



Ohio Revised Code

Section 148.04 Program for deferral of compensation.

Effective: March 21, 2017

Legislation: Senate Bill 220 - 131st General Assembly

(A) The Ohio public employees deferred compensation board shall initiate, plan, expedite, and, subject to an appropriate assurance of the approval of the internal revenue service, promulgate and offer to all eligible employees, and thereafter administer on behalf of all participating employees and continuing members, and alter as required, a program for deferral of compensation, including a reasonable number of options to the employee for the investment of deferred funds, always in such form as will assure the desired tax treatment of such funds. The members of the board are the trustees of any deferred funds and shall discharge their duties with respect to the funds solely in the interest of and for the exclusive benefit of participating employees, continuing members, and their beneficiaries. With respect to such deferred funds, section 148.09 of the Revised Code shall apply to claims against participating employees or continuing members and their employers.

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

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

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

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

An election regarding participation under this section shall be made in such manner and form as is



prescribed by the Ohio public employees deferred compensation program and shall be filed with the program.

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

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

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

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

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

Such a deferred compensation program shall be in addition to any retirement or any other benefit program provided by law for employees of this state. The board shall adopt rules pursuant to Chapter 119. of the Revised Code to provide any necessary standards or conditions for the administration of its programs, including any limits on the portion of a participating employee's compensation that may be deferred in order to avoid adverse treatment of the program by the internal revenue service or the occurrence of deferral, withholding, or other deductions in excess of the compensation available for any pay period.



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

(1) Any income deferred under the program shall continue to be included as regular compensation for the purpose of computing the contributions to and benefits from the retirement system of an employee;

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

(F) This section does not limit the authority of any municipal corporation, county, township, park district, conservancy district, sanitary district, health district, public library, county law library, public institution of higher education, or school district to provide separate authorized plans or programs for deferring compensation of their officers and employees in addition to the program for the deferral of compensation offered by the board. Any municipal corporation, township, public institution of higher education, or school district that offers such plans or programs shall include a reasonable number of options to its officers or employees for the investment of the deferred funds, including annuities, variable annuities, regulated investment trusts, or other forms of investment approved by the municipal corporation, township, public institution of higher education, or school district, that will assure the desired tax treatment of the funds.