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132nd General Assembly  
Regular Session  
2017-2018

Sub. H. B. No. 268

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**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



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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 49

premium. The administrator shall provide each employer written 50  
proof of workers' compensation coverage as is required in 51  
section 4123.83 of the Revised Code. Proper posting of the 52  
notice constitutes the employer's compliance with the notice 53  
requirement mandated in section 4123.83 of the Revised Code. 54

The bureau shall verify with the secretary of state the 55  
existence of all corporations and organizations making 56  
application for workers' compensation coverage and shall require 57  
every such application to include the employer's federal 58  
identification number. 59

A private employer who has contracted with a subcontractor 60  
is liable for the unpaid premium due from any subcontractor with 61  
respect to that part of the payroll of the subcontractor that is 62  
for work performed pursuant to the contract with the employer. 63

Division (A) of this section providing for the payment of 64  
premiums semiannually does not apply to any employer who was a 65  
subscriber to the state insurance fund prior to January 1, 1914, 66  
or, until July 1, 2015, who may first become a subscriber to the 67  
fund in any month other than January or July. Instead, the 68  
semiannual premiums shall be paid by those employers from time 69  
to time upon the expiration of the respective periods for which 70  
payments into the fund have been made by them. After July 1, 71  
2015, an employer who first becomes a subscriber to the fund on 72  
any day other than the first day of July shall pay premiums 73  
according to rules adopted by the administrator, with the advice 74  
and consent of the bureau of workers' compensation board of 75  
directors, for the remainder of the policy year for which the 76  
coverage is effective. 77

The administrator, with the advice and consent of the 78  
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 Ba2 171  
or 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. The administrator may require an 174  
employer who is granted the status of self-insuring employer as 175  
a result of this waiver to obtain an irrevocable letter of 176  
credit, a bond, or any other security the administrator 177  
determines necessary to ensure the employer's solvency in paying 178  
compensation directly. 179

The administrator shall not grant the status of self- 180  
insuring employer to the state, except that the administrator 181  
may grant the status of self-insuring employer to a state 182  
institution of higher education, including its hospitals, that 183  
meets the requirements of division (B) (2) of this section. 184

(2) When considering the application of a public employer, 185  
except for a board of county commissioners described in division 186  
(G) of section 4123.01 of the Revised Code, a board of a county 187  
hospital, or a publicly owned utility, the administrator shall 188  
verify that the public employer satisfies all of the following 189  
requirements as the requirements apply to that public employer: 190

(a) For the two-year period preceding application under 191  
this section, the public employer has maintained an unvoted debt 192  
capacity equal to at least two times the amount of the current 193  
annual premium established by the administrator under this 194  
chapter for that public employer for the year immediately 195  
preceding the year in which the public employer makes 196  
application under this section. 197

(b) For each of the two fiscal years preceding application 198  
under this section, the unreserved and undesignated year-end 199

fund balance in the public employer's general fund is equal to 200  
at least five per cent of the public employer's general fund 201  
revenues for the fiscal year computed in accordance with 202  
generally accepted accounting principles. 203

(c) For the five-year period preceding application under 204  
this section, the public employer, to the extent applicable, has 205  
complied fully with the continuing disclosure requirements 206  
established in rules adopted by the United States securities and 207  
exchange commission under 17 C.F.R. 240.15c 2-12. 208

(d) For the five-year period preceding application under 209  
this section, the public employer has not had its local 210  
government fund distribution withheld on account of the public 211  
employer being indebted or otherwise obligated to the state. 212

(e) For the five-year period preceding application under 213  
this section, the public employer has not been under a fiscal 214  
watch or fiscal emergency pursuant to section 118.023, 118.04, 215  
or 3316.03 of the Revised Code. 216

(f) For the public employer's fiscal year preceding 217  
application under this section, the public employer has obtained 218  
an annual financial audit as required under section 117.10 of 219  
the Revised Code, which has been released by the auditor of 220  
state within seven months after the end of the public employer's 221  
fiscal year. 222

(g) On the date of application, the public employer holds 223  
a debt rating of Aa3 or higher according to Moody's investors 224  
service, inc., or a comparable rating by an independent rating 225  
agency similar to Moody's investors service, inc. 226

(h) The public employer agrees to generate an annual 227  
accumulating book reserve in its financial statements reflecting 228



an actuarially generated reserve adequate to pay projected 229  
claims under this chapter for the applicable period of time, as 230  
determined by the administrator. 231

(i) For a public employer that is a hospital, the public 232  
employer shall submit audited financial statements showing the 233  
hospital's overall liquidity characteristics, and the 234  
administrator shall determine, on an individual basis, whether 235  
the public employer satisfies liquidity standards equivalent to 236  
the liquidity standards of other public employers. 237

(j) Any additional criteria that the administrator adopts 238  
by rule pursuant to division (E) of this section. 239

The administrator may adopt rules establishing the 240  
criteria that a public employer shall satisfy in order for the 241  
administrator to waive any of the requirements listed in 242  
divisions (B) (2) (a) to (j) of this section. The rules may 243  
require additional security from that employer pursuant to 244  
division (E) of section 4123.351 of the Revised Code. The 245  
administrator shall not waive any of the requirements listed in 246  
divisions (B) (2) (a) to (j) of this section for a public employer 247  
who does not satisfy the criteria established in the rules the 248  
administrator adopts. 249

(C) A board of county commissioners described in division 250  
(G) of section 4123.01 of the Revised Code, as an employer, that 251  
will abide by the rules of the administrator and that may be of 252  
sufficient financial ability to render certain the payment of 253  
compensation to injured employees or the dependents of killed 254  
employees, and the furnishing of medical, surgical, nursing, and 255  
hospital attention and services and medicines, and funeral 256  
expenses, equal to or greater than is provided for in sections 257  
4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the 258

Revised Code, ~~and that does not desire to insure the payment~~ 259  
~~thereof or indemnify itself against loss sustained by the direct~~ 260  
~~payment thereof,~~ upon a finding of such facts by the 261  
administrator, may be granted the privilege to pay individually 262  
compensation, and furnish medical, surgical, nursing, and 263  
hospital services and attention and funeral expenses directly to 264  
injured employees or the dependents of killed employees, thereby 265  
being granted status as a self-insuring employer. The 266  
administrator may charge a board of county commissioners 267  
described in division (G) of section 4123.01 of the Revised Code 268  
that applies for the status as a self-insuring employer a 269  
reasonable application fee to cover the bureau's costs in 270  
connection with processing and making a determination with 271  
respect to an application. All employers granted such status 272  
shall demonstrate sufficient financial and administrative 273  
ability to assure that all obligations under this section are 274  
promptly met. The administrator shall deny the privilege where 275  
the employer is unable to demonstrate the employer's ability to 276  
promptly meet all the obligations imposed on the employer by 277  
this section. The administrator shall consider, but is not 278  
limited to, the following factors, where applicable, in 279  
determining the employer's ability to meet all of the 280  
obligations imposed on the board as an employer by this section: 281

(1) The board has operated in this state for a minimum of 282  
two years; 283

(2) Where the board previously contributed to the state 284  
insurance fund or is a successor employer as defined by bureau 285  
rules, the amount of the buyout, as defined by bureau rules; 286

(3) The sufficiency of the board's assets located in this 287  
state to insure the board's solvency in paying compensation 288

directly; 289

(4) The financial records, documents, and data, certified 290  
by a certified public accountant, necessary to provide the 291  
board's full financial disclosure. The records, documents, and 292  
data include, but are not limited to, balance sheets and profit 293  
and loss history for the current year and previous four years. 294

(5) The board's organizational plan for the administration 295  
of the workers' compensation law; 296

(6) The board's proposed plan to inform employees of the 297  
proposed self-insurance, the procedures the board will follow as 298  
a self-insuring employer, and the employees' rights to 299  
compensation and benefits; 300

(7) The board has either an account in a financial 301  
institution in this state, or if the board maintains an account 302  
with a financial institution outside this state, ensures that 303  
workers' compensation checks are drawn from the same account as 304  
payroll checks or the board clearly indicates that payment will 305  
be honored by a financial institution in this state; 306

(8) The board shall provide the administrator a surety 307  
bond in an amount equal to one hundred twenty-five per cent of 308  
the projected losses as determined by the administrator. 309

(D) The administrator shall require a surety bond from all 310  
self-insuring employers, issued pursuant to section 4123.351 or 311  
4123.354 of the Revised Code, as applicable, that is sufficient 312  
to compel, or secure to injured employees, or to the dependents 313  
of employees killed, the payment of compensation and expenses, 314  
which shall in no event be less than that paid or furnished out 315  
of the state insurance fund in similar cases to injured 316  
employees or to dependents of killed employees whose employers 317

contribute to the fund, except when an employee of the employer, 318  
who has suffered the loss of a hand, arm, foot, leg, or eye 319  
prior to the injury for which compensation is to be paid, and 320  
thereafter suffers the loss of any other of the members as the 321  
result of any injury sustained in the course of and arising out 322  
of the employee's employment, the compensation to be paid by the 323  
self-insuring employer is limited to the disability suffered in 324  
the subsequent injury, additional compensation, if any, to be 325  
paid by the bureau out of the surplus created by section 4123.34 326  
of the Revised Code. 327

(E) In addition to the requirements of this section, the 328  
administrator shall make and publish rules governing the manner 329  
of making application and the nature and extent of the proof 330  
required to justify a finding of fact by the administrator as to 331  
granting the status of a self-insuring employer, which rules 332  
shall be general in their application, one of which rules shall 333  
provide that all self-insuring employers shall pay into the 334  
state insurance fund such amounts as are required to be credited 335  
to the surplus fund in division (B) of section 4123.34 of the 336  
Revised Code. The administrator may adopt rules establishing 337  
requirements in addition to the requirements described in 338  
division (B)(2) of this section that a public employer shall 339  
meet in order to qualify for self-insuring status. 340

Employers shall secure directly from the bureau central 341  
offices application forms upon which the bureau shall stamp a 342  
designating number. Prior to submission of an application, an 343  
employer shall make available to the bureau, and the bureau 344  
shall review, the information described in division (B)(1) of 345  
this section, and public employers shall make available, and the 346  
bureau shall review, the information necessary to verify whether 347  
the public employer meets the requirements listed in division 348

(B) (2) of this section. An employer shall file the completed 349  
application forms with an application fee, which shall cover the 350  
costs of processing the application, as established by the 351  
administrator, by rule, with the bureau at least ninety days 352  
prior to the effective date of the employer's new status as a 353  
self-insuring employer. The application form is not deemed 354  
complete until all the required information is attached thereto. 355  
The bureau shall only accept applications that contain the 356  
required information. 357

(F) The bureau shall review completed applications within 358  
a reasonable time. If the bureau determines to grant an employer 359  
the status as a self-insuring employer, the bureau shall issue a 360  
statement, containing its findings of fact, that is prepared by 361  
the bureau and signed by the administrator. If the bureau 362  
determines not to grant the status as a self-insuring employer, 363  
the bureau shall notify the employer of the determination and 364  
require the employer to continue to pay its full premium into 365  
the state insurance fund. The administrator also shall adopt 366  
rules establishing a minimum level of performance as a criterion 367  
for granting and maintaining the status as a self-insuring 368  
employer and fixing time limits beyond which failure of the 369  
self-insuring employer to provide for the necessary medical 370  
examinations and evaluations may not delay a decision on a 371  
claim. 372

(G) The administrator shall adopt rules setting forth 373  
procedures for auditing the program of self-insuring employers. 374  
The bureau shall conduct the audit upon a random basis or 375  
whenever the bureau has grounds for believing that a self- 376  
insuring employer is not in full compliance with bureau rules or 377  
this chapter. 378

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) A self-insuring employer that returns to the state insurance fund as a state fund employer shall provide the

administrator with medical costs and indemnity costs by claim, 409  
and payroll by manual classification and year, and such other 410  
information the administrator may require. The self-insuring 411  
employer shall submit this information by dates and in a format 412  
determined by the administrator. The administrator shall develop 413  
a state fund experience modification factor for a self-insuring 414  
employer that returns to the state insurance fund based in whole 415  
or in part on the employer's self-insured experience and the 416  
information submitted. 417

(J) On the first day of July of each year, the 418  
administrator shall calculate separately each self-insuring 419  
employer's assessments for the safety and hygiene fund, 420  
administrative costs pursuant to section 4123.342 of the Revised 421  
Code, and for the surplus fund under division (B) of section 422  
4123.34 of the Revised Code, on the basis of the paid 423  
compensation attributable to the individual self-insuring 424  
employer according to the following calculation: 425

(1) The total assessment against all self-insuring 426  
employers as a class for each fund and for the administrative 427  
costs for the year that the assessment is being made, as 428  
determined by the administrator, divided by the total amount of 429  
paid compensation for the previous calendar year attributable to 430  
all amenable self-insuring employers; 431

(2) Multiply the quotient in division (J)(1) of this 432  
section by the total amount of paid compensation for the 433  
previous calendar year that is attributable to the individual 434  
self-insuring employer for whom the assessment is being 435  
determined. Each self-insuring employer shall pay the assessment 436  
that results from this calculation, unless the assessment 437  
resulting from this calculation falls below a minimum 438

assessment, which minimum assessment the administrator shall 439  
determine on the first day of July of each year with the advice 440  
and consent of the bureau of workers' compensation board of 441  
directors, in which event, the self-insuring employer shall pay 442  
the minimum assessment. 443

In determining the total amount due for the total 444  
assessment against all self-insuring employers as a class for 445  
each fund and the administrative assessment, the administrator 446  
shall reduce proportionately the total for each fund and 447  
assessment by the amount of money in the self-insurance 448  
assessment fund as of the date of the computation of the 449  
assessment. 450

The administrator shall calculate the assessment for the 451  
portion of the surplus fund under division (B) of section 452  
4123.34 of the Revised Code that is used for reimbursement to a 453  
self-insuring employer under division (H) of section 4123.512 of 454  
the Revised Code in the same manner as set forth in divisions 455  
(J) (1) and (2) of this section except that the administrator 456  
shall calculate the total assessment for this portion of the 457  
surplus fund only on the basis of those self-insuring employers 458  
that retain participation in reimbursement to the self-insuring 459  
employer under division (H) of section 4123.512 of the Revised 460  
Code and the individual self-insuring employer's proportion of 461  
paid compensation shall be calculated only for those self- 462  
insuring employers who retain participation in reimbursement to 463  
the self-insuring employer under division (H) of section 464  
4123.512 of the Revised Code. 465

An employer who no longer is a self-insuring employer in 466  
this state or who no longer is operating in this state, shall 467  
continue to pay assessments for administrative costs and for the 468



surplus fund under division (B) of section 4123.34 of the Revised Code 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 499  
have been granted self-insuring status within the last calendar 500  
year; 501

(2) If an employer fails to pay the assessment when due, 502  
the administrator may add a late fee penalty of not more than 503  
five hundred dollars to the assessment plus an additional 504  
penalty amount as follows: 505

(a) For an assessment from sixty-one to ninety days past 506  
due, the prime interest rate, multiplied by the assessment due; 507

(b) For an assessment from ninety-one to one hundred 508  
twenty days past due, the prime interest rate plus two per cent, 509  
multiplied by the assessment due; 510

(c) For an assessment from one hundred twenty-one to one 511  
hundred fifty days past due, the prime interest rate plus four 512  
per cent, multiplied by the assessment due; 513

(d) For an assessment from one hundred fifty-one to one 514  
hundred eighty days past due, the prime interest rate plus six 515  
per cent, multiplied by the assessment due; 516

(e) For an assessment from one hundred eighty-one to two 517  
hundred ten days past due, the prime interest rate plus eight 518  
per cent, multiplied by the assessment due; 519

(f) For each additional thirty-day period or portion 520  
thereof that an assessment remains past due after it has 521  
remained past due for more than two hundred ten days, the prime 522  
interest rate plus eight per cent, multiplied by the assessment 523  
due. 524

(3) An employer may appeal a late fee penalty and penalty 525  
assessment to the administrator. 526

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

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

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

(N) Should any section of this chapter or Chapter 4121. of 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 557  
total cost of which is estimated to exceed one hundred million 558  
dollars or, for employers described in division (R) of this 559  
section, if the construction project is estimated to exceed 560  
twenty-five million dollars. The administrator may waive such 561  
cost and time criteria and grant a self-insuring employer the 562  
privilege to self-insure a construction project regardless of 563  
the time needed to complete the construction project and 564  
provided that the cost of the construction project is estimated 565  
to exceed fifty million dollars. A self-insuring employer who 566  
desires to self-insure a construction project shall submit to 567  
the administrator an application listing the dates the 568  
construction project is scheduled to begin and end, the 569  
estimated cost of the construction project, the contractors and 570  
subcontractors whose employees are to be self-insured by the 571  
self-insuring employer, the provisions of a safety program that 572  
is specifically designed for the construction project, and a 573  
statement as to whether a collective bargaining agreement 574  
governing the rights, duties, and obligations of each of the 575  
parties to the agreement with respect to the construction 576  
project exists between the self-insuring employer and a labor 577  
organization. 578

A self-insuring employer may apply to self-insure the 579  
employees of either of the following: 580

(1) All contractors and subcontractors who perform labor 581  
or work or provide materials for the construction project; 582

(2) All contractors and, at the administrator's 583  
discretion, a substantial number of all the subcontractors who 584  
perform labor or work or provide materials for the construction 585  
project. 586

Upon approval of the application, the administrator shall 587  
mail a certificate granting the privilege to self-insure the 588  
construction project to the self-insuring employer. The 589  
certificate shall contain the name of the self-insuring employer 590  
and the name, address, and telephone number of the self-insuring 591  
employer's representatives who are responsible for administering 592  
workers' compensation claims for the construction project. The 593  
self-insuring employer shall post the certificate in a 594  
conspicuous place at the site of the construction project. 595

The administrator shall maintain a record of the 596  
contractors and subcontractors whose employees are covered under 597  
the certificate issued to the self-insured employer. A self- 598  
insuring employer immediately shall notify the administrator 599  
when any contractor or subcontractor is added or eliminated from 600  
inclusion under the certificate. 601

Upon approval of the application, the self-insuring 602  
employer is responsible for the administration and payment of 603  
all claims under this chapter and Chapter 4121. of the Revised 604  
Code for the employees of the contractor and subcontractors 605  
covered under the certificate who receive injuries or are killed 606  
in the course of and arising out of employment on the 607  
construction project, or who contract an occupational disease in 608  
the course of employment on the construction project. For 609  
purposes of this chapter and Chapter 4121. of the Revised Code, 610  
a claim that is administered and paid in accordance with this 611  
division is considered a claim against the self-insuring 612  
employer listed in the certificate. A contractor or 613  
subcontractor included under the certificate shall report to the 614  
self-insuring employer listed in the certificate, all claims 615  
that arise under this chapter and Chapter 4121. of the Revised 616  
Code in connection with the construction project for which the 617

certificate is issued. 618

A self-insuring employer who complies with this division 619  
is entitled to the protections provided under this chapter and 620  
Chapter 4121. of the Revised Code with respect to the employees 621  
of the contractors and subcontractors covered under a 622  
certificate issued under this division for death or injuries 623  
that arise out of, or death, injuries, or occupational diseases 624  
that arise in the course of, those employees' employment on that 625  
construction project, as if the employees were employees of the 626  
self-insuring employer, provided that the self-insuring employer 627  
also complies with this section. No employee of the contractors 628  
and subcontractors covered under a certificate issued under this 629  
division shall be considered the employee of the self-insuring 630  
employer listed in that certificate for any purposes other than 631  
this chapter and Chapter 4121. of the Revised Code. Nothing in 632  
this division gives a self-insuring employer authority to 633  
control the means, manner, or method of employment of the 634  
employees of the contractors and subcontractors covered under a 635  
certificate issued under this division. 636

The contractors and subcontractors included under a 637  
certificate issued under this division are entitled to the 638  
protections provided under this chapter and Chapter 4121. of the 639  
Revised Code with respect to the contractor's or subcontractor's 640  
employees who are employed on the construction project which is 641  
the subject of the certificate, for death or injuries that arise 642  
out of, or death, injuries, or occupational diseases that arise 643  
in the course of, those employees' employment on that 644  
construction project. 645

The contractors and subcontractors included under a 646  
certificate issued under this division shall identify in their 647

payroll records the employees who are considered the employees 648  
of the self-insuring employer listed in that certificate for 649  
purposes of this chapter and Chapter 4121. of the Revised Code, 650  
and the amount that those employees earned for employment on the 651  
construction project that is the subject of that certificate. 652  
Notwithstanding any provision to the contrary under this chapter 653  
and Chapter 4121. of the Revised Code, the administrator shall 654  
exclude the payroll that is reported for employees who are 655  
considered the employees of the self-insuring employer listed in 656  
that certificate, and that the employees earned for employment 657  
on the construction project that is the subject of that 658  
certificate, when determining those contractors' or 659  
subcontractors' premiums or assessments required under this 660  
chapter and Chapter 4121. of the Revised Code. A self-insuring 661  
employer issued a certificate under this division shall include 662  
in the amount of paid compensation it reports pursuant to 663  
division (L) of this section, the amount of paid compensation 664  
the self-insuring employer paid pursuant to this division for 665  
the previous calendar year. 666

Nothing in this division shall be construed as altering 667  
the rights of employees under this chapter and Chapter 4121. of 668  
the Revised Code as those rights existed prior to September 17, 669  
1996. Nothing in this division shall be construed as altering 670  
the rights devolved under sections 2305.31 and 4123.82 of the 671  
Revised Code as those rights existed prior to September 17, 672  
1996. 673

As used in this division, "privilege to self-insure a 674  
construction project" means privilege to pay individually 675  
compensation, and to furnish medical, surgical, nursing, and 676  
hospital services and attention and funeral expenses directly to 677  
injured employees or the dependents of killed employees. 678

(P) A self-insuring employer whose application is granted 679  
under division (O) of this section shall designate a safety 680  
professional to be responsible for the administration and 681  
enforcement of the safety program that is specifically designed 682  
for the construction project that is the subject of the 683  
application. 684

A self-insuring employer whose application is granted 685  
under division (O) of this section shall employ an ombudsperson 686  
for the construction project that is the subject of the 687  
application. The ombudsperson shall have experience in workers' 688  
compensation or the construction industry, or both. The 689  
ombudsperson shall perform all of the following duties: 690

(1) Communicate with and provide information to employees 691  
who are injured in the course of, or whose injury arises out of 692  
employment on the construction project, or who contract an 693  
occupational disease in the course of employment on the 694  
construction project; 695

(2) Investigate the status of a claim upon the request of 696  
an employee to do so; 697

(3) Provide information to claimants, third party 698  
administrators, employers, and other persons to assist those 699  
persons in protecting their rights under this chapter and 700  
Chapter 4121. of the Revised Code. 701

A self-insuring employer whose application is granted 702  
under division (O) of this section shall post the name of the 703  
safety professional and the ombudsperson and instructions for 704  
contacting the safety professional and the ombudsperson in a 705  
conspicuous place at the site of the construction project. 706

(Q) The administrator may consider all of the following 707



when deciding whether to grant a self-insuring employer the 708  
privilege to self-insure a construction project as provided 709  
under division (O) of this section: 710

(1) Whether the self-insuring employer has an 711  
organizational plan for the administration of the workers' 712  
compensation law; 713

(2) Whether the safety program that is specifically 714  
designed for the construction project provides for the safety of 715  
employees employed on the construction project, is applicable to 716  
all contractors and subcontractors who perform labor or work or 717  
provide materials for the construction project, and has as a 718  
component, a safety training program that complies with 719  
standards adopted pursuant to the "Occupational Safety and 720  
Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and 721  
provides for continuing management and employee involvement; 722

(3) Whether granting the privilege to self-insure the 723  
construction project will reduce the costs of the construction 724  
project; 725

(4) Whether the self-insuring employer has employed an 726  
ombudsperson as required under division (P) of this section; 727

(5) Whether the self-insuring employer has sufficient 728  
surety to secure the payment of claims for which the self- 729  
insuring employer would be responsible pursuant to the granting 730  
of the privilege to self-insure a construction project under 731  
division (O) of this section. 732

(R) As used in divisions (O), (P), and (Q), "self-insuring 733  
employer" includes the following employers, whether or not they 734  
have been granted the status of being a self-insuring employer 735  
under division (B) of this section: 736

(1) A state institution of higher education;	737
(2) A school district;	738
(3) A county school financing district;	739
(4) An educational service center;	740
(5) A community school established under Chapter 3314. of the Revised Code;	741 742
(6) A municipal power agency as defined in section 3734.058 of the Revised Code.	743 744
(S) As used in this section:	745
(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;	746 747 748
(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.	749 750 751 752 753 754 755 756
<b>Sec. 4123.351.</b> (A) The administrator of workers' compensation shall require every self-insuring employer <u>who is</u> <u>not required to pay contributions to the self-insuring</u> <u>employers' guaranty B fund pursuant to section 4123.354 of the</u> <u>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-	757 758 759 760 761 762 763 764

insuring employers' guaranty fund established pursuant to this 765  
section. The fund shall provide for payment of compensation and 766  
benefits to employees of the self-insuring employer in order to 767  
cover any default in payment by that employer. 768

(B) The bureau of workers' compensation shall operate the 769  
self-insuring employers' guaranty fund for self-insuring 770  
employers who are required to pay contributions to the fund 771  
under this section. The administrator annually shall establish 772  
the contributions due from self-insuring employers who are 773  
required to pay contributions to the fund for the fund at rates 774  
as low as possible but such as will assure sufficient moneys to 775  
guarantee the payment of any claims against the fund. The 776  
bureau's operation of the fund is not subject to sections 777  
3929.10 to 3929.18 of the Revised Code or to regulation by the 778  
superintendent of insurance. 779

(C) If a self-insuring employer who is required to pay 780  
contributions to the fund defaults, the bureau shall recover the 781  
amounts paid as a result of the default from the self-insuring 782  
employers' guaranty fund. If a self-insuring employer who is 783  
required to pay contributions to the fund defaults and is in 784  
compliance with this section for the payment of contributions to 785  
the fund, such self-insuring employer is entitled to the 786  
immunity conferred by section 4123.74 of the Revised Code for 787  
any claim arising during any period the employer is in 788  
compliance with this section. 789

(D) (1) There is hereby established a self-insuring 790  
employers' guaranty fund, which shall be in the custody of the 791  
treasurer of state and which shall be separate from the other 792  
funds established and administered pursuant to this chapter. The 793  
fund shall consist of contributions and other payments made by 794

self-insuring employers under this section. All investment 795  
earnings of the fund shall be credited to the fund. The bureau 796  
shall make disbursements from the fund pursuant to this section. 797

(2) The administrator has the same powers to invest any of 798  
the surplus or reserve belonging to the fund as are delegated to 799  
the administrator under section 4123.44 of the Revised Code with 800  
respect to the state insurance fund. The administrator shall 801  
apply interest earned solely to the reduction of assessments for 802  
contributions from self-insuring employers under this section 803  
and to the payments required due to defaults under this section. 804

(3) If the bureau of workers' compensation board of 805  
directors determines that reinsurance of the risks of the fund 806  
is necessary to assure solvency of the fund, the board may: 807

(a) Enter into contracts for the purchase of reinsurance 808  
coverage of the risks of the fund with any company or agency 809  
authorized by law to issue contracts of reinsurance; 810

(b) Require the administrator to pay the cost of 811  
reinsurance from the fund; 812

(c) Include the costs of reinsurance as a liability and 813  
estimated liability of the fund. 814

(E) The administrator, with the advice and consent of the 815  
board, may adopt rules pursuant to Chapter 119. of the Revised 816  
Code for the implementation of this section, including a rule, 817  
notwithstanding division (C) of this section, requiring self- 818  
insuring employers to provide security in addition to the 819  
contribution to the self-insuring employers' guaranty fund 820  
required by this section. The additional security required by 821  
the rule, as the administrator determines appropriate, shall be 822  
sufficient and adequate to provide for financial assurance to 823

meet the obligations of self-insuring employers under this 824  
chapter and Chapter 4121. of the Revised Code. 825

(F) The purchase of coverage under this section by self- 826  
insuring employers is valid notwithstanding the prohibitions 827  
contained in division (A) of section 4123.82 of the Revised Code 828  
and is in addition to the indemnity contracts that self-insuring 829  
employers may purchase pursuant to division (B) of section 830  
4123.82 of the Revised Code. 831

(G) The administrator, on behalf of the self-insuring 832  
employers' guaranty fund, has the rights of reimbursement and 833  
subrogation and shall collect from a defaulting self-insuring 834  
employer or other liable person all amounts the administrator 835  
has paid or reasonably expects to pay from the fund on account 836  
of the defaulting self-insuring employer. 837

(H) The assessments for contributions, the administration 838  
of the self-insuring employers' guaranty fund, the investment of 839  
the money in the fund, and the payment of liabilities incurred 840  
by the fund do not create any liability upon the state. 841

Except for a gross abuse of discretion, neither the board, 842  
nor the individual members thereof, nor the administrator shall 843  
incur any obligation or liability respecting the assessments for 844  
contributions, the administration of the self-insuring 845  
employers' guaranty fund, the investment of the fund, or the 846  
payment of liabilities therefrom. 847

**Sec. 4123.352.** (A) There is hereby created the self- 848  
insuring employers evaluation board consisting of three members. 849  
The member of the industrial commission representing the public 850  
shall be a member of the self-insuring employers evaluation 851  
board and shall serve, ex officio, as ~~chairman~~ chairperson. The 852

governor shall appoint the remaining two members with the advice 853  
and consent of the senate. One member shall be a member of the 854  
Ohio self-insurance association and one member shall be a 855  
representative of labor. Not more than two of the three members 856  
of the board may be of the same political party. 857

Of the two members originally appointed by the governor 858  
pursuant to this section, one shall serve an initial term of two 859  
years and one an initial term of four years. Thereafter, terms 860  
of office of the two members are for four years, each term 861  
ending on the same date as the original date of appointment. Any 862  
member appointed to fill a vacancy occurring prior to the 863  
expiration of the term for which ~~his~~ the member's predecessor 864  
was appointed shall hold office for the remainder of such term. 865  
Any member shall continue in office subsequent to the expiration 866  
date of ~~his~~ the member's term until ~~his~~ the member's successor 867  
takes office, or until a period of sixty days has elapsed, 868  
whichever occurs first. A vacancy in an unexpired term shall be 869  
filled in the same manner as the original appointment. The 870  
governor may remove any member pursuant to section 3.05 of the 871  
Revised Code. 872

The board member who also is a member of the commission 873  
shall receive no additional compensation but shall be reimbursed 874  
for actual and necessary expenses in the performance of ~~his~~ the 875  
board member's duties. The two remaining members of the board 876  
shall receive per diem compensation fixed pursuant to division 877  
(J) of section 124.15 of the Revised Code and actual and 878  
necessary expenses incurred in the performance of their duties. 879

For administrative purposes, the board is a part of the 880  
bureau of workers' compensation, and the bureau shall furnish 881  
the board with necessary office space, staff, and supplies. The 882

board shall meet as required by the administrator of workers' 883  
compensation. 884

(B) In addition to the grounds listed in section 4123.35 885  
of the Revised Code pertaining to criteria for being granted the 886  
status as a self-insuring employer, the grounds upon which the 887  
administrator may revoke or refuse to renew the status includes 888  
failure to comply with any rules or orders of the administrator 889  
~~or, failure to pay contributions to the self-insuring~~ 890  
~~employers' applicable guaranty fund established by in accordance~~ 891  
with section 4123.351 or 4123.354 of the Revised Code, continued 892  
failure to file medical reports bearing upon the injury of the 893  
claimant, and failure to pay compensation or benefits in 894  
accordance with law in a timely manner. A deficiency in any of 895  
the grounds listed in this division is sufficient to justify the 896  
administrator's revocation or refusal to renew the employer's 897  
status as a self-insuring employer. The administrator need not 898  
revoke or refuse to renew an employer's status as a self- 899  
insuring employer if adequate corrective action is taken by the 900  
employer pursuant to division (C) of this section. 901

(C) The administrator shall refer to the board all 902  
complaints or allegations of misconduct against a self-insuring 903  
employer or questions as to whether a self-insuring employer 904  
continues to meet minimum standards. The board shall investigate 905  
and may order the employer to take corrective action in 906  
accordance with the schedule the board fixes. The board's 907  
determination in this regard need not be made by formal hearing 908  
but shall be issued in written form and contain the signature of 909  
at least two board members. If the board determines, after a 910  
hearing conducted pursuant to Chapter 119. of the Revised Code 911  
and the rules of the bureau, that the employer has failed to 912  
correct the deficiencies within the time fixed by the board or 913

is otherwise in violation of this chapter, the board shall 914  
recommend to the administrator revocation of an employer's 915  
status as a self-insuring employer or such other penalty which 916  
may include, but is not limited to, probation, or a civil 917  
penalty not to exceed ten thousand dollars for each failure. A 918  
board recommendation to revoke an employer's status as a self- 919  
insuring employer shall be by unanimous vote. A recommendation 920  
for any other penalty shall be by majority vote. Where the board 921  
makes recommendations to the administrator for disciplining a 922  
self-insuring employer, the administrator promptly and fully 923  
shall implement the recommendations. 924

Sec. 4123.354. (A) The administrator of workers' 925  
compensation shall require every employer who is a self-insuring 926  
employer as a result of a waiver of the requirement of division 927  
(B) (1) (c) of section 4123.35 of the Revised Code to pay a 928  
contribution, calculated under this section, to the self- 929  
insuring employers' guaranty B fund pursuant to this section. 930  
The fund shall provide for payment of compensation and benefits 931  
to employees of the self-insuring employer in order to cover any 932  
default in payment by that employer. 933

(B) The bureau of workers' compensation shall operate the 934  
self-insuring employers' guaranty B fund for self-insuring 935  
employers who are required to pay contributions to the fund 936  
under this section. The administrator annually shall establish 937  
the contributions due from self-insuring employers who are 938  
required to pay contributions to the fund at rates as low as 939  
possible but such that will assure sufficient moneys to 940  
guarantee the payment of any claims against the fund. The 941  
bureau's operation of the fund is not subject to sections 942  
3929.10 to 3929.18 of the Revised Code or to regulation by the 943  
superintendent of insurance. 944



(C) If a self-insuring employer who is required to pay 945  
contributions to the self-insuring employers' guaranty B fund 946  
defaults, the bureau shall recover the amounts paid as a result 947  
of the default from the fund. If a self-insuring employer who is 948  
required to pay contributions to the fund defaults and is in 949  
compliance with this section for the payment of contributions to 950  
the fund, such self-insuring employer is entitled to the 951  
immunity conferred by section 4123.74 of the Revised Code for 952  
any claim arising during any period the employer is in 953  
compliance with this section. 954

(D) (1) There is hereby established a self-insuring 955  
employers' guaranty B fund, which shall be in the custody of the 956  
treasurer of state but shall not be a part of the state 957  
treasury, and which shall be separate from the other funds 958  
established and administered pursuant to this chapter. The fund 959  
shall consist of contributions and other payments made by self- 960  
insuring employers under this section. All investment earnings 961  
of the fund shall be credited to the fund. The bureau shall make 962  
disbursements from the fund pursuant to this section. 963

(2) The administrator has the same powers to invest any of 964  
the surplus or reserve belonging to the fund as are delegated to 965  
the administrator under section 4123.44 of the Revised Code with 966  
respect to the state insurance fund. The administrator shall 967  
apply interest earned solely to the reduction of assessments for 968  
contributions from self-insuring employers under this section 969  
and to the payments required due to defaults under this section. 970

(3) If the bureau of workers' compensation board of 971  
directors determines that reinsurance of the risks of the fund 972  
is necessary to assure solvency of the fund, the board may: 973

(a) Enter into contracts for the purchase of reinsurance 974

coverage of the risks of the fund with any company or agency 975  
authorized by law to issue contracts of reinsurance; 976

(b) Require the administrator to pay the cost of 977  
reinsurance from the fund; 978

(c) Include the costs of reinsurance as a liability and 979  
estimated liability of the fund. 980

(E) The administrator, with the advice and consent of the 981  
board, may adopt rules pursuant to Chapter 119. of the Revised 982  
Code for the implementation of this section, including a rule 983  
requiring self-insuring employers to provide security in 984  
addition to the contribution to the self-insuring employers' 985  
guaranty B fund required by this section. The additional 986  
security required by the rule, as the administrator determines 987  
appropriate, shall be sufficient and adequate to provide for 988  
financial assurance to meet the obligations of self-insuring 989  
employers under this chapter and Chapter 4121. of the Revised 990  
Code. 991

(F) The purchase of coverage under this section by self- 992  
insuring employers is valid notwithstanding the prohibitions 993  
contained in division (A) of section 4123.82 of the Revised Code 994  
and is in addition to the indemnity contracts that self-insuring 995  
employers may purchase pursuant to division (B) of section 996  
4123.82 of the Revised Code. 997

(G) The administrator, on behalf of the self-insuring 998  
employers' guaranty B fund, has the rights of reimbursement and 999  
subrogation and shall collect from a defaulting self-insuring 1000  
employer or other liable person all amounts the administrator 1001  
has paid or reasonably expects to pay from the fund on account 1002  
of the defaulting self-insuring employer. 1003

(H) The assessments for contributions, the administration of the self-insuring employers' guaranty B 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. 1004  
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Except for a gross abuse of discretion, neither the 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 B fund, the investment of the fund, or the payment of liabilities therefrom. 1008  
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**Sec. 4123.82.** (A) All ~~Except as otherwise provided in~~ division (B) of this section, 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 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 1014  
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states, territories, districts, and counties, other than the 1035  
state of Ohio, and in the state of Ohio in respect of contracts 1036  
permitted by division (B) of this section, indemnifying 1037  
employers against loss or liability for payment of compensation 1038  
to workers and employees and their dependents for death, injury, 1039  
or occupational disease occasioned in the course of the 1040  
employment and to insure and indemnify employers against loss, 1041  
expense, and liability by risk of bodily injury or death by 1042  
accident, disability, sickness, or disease suffered by workers 1043  
and employees for which the employer may be liable or has 1044  
assumed liability. 1045

~~(B) Notwithstanding division (A) of this section:~~ 1046

~~(1) No contract because of that division is void which A 1047  
self-insuring employer may enter into a contract with an insurer 1048  
with an A.M. best financial strength rating of A or higher that 1049  
undertakes to indemnify ~~a~~ the self-insuring employer against all 1050  
or part of such employer's loss ~~in excess of at least fifty~~ 1051  
~~thousand dollars from any one disaster or event~~ arising out of 1052  
the employer's liability under this chapter, ~~but no insurance~~ 1053  
~~corporation shall, directly or indirectly, represent an employer~~ 1054  
~~in the settlement, adjudication, determination, allowance, or~~ 1055  
~~payment of claims. The superintendent of insurance shall enforce~~ 1056  
~~this prohibition by such disciplinary orders directed against~~ 1057  
~~the offending insurance corporation as the superintendent of~~ 1058  
~~insurance deems appropriate in the circumstances and the~~ 1059  
~~administrator of workers' compensation shall enforce this~~ 1060  
~~prohibition by such disciplinary orders directed against the~~ 1061  
~~offending employer as the administrator deems appropriate in the~~ 1062  
~~circumstances, which orders may include revocation of the~~ 1063  
~~insurance corporation's right to enter into indemnity contracts~~ 1064  
~~and revocation of the employer's status as a self insuring~~ 1065~~

employer. 1066

(2) The administrator may enter into a contract of 1067  
indemnity with any such employer upon such terms, payment of 1068  
such premium, and for such amount and form of indemnity as the 1069  
administrator determines and the bureau of workers' compensation 1070  
board of directors may procure reinsurance of the liability of 1071  
the public and private funds under this chapter, or any part of 1072  
the liability in respect of either or both of the funds, upon 1073  
such terms and premiums or other payments from the fund or funds 1074  
as the administrator deems prudent in the maintenance of a 1075  
solvent fund or funds from year to year. ~~When making the finding~~ 1076  
~~of fact which the administrator is required by section 4123.35~~ 1077  
~~of the Revised Code to make with respect to the financial~~ 1078  
~~ability of an employer, no contract of indemnity, or the ability~~ 1079  
~~of the employer to procure such a contract, shall be considered~~ 1080  
~~as increasing the financial ability of the employer.~~ 1081

(C) Nothing in this section shall be construed to prohibit 1082  
the administrator or an other-states' insurer from providing to 1083  
employers in this state other-states' coverage or limited other- 1084  
states' coverage in accordance with section 4123.292 of the 1085  
Revised Code. 1086

(D) Notwithstanding any other section of the Revised Code, 1087  
but subject to division (A) of this section, the superintendent 1088  
of insurance shall have the sole authority to regulate any 1089  
insurance products, except for the bureau of workers' 1090  
compensation and those products offered by the bureau, that 1091  
indemnify or insure employers against workers' compensation 1092  
losses in this state or that are sold to employers in this 1093  
state. 1094

**Section 2.** That existing sections 4123.35, 4123.351, 1095

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

1096