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Sub. H. B. No. 56

Representatives Schuring, Slesnick

**Cosponsors: Representatives Antonio, Becker, Bishoff, Brenner, Boyd, Dever,
Driehaus, Fedor, Hood, Leland, Lepore-Hagan, Maag, Reece, Retherford, Ruhl,
Thompson, Sheehy**

A BILL

To amend sections 124.11, 124.34, 329.021, 2953.36, 1
4121.121, 5123.08, and 5139.02 and to enact 2
section 9.73 of the Revised Code to prohibit 3
public employers from including on an employment 4
application any question concerning the criminal 5
background of the applicant, to prohibit a 6
felony conviction from being used against an 7
officer or employee when a public employer is 8
undertaking certain employment practices, unless 9
the conviction occurs while the officer or 10
employee is employed in the civil service, and 11
to remove the bar against sealing a conviction 12
record when the victim is 16 or 17 years old. 13

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

Section 1. That sections 124.11, 124.34, 329.021, 2953.36, 14
4121.121, 5123.08, and 5139.02 be amended and section 9.73 of 15
the Revised Code be enacted to read as follows: 16

Sec. 9.73. (A) As used in this section: 17

(1) "Public employer" means a state agency or a political subdivision of the state. 18
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(2) "State agency" means any organized body, office, agency, institution, or other entity established by the laws of the state for the exercise of any function of government. 20
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(3) "Political subdivision" means a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state. 23
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(B) No public employer shall include on any form for application for employment with the public employer any question concerning the criminal background of the applicant. 27
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Sec. 124.11. The civil service of the state and the several counties, cities, civil service townships, city health districts, general health districts, and city school districts of the state shall be divided into the unclassified service and the classified service. 30
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(A) The unclassified service shall comprise the following positions, which shall not be included in the classified service, and which shall be exempt from all examinations required by this chapter: 35
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(1) All officers elected by popular vote or persons appointed to fill vacancies in those offices; 39
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(2) All election officers as defined in section 3501.01 of the Revised Code; 41
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(3) (a) The members of all boards and commissions, and heads of principal departments, boards, and commissions appointed by the governor or by and with the governor's consent; 43
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(b) The heads of all departments appointed by a board of county commissioners;	46 47
(c) The members of all boards and commissions and all heads of departments appointed by the mayor, or, if there is no mayor, such other similar chief appointing authority of any city or city school district;	48 49 50 51
Except as otherwise provided in division (A) (17) or (C) of this section, this chapter does not exempt the chiefs of police departments and chiefs of fire departments of cities or civil service townships from the competitive classified service.	52 53 54 55
(4) The members of county or district licensing boards or commissions and boards of revision, and not more than five deputy county auditors;	56 57 58
(5) All officers and employees elected or appointed by either or both branches of the general assembly, and employees of the city legislative authority engaged in legislative duties;	59 60 61
(6) All commissioned, warrant, and noncommissioned officers and enlisted persons in the Ohio organized militia, including military appointees in the adjutant general's department;	62 63 64 65
(7) (a) All presidents, business managers, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, instructors, teachers, and such employees as are engaged in educational or research duties connected with the public school system, colleges, and universities, as determined by the governing body of the public school system, colleges, and universities;	66 67 68 69 70 71 72
(b) The library staff of any library in the state supported wholly or in part at public expense.	73 74

(8) Four clerical and administrative support employees for 75
each of the elective state officers, four clerical and 76
administrative support employees for each board of county 77
commissioners and one such employee for each county 78
commissioner, and four clerical and administrative support 79
employees for other elective officers and each of the principal 80
appointive executive officers, boards, or commissions, except 81
for civil service commissions, that are authorized to appoint 82
such clerical and administrative support employees; 83

(9) The deputies and assistants of state agencies 84
authorized to act for and on behalf of the agency, or holding a 85
fiduciary or administrative relation to that agency and those 86
persons employed by and directly responsible to elected county 87
officials or a county administrator and holding a fiduciary or 88
administrative relationship to such elected county officials or 89
county administrator, and the employees of such county officials 90
whose fitness would be impracticable to determine by competitive 91
examination, provided that division (A) (9) of this section shall 92
not affect those persons in county employment in the classified 93
service as of September 19, 1961. Nothing in division (A) (9) of 94
this section applies to any position in a county department of 95
job and family services created pursuant to Chapter 329. of the 96
Revised Code. 97

(10) Bailiffs, constables, official stenographers, and 98
commissioners of courts of record, deputies of clerks of the 99
courts of common pleas who supervise or who handle public moneys 100
or secured documents, and such officers and employees of courts 101
of record and such deputies of clerks of the courts of common 102
pleas as the appointing authority finds it impracticable to 103
determine their fitness by competitive examination; 104

(11) Assistants to the attorney general, special counsel 105
appointed or employed by the attorney general, assistants to 106
county prosecuting attorneys, and assistants to city directors 107
of law; 108

(12) Such teachers and employees in the agricultural 109
experiment stations; such students in normal schools, colleges, 110
and universities of the state who are employed by the state or a 111
political subdivision of the state in student or intern 112
classifications; and such unskilled labor positions as the 113
director of administrative services, with respect to positions 114
in the service of the state, or any municipal civil service 115
commission may find it impracticable to include in the 116
competitive classified service; provided such exemptions shall 117
be by order of the commission or the director, duly entered on 118
the record of the commission or the director with the reasons 119
for each such exemption; 120

(13) Any physician or dentist who is a full-time employee 121
of the department of mental health and addiction services, the 122
department of developmental disabilities, or an institution 123
under the jurisdiction of either department; and physicians who 124
are in residency programs at the institutions; 125

(14) Up to twenty positions at each institution under the 126
jurisdiction of the department of mental health and addiction 127
services or the department of developmental disabilities that 128
the department director determines to be primarily 129
administrative or managerial; and up to fifteen positions in any 130
division of either department, excluding administrative 131
assistants to the director and division chiefs, which are within 132
the immediate staff of a division chief and which the director 133
determines to be primarily and distinctively administrative and 134

managerial;	135
(15) Noncitizens of the United States employed by the state, or its counties or cities, as physicians or nurses who are duly licensed to practice their respective professions under the laws of this state, or medical assistants, in mental or chronic disease hospitals, or institutions;	136 137 138 139 140
(16) Employees of the governor's office;	141
(17) Fire chiefs and chiefs of police in civil service townships appointed by boards of township trustees under section 505.38 or 505.49 of the Revised Code;	142 143 144
(18) Executive directors, deputy directors, and program directors employed by boards of alcohol, drug addiction, and mental health services under Chapter 340. of the Revised Code, and secretaries of the executive directors, deputy directors, and program directors;	145 146 147 148 149
(19) Superintendents, and management employees as defined in section 5126.20 of the Revised Code, of county boards of developmental disabilities;	150 151 152
(20) Physicians, nurses, and other employees of a county hospital who are appointed pursuant to sections 339.03 and 339.06 of the Revised Code;	153 154 155
(21) The executive director of the state medical board, who is appointed pursuant to division (B) of section 4731.05 of the Revised Code;	156 157 158
(22) County directors of job and family services as provided in section 329.02 of the Revised Code and administrators appointed under section 329.021 of the Revised Code;	159 160 161 162

(23) A director of economic development who is hired	163
pursuant to division (A) of section 307.07 of the Revised Code;	164
(24) Chiefs of construction and compliance, of operations	165
and maintenance, of worker protection, and of licensing and	166
certification in the division of industrial compliance in the	167
department of commerce;	168
(25) The executive director of a county transit system	169
appointed under division (A) of section 306.04 of the Revised	170
Code;	171
(26) Up to five positions at each of the administrative	172
departments listed in section 121.02 of the Revised Code and at	173
the department of taxation, department of the adjutant general,	174
department of education, Ohio board of regents, bureau of	175
workers' compensation, industrial commission, state lottery	176
commission, opportunities for Ohioans with disabilities agency,	177
and public utilities commission of Ohio that the head of that	178
administrative department or of that other state agency	179
determines to be involved in policy development and	180
implementation. The head of the administrative department or	181
other state agency shall set the compensation for employees in	182
these positions at a rate that is not less than the minimum	183
compensation specified in pay range 41 but not more than the	184
maximum compensation specified in pay range 47 of salary	185
schedule E-2 in section 124.152 of the Revised Code. The	186
authority to establish positions in the unclassified service	187
under division (A) (26) of this section is in addition to and	188
does not limit any other authority that an administrative	189
department or state agency has under the Revised Code to	190
establish positions, appoint employees, or set compensation.	191
(27) Employees of the department of agriculture employed	192

under section 901.09 of the Revised Code;	193
(28) For cities, counties, civil service townships, city health districts, general health districts, and city school districts, the deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals or holding a fiduciary relation to their principals;	194 195 196 197 198 199
(29) Employees who receive intermittent or temporary appointments under division (B) of section 124.30 of the Revised Code;	200 201 202
(30) Employees appointed to administrative staff positions for which an appointing authority is given specific statutory authority to set compensation;	203 204 205
(31) Employees appointed to highway patrol cadet or highway patrol cadet candidate classifications;	206 207
(32) Employees placed in the unclassified service by another section of the Revised Code.	208 209
(B) The classified service shall comprise all persons in the employ of the state and the several counties, cities, city health districts, general health districts, and city school districts of the state, not specifically included in the unclassified service. Upon the creation by the board of trustees of a civil service township civil service commission, the classified service shall also comprise, except as otherwise provided in division (A) (17) or (C) of this section, all persons in the employ of a civil service township police or fire department having ten or more full-time paid employees. The classified service consists of two classes, which shall be designated as the competitive class and the unskilled labor	210 211 212 213 214 215 216 217 218 219 220 221

class. 222

(1) The competitive class shall include all positions and 223
employments in the state and the counties, cities, city health 224
districts, general health districts, and city school districts 225
of the state, and, upon the creation by the board of trustees of 226
a civil service township of a township civil service commission, 227
all positions in a civil service township police or fire 228
department having ten or more full-time paid employees, for 229
which it is practicable to determine the merit and fitness of 230
applicants by competitive examinations. Appointments shall be 231
made to, or employment shall be given in, all positions in the 232
competitive class that are not filled by promotion, 233
reinstatement, transfer, or reduction, as provided in this 234
chapter, and the rules of the director of administrative 235
services, by appointment from those certified to the appointing 236
officer in accordance with this chapter. 237

(2) The unskilled labor class shall include ordinary 238
unskilled laborers. Vacancies in the labor class for positions 239
in service of the state shall be filled by appointment from 240
lists of applicants registered by the director or the director's 241
designee. Vacancies in the labor class for all other positions 242
shall be filled by appointment from lists of applicants 243
registered by a commission. The director or the commission, as 244
applicable, by rule, shall require an applicant for registration 245
in the labor class to furnish evidence or take tests as the 246
director or commission considers proper with respect to age, 247
residence, physical condition, ability to labor, honesty, 248
sobriety, industry, capacity, and experience in the work or 249
employment for which application is made. Laborers who fulfill 250
the requirements shall be placed on the eligible list for the 251
kind of labor or employment sought, and preference shall be 252

given in employment in accordance with the rating received from 253
that evidence or in those tests. Upon the request of an 254
appointing officer, stating the kind of labor needed, the pay 255
and probable length of employment, and the number to be 256
employed, the director or commission, as applicable, shall 257
certify from the highest on the list double the number to be 258
employed; from this number, the appointing officer shall appoint 259
the number actually needed for the particular work. If more than 260
one applicant receives the same rating, priority in time of 261
application shall determine the order in which their names shall 262
be certified for appointment. 263

(C) A municipal or civil service township civil service 264
commission may place volunteer firefighters who are paid on a 265
fee-for-service basis in either the classified or the 266
unclassified civil service. 267

(D) (1) This division does not apply to persons in the 268
unclassified service who have the right to resume positions in 269
the classified service under sections 4121.121, 5119.18, 270
5120.38, 5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of 271
the Revised Code or to cities, counties, or political 272
subdivisions of the state. 273

(2) A person who holds a position in the classified 274
service of the state and who is appointed to a position in the 275
unclassified service shall retain the right to resume the 276
position and status held by the person in the classified service 277
immediately prior to the person's appointment to the position in 278
the unclassified service, regardless of the number of positions 279
the person held in the unclassified service. An employee's right 280
to resume a position in the classified service may only be 281
exercised when an appointing authority demotes the employee to a 282

pay range lower than the employee's current pay range or revokes	283
the employee's appointment to the unclassified service and:	284
(a) That person held a certified position prior to July 1,	285
2007, in the classified service within the appointing	286
authority's agency; or	287
(b) That person held a permanent position on or after July	288
1, 2007, in the classified service within the appointing	289
authority's agency.	290
(3) An employee forfeits the right to resume a position in	291
the classified service when:	292
(a) The employee is removed from the position in the	293
unclassified service due to incompetence, inefficiency,	294
dishonesty, drunkenness, immoral conduct, insubordination,	295
discourteous treatment of the public, neglect of duty, violation	296
of this chapter or the rules of the director of administrative	297
services, any other failure of good behavior, any other acts of	298
misfeasance, malfeasance, or nonfeasance in office, or	299
conviction of a felony <u>while employed in the civil service</u> ; or	300
(b) Upon transfer to a different agency.	301
(4) Reinstatement to a position in the classified service	302
shall be to a position substantially equal to that position in	303
the classified service held previously, as certified by the	304
director of administrative services. If the position the person	305
previously held in the classified service has been placed in the	306
unclassified service or is otherwise unavailable, the person	307
shall be appointed to a position in the classified service	308
within the appointing authority's agency that the director of	309
administrative services certifies is comparable in compensation	310
to the position the person previously held in the classified	311

service. Service in the position in the unclassified service 312
shall be counted as service in the position in the classified 313
service held by the person immediately prior to the person's 314
appointment to the position in the unclassified service. When a 315
person is reinstated to a position in the classified service as 316
provided in this division, the person is entitled to all rights, 317
status, and benefits accruing to the position in the classified 318
service during the person's time of service in the position in 319
the unclassified service. 320

Sec. 124.34. (A) The tenure of every officer or employee 321
in the classified service of the state and the counties, civil 322
service townships, cities, city health districts, general health 323
districts, and city school districts of the state, holding a 324
position under this chapter, shall be during good behavior and 325
efficient service. No officer or employee shall be reduced in 326
pay or position, fined, suspended, or removed, or have the 327
officer's or employee's longevity reduced or eliminated, except 328
as provided in section 124.32 of the Revised Code, and for 329
incompetency, inefficiency, dishonesty, drunkenness, immoral 330
conduct, insubordination, discourteous treatment of the public, 331
neglect of duty, violation of any policy or work rule of the 332
officer's or employee's appointing authority, violation of this 333
chapter or the rules of the director of administrative services 334
or the commission, any other failure of good behavior, any other 335
acts of misfeasance, malfeasance, or nonfeasance in office, or 336
conviction of a felony while employed in the civil service. The 337
denial of a one-time pay supplement or a bonus to an officer or 338
employee is not a reduction in pay for purposes of this section. 339

This section does not apply to any modifications or 340
reductions in pay or work week authorized by division (Q) of 341
section 124.181 or section 124.392, 124.393, or 124.394 of the 342

Revised Code. 343

An appointing authority may require an employee who is 344
suspended to report to work to serve the suspension. An employee 345
serving a suspension in this manner shall continue to be 346
compensated at the employee's regular rate of pay for hours 347
worked. The disciplinary action shall be recorded in the 348
employee's personnel file in the same manner as other 349
disciplinary actions and has the same effect as a suspension 350
without pay for the purpose of recording disciplinary actions. 351

A finding by the appropriate ethics commission, based upon 352
a preponderance of the evidence, that the facts alleged in a 353
complaint under section 102.06 of the Revised Code constitute a 354
violation of Chapter 102., section 2921.42, or section 2921.43 355
of the Revised Code may constitute grounds for dismissal. 356
Failure to file a statement or falsely filing a statement 357
required by section 102.02 of the Revised Code may also 358
constitute grounds for dismissal. The tenure of an employee in 359
the career professional service of the department of 360
transportation is subject to section 5501.20 of the Revised 361
Code. 362

Conviction of a felony while employed in the civil service 363
is a separate basis for reducing in pay or position, suspending, 364
or removing an officer or employee, even if the officer or 365
employee has already been reduced in pay or position, suspended, 366
or removed for the same conduct that is the basis of the felony. 367
An officer or employee may not appeal to the state personnel 368
board of review or the commission any disciplinary action taken 369
by an appointing authority as a result of the officer's or 370
employee's conviction of a felony. If an officer or employee 371
removed under this section is reinstated as a result of an 372

appeal of the removal, any conviction of a felony that occurs 373
during the pendency of the appeal is a basis for further 374
disciplinary action under this section upon the officer's or 375
employee's reinstatement. 376

A person convicted of a felony while employed in the civil 377
service immediately forfeits the person's status as a classified 378
employee in any public employment on and after the date of the 379
conviction for the felony. If an officer or employee is removed 380
under this section as a result of being convicted of a felony or 381
is subsequently convicted of a felony that involves the same 382
conduct that was the basis for the removal, the officer or 383
employee is barred from receiving any compensation after the 384
removal notwithstanding any modification or disaffirmance of the 385
removal, unless the conviction for the felony is subsequently 386
reversed or annulled. 387

Any person removed for conviction of a felony is entitled 388
to a cash payment for any accrued but unused sick, personal, and 389
vacation leave as authorized by law. If subsequently reemployed 390
in the public sector, the person shall qualify for and accrue 391
these forms of leave in the manner specified by law for a newly 392
appointed employee and shall not be credited with prior public 393
service for the purpose of receiving these forms of leave. 394

As used in this division, "felony" means any of the 395
following: 396

(1) A felony that is an offense of violence as defined in 397
section 2901.01 of the Revised Code; 398

(2) A felony that is a felony drug abuse offense as 399
defined in section 2925.01 of the Revised Code; 400

(3) A felony under the laws of this or any other state or 401

the United States that is a crime of moral turpitude; 402

(4) A felony involving dishonesty, fraud, or theft; 403

(5) A felony that is a violation of section 2921.05, 404
2921.32, or 2921.42 of the Revised Code. 405

(B) In case of a reduction, a suspension of more than 406
forty work hours in the case of an employee exempt from the 407
payment of overtime compensation, a suspension of more than 408
twenty-four work hours in the case of an employee required to be 409
paid overtime compensation, a fine of more than forty hours' pay 410
in the case of an employee exempt from the payment of overtime 411
compensation, a fine of more than twenty-four hours' pay in the 412
case of an employee required to be paid overtime compensation, 413
or removal, except for the reduction or removal of a 414
probationary employee, the appointing authority shall serve the 415
employee with a copy of the order of reduction, fine, 416
suspension, or removal, which order shall state the reasons for 417
the action. 418

Within ten days following the date on which the order is 419
served or, in the case of an employee in the career professional 420
service of the department of transportation, within ten days 421
following the filing of a removal order, the employee, except as 422
otherwise provided in this section, may file an appeal of the 423
order in writing with the state personnel board of review or the 424
commission. For purposes of this section, the date on which an 425
order is served is the date of hand delivery of the order or the 426
date of delivery of the order by certified United States mail, 427
whichever occurs first. If an appeal is filed, the board or 428
commission shall forthwith notify the appointing authority and 429
shall hear, or appoint a trial board to hear, the appeal within 430
thirty days from and after its filing with the board or 431

commission. The board, commission, or trial board may affirm, 432
disaffirm, or modify the judgment of the appointing authority. 433
However, in an appeal of a removal order based upon a violation 434
of a last chance agreement, the board, commission, or trial 435
board may only determine if the employee violated the agreement 436
and thus affirm or disaffirm the judgment of the appointing 437
authority. 438

In cases of removal or reduction in pay for disciplinary 439
reasons, either the appointing authority or the officer or 440
employee may appeal from the decision of the state personnel 441
board of review or the commission, and any such appeal shall be 442
to the court of common pleas of the county in which the 443
appointing authority is located, or to the court of common pleas 444
of Franklin county, as provided by section 119.12 of the Revised 445
Code. 446

(C) In the case of the suspension for any period of time, 447
or a fine, demotion, or removal, of a chief of police, a chief 448
of a fire department, or any member of the police or fire 449
department of a city or civil service township, who is in the 450
classified civil service, the appointing authority shall furnish 451
the chief or member with a copy of the order of suspension, 452
fine, demotion, or removal, which order shall state the reasons 453
for the action. The order shall be filed with the municipal or 454
civil service township civil service commission. Within ten days 455
following the filing of the order, the chief or member may file 456
an appeal, in writing, with the commission. If an appeal is 457
filed, the commission shall forthwith notify the appointing 458
authority and shall hear, or appoint a trial board to hear, the 459
appeal within thirty days from and after its filing with the 460
commission, and it may affirm, disaffirm, or modify the judgment 461
of the appointing authority. An appeal on questions of law and 462

fact may be had from the decision of the commission to the court 463
of common pleas in the county in which the city or civil service 464
township is situated. The appeal shall be taken within thirty 465
days from the finding of the commission. 466

(D) A violation of division (A) (7) of section 2907.03 of 467
the Revised Code is grounds for termination of employment of a 468
nonteaching employee under this section. 469

(E) As used in this section, "last chance agreement" means 470
an agreement signed by both an appointing authority and an 471
officer or employee of the appointing authority that describes 472
the type of behavior or circumstances that, if it occurs, will 473
automatically lead to removal of the officer or employee without 474
the right of appeal to the state personnel board of review or 475
the appropriate commission. 476

Sec. 329.021. (A) The board of county commissioners may, 477
in addition to the county director of job and family services, 478
appoint administrators to oversee services provided by the 479
county department of job and family services, subject to the 480
following limitations: 481

(1) If the county has a population of five hundred 482
thousand or more, the board may appoint up to five 483
administrators. 484

(2) If the county has a population of two hundred and 485
fifty thousand or more, but less than five hundred thousand, the 486
board may appoint up to four administrators. 487

(3) If the county has a population of one hundred thousand 488
or more, but less than two hundred and fifty thousand, the board 489
may appoint up to three administrators. 490

(4) If the county has a population of forty thousand or 491

more, but less than one hundred thousand, the board may appoint 492
up to two administrators. 493

(5) If the county has a population of less than forty 494
thousand, the board may appoint one administrator. 495

(B) The administrators appointed by the board of county 496
commissioners under this section shall be in the unclassified 497
civil service and serve at the pleasure of the board. However, 498
no administrator position that is filled by a person serving in 499
the classified service ~~on the effective date of this amendment~~ 500
July 1, 2007, shall be placed in the unclassified civil service 501
until that person vacates the position. 502

(C) The board of county commissioners may appoint a person 503
who holds a certified position in the classified service within 504
the county department of job and family services to the position 505
of administrator. A person appointed to the position of 506
administrator pursuant to this division and later removed by the 507
board retains the right to resume the position in the classified 508
service held by that person immediately prior to being appointed 509
to the position of administrator, except that a person first 510
appointed to a classified position in the department on or after 511
~~the effective date of this amendment~~ July 1, 2007, shall retain 512
the right to resume the position in the classified service for 513
only six months after being appointed to the position of 514
administrator. An employee forfeits the right to resume a 515
position in the classified service when the employee is removed 516
from the position of administrator due to incompetence, 517
inefficiency, dishonesty, drunkenness, immoral conduct, 518
insubordination, discourteous treatment of the public, neglect 519
of duty, violation of any policy or work rule of the board or 520
department, violation of Chapter 124. of the Revised Code or the 521

rules of the director of administrative services, any other 522
failure of good behavior, any other acts of misfeasance, 523
malfeasance, or nonfeasance in office, or conviction of a felony 524
while employed in the civil service. If the position the person 525
previously held in the classified service no longer exists or 526
has been placed in the unclassified service, the person shall be 527
appointed to a position in the classified service of the 528
department that is equivalent to the classified position the 529
person previously held, as determined by the board with the 530
approval of the director of administrative services. 531

(D) As used in this section, "administrator" means 532
assistant director, fiscal officer or director, personnel 533
officer or director, social services administrator, income 534
maintenance administrator, child support administrator in a 535
combined agency, children services administrator in a combined 536
agency, and workforce development administrator in a combined 537
agency. 538

Sec. 2953.36. Sections 2953.31 to 2953.35 of the Revised 539
Code do not apply to any of the following: 540

(A) Convictions when the offender is subject to a 541
mandatory prison term; 542

(B) Convictions under section 2907.02, 2907.03, 2907.04, 543
2907.05, 2907.06, 2907.321, 2907.322, or 2907.323, former 544
section 2907.12, or Chapter 4507., 4510., 4511., or 4549. of the 545
Revised Code, or a conviction for a violation of a municipal 546
ordinance that is substantially similar to any section contained 547
in any of those chapters, except as otherwise provided in 548
section 2953.61 of the Revised Code; 549

(C) Convictions of an offense of violence when the offense 550

is a misdemeanor of the first degree or a felony and when the 551
offense is not a violation of section 2917.03 of the Revised 552
Code and is not a violation of section 2903.13, 2917.01, or 553
2917.31 of the Revised Code that is a misdemeanor of the first 554
degree; 555

(D) Convictions on or after October 10, 2007, under 556
section 2907.07 of the Revised Code or a conviction on or after 557
October 10, 2007, for a violation of a municipal ordinance that 558
is substantially similar to that section; 559

(E) Convictions on or after October 10, 2007, under 560
section 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.31, 561
2907.311, 2907.32, or 2907.33 of the Revised Code when the 562
victim of the offense was under eighteen years of age; 563

(F) Convictions of an offense in circumstances in which 564
the victim of the offense was ~~under eighteen~~ less than sixteen 565
years of age when the offense is a misdemeanor of the first 566
degree or a felony, except for convictions under section 2919.21 567
of the Revised Code; 568

(G) Convictions of a felony of the first or second degree; 569

(H) Bail forfeitures in a traffic case as defined in 570
Traffic Rule 2. 571

Sec. 4121.121. (A) There is hereby created the bureau of 572
workers' compensation, which shall be administered by the 573
administrator of workers' compensation. A person appointed to 574
the position of administrator shall possess significant 575
management experience in effectively managing an organization or 576
organizations of substantial size and complexity. A person 577
appointed to the position of administrator also shall possess a 578
minimum of five years of experience in the field of workers' 579

compensation insurance or in another insurance industry, except 580
as otherwise provided when the conditions specified in division 581
(C) of this section are satisfied. The governor shall appoint 582
the administrator as provided in section 121.03 of the Revised 583
Code, and the administrator shall serve at the pleasure of the 584
governor. The governor shall fix the administrator's salary on 585
the basis of the administrator's experience and the 586
administrator's responsibilities and duties under this chapter 587
and Chapters 4123., 4125., 4127., 4131., and 4167. of the 588
Revised Code. The governor shall not appoint to the position of 589
administrator any person who has, or whose spouse has, given a 590
contribution to the campaign committee of the governor in an 591
amount greater than one thousand dollars during the two-year 592
period immediately preceding the date of the appointment of the 593
administrator. 594

The administrator shall hold no other public office and 595
shall devote full time to the duties of administrator. Before 596
entering upon the duties of the office, the administrator shall 597
take an oath of office as required by sections 3.22 and 3.23 of 598
the Revised Code, and shall file in the office of the secretary 599
of state, a bond signed by the administrator and by surety 600
approved by the governor, for the sum of fifty thousand dollars 601
payable to the state, conditioned upon the faithful performance 602
of the administrator's duties. 603

(B) The administrator is responsible for the management of 604
the bureau and for the discharge of all administrative duties 605
imposed upon the administrator in this chapter and Chapters 606
4123., 4125., 4127., 4131., and 4167. of the Revised Code, and 607
in the discharge thereof shall do all of the following: 608

(1) Perform all acts and exercise all authorities and 609

powers, discretionary and otherwise that are required of or 610
vested in the bureau or any of its employees in this chapter and 611
Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised 612
Code, except the acts and the exercise of authority and power 613
that is required of and vested in the bureau of workers' 614
compensation board of directors or the industrial commission 615
pursuant to those chapters. The treasurer of state shall honor 616
all warrants signed by the administrator, or by one or more of 617
the administrator's employees, authorized by the administrator 618
in writing, or bearing the facsimile signature of the 619
administrator or such employee under sections 4123.42 and 620
4123.44 of the Revised Code. 621

(2) Employ, direct, and supervise all employees required 622
in connection with the performance of the duties assigned to the 623
bureau by this chapter and Chapters 4123., 4125., 4127., 4131., 624
and 4167. of the Revised Code, including an actuary, and may 625
establish job classification plans and compensation for all 626
employees of the bureau provided that this grant of authority 627
shall not be construed as affecting any employee for whom the 628
state employment relations board has established an appropriate 629
bargaining unit under section 4117.06 of the Revised Code. All 630
positions of employment in the bureau are in the classified 631
civil service except those employees the administrator may 632
appoint to serve at the administrator's pleasure in the 633
unclassified civil service pursuant to section 124.11 of the 634
Revised Code. The administrator shall fix the salaries of 635
employees the administrator appoints to serve at the 636
administrator's pleasure, including the chief operating officer, 637
staff physicians, and other senior management personnel of the 638
bureau and shall establish the compensation of staff attorneys 639
of the bureau's legal section and their immediate supervisors, 640

and take whatever steps are necessary to provide adequate 641
compensation for other staff attorneys. 642

The administrator may appoint a person who holds a 643
certified position in the classified service within the bureau 644
to a position in the unclassified service within the bureau. A 645
person appointed pursuant to this division to a position in the 646
unclassified service shall retain the right to resume the 647
position and status held by the person in the classified service 648
immediately prior to the person's appointment in the 649
unclassified service, regardless of the number of positions the 650
person held in the unclassified service. An employee's right to 651
resume a position in the classified service may only be 652
exercised when the administrator demotes the employee to a pay 653
range lower than the employee's current pay range or revokes the 654
employee's appointment to the unclassified service. An employee 655
forfeits the right to resume a position in the classified 656
service when the employee is removed from the position in the 657
unclassified service due to incompetence, inefficiency, 658
dishonesty, drunkenness, immoral conduct, insubordination, 659
discourteous treatment of the public, neglect of duty, violation 660
of this chapter or Chapter 124., 4123., 4125., 4127., 4131., or 661
4167. of the Revised Code, violation of the rules of the 662
director of administrative services or the administrator, any 663
other failure of good behavior, any other acts of misfeasance, 664
malfeasance, or nonfeasance in office, or conviction of a felony 665
while employed in the civil service. An employee also forfeits 666
the right to resume a position in the classified service upon 667
transfer to a different agency. 668

Reinstatement to a position in the classified service 669
shall be to a position substantially equal to that position in 670
the classified service held previously, as certified by the 671

department of administrative services. If the position the 672
person previously held in the classified service has been placed 673
in the unclassified service or is otherwise unavailable, the 674
person shall be appointed to a position in the classified 675
service within the bureau that the director of administrative 676
services certifies is comparable in compensation to the position 677
the person previously held in the classified service. Service in 678
the position in the unclassified service shall be counted as 679
service in the position in the classified service held by the 680
person immediately prior to the person's appointment in the 681
unclassified service. When a person is reinstated to a position 682
in the classified service as provided in this division, the 683
person is entitled to all rights, status, and benefits accruing 684
to the position during the person's time of service in the 685
position in the unclassified service. 686

(3) Reorganize the work of the bureau, its sections, 687
departments, and offices to the extent necessary to achieve the 688
most efficient performance of its functions and to that end may 689
establish, change, or abolish positions and assign and reassign 690
duties and responsibilities of every employee of the bureau. All 691
persons employed by the commission in positions that, after 692
November 3, 1989, are supervised and directed by the 693
administrator under this section are transferred to the bureau 694
in their respective classifications but subject to reassignment 695
and reclassification of position and compensation as the 696
administrator determines to be in the interest of efficient 697
administration. The civil service status of any person employed 698
by the commission is not affected by this section. Personnel 699
employed by the bureau or the commission who are subject to 700
Chapter 4117. of the Revised Code shall retain all of their 701
rights and benefits conferred pursuant to that chapter as it 702

presently exists or is hereafter amended and nothing in this 703
chapter or Chapter 4123. of the Revised Code shall be construed 704
as eliminating or interfering with Chapter 4117. of the Revised 705
Code or the rights and benefits conferred under that chapter to 706
public employees or to any bargaining unit. 707

(4) Provide offices, equipment, supplies, and other 708
facilities for the bureau. 709

(5) Prepare and submit to the board information the 710
administrator considers pertinent or the board requires, 711
together with the administrator's recommendations, in the form 712
of administrative rules, for the advice and consent of the 713
board, for classifications of occupations or industries, for 714
premium rates and contributions, for the amount to be credited 715
to the surplus fund, for rules and systems of rating, rate 716
revisions, and merit rating. The administrator shall obtain, 717
prepare, and submit any other information the board requires for 718
the prompt and efficient discharge of its duties. 719

(6) Keep the accounts required by division (A) of section 720
4123.34 of the Revised Code and all other accounts and records 721
necessary to the collection, administration, and distribution of 722
the workers' compensation funds and shall obtain the statistical 723
and other information required by section 4123.19 of the Revised 724
Code. 725

(7) Exercise the investment powers vested in the 726
administrator by section 4123.44 of the Revised Code in 727
accordance with the investment policy approved by the board 728
pursuant to section 4121.12 of the Revised Code and in 729
consultation with the chief investment officer of the bureau of 730
workers' compensation. The administrator shall not engage in any 731
prohibited investment activity specified by the board pursuant 732

to division (F) (9) of section 4121.12 of the Revised Code and 733
shall not invest in any type of investment specified in 734
divisions (B) (1) to (10) of section 4123.442 of the Revised 735
Code. All business shall be transacted, all funds invested, all 736
warrants for money drawn and payments made, and all cash and 737
securities and other property held, in the name of the bureau, 738
or in the name of its nominee, provided that nominees are 739
authorized by the administrator solely for the purpose of 740
facilitating the transfer of securities, and restricted to the 741
administrator and designated employees. 742

(8) Make contracts for and supervise the construction of 743
any project or improvement or the construction or repair of 744
buildings under the control of the bureau. 745

(9) Purchase supplies, materials, equipment, and services; 746
make contracts for, operate, and superintend the telephone, 747
other telecommunication, and computer services for the use of 748
the bureau; and make contracts in connection with office 749
reproduction, forms management, printing, and other services. 750
Notwithstanding sections 125.12 to 125.14 of the Revised Code, 751
the administrator may transfer surplus computers and computer 752
equipment directly to an accredited public school within the 753
state. The computers and computer equipment may be repaired or 754
refurbished prior to the transfer. 755

(10) Prepare and submit to the board an annual budget for 756
internal operating purposes for the board's approval. The 757
administrator also shall, separately from the budget the 758
industrial commission submits, prepare and submit to the 759
director of budget and management a budget for each biennium. 760
The budgets submitted to the board and the director shall 761
include estimates of the costs and necessary expenditures of the 762

bureau in the discharge of any duty imposed by law. 763

(11) As promptly as possible in the course of efficient 764
administration, decentralize and relocate such of the personnel 765
and activities of the bureau as is appropriate to the end that 766
the receipt, investigation, determination, and payment of claims 767
may be undertaken at or near the place of injury or the 768
residence of the claimant and for that purpose establish 769
regional offices, in such places as the administrator considers 770
proper, capable of discharging as many of the functions of the 771
bureau as is practicable so as to promote prompt and efficient 772
administration in the processing of claims. All active and 773
inactive lost-time claims files shall be held at the service 774
office responsible for the claim. A claimant, at the claimant's 775
request, shall be provided with information by telephone as to 776
the location of the file pertaining to the claimant's claim. The 777
administrator shall ensure that all service office employees 778
report directly to the director for their service office. 779

(12) Provide a written binder on new coverage where the 780
administrator considers it to be in the best interest of the 781
risk. The administrator, or any other person authorized by the 782
administrator, shall grant the binder upon submission of a 783
request for coverage by the employer. A binder is effective for 784
a period of thirty days from date of issuance and is 785
nonrenewable. Payroll reports and premium charges shall coincide 786
with the effective date of the binder. 787

(13) Set standards for the reasonable and maximum handling 788
time of claims payment functions, ensure, by rules, the 789
impartial and prompt treatment of all claims and employer risk 790
accounts, and establish a secure, accurate method of time 791
stamping all incoming mail and documents hand delivered to 792

bureau employees.	793
(14) Ensure that all employees of the bureau follow the orders and rules of the commission as such orders and rules relate to the commission's overall adjudicatory policy-making and management duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code.	794 795 796 797 798
(15) Manage and operate a data processing system with a common data base for the use of both the bureau and the commission and, in consultation with the commission, using electronic data processing equipment, shall develop a claims tracking system that is sufficient to monitor the status of a claim at any time and that lists appeals that have been filed and orders or determinations that have been issued pursuant to section 4123.511 or 4123.512 of the Revised Code, including the dates of such filings and issuances.	799 800 801 802 803 804 805 806 807
(16) Establish and maintain a medical section within the bureau. The medical section shall do all of the following:	808 809
(a) Assist the administrator in establishing standard medical fees, approving medical procedures, and determining eligibility and reasonableness of the compensation payments for medical, hospital, and nursing services, and in establishing guidelines for payment policies which recognize usual, customary, and reasonable methods of payment for covered services;	810 811 812 813 814 815 816
(b) Provide a resource to respond to questions from claims examiners for employees of the bureau;	817 818
(c) Audit fee bill payments;	819
(d) Implement a program to utilize, to the maximum extent possible, electronic data processing equipment for storage of	820 821

information to facilitate authorizations of compensation 822
payments for medical, hospital, drug, and nursing services; 823

(e) Perform other duties assigned to it by the 824
administrator. 825

(17) Appoint, as the administrator determines necessary, 826
panels to review and advise the administrator on disputes 827
arising over a determination that a health care service or 828
supply provided to a claimant is not covered under this chapter 829
or Chapter 4123., 4127., or 4131. of the Revised Code or is 830
medically unnecessary. If an individual health care provider is 831
involved in the dispute, the panel shall consist of individuals 832
licensed pursuant to the same section of the Revised Code as 833
such health care provider. 834

(18) Pursuant to section 4123.65 of the Revised Code, 835
approve applications for the final settlement of claims for 836
compensation or benefits under this chapter and Chapters 4123., 837
4127., and 4131. of the Revised Code as the administrator 838
determines appropriate, except in regard to the applications of 839
self-insuring employers and their employees. 840

(19) Comply with section 3517.13 of the Revised Code, and 841
except in regard to contracts entered into pursuant to the 842
authority contained in section 4121.44 of the Revised Code, 843
comply with the competitive bidding procedures set forth in the 844
Revised Code for all contracts into which the administrator 845
enters provided that those contracts fall within the type of 846
contracts and dollar amounts specified in the Revised Code for 847
competitive bidding and further provided that those contracts 848
are not otherwise specifically exempt from the competitive 849
bidding procedures contained in the Revised Code. 850

(20) Adopt, with the advice and consent of the board, 851
rules for the operation of the bureau. 852

(21) Prepare and submit to the board information the 853
administrator considers pertinent or the board requires, 854
together with the administrator's recommendations, in the form 855
of administrative rules, for the advice and consent of the 856
board, for the health partnership program and the qualified 857
health plan system, as provided in sections 4121.44, 4121.441, 858
and 4121.442 of the Revised Code. 859

(C) The administrator, with the advice and consent of the 860
senate, shall appoint a chief operating officer who has a 861
minimum of five years of experience in the field of workers' 862
compensation insurance or in another similar insurance industry 863
if the administrator does not possess such experience. The chief 864
operating officer shall not commence the chief operating 865
officer's duties until after the senate consents to the chief 866
operating officer's appointment. The chief operating officer 867
shall serve in the unclassified civil service of the state. 868

Sec. 5123.08. An appointing officer may appoint a person 869
who holds a certified position in the classified service within 870
the department of developmental disabilities to a position in 871
the unclassified service within the department. A person 872
appointed pursuant to this section to a position in the 873
unclassified service shall retain the right to resume the 874
position and status held by the person in the classified service 875
immediately prior to the person's appointment to the position in 876
the unclassified service, regardless of the number of positions 877
the person held in the unclassified service. An employee's right 878
to resume a position in the classified service may only be 879
exercised when an appointing authority demotes the employee to a 880

pay range lower than the employee's current pay range or revokes 881
the employee's appointment to the unclassified service. An 882
employee forfeits the right to resume a position in the 883
classified service when the employee is removed from the 884
position in the unclassified service due to incompetence, 885
inefficiency, dishonesty, drunkenness, immoral conduct, 886
insubordination, discourteous treatment of the public, neglect 887
of duty, violation of this chapter or Chapter 124. of the 888
Revised Code, the rules of the director of developmental 889
disabilities or the director of administrative services, any 890
other failure of good behavior, any other acts of misfeasance, 891
malfeasance, or nonfeasance in office, or conviction of a felony 892
while employed in the civil service. An employee also forfeits 893
the right to resume a position in the classified service upon 894
transfer to a different agency. 895

Reinstatement to a position in the classified service 896
shall be to a position substantially equal to that position in 897
the classified service held previously, as certified by the 898
director of administrative services. If the position the person 899
previously held in the classified service has been placed in the 900
unclassified service or is otherwise unavailable, the person 901
shall be appointed to a position in the classified service 902
within the department that the director of administrative 903
services certifies is comparable in compensation to the position 904
the person previously held in the classified service. Service in 905
the position in the unclassified service shall be counted as 906
service in the position in the classified service held by the 907
person immediately prior to the person's appointment to the 908
position in the unclassified service. When a person is 909
reinstated to a position in the classified service as provided 910
in this section, the person is entitled to all rights, status, 911

and benefits accruing to the position in the classified service 912
during the time of the person's service in the position in the 913
unclassified service. 914

Sec. 5139.02. (A) (1) As used in this section, "managing 915
officer" means a deputy director, an assistant deputy director, 916
a superintendent, a regional administrator, a deputy 917
superintendent, or the superintendent of schools of the 918
department of youth services, a member of the release authority, 919
the chief of staff to the release authority, and the victims 920
administrator of the office of victim services. 921

(2) Each division established by the director of youth 922
services shall consist of managing officers and other employees, 923
including those employed in institutions and regions as 924
necessary to perform the functions assigned to them. The 925
director or appropriate deputy director or managing officer of 926
the department shall supervise the work of each division and 927
determine general policies governing the exercise of powers 928
vested in the department and assigned to each division. The 929
appropriate managing officer or deputy director is responsible 930
to the director for the organization, direction, and supervision 931
of the work of the division or unit and for the exercise of the 932
powers and the performance of the duties of the department 933
assigned to it and, with the director's approval, may establish 934
bureaus or other administrative units within the department. 935

(B) The director shall appoint all managing officers, who 936
shall be in the unclassified civil service. The director may 937
appoint a person who holds a certified position in the 938
classified service within the department to a position as a 939
managing officer within the department. A person appointed 940
pursuant to this division to a position as a managing officer 941

shall retain the right to resume the position and status held by 942
the person in the classified service immediately prior to the 943
person's appointment as managing officer, regardless of the 944
number of positions the person held in the unclassified service. 945
A managing officer's right to resume a position in the 946
classified service may only be exercised when the director 947
demotes the managing officer to a pay range lower than the 948
managing officer's current pay range or revokes the managing 949
officer's appointment to the position of managing officer. A 950
managing officer forfeits the right to resume a position in the 951
classified service when the managing officer is removed from the 952
position of managing officer due to incompetence, inefficiency, 953
dishonesty, drunkenness, immoral conduct, insubordination, 954
discourteous treatment of the public, neglect of duty, violation 955
of this chapter or Chapter 124. of the Revised Code, the rules 956
of the director of youth services or the director of 957
administrative services, any other failure of good behavior, any 958
other acts of misfeasance, malfeasance, or nonfeasance in 959
office, or conviction of a felony while employed in the civil 960
service. A managing officer also forfeits the right to resume a 961
position in the classified service upon transfer to a different 962
agency. 963

Reinstatement to a position in the classified service 964
shall be to the position held in the classified service 965
immediately prior to appointment as managing officer, or to 966
another position certified by the director of administrative 967
services as being substantially equal to that position. If the 968
position the person previously held in the classified service 969
immediately prior to appointment as a managing officer has been 970
placed in the unclassified service or is otherwise unavailable, 971
the person shall be appointed to a position in the classified 972

service within the department that the director of 973
administrative services certifies is comparable in compensation 974
to the position the person previously held in the classified 975
service. Service as a managing officer shall be counted as 976
service in the position in the classified service held by the 977
person immediately prior to the person's appointment as a 978
managing officer. If a person is reinstated to a position in the 979
classified service under this division, the person shall be 980
returned to the pay range and step to which the person had been 981
assigned at the time of the appointment as managing officer. 982
Longevity, where applicable, shall be calculated pursuant to the 983
provisions of section 124.181 of the Revised Code. 984

(C) Each person appointed as a managing officer shall have 985
received special training and shall have experience in the type 986
of work that the person's division is required to perform. Each 987
managing officer, under the supervision of the director, has 988
entire charge of the division, institution, unit, or region for 989
which the managing officer is appointed and, with the director's 990
approval, shall appoint necessary employees and may remove them 991
for cause. 992

(D) The director may designate one or more deputy 993
directors to sign any personnel actions on the director's 994
behalf. The director shall make a designation in a writing 995
signed by the director, and the designation shall remain in 996
effect until the director revokes or supersedes it with a new 997
designation. 998

Section 2. That existing sections 124.11, 124.34, 329.021, 999
2953.36, 4121.121, 5123.08, and 5139.02 of the Revised Code are 1000
hereby repealed. 1001