To amend sections 4123.35, 4123.351, 4123.352, and 1  
4123.82 and to enact section 4123.354 of the 2  
Revised Code to make changes to the Workers' 3  
Compensation Law with respect to self-insuring 4  
employers. 5

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

**Section 1.** That sections 4123.35, 4123.351, 4123.352, and 6  
4123.82 be amended and section 4123.354 of the Revised Code be 7  
enacted to read as follows: 8

**Sec. 4123.35.** (A) Except as provided in this section, and 9  
until the policy year commencing July 1, 2015, every private 10  
employer and every publicly owned utility shall pay semiannually 11  
in the months of January and July into the state insurance fund 12  
the amount of annual premium the administrator of workers' 13  
compensation fixes for the employment or occupation of the 14  
employer, the amount of which premium to be paid by each 15  
employer to be determined by the classifications, rules, and 16  
rates made and published by the administrator. The employer 17  
shall pay semiannually a further sum of money into the state 18

insurance fund as may be ascertained to be due from the employer 19  
by applying the rules of the administrator. 20

Except as otherwise provided in this section, for a policy 21  
year commencing on or after July 1, 2015, every private employer 22  
and every publicly owned utility shall pay annually in the month 23  
of June immediately preceding the policy year into the state 24  
insurance fund the amount of estimated annual premium the 25  
administrator fixes for the employment or occupation of the 26  
employer, the amount of which estimated premium to be paid by 27  
each employer to be determined by the classifications, rules, 28  
and rates made and published by the administrator. The employer 29  
shall pay a further sum of money into the state insurance fund 30  
as may be ascertained to be due from the employer by applying 31  
the rules of the administrator. Upon receipt of the payroll 32  
report required by division (B) of section 4123.26 of the 33  
Revised Code, the administrator shall adjust the premium and 34  
assessments charged to each employer for the difference between 35  
estimated gross payrolls and actual gross payrolls, and any 36  
balance due to the administrator shall be immediately paid by 37  
the employer. Any balance due the employer shall be credited to 38  
the employer's account. 39

For a policy year commencing on or after July 1, 2015, 40  
each employer that is recognized by the administrator as a 41  
professional employer organization shall pay monthly into the 42  
state insurance fund the amount of premium the administrator 43  
fixes for the employer for the prior month based on the actual 44  
payroll of the employer reported pursuant to division (C) of 45  
section 4123.26 of the Revised Code. 46

A receipt certifying that payment has been made shall be 47  
issued to the employer by the bureau of workers' compensation. 48

The receipt is prima-facie evidence of the payment of the premium. The administrator shall provide each employer written proof of workers' compensation coverage as is required in section 4123.83 of the Revised Code. Proper posting of the notice constitutes the employer's compliance with the notice requirement mandated in section 4123.83 of the Revised Code.

The bureau 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.

A private employer 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, until July 1, 2015, 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. After July 1, 2015, an employer who first becomes a subscriber to the fund on any day other than the first day of July shall pay premiums according to rules adopted by the administrator, with the advice and consent of the bureau of workers' compensation board of directors, for the remainder of the policy year for which the coverage is effective.

The administrator, with the advice and consent of the

board, shall adopt rules to permit employers to make periodic 79  
payments of the premium and assessment due under this division. 80  
The rules shall include provisions for the assessment of 81  
interest charges, where appropriate, and for the assessment of 82  
penalties when an employer fails to make timely premium 83  
payments. The administrator, in the rules the administrator 84  
adopts, may set an administrative fee for these periodic 85  
payments. An employer who timely pays the amounts due under this 86  
division is entitled to all of the benefits and protections of 87  
this chapter. Upon receipt of payment, the bureau shall issue a 88  
receipt to the employer certifying that payment has been made, 89  
which receipt is prima-facie evidence of payment. Workers' 90  
compensation coverage under this chapter continues uninterrupted 91  
upon timely receipt of payment under this division. 92

Every public employer, except public employers that are 93  
self-insuring employers under this section, shall comply with 94  
sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in 95  
regard to the contribution of moneys to the public insurance 96  
fund. 97

(B) Employers who will abide by the rules of the 98  
administrator and who may be of sufficient financial ability to 99  
render certain the payment of compensation to injured employees 100  
or the dependents of killed employees, and the furnishing of 101  
medical, surgical, nursing, and hospital attention and services 102  
and medicines, and funeral expenses, equal to or greater than is 103  
provided for in sections 4123.52, 4123.55 to 4123.62, and 104  
4123.64 to 4123.67 of the Revised Code, ~~and who do not desire to~~ 105  
~~insure the payment thereof or indemnify themselves against loss~~ 106  
~~sustained by the direct payment thereof,~~ upon a finding of such 107  
facts by the administrator, may be granted the privilege to pay 108  
individually compensation, and furnish medical, surgical, 109

nursing, and hospital services and attention and funeral 110  
expenses directly to injured employees or the dependents of 111  
killed employees, thereby being granted status as a self- 112  
insuring employer. The administrator may charge employers who 113  
apply for the status as a self-insuring employer a reasonable 114  
application fee to cover the bureau's costs in connection with 115  
processing and making a determination with respect to an 116  
application. 117

All employers granted status as self-insuring employers 118  
shall demonstrate sufficient financial and administrative 119  
ability to assure that all obligations under this section are 120  
promptly met. The administrator shall deny the privilege where 121  
the employer is unable to demonstrate the employer's ability to 122  
promptly meet all the obligations imposed on the employer by 123  
this section. 124

(1) The administrator shall consider, but is not limited 125  
to, the following factors, where applicable, in determining the 126  
employer's ability to meet all of the obligations imposed on the 127  
employer by this section: 128

(a) The employer has operated in this state for a minimum 129  
of two years, provided that an employer who has purchased, 130  
acquired, or otherwise succeeded to the operation of a business, 131  
or any part thereof, situated in this state that has operated 132  
for at least two years in this state, also shall qualify; 133

(b) Where the employer previously contributed to the state 134  
insurance fund or is a successor employer as defined by bureau 135  
rules, the amount of the buyout, as defined by bureau rules; 136

(c) The sufficiency of the employer's assets located in 137  
this state to insure the employer's solvency in paying 138

compensation directly;	139
(d) The financial records, documents, and data, certified	140
by a certified public accountant, necessary to provide the	141
employer's full financial disclosure. The records, documents,	142
and data include, but are not limited to, balance sheets and	143
profit and loss history for the current year and previous four	144
years.	145
(e) The employer's organizational plan for the	146
administration of the workers' compensation law;	147
(f) The employer's proposed plan to inform employees of	148
the change from a state fund insurer to a self-insuring	149
employer, the procedures the employer will follow as a self-	150
insuring employer, and the employees' rights to compensation and	151
benefits; and	152
(g) The employer has either an account in a financial	153
institution in this state, or if the employer maintains an	154
account with a financial institution outside this state, ensures	155
that workers' compensation checks are drawn from the same	156
account as payroll checks or the employer clearly indicates that	157
payment will be honored by a financial institution in this	158
state.	159
The administrator may waive the requirements of division	160
(B) (1) (a) of this section and the requirement of division (B) (1)	161
(d) of this section that the financial records, documents, and	162
data be certified by a certified public accountant. The	163
administrator shall adopt rules establishing the criteria that	164
an employer shall meet in order for the administrator to waive	165
the requirements of divisions (B) (1) (a) and (d) of this section.	166
Such rules may require additional security of that employer	167

pursuant to division (E) of section 4123.351 or division (E) of 168  
section 4123.354 of the Revised Code. 169

The administrator shall waive the requirement of division 170  
(B)(1)(c) of this section if an employer holds a rating of B3 or 171  
higher according to Moody's investors service, inc., or a 172  
comparable rating by an independent rating agency similar to 173  
Moody's investors service, inc. 174

The administrator shall not grant the status of self- 175  
insuring employer to the state, except that the administrator 176  
may grant the status of self-insuring employer to a state 177  
institution of higher education, including its hospitals, that 178  
meets the requirements of division (B)(2) of this section. 179

(2) When considering the application of a public employer, 180  
except for a board of county commissioners described in division 181  
(G) of section 4123.01 of the Revised Code, a board of a county 182  
hospital, or a publicly owned utility, the administrator shall 183  
verify that the public employer satisfies all of the following 184  
requirements as the requirements apply to that public employer: 185

(a) For the two-year period preceding application under 186  
this section, the public employer has maintained an unvoted debt 187  
capacity equal to at least two times the amount of the current 188  
annual premium established by the administrator under this 189  
chapter for that public employer for the year immediately 190  
preceding the year in which the public employer makes 191  
application under this section. 192

(b) For each of the two fiscal years preceding application 193  
under this section, the unreserved and undesignated year-end 194  
fund balance in the public employer's general fund is equal to 195  
at least five per cent of the public employer's general fund 196

revenues for the fiscal year computed in accordance with	197
generally accepted accounting principles.	198
(c) For the five-year period preceding application under	199
this section, the public employer, to the extent applicable, has	200
complied fully with the continuing disclosure requirements	201
established in rules adopted by the United States securities and	202
exchange commission under 17 C.F.R. 240.15c 2-12.	203
(d) For the five-year period preceding application under	204
this section, the public employer has not had its local	205
government fund distribution withheld on account of the public	206
employer being indebted or otherwise obligated to the state.	207
(e) For the five-year period preceding application under	208
this section, the public employer has not been under a fiscal	209
watch or fiscal emergency pursuant to section 118.023, 118.04,	210
or 3316.03 of the Revised Code.	211
(f) For the public employer's fiscal year preceding	212
application under this section, the public employer has obtained	213
an annual financial audit as required under section 117.10 of	214
the Revised Code, which has been released by the auditor of	215
state within seven months after the end of the public employer's	216
fiscal year.	217
(g) On the date of application, the public employer holds	218
a debt rating of Aa3 or higher according to Moody's investors	219
service, inc., or a comparable rating by an independent rating	220
agency similar to Moody's investors service, inc.	221
(h) The public employer agrees to generate an annual	222
accumulating book reserve in its financial statements reflecting	223
an actuarially generated reserve adequate to pay projected	224
claims under this chapter for the applicable period of time, as	225



determined by the administrator.	226
(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.	227 228 229 230 231 232
(j) Any additional criteria that the administrator adopts by rule pursuant to division (E) of this section.	233 234
The administrator may adopt rules establishing the criteria that a public employer shall satisfy in order for the administrator to waive any of the requirements listed in divisions (B) (2) (a) to (j) of this section. The rules may require additional security from that employer pursuant to division (E) of section 4123.351 of the Revised Code. The administrator shall not waive any of the requirements listed in divisions (B) (2) (a) to (j) of this section for a public employer who does not satisfy the criteria established in the rules the administrator adopts.	235 236 237 238 239 240 241 242 243 244
(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, <del>and that does not desire to insure the payment thereof or indemnify itself against loss sustained by the direct</del>	245 246 247 248 249 250 251 252 253 254 255

~~payment thereof~~, upon a finding of such facts by the 256  
administrator, may be granted the privilege to pay individually 257  
compensation, and furnish medical, surgical, nursing, and 258  
hospital services and attention and funeral expenses directly to 259  
injured employees or the dependents of killed employees, thereby 260  
being granted status as a self-insuring employer. The 261  
administrator may charge a board of county commissioners 262  
described in division (G) of section 4123.01 of the Revised Code 263  
that applies for the status as a self-insuring employer a 264  
reasonable application fee to cover the bureau's costs in 265  
connection with processing and making a determination with 266  
respect to an application. All employers granted such status 267  
shall demonstrate sufficient financial and administrative 268  
ability to assure that all obligations under this section are 269  
promptly met. The administrator shall deny the privilege where 270  
the employer is unable to demonstrate the employer's ability to 271  
promptly meet all the obligations imposed on the employer by 272  
this section. The administrator shall consider, but is not 273  
limited to, the following factors, where applicable, in 274  
determining the employer's ability to meet all of the 275  
obligations imposed on the board as an employer by this section: 276

(1) The board has operated in this state for a minimum of 277  
two years; 278

(2) Where the board previously contributed to the state 279  
insurance fund or is a successor employer as defined by bureau 280  
rules, the amount of the buyout, as defined by bureau rules; 281

(3) The sufficiency of the board's assets located in this 282  
state to insure the board's solvency in paying compensation 283  
directly; 284

(4) The financial records, documents, and data, certified 285

by a certified public accountant, necessary to provide the 286  
board's full financial disclosure. The records, documents, and 287  
data include, but are not limited to, balance sheets and profit 288  
and loss history for the current year and previous four years. 289

(5) The board's organizational plan for the administration 290  
of the workers' compensation law; 291

(6) The board's proposed plan to inform employees of the 292  
proposed self-insurance, the procedures the board will follow as 293  
a self-insuring employer, and the employees' rights to 294  
compensation and benefits; 295

(7) The board has either an account in a financial 296  
institution in this state, or if the board maintains an account 297  
with a financial institution outside this state, ensures that 298  
workers' compensation checks are drawn from the same account as 299  
payroll checks or the board clearly indicates that payment will 300  
be honored by a financial institution in this state; 301

(8) The board shall provide the administrator a surety 302  
bond in an amount equal to one hundred twenty-five per cent of 303  
the projected losses as determined by the administrator. 304

(D) The administrator shall require a surety bond from all 305  
self-insuring employers, issued pursuant to section 4123.351 or 306  
4123.354 of the Revised Code, as applicable, that is sufficient 307  
to compel, or secure to injured employees, or to the dependents 308  
of employees killed, the payment of compensation and expenses, 309  
which shall in no event be less than that paid or furnished out 310  
of the state insurance fund in similar cases to injured 311  
employees or to dependents of killed employees whose employers 312  
contribute to the fund, except when an employee of the employer, 313  
who has suffered the loss of a hand, arm, foot, leg, or eye 314

prior to the injury for which compensation is to be paid, and 315  
thereafter suffers the loss of any other of the members as the 316  
result of any injury sustained in the course of and arising out 317  
of the employee's employment, the compensation to be paid by the 318  
self-insuring employer is limited to the disability suffered in 319  
the subsequent injury, additional compensation, if any, to be 320  
paid by the bureau out of the surplus created by section 4123.34 321  
of the Revised Code. 322

(E) In addition to the requirements of this section, the 323  
administrator shall make and publish rules governing the manner 324  
of making application and the nature and extent of the proof 325  
required to justify a finding of fact by the administrator as to 326  
granting the status of a self-insuring employer, which rules 327  
shall be general in their application, one of which rules shall 328  
provide that all self-insuring employers shall pay into the 329  
state insurance fund such amounts as are required to be credited 330  
to the surplus fund in division (B) of section 4123.34 of the 331  
Revised Code. The administrator may adopt rules establishing 332  
requirements in addition to the requirements described in 333  
division (B)(2) of this section that a public employer shall 334  
meet in order to qualify for self-insuring status. 335

Employers shall secure directly from the bureau central 336  
offices application forms upon which the bureau shall stamp a 337  
designating number. Prior to submission of an application, an 338  
employer shall make available to the bureau, and the bureau 339  
shall review, the information described in division (B)(1) of 340  
this section, and public employers shall make available, and the 341  
bureau shall review, the information necessary to verify whether 342  
the public employer meets the requirements listed in division 343  
(B)(2) of this section. An employer shall file the completed 344  
application forms with an application fee, which shall cover the 345

costs of processing the application, as established by the 346  
administrator, by rule, with the bureau at least ninety days 347  
prior to the effective date of the employer's new status as a 348  
self-insuring employer. The application form is not deemed 349  
complete until all the required information is attached thereto. 350  
The bureau shall only accept applications that contain the 351  
required information. 352

(F) The bureau shall review completed applications within 353  
a reasonable time. If the bureau determines to grant an employer 354  
the status as a self-insuring employer, the bureau shall issue a 355  
statement, containing its findings of fact, that is prepared by 356  
the bureau and signed by the administrator. If the bureau 357  
determines not to grant the status as a self-insuring employer, 358  
the bureau shall notify the employer of the determination and 359  
require the employer to continue to pay its full premium into 360  
the state insurance fund. The administrator also shall adopt 361  
rules establishing a minimum level of performance as a criterion 362  
for granting and maintaining the status as a self-insuring 363  
employer and fixing time limits beyond which failure of the 364  
self-insuring employer to provide for the necessary medical 365  
examinations and evaluations may not delay a decision on a 366  
claim. 367

(G) The administrator shall adopt rules setting forth 368  
procedures for auditing the program of self-insuring employers. 369  
The bureau shall conduct the audit upon a random basis or 370  
whenever the bureau has grounds for believing that a self- 371  
insuring employer is not in full compliance with bureau rules or 372  
this chapter. 373

The administrator shall monitor the programs conducted by 374  
self-insuring employers, to ensure compliance with bureau 375

requirements and for that purpose, shall develop and issue to 376  
self-insuring employers standardized forms for use by the self- 377  
insuring employer in all aspects of the self-insuring employers' 378  
direct compensation program and for reporting of information to 379  
the bureau. 380

The bureau shall receive and transmit to the self-insuring 381  
employer all complaints concerning any self-insuring employer. 382  
In the case of a complaint against a self-insuring employer, the 383  
administrator shall handle the complaint through the self- 384  
insurance division of the bureau. The bureau shall maintain a 385  
file by employer of all complaints received that relate to the 386  
employer. The bureau shall evaluate each complaint and take 387  
appropriate action. 388

The administrator shall adopt as a rule a prohibition 389  
against any self-insuring employer from harassing, dismissing, 390  
or otherwise disciplining any employee making a complaint, which 391  
rule shall provide for a financial penalty to be levied by the 392  
administrator payable by the offending self-insuring employer. 393

(H) For the purpose of making determinations as to whether 394  
to grant status as a self-insuring employer, the administrator 395  
may subscribe to and pay for a credit reporting service that 396  
offers financial and other business information about individual 397  
employers. The costs in connection with the bureau's 398  
subscription or individual reports from the service about an 399  
applicant may be included in the application fee charged 400  
employers under this section. 401

(I) A self-insuring employer that returns to the state 402  
insurance fund as a state fund employer shall provide the 403  
administrator with medical costs and indemnity costs by claim, 404  
and payroll by manual classification and year, and such other 405

information the administrator may require. The self-insuring 406  
employer shall submit this information by dates and in a format 407  
determined by the administrator. The administrator shall develop 408  
a state fund experience modification factor for a self-insuring 409  
employer that returns to the state insurance fund based in whole 410  
or in part on the employer's self-insured experience and the 411  
information submitted. 412

(J) On the first day of July of each year, the 413  
administrator shall calculate separately each self-insuring 414  
employer's assessments for the safety and hygiene fund, 415  
administrative costs pursuant to section 4123.342 of the Revised 416  
Code, and for the surplus fund under division (B) of section 417  
4123.34 of the Revised Code, on the basis of the paid 418  
compensation attributable to the individual self-insuring 419  
employer according to the following calculation: 420

(1) The total assessment against all self-insuring 421  
employers as a class for each fund and for the administrative 422  
costs for the year that the assessment is being made, as 423  
determined by the administrator, divided by the total amount of 424  
paid compensation for the previous calendar year attributable to 425  
all amenable self-insuring employers; 426

(2) Multiply the quotient in division (J)(1) of this 427  
section by the total amount of paid compensation for the 428  
previous calendar year that is attributable to the individual 429  
self-insuring employer for whom the assessment is being 430  
determined. Each self-insuring employer shall pay the assessment 431  
that results from this calculation, unless the assessment 432  
resulting from this calculation falls below a minimum 433  
assessment, which minimum assessment the administrator shall 434  
determine on the first day of July of each year with the advice 435

and consent of the bureau of workers' compensation board of 436  
directors, in which event, the self-insuring employer shall pay 437  
the minimum assessment. 438

In determining the total amount due for the total 439  
assessment against all self-insuring employers as a class for 440  
each fund and the administrative assessment, the administrator 441  
shall reduce proportionately the total for each fund and 442  
assessment by the amount of money in the self-insurance 443  
assessment fund as of the date of the computation of the 444  
assessment. 445

The administrator shall calculate the assessment for the 446  
portion of the surplus fund under division (B) of section 447  
4123.34 of the Revised Code that is used for reimbursement to a 448  
self-insuring employer under division (H) of section 4123.512 of 449  
the Revised Code in the same manner as set forth in divisions 450  
(J) (1) and (2) of this section except that the administrator 451  
shall calculate the total assessment for this portion of the 452  
surplus fund only on the basis of those self-insuring employers 453  
that retain participation in reimbursement to the self-insuring 454  
employer under division (H) of section 4123.512 of the Revised 455  
Code and the individual self-insuring employer's proportion of 456  
paid compensation shall be calculated only for those self- 457  
insuring employers who retain participation in reimbursement to 458  
the self-insuring employer under division (H) of section 459  
4123.512 of the Revised Code. 460

An employer who no longer is a self-insuring employer in 461  
this state or who no longer is operating in this state, shall 462  
continue to pay assessments for administrative costs and for the 463  
surplus fund under division (B) of section 4123.34 of the 464  
Revised Code based upon paid compensation attributable to claims 465



that occurred while the employer was a self-insuring employer 466  
within this state. 467

(K) There is hereby created in the state treasury the 468  
self-insurance assessment fund. All investment earnings of the 469  
fund shall be deposited in the fund. The administrator shall use 470  
the money in the self-insurance assessment fund only for 471  
administrative costs as specified in section 4123.341 of the 472  
Revised Code. 473

(L) Every self-insuring employer shall certify, in 474  
affidavit form subject to the penalty for perjury, to the bureau 475  
the amount of the self-insuring employer's paid compensation for 476  
the previous calendar year. In reporting paid compensation paid 477  
for the previous year, a self-insuring employer shall exclude 478  
from the total amount of paid compensation any reimbursement the 479  
self-insuring employer receives in the previous calendar year 480  
from the surplus fund pursuant to section 4123.512 of the 481  
Revised Code for any paid compensation. The self-insuring 482  
employer also shall exclude from the paid compensation reported 483  
any amount recovered under section 4123.931 of the Revised Code 484  
and any amount that is determined not to have been payable to or 485  
on behalf of a claimant in any final administrative or judicial 486  
proceeding. The self-insuring employer shall exclude such 487  
amounts from the paid compensation reported in the reporting 488  
period subsequent to the date the determination is made. The 489  
administrator shall adopt rules, in accordance with Chapter 119. 490  
of the Revised Code, that provide for all of the following: 491

(1) Establishing the date by which self-insuring employers 492  
must submit such information and the amount of the assessments 493  
provided for in division (J) of this section for employers who 494  
have been granted self-insuring status within the last calendar 495

year;	496
(2) If an employer fails to pay the assessment when due,	497
the administrator may add a late fee penalty of not more than	498
five hundred dollars to the assessment plus an additional	499
penalty amount as follows:	500
(a) For an assessment from sixty-one to ninety days past	501
due, the prime interest rate, multiplied by the assessment due;	502
(b) For an assessment from ninety-one to one hundred	503
twenty days past due, the prime interest rate plus two per cent,	504
multiplied by the assessment due;	505
(c) For an assessment from one hundred twenty-one to one	506
hundred fifty days past due, the prime interest rate plus four	507
per cent, multiplied by the assessment due;	508
(d) For an assessment from one hundred fifty-one to one	509
hundred eighty days past due, the prime interest rate plus six	510
per cent, multiplied by the assessment due;	511
(e) For an assessment from one hundred eighty-one to two	512
hundred ten days past due, the prime interest rate plus eight	513
per cent, multiplied by the assessment due;	514
(f) For each additional thirty-day period or portion	515
thereof that an assessment remains past due after it has	516
remained past due for more than two hundred ten days, the prime	517
interest rate plus eight per cent, multiplied by the assessment	518
due.	519
(3) An employer may appeal a late fee penalty and penalty	520
assessment to the administrator.	521
For purposes of division (L)(2) of this section, "prime	522
interest rate" means the average bank prime rate, and the	523

administrator shall determine the prime interest rate in the 524  
same manner as a county auditor determines the average bank 525  
prime rate under section 929.02 of the Revised Code. 526

The administrator shall include any assessment and 527  
penalties that remain unpaid for previous assessment periods in 528  
the calculation and collection of any assessments due under this 529  
division or division (J) of this section. 530

(M) As used in this section, "paid compensation" means all 531  
amounts paid by a self-insuring employer for living maintenance 532  
benefits, all amounts for compensation paid pursuant to sections 533  
4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, 534  
and 4123.64 of the Revised Code, all amounts paid as wages in 535  
lieu of such compensation, all amounts paid in lieu of such 536  
compensation under a nonoccupational accident and sickness 537  
program fully funded by the self-insuring employer, and all 538  
amounts paid by a self-insuring employer for a violation of a 539  
specific safety standard pursuant to Section 35 of Article II, 540  
Ohio Constitution and section 4121.47 of the Revised Code. 541

(N) Should any section of this chapter or Chapter 4121. of 542  
the Revised Code providing for self-insuring employers' 543  
assessments based upon compensation paid be declared 544  
unconstitutional by a final decision of any court, then that 545  
section of the Revised Code declared unconstitutional shall 546  
revert back to the section in existence prior to November 3, 547  
1989, providing for assessments based upon payroll. 548

(O) The administrator may grant a self-insuring employer 549  
the privilege to self-insure a construction project entered into 550  
by the self-insuring employer that is scheduled for completion 551  
within six years after the date the project begins, and the 552  
total cost of which is estimated to exceed one hundred million 553

dollars or, for employers described in division (R) of this 554  
section, if the construction project is estimated to exceed 555  
twenty-five million dollars. The administrator may waive such 556  
cost and time criteria and grant a self-insuring employer the 557  
privilege to self-insure a construction project regardless of 558  
the time needed to complete the construction project and 559  
provided that the cost of the construction project is estimated 560  
to exceed fifty million dollars. A self-insuring employer who 561  
desires to self-insure a construction project shall submit to 562  
the administrator an application listing the dates the 563  
construction project is scheduled to begin and end, the 564  
estimated cost of the construction project, the contractors and 565  
subcontractors whose employees are to be self-insured by the 566  
self-insuring employer, the provisions of a safety program that 567  
is specifically designed for the construction project, and a 568  
statement as to whether a collective bargaining agreement 569  
governing the rights, duties, and obligations of each of the 570  
parties to the agreement with respect to the construction 571  
project exists between the self-insuring employer and a labor 572  
organization. 573

A self-insuring employer may apply to self-insure the 574  
employees of either of the following: 575

(1) All contractors and subcontractors who perform labor 576  
or work or provide materials for the construction project; 577

(2) All contractors and, at the administrator's 578  
discretion, a substantial number of all the subcontractors who 579  
perform labor or work or provide materials for the construction 580  
project. 581

Upon approval of the application, the administrator shall 582  
mail a certificate granting the privilege to self-insure the 583

construction project to the self-insuring employer. The 584  
certificate shall contain the name of the self-insuring employer 585  
and the name, address, and telephone number of the self-insuring 586  
employer's representatives who are responsible for administering 587  
workers' compensation claims for the construction project. The 588  
self-insuring employer shall post the certificate in a 589  
conspicuous place at the site of the construction project. 590

The administrator shall maintain a record of the 591  
contractors and subcontractors whose employees are covered under 592  
the certificate issued to the self-insured employer. A self- 593  
insuring employer immediately shall notify the administrator 594  
when any contractor or subcontractor is added or eliminated from 595  
inclusion under the certificate. 596

Upon approval of the application, the self-insuring 597  
employer is responsible for the administration and payment of 598  
all claims under this chapter and Chapter 4121. of the Revised 599  
Code for the employees of the contractor and subcontractors 600  
covered under the certificate who receive injuries or are killed 601  
in the course of and arising out of employment on the 602  
construction project, or who contract an occupational disease in 603  
the course of employment on the construction project. For 604  
purposes of this chapter and Chapter 4121. of the Revised Code, 605  
a claim that is administered and paid in accordance with this 606  
division is considered a claim against the self-insuring 607  
employer listed in the certificate. A contractor or 608  
subcontractor included under the certificate shall report to the 609  
self-insuring employer listed in the certificate, all claims 610  
that arise under this chapter and Chapter 4121. of the Revised 611  
Code in connection with the construction project for which the 612  
certificate is issued. 613

A self-insuring employer who complies with this division 614  
is entitled to the protections provided under this chapter and 615  
Chapter 4121. of the Revised Code with respect to the employees 616  
of the contractors and subcontractors covered under a 617  
certificate issued under this division for death or injuries 618  
that arise out of, or death, injuries, or occupational diseases 619  
that arise in the course of, those employees' employment on that 620  
construction project, as if the employees were employees of the 621  
self-insuring employer, provided that the self-insuring employer 622  
also complies with this section. No employee of the contractors 623  
and subcontractors covered under a certificate issued under this 624  
division shall be considered the employee of the self-insuring 625  
employer listed in that certificate for any purposes other than 626  
this chapter and Chapter 4121. of the Revised Code. Nothing in 627  
this division gives a self-insuring employer authority to 628  
control the means, manner, or method of employment of the 629  
employees of the contractors and subcontractors covered under a 630  
certificate issued under this division. 631

The contractors and subcontractors included under a 632  
certificate issued under this division are entitled to the 633  
protections provided under this chapter and Chapter 4121. of the 634  
Revised Code with respect to the contractor's or subcontractor's 635  
employees who are employed on the construction project which is 636  
the subject of the certificate, for death or injuries that arise 637  
out of, or death, injuries, or occupational diseases that arise 638  
in the course of, those employees' employment on that 639  
construction project. 640

The contractors and subcontractors included under a 641  
certificate issued under this division shall identify in their 642  
payroll records the employees who are considered the employees 643  
of the self-insuring employer listed in that certificate for 644

purposes of this chapter and Chapter 4121. of the Revised Code, 645  
and the amount that those employees earned for employment on the 646  
construction project that is the subject of that certificate. 647  
Notwithstanding any provision to the contrary under this chapter 648  
and Chapter 4121. of the Revised Code, the administrator shall 649  
exclude the payroll that is reported for employees who are 650  
considered the employees of the self-insuring employer listed in 651  
that certificate, and that the employees earned for employment 652  
on the construction project that is the subject of that 653  
certificate, when determining those contractors' or 654  
subcontractors' premiums or assessments required under this 655  
chapter and Chapter 4121. of the Revised Code. A self-insuring 656  
employer issued a certificate under this division shall include 657  
in the amount of paid compensation it reports pursuant to 658  
division (L) of this section, the amount of paid compensation 659  
the self-insuring employer paid pursuant to this division for 660  
the previous calendar year. 661

Nothing in this division shall be construed as altering 662  
the rights of employees under this chapter and Chapter 4121. of 663  
the Revised Code as those rights existed prior to September 17, 664  
1996. Nothing in this division shall be construed as altering 665  
the rights devolved under sections 2305.31 and 4123.82 of the 666  
Revised Code as those rights existed prior to September 17, 667  
1996. 668

As used in this division, "privilege to self-insure a 669  
construction project" means privilege to pay individually 670  
compensation, and to furnish medical, surgical, nursing, and 671  
hospital services and attention and funeral expenses directly to 672  
injured employees or the dependents of killed employees. 673

(P) A self-insuring employer whose application is granted 674

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	704
under division (O) of this section:	705
(1) Whether the self-insuring employer has an	706
organizational plan for the administration of the workers'	707
compensation law;	708
(2) Whether the safety program that is specifically	709
designed for the construction project provides for the safety of	710
employees employed on the construction project, is applicable to	711
all contractors and subcontractors who perform labor or work or	712
provide materials for the construction project, and has as a	713
component, a safety training program that complies with	714
standards adopted pursuant to the "Occupational Safety and	715
Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and	716
provides for continuing management and employee involvement;	717
(3) Whether granting the privilege to self-insure the	718
construction project will reduce the costs of the construction	719
project;	720
(4) Whether the self-insuring employer has employed an	721
ombudsperson as required under division (P) of this section;	722
(5) Whether the self-insuring employer has sufficient	723
surety to secure the payment of claims for which the self-	724
insuring employer would be responsible pursuant to the granting	725
of the privilege to self-insure a construction project under	726
division (O) of this section.	727
(R) As used in divisions (O), (P), and (Q), "self-insuring	728
employer" includes the following employers, whether or not they	729
have been granted the status of being a self-insuring employer	730
under division (B) of this section:	731
(1) A state institution of higher education;	732

(2) A school district;	733
(3) A county school financing district;	734
(4) An educational service center;	735
(5) A community school established under Chapter 3314. of the Revised Code;	736 737
(6) A municipal power agency as defined in section 3734.058 of the Revised Code.	738 739
(S) As used in this section:	740
(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;	741 742 743
(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.	744 745 746 747 748 749 750 751
<b>Sec. 4123.351.</b> (A) The administrator of workers' compensation shall require every self-insuring employer <u>who is not required to pay contributions to the self-insuring employers' guaranty B fund pursuant to section 4123.354 of the Revised Code,</u> including any self-insuring employer that is indemnified by a captive insurance company granted a certificate of authority under Chapter 3964. of the Revised Code, to pay a contribution, calculated under this section, to the self- insuring employers' guaranty fund established pursuant to this	752 753 754 755 756 757 758 759 760

section. The fund shall provide for payment of compensation and 761  
benefits to employees of the self-insuring employer in order to 762  
cover any default in payment by that employer. 763

(B) The bureau of workers' compensation shall operate the 764  
self-insuring employers' guaranty fund for self-insuring 765  
employers who are required to pay contributions to the fund 766  
under this section. The administrator annually shall establish 767  
the contributions due from self-insuring employers who are 768  
required to pay contributions to the fund for the fund at rates 769  
as low as possible but such as will assure sufficient moneys to 770  
guarantee the payment of any claims against the fund. The 771  
bureau's operation of the fund is not subject to sections 772  
3929.10 to 3929.18 of the Revised Code or to regulation by the 773  
superintendent of insurance. 774

(C) If a self-insuring employer who is required to pay 775  
contributions to the fund defaults, the bureau shall recover the 776  
amounts paid as a result of the default from the self-insuring 777  
employers' guaranty fund. If a self-insuring employer who is 778  
required to pay contributions to the fund defaults and is in 779  
compliance with this section for the payment of contributions to 780  
the fund, such self-insuring employer is entitled to the 781  
immunity conferred by section 4123.74 of the Revised Code for 782  
any claim arising during any period the employer is in 783  
compliance with this section. 784

(D) (1) There is hereby established a self-insuring 785  
employers' guaranty fund, which shall be in the custody of the 786  
treasurer of state and which shall be separate from the other 787  
funds established and administered pursuant to this chapter. The 788  
fund shall consist of contributions and other payments made by 789  
self-insuring employers under this section. All investment 790

earnings of the fund shall be credited to the fund. The bureau 791  
shall make disbursements from the fund pursuant to this section. 792

(2) The administrator has the same powers to invest any of 793  
the surplus or reserve belonging to the fund as are delegated to 794  
the administrator under section 4123.44 of the Revised Code with 795  
respect to the state insurance fund. The administrator shall 796  
apply interest earned solely to the reduction of assessments for 797  
contributions from self-insuring employers under this section 798  
and to the payments required due to defaults under this section. 799

(3) If the bureau of workers' compensation board of 800  
directors determines that reinsurance of the risks of the fund 801  
is necessary to assure solvency of the fund, the board may: 802

(a) Enter into contracts for the purchase of reinsurance 803  
coverage of the risks of the fund with any company or agency 804  
authorized by law to issue contracts of reinsurance; 805

(b) Require the administrator to pay the cost of 806  
reinsurance from the fund; 807

(c) Include the costs of reinsurance as a liability and 808  
estimated liability of the fund. 809

(E) The administrator, with the advice and consent of the 810  
board, may adopt rules pursuant to Chapter 119. of the Revised 811  
Code for the implementation of this section, including a rule, 812  
notwithstanding division (C) of this section, requiring self- 813  
insuring employers to provide security in addition to the 814  
contribution to the self-insuring employers' guaranty fund 815  
required by this section. The additional security required by 816  
the rule, as the administrator determines appropriate, shall be 817  
sufficient and adequate to provide for financial assurance to 818  
meet the obligations of self-insuring employers under this 819

chapter and Chapter 4121. of the Revised Code. 820

(F) The purchase of coverage under this section by self- 821  
insuring employers is valid notwithstanding the prohibitions 822  
contained in division (A) of section 4123.82 of the Revised Code 823  
and is in addition to the indemnity contracts that self-insuring 824  
employers may purchase pursuant to division (B) of section 825  
4123.82 of the Revised Code. 826

(G) The administrator, on behalf of the self-insuring 827  
employers' guaranty fund, has the rights of reimbursement and 828  
subrogation and shall collect from a defaulting self-insuring 829  
employer or other liable person all amounts the administrator 830  
has paid or reasonably expects to pay from the fund on account 831  
of the defaulting self-insuring employer. 832

(H) The assessments for contributions, the administration 833  
of the self-insuring employers' guaranty fund, the investment of 834  
the money in the fund, and the payment of liabilities incurred 835  
by the fund do not create any liability upon the state. 836

Except for a gross abuse of discretion, neither the board, 837  
nor the individual members thereof, nor the administrator shall 838  
incur any obligation or liability respecting the assessments for 839  
contributions, the administration of the self-insuring 840  
employers' guaranty fund, the investment of the fund, or the 841  
payment of liabilities therefrom. 842

**Sec. 4123.352.** (A) There is hereby created the self- 843  
insuring employers evaluation board consisting of three members. 844  
The member of the industrial commission representing the public 845  
shall be a member of the self-insuring employers evaluation 846  
board and shall serve, ex officio, as ~~chairman~~ chairperson. The 847  
governor shall appoint the remaining two members with the advice 848

and consent of the senate. One member shall be a member of the 849  
Ohio self-insurance association and one member shall be a 850  
representative of labor. Not more than two of the three members 851  
of the board may be of the same political party. 852

Of the two members originally appointed by the governor 853  
pursuant to this section, one shall serve an initial term of two 854  
years and one an initial term of four years. Thereafter, terms 855  
of office of the two members are for four years, each term 856  
ending on the same date as the original date of appointment. Any 857  
member appointed to fill a vacancy occurring prior to the 858  
expiration of the term for which ~~his~~ the member's predecessor 859  
was appointed shall hold office for the remainder of such term. 860  
Any member shall continue in office subsequent to the expiration 861  
date of ~~his~~ the member's term until ~~his~~ the member's successor 862  
takes office, or until a period of sixty days has elapsed, 863  
whichever occurs first. A vacancy in an unexpired term shall be 864  
filled in the same manner as the original appointment. The 865  
governor may remove any member pursuant to section 3.05 of the 866  
Revised Code. 867

The board member who also is a member of the commission 868  
shall receive no additional compensation but shall be reimbursed 869  
for actual and necessary expenses in the performance of ~~his~~ the 870  
board member's duties. The two remaining members of the board 871  
shall receive per diem compensation fixed pursuant to division 872  
(J) of section 124.15 of the Revised Code and actual and 873  
necessary expenses incurred in the performance of their duties. 874

For administrative purposes, the board is a part of the 875  
bureau of workers' compensation, and the bureau shall furnish 876  
the board with necessary office space, staff, and supplies. The 877  
board shall meet as required by the administrator of workers' 878

compensation. 879

(B) In addition to the grounds listed in section 4123.35 880  
of the Revised Code pertaining to criteria for being granted the 881  
status as a self-insuring employer, the grounds upon which the 882  
administrator may revoke or refuse to renew the status includes 883  
failure to comply with any rules or orders of the administrator 884  
~~or, failure to pay contributions to the self-insuring~~ 885  
~~employers' applicable guaranty fund established by in accordance~~ 886  
with section 4123.351 or 4123.354 of the Revised Code, continued 887  
failure to file medical reports bearing upon the injury of the 888  
claimant, and failure to pay compensation or benefits in 889  
accordance with law in a timely manner. A deficiency in any of 890  
the grounds listed in this division is sufficient to justify the 891  
administrator's revocation or refusal to renew the employer's 892  
status as a self-insuring employer. The administrator need not 893  
revoke or refuse to renew an employer's status as a self- 894  
insuring employer if adequate corrective action is taken by the 895  
employer pursuant to division (C) of this section. 896

(C) The administrator shall refer to the board all 897  
complaints or allegations of misconduct against a self-insuring 898  
employer or questions as to whether a self-insuring employer 899  
continues to meet minimum standards. The board shall investigate 900  
and may order the employer to take corrective action in 901  
accordance with the schedule the board fixes. The board's 902  
determination in this regard need not be made by formal hearing 903  
but shall be issued in written form and contain the signature of 904  
at least two board members. If the board determines, after a 905  
hearing conducted pursuant to Chapter 119. of the Revised Code 906  
and the rules of the bureau, that the employer has failed to 907  
correct the deficiencies within the time fixed by the board or 908  
is otherwise in violation of this chapter, the board shall 909

recommend to the administrator revocation of an employer's 910  
status as a self-insuring employer or such other penalty which 911  
may include, but is not limited to, probation, or a civil 912  
penalty not to exceed ten thousand dollars for each failure. A 913  
board recommendation to revoke an employer's status as a self- 914  
insuring employer shall be by unanimous vote. A recommendation 915  
for any other penalty shall be by majority vote. Where the board 916  
makes recommendations to the administrator for disciplining a 917  
self-insuring employer, the administrator promptly and fully 918  
shall implement the recommendations. 919

Sec. 4123.354. (A) The administrator of workers' 920  
compensation shall require every employer who is a self-insuring 921  
employer as a result of a waiver of the requirement of division 922  
(B) (1) (c) of section 4123.35 of the Revised Code to pay a 923  
contribution, calculated under this section, to the self- 924  
insuring employers' guaranty B fund pursuant to this section. 925  
The fund shall provide for payment of compensation and benefits 926  
to employees of the self-insuring employer in order to cover any 927  
default in payment by that employer. 928

(B) The bureau of workers' compensation shall operate the 929  
self-insuring employers' guaranty B fund for self-insuring 930  
employers who are required to pay contributions to the fund 931  
under this section. The administrator annually shall establish 932  
the contributions due from self-insuring employers who are 933  
required to pay contributions to the fund at rates as low as 934  
possible but such that will assure sufficient moneys to 935  
guarantee the payment of any claims against the fund. The 936  
bureau's operation of the fund is not subject to sections 937  
3929.10 to 3929.18 of the Revised Code or to regulation by the 938  
superintendent of insurance. 939



(C) If a self-insuring employer who is required to pay 940  
contributions to the self-insuring employers' guaranty B fund 941  
defaults, the bureau shall recover the amounts paid as a result 942  
of the default from the fund. If a self-insuring employer who is 943  
required to pay contributions to the fund defaults and is in 944  
compliance with this section for the payment of contributions to 945  
the fund, such self-insuring employer is entitled to the 946  
immunity conferred by section 4123.74 of the Revised Code for 947  
any claim arising during any period the employer is in 948  
compliance with this section. 949

(D) (1) There is hereby established a self-insuring 950  
employers' guaranty B fund, which shall be in the custody of the 951  
treasurer of state but shall not be a part of the state 952  
treasury, and which shall be separate from the other funds 953  
established and administered pursuant to this chapter. The fund 954  
shall consist of contributions and other payments made by self- 955  
insuring employers under this section. All investment earnings 956  
of the fund shall be credited to the fund. The bureau shall make 957  
disbursements from the fund pursuant to this section. 958

(2) The administrator has the same powers to invest any of 959  
the surplus or reserve belonging to the fund as are delegated to 960  
the administrator under section 4123.44 of the Revised Code with 961  
respect to the state insurance fund. The administrator shall 962  
apply interest earned solely to the reduction of assessments for 963  
contributions from self-insuring employers under this section 964  
and to the payments required due to defaults under this section. 965

(3) If the bureau of workers' compensation board of 966  
directors determines that reinsurance of the risks of the fund 967  
is necessary to assure solvency of the fund, the board may: 968

(a) Enter into contracts for the purchase of reinsurance 969

coverage of the risks of the fund with any company or agency 970  
authorized by law to issue contracts of reinsurance; 971

(b) Require the administrator to pay the cost of 972  
reinsurance from the fund; 973

(c) Include the costs of reinsurance as a liability and 974  
estimated liability of the fund. 975

(E) The administrator, with the advice and consent of the 976  
board, may adopt rules pursuant to Chapter 119. of the Revised 977  
Code for the implementation of this section, including a rule 978  
requiring self-insuring employers to provide security in 979  
addition to the contribution to the self-insuring employers' 980  
guaranty B fund required by this section. The additional 981  
security required by the rule, as the administrator determines 982  
appropriate, shall be sufficient and adequate to provide for 983  
financial assurance to meet the obligations of self-insuring 984  
employers under this chapter and Chapter 4121. of the Revised 985  
Code. 986

(F) The purchase of coverage under this section by self- 987  
insuring employers is valid notwithstanding the prohibitions 988  
contained in division (A) of section 4123.82 of the Revised Code 989  
and is in addition to the indemnity contracts that self-insuring 990  
employers may purchase pursuant to division (B) of section 991  
4123.82 of the Revised Code. 992

(G) The administrator, on behalf of the self-insuring 993  
employers' guaranty B fund, has the rights of reimbursement and 994  
subrogation and shall collect from a defaulting self-insuring 995  
employer or other liable person all amounts the administrator 996  
has paid or reasonably expects to pay from the fund on account 997  
of the defaulting self-insuring employer. 998

(H) The assessments for contributions, the administration 999  
of the self-insuring employers' guaranty B fund, the investment 1000  
of the money in the fund, and the payment of liabilities 1001  
incurred by the fund do not create any liability upon the state. 1002

Except for a gross abuse of discretion, neither the board, 1003  
nor the individual members thereof, nor the administrator shall 1004  
incur any obligation or liability respecting the assessments for 1005  
contributions, the administration of the self-insuring 1006  
employers' guaranty B fund, the investment of the fund, or the 1007  
payment of liabilities therefrom. 1008

**Sec. 4123.82.** (A) All~~Except as otherwise provided in~~ 1009  
division (B) of this section, all contracts and agreements are 1010  
void which undertake to indemnify or insure an employer against 1011  
loss or liability for the payment of compensation to workers or 1012  
their dependents for death, injury, or occupational disease 1013  
occasioned in the course of the workers' employment, or which 1014  
provide that the insurer shall pay the compensation, or which 1015  
indemnify the employer against damages when the injury, disease, 1016  
or death arises from the failure to comply with any lawful 1017  
requirement for the protection of the lives, health, and safety 1018  
of employees, or when the same is occasioned by the willful act 1019  
of the employer or any of the employer's officers or agents, or 1020  
by which it is agreed that the insurer shall pay any such 1021  
damages. No license or authority to enter into any such 1022  
agreements or issue any such policies of insurance shall be 1023  
granted or issued by any public authority in this state. Any 1024  
corporation organized or admitted under the laws of this state 1025  
to transact liability insurance as defined in section 3929.01 of 1026  
the Revised Code may by amendment of its articles of 1027  
incorporation or by original articles of incorporation, provide 1028  
therein for the authority and purpose to make insurance in 1029

states, territories, districts, and counties, other than the 1030  
state of Ohio, and in the state of Ohio in respect of contracts 1031  
permitted by division (B) of this section, indemnifying 1032  
employers against loss or liability for payment of compensation 1033  
to workers and employees and their dependents for death, injury, 1034  
or occupational disease occasioned in the course of the 1035  
employment and to insure and indemnify employers against loss, 1036  
expense, and liability by risk of bodily injury or death by 1037  
accident, disability, sickness, or disease suffered by workers 1038  
and employees for which the employer may be liable or has 1039  
assumed liability. 1040

~~(B) Notwithstanding division (A) of this section:~~ 1041

~~(1) No contract because of that division is void which A 1042  
self-insuring employer may enter into a contract with an insurer 1043  
with an A.M. best financial strength rating of A or higher that 1044  
undertakes to indemnify ~~a the~~ self-insuring employer against all 1045  
or part of such employer's loss ~~in excess of at least fifty~~ 1046  
~~thousand dollars from any one disaster or event~~ arising out of 1047  
the employer's liability under this chapter, ~~but no insurance~~ 1048  
~~corporation shall, directly or indirectly, represent an employer~~ 1049  
~~in the settlement, adjudication, determination, allowance, or~~ 1050  
~~payment of claims. The superintendent of insurance shall enforce~~ 1051  
~~this prohibition by such disciplinary orders directed against~~ 1052  
~~the offending insurance corporation as the superintendent of~~ 1053  
~~insurance deems appropriate in the circumstances and the~~ 1054  
~~administrator of workers' compensation shall enforce this~~ 1055  
~~prohibition by such disciplinary orders directed against the~~ 1056  
~~offending employer as the administrator deems appropriate in the~~ 1057  
~~circumstances, which orders may include revocation of the~~ 1058  
~~insurance corporation's right to enter into indemnity contracts~~ 1059  
~~and revocation of the employer's status as a self insuring~~ 1060~~

employer. 1061

(2) The administrator may enter into a contract of 1062  
indemnity with any such employer upon such terms, payment of 1063  
such premium, and for such amount and form of indemnity as the 1064  
administrator determines and the bureau of workers' compensation 1065  
board of directors may procure reinsurance of the liability of 1066  
the public and private funds under this chapter, or any part of 1067  
the liability in respect of either or both of the funds, upon 1068  
such terms and premiums or other payments from the fund or funds 1069  
as the administrator deems prudent in the maintenance of a 1070  
solvent fund or funds from year to year. ~~When making the finding~~ 1071  
~~of fact which the administrator is required by section 4123.35~~ 1072  
~~of the Revised Code to make with respect to the financial~~ 1073  
~~ability of an employer, no contract of indemnity, or the ability~~ 1074  
~~of the employer to procure such a contract, shall be considered~~ 1075  
~~as increasing the financial ability of the employer.~~ 1076

(C) Nothing in this section shall be construed to prohibit 1077  
the administrator or an other-states' insurer from providing to 1078  
employers in this state other-states' coverage or limited other- 1079  
states' coverage in accordance with section 4123.292 of the 1080  
Revised Code. 1081

(D) Notwithstanding any other section of the Revised Code, 1082  
but subject to division (A) of this section, the superintendent 1083  
of insurance shall have the sole authority to regulate any 1084  
insurance products, except for the bureau of workers' 1085  
compensation and those products offered by the bureau, that 1086  
indemnify or insure employers against workers' compensation 1087  
losses in this state or that are sold to employers in this 1088  
state. 1089

**Section 2.** That existing sections 4123.35, 4123.351, 1090

4123.352, and 4123.82 of the Revised Code are hereby repealed.

1091