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132nd General Assembly
Regular Session
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Sub. H. B. No. 268

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
Sec. 4123.351. (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 1014
void which undertake to indemnify or insure an employer against 1015
loss or liability for the payment of compensation to workers or 1016
their dependents for death, injury, or occupational disease 1017
occasioned in the course of the workers' employment, or which 1018
provide that the insurer shall pay the compensation, or which 1019
indemnify the employer against damages when the injury, disease, 1020
or death arises from the failure to comply with any lawful 1021
requirement for the protection of the lives, health, and safety 1022
of employees, or when the same is occasioned by the willful act 1023
of the employer or any of the employer's officers or agents, or 1024
by which it is agreed that the insurer shall pay any such 1025
damages. No license or authority to enter into any such 1026
agreements or issue any such policies of insurance shall be 1027
granted or issued by any public authority in this state. Any 1028
corporation organized or admitted under the laws of this state 1029
to transact liability insurance as defined in section 3929.01 of 1030
the Revised Code may by amendment of its articles of 1031
incorporation or by original articles of incorporation, provide 1032
therein for the authority and purpose to make insurance in 1033
1034

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.

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