

As Passed by the Senate

131st General Assembly

Regular Session

2015-2016

S. B. No. 220

Senator Hottinger

**Cosponsors: Senators Seitz, Eklund, Williams, Uecker, Bacon, Brown, Coley,
Gardner, Hackett, Hite, Jones, Jordan, Schiavoni, Thomas**

A BILL

To amend sections 148.04 and 148.06 of the Revised 1
Code to authorize the Ohio Public Employees 2
Deferred Compensation Board and local 3
governments to establish designated Roth account 4
features and other tax-deferred or nontax- 5
deferred features permitted for government 6
deferred compensation plans. 7

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

Section 1. That sections 148.04 and 148.06 of the Revised 8
Code be amended to read as follows: 9

Sec. 148.04. (A) The Ohio public employees deferred 10
compensation board shall initiate, plan, expedite, and, subject 11
to an appropriate assurance of the approval of the internal 12
revenue service, promulgate and offer to all eligible employees, 13
and thereafter administer on behalf of all participating 14
employees and continuing members, and alter as required, a 15
program for deferral of compensation, including a reasonable 16
number of options to the employee for the investment of deferred 17
funds, always in such form as will assure the desired tax 18

treatment of such funds. The members of the board are the 19
trustees of any deferred funds and shall discharge their duties 20
with respect to the funds solely in the interest of and for the 21
exclusive benefit of participating employees, continuing 22
members, and their beneficiaries. With respect to such deferred 23
funds, section 148.09 of the Revised Code shall apply to claims 24
against participating employees or continuing members and their 25
employers. 26

(B) The Ohio public employees deferred compensation 27
program shall provide informational materials and acknowledgment 28
forms to employers required to comply with division (C) of this 29
section. 30

(C) (1) Whenever an individual becomes employed in a 31
position paid by warrant of the director of budget and 32
management, the individual's employer shall do both of the 33
following at the time the employee completes the employee's 34
initial employment paperwork: 35

(a) Provide to the employee materials provided by the Ohio 36
public employees deferred compensation program under division 37
(B) of this section regarding the benefits of long-term savings 38
through deferred compensation; 39

(b) Secure, in writing or by electronic means, the 40
employee's acknowledgment form regarding the employee's desire 41
to participate or not participate in a deferred compensation 42
program offered by the board. 43

An election regarding participation under this section 44
shall be made in such manner and form as is prescribed by the 45
Ohio public employees deferred compensation program and shall be 46
filed with the program. 47

The employer shall forward each acknowledgment form 48
completed under this division to the deferred compensation 49
program not later than forty-five days after the date on which 50
the employee's employment begins. 51

(2) Every employer of an eligible employee shall contract 52
with the employee upon the employee's application for 53
participation in a deferred compensation program offered by the 54
board. 55

(D) The board shall, subject to any applicable contract 56
provisions, undertake to obtain as favorable conditions of tax 57
treatment as possible, both in the initial programs and any 58
permitted alterations of them or additions to them, as to such 59
matters as terms of distribution, designation of beneficiaries, 60
withdrawal upon disability, financial hardship, or termination 61
of public employment, and other optional provisions. 62

The board may establish a designated Roth account feature 63
or any other feature in which an employee may make tax-deferred 64
or nontax-deferred contributions to an eligible government plan 65
in accordance with 26 U.S.C. 457, as amended. 66

(E) In no event shall the total of the amount of deferred 67
compensation to be set aside under a deferred compensation 68
program and the employee's nondeferred income for any year 69
exceed the total annual salary or compensation under the 70
existing salary schedule or classification plan applicable to 71
the employee in that year. 72

Such a deferred compensation program shall be in addition 73
to any retirement or any other benefit program provided by law 74
for employees of this state. The board shall adopt rules 75
pursuant to Chapter 119. of the Revised Code to provide any 76

necessary standards or conditions for the administration of its 77
programs, including any limits on the portion of a participating 78
employee's compensation that may be deferred in order to avoid 79
adverse treatment of the program by the internal revenue service 80
or the occurrence of deferral, withholding, or other deductions 81
in excess of the compensation available for any pay period. 82

Both of the following apply to a deferred compensation 83
program established under this section: 84

(1) Any income deferred under ~~such a plan~~ the program 85
shall continue to be included as regular compensation for the 86
purpose of computing the contributions to and benefits from the 87
retirement system of ~~such an employee~~; 88

(2) Any ~~sum so~~ sums deferred shall not be included in the 89
computation of any federal and state income taxes withheld on 90
behalf of ~~any such an~~ employee. Sums contributed to a Roth 91
account feature or other feature to which nontax-deferred 92
contributions are made shall be included in the computation of 93
any federal and state income taxes withheld on behalf of an 94
employee. 95

(F) This section does not limit the authority of any 96
municipal corporation, county, township, park district, 97
conservancy district, sanitary district, health district, public 98
library, county law library, public institution of higher 99
education, or school district to provide separate authorized 100
plans or programs for deferring compensation of their officers 101
and employees in addition to the program for the deferral of 102
compensation offered by the board. Any municipal corporation, 103
township, public institution of higher education, or school 104
district that offers such plans or programs shall include a 105
reasonable number of options to its officers or employees for 106

the investment of the deferred funds, including annuities, 107
variable annuities, regulated investment trusts, or other forms 108
of investment approved by the municipal corporation, township, 109
public institution of higher education, or school district, that 110
will assure the desired tax treatment of the funds. 111

Sec. 148.06. (A) As used in this section: 112

~~(A)~~ (1) "Government unit" means a county, park district of 113
any kind, conservancy district, sanitary district, regional 114
water and sewer district, regional transit authority, health 115
district, public library district, county law library, joint 116
county department of job and family services, or a detention 117
facility district of any kind. 118

~~(B)~~ (2) "Governing board" means, in the case of the 119
county, the board of county commissioners; in the case of a park 120
district, the board of park commissioners; in the case of a 121
conservancy district, the district's board of directors; in the 122
case of a sanitary district, the district's board of directors; 123
in the case of a regional water and sewer district, the 124
district's board of trustees; in the case of a regional transit 125
authority, the authority's board of trustees; in the case of a 126
health district, the board of health; in the case of a public 127
library district, the board of library trustees; in the case of 128
a county law library, the board of trustees of the law library 129
association; in the case of a joint county department of job 130
and family services, the department's board of directors; and in 131
the case of a detention facility district, the board or joint 132
board of county commissioners. 133

(B) In addition to the program of deferred compensation 134
that may be offered under this chapter, a governing board may 135
offer to all of the officers and employees of the government 136

unit not to exceed two additional programs for deferral of 137
compensation designed for favorable tax treatment of the 138
compensation so deferred. Any such program shall include a 139
reasonable number of options to the officer or employee for the 140
investment of the deferred funds, including annuities, variable 141
annuities, regulated investment trusts, or other forms of 142
investment approved by the governing board, that will assure the 143
desired tax treatment of the funds. 144

A governing board may establish a designated Roth account 145
feature or any other feature in which an officer or employee of 146
the government unit may make tax-deferred or nontax-deferred 147
contributions to an eligible government plan in accordance with 148
26 U.S.C. 457, as amended. 149

Both of the following apply to a deferred compensation 150
program established under this section: 151

(1) Any income deferred under ~~such a plan~~ the program 152
shall continue to be included as regular compensation for the 153
purpose of computing the contributions to and benefits from the 154
officer's or employee's retirement system ~~but shall not be~~ 155
~~included in the computation of any federal and state income~~ 156
~~taxes withheld on behalf of any such employee.;~~ 157

(2) Any sums deferred shall not be included in the 158
computation of any federal and state income taxes withheld on 159
behalf of an officer or employee. Sums contributed to a Roth 160
account feature or other feature to which nontax-deferred 161
contributions are made shall be included in the computation of 162
any federal and state income taxes withheld on behalf of an 163
officer or employee. 164

Section 2. That existing sections 148.04 and 148.06 of the 165

Revised Code are hereby repealed.