

AN ACT

To amend sections 101.34, 101.99, 102.02, 102.03, 102.06, 117.10, 145.04, 145.05, 145.051, 145.06, 145.09, 145.11, 145.19, 145.193, 145.27, 145.40, 171.01, 171.03, 171.04, 742.03, 742.04, 742.05, 742.10, 742.11, 742.41, 1707.01, 1707.03, 1707.17, 1707.19, 1707.20, 1707.22, 1707.23, 1707.25, 1707.261, 1707.39, 1707.431, 1707.44, 1707.46, 3105.80, 3305.01, 3305.02, 3305.03, 3305.05, 3305.051, 3305.06, 3305.07, 3307.01, 3307.03, 3307.05, 3307.06, 3307.07, 3307.071, 3307.10, 3307.11, 3307.15, 3307.20, 3307.25, 3307.56, 3307.71, 3309.03, 3309.05, 3309.06, 3309.07, 3309.09, 3309.14, 3309.15, 3309.22, 3309.251, 3309.42, 5505.04, 5505.06, and 5505.07; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 145.051 (145.052), 3305.05 (3305.051), 3350.051 (3305.052), and 3309.061 (3309.071); to enact new sections 145.051, 3305.05, and 3309.061; and sections 101.90, 101.91, 101.92, 101.93, 101.94, 101.95, 101.96, 101.97, 101.98, 101.981, 109.98, 111.30, 145.041, 145.042, 145.053, 145.054, 145.055, 145.057, 145.058, 145.092, 145.093, 145.094, 145.095, 145.114, 145.115, 145.116, 145.99, 171.06, 171.50, 742.031, 742.032, 742.042, 742.043, 742.044, 742.045, 742.046, 742.102, 742.103, 742.104, 742.105, 742.114, 742.115, 742.116, 742.99, 1707.162, 1707.163, 3305.053, 3307.041, 3307.042, 3307.043, 3307.044, 3307.051, 3307.052, 3307.061, 3307.072, 3307.073, 3307.074, 3307.075, 3307.152, 3307.153, 3307.154, 3307.99, 3309.041, 3309.042, 3309.043, 3309.044, 3309.051,

3309.052, 3309.072, 3309.073, 3309.074, 3309.075, 3309.157, 3309.158, 3309.159, 3309.99, 5505.041, 5505.042, 5505.043, 5505.044, 5505.045, 5505.046, 5505.047, 5505.048, 5505.049, 5505.062, 5505.063, 5505.064, 5505.065, 5505.068, 5505.069, 5505.0610, 5505.111, 5505.122, and 5505.99 of the Revised Code regarding governance of Ohio's five public retirement systems.

?

Be it enacted by the General Assembly of the State of Ohio:

SECTION?1. That sections 101.34, 101.99, 102.02, 102.03, 102.06, 117.10, 145.04, 145.05, 145.051, 145.06, 145.09, 145.11, 145.19, 145.193, 145.27, 145.40, 171.01, 171.03, 171.04, 742.03, 742.04, 742.05, 742.10, 742.11, 742.41, 1707.01, 1707.03, 1707.17, 1707.19, 1707.20, 1707.22, 1707.23, 1707.25, 1707.261, 1707.39, 1707.431, 1707.44, 1707.46, 3105.80, 3305.01, 3305.02, 3305.03, 3305.05, 3305.051, 3305.06, 3305.07, 3307.01, 3307.03, 3307.05, 3307.06, 3307.07, 3307.071, 3307.10, 3307.11, 3307.15, 3307.20, 3307.25, 3307.56, 3307.71, 3309.03, 3309.05, 3309.06, 3309.07, 3309.09, 3309.14, 3309.15, 3309.22, 3309.251, 3309.42, 5505.04, 5505.06, and 5505.07 be amended; sections 145.051 (145.052), 3305.05 (3305.051), 3305.051, (3305.052), and 3309.061 (3309.071) be amended for the purpose of adopting new section numbers as indicated in parentheses; and new sections 145.051, 3305.05, and 3309.061 and sections 101.90, 101.91, 101.92, 101.93, 101.94, 101.95, 101.96, 101.97, 101.98, 101.981, 109.98, 111.30, 145.041, 145.042, 145.053, 145.054, 145.055, 145.057, 145.058, 145.092, 145.093, 145.094, 145.095, 145.114, 145.115, 145.116, 145.99, 171.06, 171.50, 742.031, 742.032, 742.042, 742.043, 742.044, 742.045, 742.046, 742.102, 742.103, 742.104, 742.105, 742.114, 742.115, 742.116, 742.99, 1707.162, 1707.163, 3305.053, 3307.041, 3307.042, 3307.043, 3307.044, 3307.051, 3307.052, 3307.061, 3307.072, 3307.073, 3307.074, 3307.075, 3307.152, 3307.153, 3307.154, 3307.99, 3309.041, 3309.042, 3309.043, 3309.044, 3309.051, 3309.052, 3309.072, 3309.073, 3309.074, 3309.075, 3309.157, 3309.158, 3309.159, 3309.99, 5505.041, 5505.042, 5505.043, 5505.044, 5505.045, 5505.046, 5505.047, 5505.048, 5505.049, 5505.062, 5505.063, 5505.064, 5505.065, 5505.068, 5505.069, 5505.0610, 5505.111, 5505.122, and 5505.99 of the Revised Code be enacted to read as

follows:

Sec. 101.34. (A) There is hereby created a joint legislative ethics committee to serve the general assembly. The committee shall be composed of twelve members, six each from the two major political parties, and each member shall serve on the committee during the member's term as a member of that general assembly. Six members of the committee shall be members of the house of representatives appointed by the speaker of the house of representatives, not more than three from the same political party, and six members of the committee shall be members of the senate appointed by the president of the senate, not more than three from the same political party. A vacancy in the committee shall be filled for the unexpired term in the same manner as an original appointment. The members of the committee shall be appointed within fifteen days after the first day of the first regular session of each general assembly and the committee shall meet and proceed to recommend an ethics code not later than thirty days after the first day of the first regular session of each general assembly.

In the first regular session of each general assembly, the speaker of the house of representatives shall appoint the chairperson of the committee from among the house members of the committee and the president of the senate shall appoint the vice-chairperson of the committee from among the senate members of the committee. In the second regular session of each general assembly, the president of the senate shall appoint the chairperson of the committee from among the senate members of the committee and the speaker of the house of representatives shall appoint the vice-chairperson of the committee from among the house members of the committee. The chairperson, vice-chairperson, and members of the committee shall serve until their respective successors are appointed or until they are no longer members of the general assembly.

The committee shall meet at the call of the chairperson or upon the written request of seven members of the committee.

(B) The joint legislative ethics committee:

(1) Shall recommend a code of ethics which is consistent with law to govern all members and employees of each house of the general assembly and all candidates for the office of member of each house;

(2) May receive and hear any complaint which alleges a breach of any privilege of either house, or misconduct of any member, employee, or candidate, or any violation of the appropriate code of ethics;

(3) May obtain information with respect to any complaint filed pursuant to this section and to that end may enforce the attendance and testimony of

witnesses, and the production of books and papers;

(4) May recommend whatever sanction is appropriate with respect to a particular member, employee, or candidate as will best maintain in the minds of the public a good opinion of the conduct and character of members and employees of the general assembly;

(5) May recommend legislation to the general assembly relating to the conduct and ethics of members and employees of and candidates for the general assembly;

(6) Shall employ an executive director for the committee and may employ such other staff as the committee determines necessary to assist it in exercising its powers and duties. The executive director and staff of the committee shall be known as the office of legislative inspector general. At least one member of the staff of the committee shall be an attorney at law licensed to practice law in this state. The appointment and removal of the executive director shall require the approval of at least eight members of the committee.

(7) May employ a special counsel to assist the committee in exercising its powers and duties. The appointment and removal of a special counsel shall require the approval of at least eight members of the committee.

(8) Shall act as an advisory body to the general assembly and to individual members, candidates, and employees on questions relating to ethics, possible conflicts of interest, and financial disclosure;

(9) Shall provide for the proper forms on which the statement required pursuant to section 102.02 of the Revised Code shall be filed and instructions as to the filing of the statement;

(10) Exercise the powers and duties prescribed under sections 101.70 to 101.79, sections 101.90 to 101.98, and sections 121.60 to 121.69 of the Revised Code;

(11) Adopt in accordance with section 111.15 of the Revised Code any rules that are necessary to implement and clarify Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code.

(C) There is hereby created in the state treasury the joint legislative ethics committee fund. Money credited to the fund and any interest and earnings from the fund shall be used solely for the operation of the joint legislative ethics committee and the office of legislative inspector general and for the purchase of data storage and computerization facilities for the statements filed with the joint committee under sections 101.73, 101.74, 121.63, and 121.64 of the Revised Code.

(D) The chairperson of the joint committee shall issue a written report, not later than the thirty-first day of January of each year, to the speaker and

minority leader of the house of representatives and to the president and minority leader of the senate that lists the number of committee meetings and investigations the committee conducted during the immediately preceding calendar year and the number of advisory opinions it issued during the immediately preceding calendar year.

(E) Any investigative report that contains facts and findings regarding a complaint filed with the committee and that is prepared by the staff of the committee or a special counsel to the committee shall become a public record upon its acceptance by a vote of the majority of the members of the committee, except for any names of specific individuals and entities contained in the report. If the committee recommends disciplinary action or reports its findings to the appropriate prosecuting authority for proceedings in prosecution of the violations alleged in the complaint, the investigatory report regarding the complaint shall become a public record in its entirety.

(F)(1) Any file obtained by or in the possession of the former house ethics committee or former senate ethics committee shall become the property of the joint legislative ethics committee. Any such file is confidential if either of the following applies:

(a) It is confidential under section 102.06 of the Revised Code or the legislative code of ethics.

(b) If the file was obtained from the former house ethics committee or from the former senate ethics committee, it was confidential under any statute or any provision of a code of ethics that governed the file.

(2) As used in this division, "file" includes, but is not limited to, evidence, documentation, or any other tangible thing.

Sec. 101.90. As used in sections 101.90 to 101.99 of the Revised Code:

(A) "Person" and "compensation" have the same meanings as in section 101.70 of the Revised Code.

(B) "Expenditure" means any of the following that is made to, at the request of, for the benefit of, or on behalf of a state retirement system, a member of the board of a state retirement system, a state retirement system investment official, or an employee of a state retirement system whose position involves substantial and material exercise of discretion in the investment of retirement system funds:

(1) A payment, distribution, loan, advance, deposit, reimbursement, or gift of money, real estate, or anything of value, including, but not limited to food and beverages and entertainment;

(2) A contract, promise, or agreement to make an expenditure, whether or not legally enforceable;

(3) The purchase, sale, or gift of services or any other thing of value.

"Expenditure" does not include a contribution, gift, or grant to a foundation or other charitable organization that is exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code. "Expenditure" does not include the purchase, sale, or gift of services or any other thing of value that is available to the general public on the same terms as it is available to the persons listed in this division, or an offer or sale of securities to any person listed in this division that is governed by regulation D, 17 C.F.R. 2301.501 to 2301.508, adopted under the authority of the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C.A. and following, or that is governed by a comparable provision under state law.

(C) "Employer" means any person who, directly or indirectly, engages a retirement system lobbyist.

(D) "Engage" means to make any arrangement, and "engagement" means arrangement, whereby an individual is employed or retained for compensation to act for or on behalf of an employer to influence retirement system decisions or to conduct any retirement system lobbying activity.

(E) "Financial transaction" means a transaction or activity that is conducted or undertaken for profit and arises from the joint ownership or the ownership or part ownership in common of any real or personal property or any commercial or business enterprise of whatever form or nature between the following:

(1) A retirement system lobbyist, the retirement system lobbyist's employer, or a member of the immediate family of the retirement system lobbyist or the retirement system lobbyist's employer; and

(2) A state retirement system, a member of a board of a state retirement system, a state retirement system investment official, or an employee of a state retirement system whose position involves substantial and material exercise of discretion in the investment of retirement system funds.

"Financial transaction" does not include any transaction or activity described in division (E) of this section if it is available to the general public on the same terms, or if it is an offer or sale of securities to any person listed in division (E)(2) of this section that is governed by regulation D, 17 C.F.R. 2301.501 to 2301.508, adopted under the authority of the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C.A. and following, or that is governed by a comparable provision under state law.

(F) "Retirement system" means the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, and state highway patrol retirement system.

(G) "Retirement system decision" means a decision of a retirement system regarding the investment of retirement system funds. "Retirement

system decision" includes the decision by a board of a retirement system to award a contract to an agent or an investment manager.

(H) "Retirement system lobbyist" means any person engaged to influence retirement system decisions or to conduct retirement system lobbying activity as one of the person's main purposes on a regular and substantial basis. "Retirement system lobbyist" does not include an elected or appointed officer or employee of a federal or state agency, or political subdivision who attempts to influence or affect executive agency decisions in a fiduciary capacity as a representative of the officer's or employee's agency or political subdivision.

(I) "Retirement system lobbying activity" means contacts made to promote, oppose, reward, or otherwise influence the outcome of a retirement system decision by direct communication with a member of a board of a state retirement system, a state retirement system investment official, or an employee of a state retirement system whose position involves substantial and material exercise of discretion in the investment of retirement system funds. "Lobbying activity" does not include any of the following:

(1) The action of any person having a direct interest in retirement system decisions who, under Section 3 of Article I, Ohio Constitution, assembles together with other persons to consult for their common good, instructs a person listed in the first paragraph of division (I) of this section, or petitions such a person for the redress of grievances;

(2) Contacts made for the sole purpose of gathering information contained in a public record;

(3) Appearances before a retirement system to give testimony.

(J) "Retirement system official" means an officer or employee of a retirement system whose principal duties are to formulate policy or to participate directly or indirectly in the preparation, review, or award of financial arrangements with a retirement system.

(K) "Aggrieved party" means a party entitled to resort to a remedy.

(L) "Staff" means an employee of a retirement system whose position involves substantial and material exercise of discretion in the investment of retirement system funds and who is required under section 102.02 of the Revised Code to file a disclosure statement with the Ohio ethics commission.

Sec. 101.91. (A) No person shall knowingly fail to register as required under section 101.92 of the Revised Code.

(B) No person shall knowingly fail to keep a receipt or maintain a record that section 101.93 of the Revised Code requires the person to keep or maintain.

(C) No person shall knowingly fail to file a statement that section 101.93 or 101.94 of the Revised Code requires the person to file.

(D) No person shall knowingly file a false statement that section 101.93 or 101.94 of the Revised Code requires the person to file.

Sec. 101.92. (A) Each retirement system lobbyist and each employer shall file with the joint legislative ethics committee, within ten days following the engagement of a retirement system lobbyist, an initial registration statement showing all of the following:

(1) The name, business address, and occupation of the retirement system lobbyist;

(2) The name and business address of the employer or of the real party in interest on whose behalf the retirement system lobbyist is acting, if it is different from the employer. For the purposes of division (A) of this section, where a trade association or other charitable or fraternal organization that is exempt from federal income taxation under subsection 501(c) of the federal Internal Revenue Code is the employer, the statement need not list the names and addresses of every member of the association or organization, so long as the association or organization itself is listed.

(3) A brief description of the retirement system decision to which the engagement relates;

(4) The name of the retirement system or systems to which the engagement relates.

(B) In addition to the initial registration statement required by division (A) of this section, each retirement system lobbyist and employer shall file with the joint committee, not later than the last day of January, May, and September of each year, an updated registration statement that confirms the continuing existence of each engagement described in an initial registration statement and that lists the specific retirement system decisions that the lobbyist sought to influence under the engagement during the period covered by the updated statement, and with it any statement of expenditures required to be filed by section 101.93 of the Revised Code and any details of financial transactions required to be filed by section 101.94 of the Revised Code.

(C) If a retirement system lobbyist is engaged by more than one employer, the lobbyist shall file a separate initial and updated registration statement for each engagement. If an employer engages more than one retirement system lobbyist, the employer need file only one updated registration statement under division (B) of this section, which shall contain the information required by division (B) of this section regarding all of the retirement system lobbyists engaged by the employer.

(D)(1) A change in any information required by division (A)(1), (2), or (B) of this section shall be reflected in the next updated registration statement filed under division (B) of this section.

(2) Within thirty days following the termination of an engagement, the executive agency lobbyist who was employed under the engagement shall send written notification of the termination to the joint committee.

(E) A registration fee of twenty-five dollars shall be charged for filing an initial registration statement. All money collected from this fee shall be deposited into the general revenue fund of the state.

(F) Upon registration pursuant to this section, a retirement system lobbyist shall be issued a card by the joint committee showing that the lobbyist is registered. The registration card and the retirement system lobbyist's registration shall be valid from the date of their issuance until the thirty-first day of January of the year following the year in which the initial registration was filed.

(G) The executive director of the joint committee shall be responsible for reviewing each registration statement filed with the joint committee under this section and for determining whether the statement contains all of the required information. If the joint committee determines that the registration statement does not contain all of the required information or that a retirement system lobbyist or employer has failed to file a registration statement, the joint committee shall send written notification by certified mail to the person who filed the registration statement regarding the deficiency in the statement or to the person who failed to file the registration statement regarding the failure. Any person so notified by the joint committee shall, not later than fifteen days after receiving the notice, file a registration statement or an amended registration statement that contains all of the required information. If any person who receives a notice under this division fails to file a registration statement or such an amended registration statement within this fifteen-day period, the joint committee shall assess a late filing fee equal to twelve dollars and fifty cents per day, up to a maximum fee of one hundred dollars, upon that person. The joint committee may waive the late filing fee for good cause shown.

(H) On or before the fifteenth day of March of each year, the joint committee shall, in the manner and form that it determines, publish a report containing statistical information on the registration statements filed with it under this section during the preceding year.

(I) If an employer who engages a retirement system lobbyist is the recipient of a contract, grant, lease, or other financial arrangement pursuant to which funds of the state or of a retirement system are distributed or

allocated, the executive agency or any aggrieved party may consider the failure of the employer or the retirement system lobbyist to comply with this section as a breach of a material condition of the contract, grant, lease, or other financial arrangement.

(J) Retirement system officials may require certification from any person seeking the award of a contract, grant, lease, or financial arrangement that the person and the person's employer are in compliance with this section.

Sec. 101.93. (A) Each retirement system lobbyist and each employer shall file with the joint legislative ethics committee, with the updated registration statement required by division (B) of section 121.62 of the Revised Code, a statement of expenditures as specified in divisions (B) and (C) of this section. A retirement system lobbyist shall file a separate statement of expenditures under this section for each employer that engages the retirement system lobbyist.

(B)(1) In addition to the information required by divisions (B)(2) and (3) of this section, a statement filed by a retirement system lobbyist shall show the total amount of expenditures made during the reporting period covered by the statement by the retirement system lobbyist.

(2) If, during a reporting period covered by a statement, an employer or any retirement system lobbyist the employer engaged made, either separately or in combination with each other, expenditures to, at the request of, for the benefit of, or on behalf of a member of a board of a state retirement system, a state retirement system investment official, or an employee of a state retirement system whose position involves substantial and material exercise of discretion in the investment of retirement system funds the employer or retirement system lobbyist also shall state the name of the member, official, or employee to whom, at whose request, for whose benefit, or on whose behalf the expenditures were made, the total amount of the expenditures made, a brief description of the expenditures made, the approximate date the expenditures were made, the retirement system decision, if any, sought to be influenced, and the identity of the client on whose behalf the expenditure was made.

As used in division (B)(2) of this section, "expenditures" does not include expenditures made by a retirement system lobbyist as payment for meals and other food and beverages.

(3) If, during a reporting period covered by a statement, a retirement system lobbyist made expenditures as payment for meals and other food and beverages, that, when added to the amount of previous payments made for meals and other food and beverages by that retirement system lobbyist

during that same calendar year, exceeded a total of fifty dollars to, at the request of, for the benefit of, or on behalf of a member of a board of a state retirement system, a state retirement system investment official, or an employee of a state retirement system whose position involves substantial and material exercise of discretion in the investment of retirement system funds, the retirement system lobbyist shall also state regarding those expenditures the name of the member, official, or employee to whom, at whose request, for whose benefit, or on whose behalf the expenditures were made, the total amount of the expenditures made, a brief description of the expenditures made, the approximate date the expenditures were made, the retirement system decision, if any, sought to be influenced, and the identity of the client on whose behalf the expenditure was made.

(C) In addition to the information required by divisions (B)(2) and (3) of this section, a statement filed by an employer shall show the total amount of expenditures made by the employer filing the statement during the period covered by the statement. As used in this section, "expenditures" does not include the expenses of maintaining office facilities, or the compensation paid to retirement system lobbyists engaged to influence retirement system decisions or conduct retirement system lobbying activity.

No employer shall be required to show any expenditure on a statement filed under this division if the expenditure is reported on a statement filed under division (B)(1), (2), or (3) of this section by a retirement system lobbyist engaged by the employer.

(D) Any statement required to be filed under this section shall be filed at the times specified in section 121.62 of the Revised Code. Each statement shall cover expenditures made during the four-calendar-month period that ended on the last day of the month immediately preceding the month in which the statement is required to be filed.

(E) If it is impractical or impossible for a retirement system lobbyist or employer to determine exact dollar amounts or values of expenditures, reporting of good faith estimates, based on reasonable accounting procedures, constitutes compliance with this division.

(F) Retirement system lobbyists and employers shall retain receipts or maintain records for all expenditures that are required to be reported pursuant to this section. These receipts or records shall be maintained for a period ending on the thirty-first day of December of the second calendar year after the year in which the expenditure was made.

(G)(1) At least ten days before the date on which the statement is filed, each employer or retirement system lobbyist who is required to file an expenditure statement under division (B)(2) or (3) of this section shall

deliver a copy of the statement, or the portion showing the expenditure, to the member, official, or employee who is listed in the statement as having received the expenditure or on whose behalf it was made.

(2) If, during a reporting period covered by an expenditure statement filed under division (B)(2) of this section, an employer or any retirement system lobbyist the employer engaged made, either separately or in combination with each other, either directly or indirectly, expenditures for food and beverages purchased for consumption on the premises in which the food and beverages were sold to, at the request of, for the benefit or, or on behalf of any of the members, officials, or employees described in division (B)(2) of this section, the employer or retirement system lobbyist shall deliver to the member, official, or employee a statement that contains all of the nondisputed information prescribed in division (B)(2) of this section with respect to the expenditures described in division (G)(2) of this section. The statement of expenditures made under division (G)(2) of this section shall be delivered to the member, official, or employee to whom, at whose request, for whose benefit, or on whose behalf those expenditures were made on the same day in which a copy of the expenditure statement or of a portion showing the expenditure is delivered to the member, official, or employee under division (G)(1) of this section. An employer is not required to show any expenditure on a statement delivered under division (G)(2) of this section if the expenditure is shown on a statement delivered under division (G)(2) of this section by a retirement system lobbyist engaged by the employer.

Sec. 101.94. (A) Each retirement system lobbyist who has had any financial transaction with or for the benefit of a member of a board of a state retirement system, a state retirement system investment official, or an employee of a state retirement system whose position involves substantial and material exercise of discretion in the investment of retirement system funds shall describe the details of the transaction, including the name of the member, official, or employee, the purpose and nature of the transaction, and the date it was made or entered into, in a statement filed with the joint legislative ethics committee with the updated registration statement required by division (B) of section 101.92 of the Revised Code. The statements shall be filed at the times specified in section 101.92 of the Revised Code. Each statement shall describe each financial transaction that occurred during the four-calendar-month period that ended on the last day of the month immediately preceding the month in which the statement is required to be filed.

(B) Except as provided in division (D) of this section, each employer

who has had any financial transaction with or for the benefit of a member of a board of a state retirement system, a state retirement system investment official, or an employee of a state retirement system whose position involves substantial and material exercise of discretion in the investment of retirement system funds shall describe the details of the transaction, including the name of the member, official, or employee, the purpose and nature of the transaction, and the date it was made or entered into, in a statement filed with the joint committee with the updated registration statement required by division (B) of section 101.92 of the Revised Code. The statement shall be filed at the times specified in section 101.92 of the Revised Code. Each statement shall describe each financial transaction that occurred during the four-calendar-month period that ended on the last day of the month immediately preceding the month in which the statement is required to be filed.

(C) At least ten days before the date on which the statement is filed, each employer or retirement system lobbyist who is required to file a statement describing a financial transaction under this section shall deliver a copy of the statement to the member, official, or employee with whom or for whose benefit the transaction was made.

(D) No employer shall be required to file any statement under this section or to deliver a copy of the statement to a member, official, or employee with whom or for whose benefit the transaction was made if the financial transaction to which the statement pertains is reported by a retirement system lobbyist engaged by the employer.

Sec. 101.95. If a dispute arises between a member of a board of a state retirement system, a state retirement system investment official, or an employee of a state retirement system whose position involves substantial and material exercise of discretion in the investment of retirement system funds and an employer or retirement system lobbyist with respect to an expenditure or financial transaction alleged in a statement to be filed under section 101.93 or 101.94 of the Revised Code, the member, official, or employee, employer, or retirement system lobbyist may file a complaint with the Ohio ethics commission. The commission shall proceed to investigate the complaint as though it were filed under section 102.06 of the Revised Code.

The complaint shall be filed at least three days prior to the time the statement is required to be filed with the joint legislative ethics committee. The time for filing a disputed expenditure or financial transaction in any statement of expenditures or the details of a financial transaction shall be extended pending the final decision of the commission. This extension does

not extend the time for filing the nondisputed portions of either type of statement. The commission shall notify the parties of its final decision by certified mail. If the commission decides that the disputed expenditure or financial transaction should be reported, the employer or retirement system lobbyist shall include the matter in an amended statement and file the amended statement not later than ten days after receiving notice of the decision of the commission by certified mail.

An employer or retirement system lobbyist who files a false statement of expenditures or details of a financial transaction is liable in a civil action to any member, official, or employee who sustains damage as a result of the filing or publication of the statement.

Sec. 101.96. (A) Sections 101.92 and 101.93 of the Revised Code do not apply to efforts to influence retirement system decisions or conduct retirement system lobbying activity by any of the following:

(1) Appearances at public hearings of a retirement system or at other public meetings;

(2) News, editorial, and advertising statements published in bona fide newspapers, journals, or magazines, or broadcast over radio or television;

(3) The gathering and furnishing of information and news by bona fide reporters, correspondents, or news bureaus to news media described in division (A)(2) of this section;

(4) Publications primarily designed for and distributed to members of bona fide associations or charitable or fraternal nonprofit corporations.

(B) Nothing in sections 101.90 to 101.98 of the Revised Code requires the reporting of, or prohibits a retirement system board member from soliciting or accepting, a contribution from or an expenditure by any person if the contribution or expenditure is reported in accordance with Chapter 3517. of the Revised Code.

Sec. 101.97. (A) Except as provided in division (B) of this section, no person shall engage any person to influence retirement system decisions or conduct retirement system lobbying activity for compensation that is contingent in any way on the outcome of a retirement system decision and no person shall accept any engagement to influence retirement system decisions or conduct retirement system lobbying activity for compensation that is contingent in any way on the outcome of a retirement system decision.

(B) Division (A) of this section does not prohibit and shall not be construed to prohibit any person from compensating the person's sales employees pursuant to an incentive compensation plan, such as commission sales, if the incentive compensation plan is the same plan used to

compensate similarly situated sales employees who are not retirement system lobbyists.

Sec. 101.98. (A) The joint legislative ethics committee shall keep on file the statements required by sections 101.92, 101.93, and 101.94 of the Revised Code. These statements are public records and open to public inspection, and the joint committee shall computerize them so that the information contained in them is readily accessible to the general public. The joint committee shall provide copies of the statements to the general public on request and may charge a reasonable fee not to exceed the cost of copying and delivering the statement.

(B) Not later than the last day of February and October of each year, the joint committee shall compile from the registration statements filed with it a complete and updated list of registered retirement system lobbyists and their employers, and distribute the list to each member of the general assembly, elected executive official, and the director of each retirement system, who shall distribute the list to the appropriate personnel under the director's jurisdiction. The joint committee shall provide copies of the list to the general public on request and may charge a reasonable fee not to exceed the cost of copying and delivering the list.

(C) The joint committee shall prescribe and make available an appropriate form for the filings required by sections 101.92, 101.93, and 101.94 of the Revised Code. The form shall contain the following notice in boldface type: "ANY PERSON WHO KNOWINGLY FILES A FALSE STATEMENT IS GUILTY OF FALSIFICATION UNDER SECTION 2921.13 OF THE REVISED CODE, WHICH IS A MISDEMEANOR OF THE FIRST DEGREE."

(D) The joint committee may adopt rules as necessary to implement sections 101.90 to 101.98 of the Revised Code. The rules shall be adopted in accordance with section 111.15 of the Revised Code.

(E) The joint committee shall publish a handbook that explains in clear and concise language the provisions of sections 101.90 to 101.98 of the Revised Code and make it available free of charge to retirement system lobbyists, employers, and any other interested persons.

Sec. 101.981. The attorney general and any assistant or special counsel designated by the attorney general may investigate compliance with sections 101.90 to 101.98 of the Revised Code in connection with statements required to be filed under these sections and, in the event of an apparent violation, shall report the findings of any such investigation to the prosecuting attorney of Franklin county, who shall institute such proceedings as are appropriate.

Sec. 101.99. (A) Whoever violates division (A), (B), or (C) of section 101.71 or of section 101.91, or section 101.77 or 101.97 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(B) Whoever violates division (D) of section 101.71 or of section 101.91 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 102.02. (A) Except as otherwise provided in division (H) of this section, all of the following shall file with the appropriate ethics commission the disclosure statement described in this division on a form prescribed by the appropriate commission: every person who is elected to or is a candidate for a state, county, or city office, or the office of member of the United States congress, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office; all members of the state board of education; the director, assistant directors, deputy directors, division chiefs, or persons of equivalent rank of any administrative department of the state; the president or other chief administrative officer of every state institution of higher education as defined in section 3345.011 of the Revised Code; the chief executive officer and the members of the board of each state retirement system; each employee of a state retirement board who is a state retirement system investment officer licensed pursuant to section 1707.163 of the Revised Code; the members of the Ohio retirement study council appointed pursuant to division (C) of section 171.01 of the Revised Code; employees of the Ohio retirement study council, other than employees who perform purely administrative or clerical functions; all members of the board of commissioners on grievances and discipline of the supreme court and the ethics commission created under section 102.05 of the Revised Code; every business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center; every person who is elected to or is a candidate for the office of member of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district or of a governing board of an educational service center that has a total student count of twelve thousand or more as most recently determined by the department of education pursuant to section 3317.03 of the Revised Code; every person who is appointed to the board of education of a municipal school district pursuant to division (B) or (F) of section 3311.71 of the Revised Code; all members of the board of directors of a sanitary district established under Chapter 6115. of the Revised Code and organized wholly for the purpose of providing a water supply for domestic, municipal, and public use that includes two municipal corporations in two counties; every public official or employee who is paid a salary or wage in accordance

with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code; members of the board of trustees and the executive director of the tobacco use prevention and control foundation; members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation; and every other public official or employee who is designated by the appropriate ethics commission pursuant to division (B) of this section ~~shall file with the appropriate ethics commission on a form prescribed by the commission, a statement disclosing all of the following:~~

The disclosure statement shall include all of the following:

(1) The name of the person filing the statement and each member of the person's immediate family and all names under which the person or members of the person's immediate family do business;

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section and except as otherwise provided in section 102.022 of the Revised Code, identification of every source of income, other than income from a legislative agent identified in division (A)(2)(b) of this section, received during the preceding calendar year, in the person's own name or by any other person for the person's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. If the person filing the statement is a member of the general assembly, the statement shall identify the amount of every source of income received in accordance with the following ranges of amounts: zero or more, but less than one thousand dollars; one thousand dollars or more, but less than ten thousand dollars; ten thousand dollars or more, but less than twenty-five thousand dollars; twenty-five thousand dollars or more, but less than fifty thousand dollars; fifty thousand dollars or more, but less than one hundred thousand dollars; and one hundred thousand dollars or more. Division (A)(2)(a) of this section shall not be construed to require a person filing the statement who derives income from a business or profession to disclose the individual items of income that constitute the gross income of that business or profession, except for those individual items of income that are attributable to the person's or, if the income is shared with the person, the partner's, solicitation of services or goods or performance, arrangement, or facilitation of services or provision of goods on behalf of the business or profession of clients, including corporate clients, who are legislative agents as defined in section 101.70 of the Revised Code. A person who files the statement under this section shall disclose the identity of and the amount of income received from a person who the public official or employee knows or has reason to know is doing or seeking to do business of any kind with

the public official's or employee's agency.

(b) If the person filing the statement is a member of the general assembly, the statement shall identify every source of income and the amount of that income that was received from a legislative agent, as defined in section 101.70 of the Revised Code, during the preceding calendar year, in the person's own name or by any other person for the person's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. Division (A)(2)(b) of this section requires the disclosure of clients of attorneys or persons licensed under section 4732.12 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code, if those clients or patients are legislative agents. Division (A)(2)(b) of this section requires a person filing the statement who derives income from a business or profession to disclose those individual items of income that constitute the gross income of that business or profession that are received from legislative agents.

(c) Except as otherwise provided in division (A)(2)(c) of this section, division (A)(2)(a) of this section applies to attorneys, physicians, and other persons who engage in the practice of a profession and who, pursuant to a section of the Revised Code, the common law of this state, a code of ethics applicable to the profession, or otherwise, generally are required not to reveal, disclose, or use confidences of clients, patients, or other recipients of professional services except under specified circumstances or generally are required to maintain those types of confidences as privileged communications except under specified circumstances. Division (A)(2)(a) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in division (A)(2)(c) of this section to disclose the name, other identity, or address of a client, patient, or other recipient of professional services if the disclosure would threaten the client, patient, or other recipient of professional services, would reveal details of the subject matter for which legal, medical, or professional advice or other services were sought, or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services. Division (A)(2)(a) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in division (A)(2)(c) of this section to disclose in the brief description of the nature of services required by division (A)(2)(a) of this section any information pertaining to specific professional services rendered for a client, patient, or other recipient of professional services that would reveal details of the subject matter for which legal, medical, or

professional advice was sought or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services.

(3) The name of every corporation on file with the secretary of state that is incorporated in this state or holds a certificate of compliance authorizing it to do business in this state, trust, business trust, partnership, or association that transacts business in this state in which the person filing the statement or any other person for the person's use and benefit had during the preceding calendar year an investment of over one thousand dollars at fair market value as of the thirty-first day of December of the preceding calendar year, or the date of disposition, whichever is earlier, or in which the person holds any office or has a fiduciary relationship, and a description of the nature of the investment, office, or relationship. Division (A)(3) of this section does not require disclosure of the name of any bank, savings and loan association, credit union, or building and loan association with which the person filing the statement has a deposit or a withdrawable share account.

(4) All fee simple and leasehold interests to which the person filing the statement holds legal title to or a beneficial interest in real property located within the state, excluding the person's residence and property used primarily for personal recreation;

(5) The names of all persons residing or transacting business in the state to whom the person filing the statement owes, in the person's own name or in the name of any other person, more than one thousand dollars. Division (A)(5) of this section shall not be construed to require the disclosure of debts owed by the person resulting from the ordinary conduct of a business or profession or debts on the person's residence or real property used primarily for personal recreation, except that the superintendent of financial institutions shall disclose the names of all state-chartered savings and loan associations and of all service corporations subject to regulation under division (E)(2) of section 1151.34 of the Revised Code to whom the superintendent in the superintendent's own name or in the name of any other person owes any money, and that the superintendent and any deputy superintendent of banks shall disclose the names of all state-chartered banks and all bank subsidiary corporations subject to regulation under section 1109.44 of the Revised Code to whom the superintendent or deputy superintendent owes any money.

(6) The names of all persons residing or transacting business in the state, other than a depository excluded under division (A)(3) of this section, who owe more than one thousand dollars to the person filing the statement, either in the person's own name or to any person for the person's use or benefit.

Division (A)(6) of this section shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code, nor the disclosure of debts owed to the person resulting from the ordinary conduct of a business or profession.

(7) Except as otherwise provided in section 102.022 of the Revised Code, the source of each gift of over seventy-five dollars, or of each gift of over twenty-five dollars received by a member of the general assembly from a legislative agent, received by the person in the person's own name or by any other person for the person's use or benefit during the preceding calendar year, except gifts received by will or by virtue of section 2105.06 of the Revised Code, or received from spouses, parents, grandparents, children, grandchildren, siblings, nephews, nieces, uncles, aunts, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, or any person to whom the person filing the statement stands in loco parentis, or received by way of distribution from any inter vivos or testamentary trust established by a spouse or by an ancestor;

(8) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source and amount of every payment of expenses incurred for travel to destinations inside or outside this state that is received by the person in the person's own name or by any other person for the person's use or benefit and that is incurred in connection with the person's official duties, except for expenses for travel to meetings or conventions of a national or state organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or any political subdivision or any office or agency of a political subdivision pays membership dues;

(9) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source of payment of expenses for meals and other food and beverages, other than for meals and other food and beverages provided at a meeting at which the person participated in a panel, seminar, or speaking engagement or at a meeting or convention of a national or state organization to which any state agency, including, but not limited to, any legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues, or any political subdivision or any office or agency of a political subdivision pays membership dues, that are incurred in connection with the person's official duties and that exceed one hundred dollars aggregated per calendar year;

(10) If the financial disclosure statement is filed by a public official or employee described in division (B)(2) of section 101.73 of the Revised Code or division (B)(2) of section 121.63 of the Revised Code who receives a statement from a legislative agent, executive agency lobbyist, or employer that contains the information described in division (F)(2) of section 101.73 of the Revised Code or division (G)(2) of section 121.63 of the Revised Code, all of the nondisputed information contained in the statement delivered to that public official or employee by the legislative agent, executive agency lobbyist, or employer under division (F)(2) of section 101.73 or (G)(2) of section 121.63 of the Revised Code. As used in division (A)(10) of this section, "legislative agent," "executive agency lobbyist," and "employer" have the same meanings as in sections 101.70 and 121.60 of the Revised Code.

A person may file a statement required by this section in person or by mail. A person who is a candidate for elective office shall file the statement no later than the thirtieth day before the primary, special, or general election at which the candidacy is to be voted on, whichever election occurs soonest, except that a person who is a write-in candidate shall file the statement no later than the twentieth day before the earliest election at which the person's candidacy is to be voted on. A person who holds elective office shall file the statement on or before the fifteenth day of April of each year unless the person is a candidate for office. A person who is appointed to fill a vacancy for an unexpired term in an elective office shall file the statement within fifteen days after the person qualifies for office. Other persons shall file an annual statement on or before the fifteenth day of April or, if appointed or employed after that date, within ninety days after appointment or employment. No person shall be required to file with the appropriate ethics commission more than one statement or pay more than one filing fee for any one calendar year.

The appropriate ethics commission, for good cause, may extend for a reasonable time the deadline for filing a statement under this section.

A statement filed under this section is subject to public inspection at locations designated by the appropriate ethics commission except as otherwise provided in this section.

(B) The Ohio ethics commission, the joint legislative ethics committee, and the board of commissioners on grievances and discipline of the supreme court, using the rule-making procedures of Chapter 119. of the Revised Code, may require any class of public officials or employees under its jurisdiction and not specifically excluded by this section whose positions involve a substantial and material exercise of administrative discretion in the

formulation of public policy, expenditure of public funds, enforcement of laws and rules of the state or a county or city, or the execution of other public trusts, to file an annual statement on or before the fifteenth day of April under division (A) of this section. The appropriate ethics commission shall send the public officials or employees written notice of the requirement by the fifteenth day of February of each year the filing is required unless the public official or employee is appointed after that date, in which case the notice shall be sent within thirty days after appointment, and the filing shall be made not later than ninety days after appointment.

Except for disclosure statements filed by members of the board of trustees and the executive director of the tobacco use prevention and control foundation and members of the board of trustees and the executive director of the southern Ohio agricultural and community development foundation, disclosure statements filed under this division with the Ohio ethics commission by members of boards, commissions, or bureaus of the state for which no compensation is received other than reasonable and necessary expenses shall be kept confidential. Disclosure statements filed with the Ohio ethics commission under division (A) of this section by business managers, treasurers, and superintendents of city, local, exempted village, joint vocational, or cooperative education school districts or educational service centers shall be kept confidential, except that any person conducting an audit of any such school district or educational service center pursuant to section 115.56 or Chapter 117. of the Revised Code may examine the disclosure statement of any business manager, treasurer, or superintendent of that school district or educational service center. The Ohio ethics commission shall examine each disclosure statement required to be kept confidential to determine whether a potential conflict of interest exists for the person who filed the disclosure statement. A potential conflict of interest exists if the private interests of the person, as indicated by the person's disclosure statement, might interfere with the public interests the person is required to serve in the exercise of the person's authority and duties in the person's office or position of employment. If the commission determines that a potential conflict of interest exists, it shall notify the person who filed the disclosure statement and shall make the portions of the disclosure statement that indicate a potential conflict of interest subject to public inspection in the same manner as is provided for other disclosure statements. Any portion of the disclosure statement that the commission determines does not indicate a potential conflict of interest shall be kept confidential by the commission and shall not be made subject to public inspection, except as is necessary for the enforcement of Chapters 102. and 2921. of the Revised

Code and except as otherwise provided in this division.

(C) No person shall knowingly fail to file, on or before the applicable filing deadline established under this section, a statement that is required by this section.

(D) No person shall knowingly file a false statement that is required to be filed under this section.

(E)(1) Except as provided in divisions (E)(2) and (3) of this section, the statement required by division (A) or (B) of this section shall be accompanied by a filing fee of forty dollars.

(2) The statement required by division (A) of this section shall be accompanied by the following filing fee to be paid by the person who is elected or appointed to, or is a candidate for, any of the following offices:

For state office, except member of the state board of education	\$65
For office of member of United States congress or member of general assembly	\$40
For county office	\$40
For city office	\$25
For office of member of the state board of education	\$25
For office of member of a city, local, exempted village, or cooperative education board of education or educational service center governing board	\$20
For position of business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or educational service center	\$20

(3) No judge of a court of record or candidate for judge of a court of record, and no referee or magistrate serving a court of record, shall be required to pay the fee required under division (E)(1) or (2) or (F) of this section.

(4) For any public official who is appointed to a nonelective office of the state and for any employee who holds a nonelective position in a public agency of the state, the state agency that is the primary employer of the state official or employee shall pay the fee required under division (E)(1) or (F) of this section.

(F) If a statement required to be filed under this section is not filed by the date on which it is required to be filed, the appropriate ethics commission shall assess the person required to file the statement a late filing fee of ten dollars for each day the statement is not filed, except that the total amount of the late filing fee shall not exceed two hundred fifty dollars.

(G)(1) The appropriate ethics commission other than the Ohio ethics commission shall deposit all fees it receives under divisions (E) and (F) of this section into the general revenue fund of the state.

(2) The Ohio ethics commission shall deposit all receipts, including, but not limited to, fees it receives under divisions (E) and (F) of this section and all moneys it receives from settlements under division (G) of section 102.06 of the Revised Code, into the Ohio ethics commission fund, which is hereby created in the state treasury. All moneys credited to the fund shall be used solely for expenses related to the operation and statutory functions of the commission.

(H) Division (A) of this section does not apply to a person elected or appointed to the office of precinct, ward, or district committee member under Chapter 3517. of the Revised Code; a presidential elector; a delegate to a national convention; village or township officials and employees; any physician or psychiatrist who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code and whose primary duties do not require the exercise of administrative discretion; or any member of a board, commission, or bureau of any county or city who receives less than one thousand dollars per year for serving in that position.

Sec. 102.03. (A)(1) No present or former public official or employee shall, during public employment or service or for twelve months thereafter, represent a client or act in a representative capacity for any person on any matter in which the public official or employee personally participated as a public official or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other substantial exercise of administrative discretion.

(2) For twenty-four months after the conclusion of service, no former commissioner or attorney examiner of the public utilities commission shall represent a public utility, as defined in section 4905.02 of the Revised Code, or act in a representative capacity on behalf of such a utility before any state board, commission, or agency.

(3) For twenty-four months after the conclusion of employment or service, no former public official or employee who personally participated as a public official or employee through decision, approval, disapproval,

recommendation, the rendering of advice, the development or adoption of solid waste management plans, investigation, inspection, or other substantial exercise of administrative discretion under Chapter 343. or 3734. of the Revised Code shall represent a person who is the owner or operator of a facility, as defined in section 3734.01 of the Revised Code, or who is an applicant for a permit or license for a facility under that chapter, on any matter in which the public official or employee personally participated as a public official or employee.

(4) For a period of one year after the conclusion of employment or service as a member or employee of the general assembly, no former member or employee of the general assembly shall represent, or act in a representative capacity for, any person on any matter before the general assembly, any committee of the general assembly, or the controlling board. Division (A)(4) of this section does not apply to or affect a person who separates from service with the general assembly on or before December 31, 1995. As used in division (A)(4) of this section "person" does not include any state agency or political subdivision of the state.

(5) As used in divisions (A)(1), (2), and (3) of this section, "matter" includes any case, proceeding, application, determination, issue, or question, but does not include the proposal, consideration, or enactment of statutes, rules, ordinances, resolutions, or charter or constitutional amendments. As used in division (A)(4) of this section, "matter" includes the proposal, consideration, or enactment of statutes, resolutions, or constitutional amendments. As used in division (A) of this section, "represent" includes any formal or informal appearance before, or any written or oral communication with, any public agency on behalf of any person.

(6) Nothing contained in division (A) of this section shall prohibit, during such period, a former public official or employee from being retained or employed to represent, assist, or act in a representative capacity for the public agency by which the public official or employee was employed or on which the public official or employee served.

(7) Division (A) of this section shall not be construed to prohibit the performance of ministerial functions, including, but not limited to, the filing or amendment of tax returns, applications for permits and licenses, incorporation papers, and other similar documents.

(B) No present or former public official or employee shall disclose or use, without appropriate authorization, any information acquired by the public official or employee in the course of the public official's or employee's official duties that is confidential because of statutory provisions, or that has been clearly designated to the public official or

employee as confidential when that confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary to the proper conduct of government business.

(C) No public official or employee shall participate within the scope of duties as a public official or employee, except through ministerial functions as defined in division (A) of this section, in any license or rate-making proceeding that directly affects the license or rates of any person, partnership, trust, business trust, corporation, or association in which the public official or employee or immediate family owns or controls more than five per cent. No public official or employee shall participate within the scope of duties as a public official or employee, except through ministerial functions as defined in division (A) of this section, in any license or rate-making proceeding that directly affects the license or rates of any person to whom the public official or employee or immediate family, or a partnership, trust, business trust, corporation, or association of which the public official or employee or the public official's or employee's immediate family owns or controls more than five per cent, has sold goods or services totaling more than one thousand dollars during the preceding year, unless the public official or employee has filed a written statement acknowledging that sale with the clerk or secretary of the public agency and the statement is entered in any public record of the agency's proceedings. This division shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code.

(D) No public official or employee shall use or authorize the use of the authority or influence of office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

(E) No public official or employee shall solicit or accept anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

(F) No person shall promise or give to a public official or employee anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

(G) In the absence of bribery or another offense under the Revised Code or a purpose to defraud, contributions made to a campaign committee,

political party, legislative campaign fund, political action committee, or political contributing entity on behalf of an elected public officer or other public official or employee who seeks elective office shall be considered to accrue ordinarily to the public official or employee for the purposes of divisions (D), (E), and (F) of this section.

As used in this division, "contributions," "campaign committee," "political party," "legislative campaign fund," "political action committee," and "political contributing entity" have the same meanings as in section 3517.01 of the Revised Code.

(H)(1) No public official or employee, except for the president or other chief administrative officer of or a member of a board of trustees of a state institution of higher education as defined in section 3345.011 of the Revised Code, who is required to file a financial disclosure statement under section 102.02 of the Revised Code shall solicit or accept, and no person shall give to that public official or employee, an honorarium. This Except as provided in division (H)(2) of this section, this division and divisions (D), (E), and (F) of this section do not prohibit a public official or employee who is required to file a financial disclosure statement under section 102.02 of the Revised Code from accepting and do not prohibit a person from giving to that public official or employee the payment of actual travel expenses, including any expenses incurred in connection with the travel for lodging, and meals, food, and beverages provided to the public official or employee at a meeting at which the public official or employee participates in a panel, seminar, or speaking engagement or provided to the public official or employee at a meeting or convention of a national organization to which any state agency, including, but not limited to, any state legislative agency or state institution of higher education as defined in section 3345.011 of the Revised Code, pays membership dues. This Except as provided in division (H)(2) of this section, this division and divisions (D), (E), and (F) of this section do not prohibit a public official or employee who is not required to file a financial disclosure statement under section 102.02 of the Revised Code from accepting and do not prohibit a person from promising or giving to that public official or employee an honorarium or the payment of travel, meal, and lodging expenses if the honorarium, expenses, or both were paid in recognition of demonstrable business, professional, or esthetic interests of the public official or employee that exist apart from public office or employment, including, but not limited to, such a demonstrable interest in public speaking and were not paid by any person or other entity, or by any representative or association of those persons or entities, that is regulated by, doing business with, or seeking to do business with the department, division,

institution, board, commission, authority, bureau, or other instrumentality of the governmental entity with which the public official or employee serves.

(2) No person who is a member of the board of a state retirement system, a state retirement system investment officer, or an employee of a state retirement system whose position involves substantial and material exercise of discretion in the investment of retirement system funds shall solicit or accept, and no person shall give to that board member, officer, or employee, payment of actual travel expenses, including expenses incurred with the travel for lodging, meals, food, and beverages.

(I) A public official or employee may accept travel, meals, and lodging or expenses or reimbursement of expenses for travel, meals, and lodging in connection with conferences, seminars, and similar events related to official duties if the travel, meals, and lodging, expenses, or reimbursement is not of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties. The house of representatives and senate, in their code of ethics, and the Ohio ethics commission, under section 111.15 of the Revised Code, may adopt rules setting standards and conditions for the furnishing and acceptance of such travel, meals, and lodging, expenses, or reimbursement.

A person who acts in compliance with this division and any applicable rules adopted under it, or any applicable, similar rules adopted by the supreme court governing judicial officers and employees, does not violate division (D), (E), or (F) of this section. This division does not preclude any person from seeking an advisory opinion from the appropriate ethics commission under section 102.08 of the Revised Code.

(J) For purposes of divisions (D), (E), and (F) of this section, the membership of a public official or employee in an organization shall not be considered, in and of itself, to be of such a character as to manifest a substantial and improper influence on the public official or employee with respect to that person's duties. As used in this division, "organization" means a church or a religious, benevolent, fraternal, or professional organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3), (4), (8), (10), or (19) of the "Internal Revenue Code of 1986." This division does not apply to a public official or employee who is an employee of an organization, serves as a trustee, director, or officer of an organization, or otherwise holds a fiduciary relationship with an organization. This division does not allow a public official or employee who is a member of an organization to participate, formally or informally, in deliberations, discussions, or voting on a matter or to use his official position with regard to the interests of the organization on the matter if the

public official or employee has assumed a particular responsibility in the organization with respect to the matter or if the matter would affect that person's personal, pecuniary interests.

(K) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with division (B) of section 309.06 and section 2921.421 of the Revised Code, for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with sections 733.621 and 2921.421 of the Revised Code, for a township law director appointed under section 504.15 of the Revised Code to appoint assistants and employees in accordance with sections 504.151 and 2921.421 of the Revised Code, or for a coroner to appoint assistants and employees in accordance with division (B) of section 313.05 of the Revised Code.

As used in this division, "chief legal officer" has the same meaning as in section 733.621 of the Revised Code.

Sec. 102.06. (A) The appropriate ethics commission shall receive and may initiate complaints against persons subject to Chapter 102. of the Revised Code concerning conduct alleged to be in violation of this chapter or section 2921.42 or 2921.43 of the Revised Code. All complaints except those by the commission shall be by affidavit made on personal knowledge, subject to the penalties of perjury. Complaints by the commission shall be by affidavit, based upon reasonable cause to believe that a violation has occurred.

(B) The commission shall investigate complaints, may investigate charges presented to it, and may request further information, including the specific amount of income from a source, from any person filing with the commission a statement required by section 102.02 of the Revised Code, if the information sought is directly relevant to a complaint or charges received by the commission pursuant to this section. This information is confidential, except that the commission, at its discretion, may share information gathered in the course of any investigation with, or disclose the information to, the inspector general, any appropriate prosecuting authority, any law enforcement agency, or any other appropriate ethics commission. If the accused person is a member of the public employees retirement board, state teachers retirement board, school employees retirement board, board of trustees of the Ohio police and fire pension fund, or state highway patrol retirement board, the commission, at its discretion, also may share information gathered in the course of an investigation with, or disclose the information to, the attorney general and the auditor of state. The person so requested shall furnish the information to the commission, unless within

fifteen days from the date of the request the person files an action for declaratory judgment challenging the legitimacy of the request in the court of common pleas of the county of the person's residence, the person's place of employment, or Franklin county. The requested information need not be furnished to the commission during the pendency of the judicial proceedings. Proceedings of the commission in connection with the declaratory judgment action shall be kept confidential except as otherwise provided by this section. Before the commission proceeds to take any formal action against a person who is the subject of an investigation based on charges presented to the commission, a complaint shall be filed against the person. If the commission finds that a complaint is not frivolous, and there is reasonable cause to believe that the facts alleged in a complaint constitute a violation of section 102.02, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the Revised Code, it shall hold a hearing. If the commission does not so find, it shall dismiss the complaint and notify the accused person in writing of the dismissal of the complaint. The commission shall not make a report of its finding unless the accused person requests a report. Upon the request of the accused person, the commission shall make a public report of its finding. The person against whom the complaint is directed shall be given reasonable notice by certified mail of the date, time, and place of the hearing and a statement of the charges and the law directly involved and shall be given the opportunity to be represented by counsel, to have counsel appointed for the person if the person is unable to afford counsel without undue hardship, to examine the evidence against the person, to produce evidence and to call and subpoena witnesses in the person's defense, to confront the person's accusers, and to cross-examine witnesses. The commission shall have a stenographic record made of the hearing. The hearing shall be closed to the public.

(C)(1)(a) If upon the basis of the hearing, the commission finds by a preponderance of the evidence that the facts alleged in the complaint are true and constitute a violation of section 102.02, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the Revised Code, it shall report its findings to the appropriate prosecuting authority for proceedings in prosecution of the violation and to the appointing or employing authority of the accused. If the accused person is a member of the public employees retirement board, state teachers retirement board, school employees retirement board, board of trustees of the Ohio police and fire pension fund, or state highway patrol retirement board, the commission also shall report its findings to the Ohio retirement study council.

(b) If the Ohio ethics commission reports its findings to the appropriate

prosecuting authority under division (C)(1)(a) of this section and the prosecuting authority has not initiated any official action on those findings within ninety days after receiving the commission's report of them, then the commission may publicly comment that no official action has been taken on its findings, except that the commission shall make no comment in violation of the Rules of Criminal Procedure or about any indictment that has been sealed pursuant to any law or those rules. The commission shall make no comment regarding the merits of its findings. As used in division (C)(1)(b) of this section, "official action" means prosecution, closure after investigation, or grand jury action resulting in a true bill of indictment or no true bill of indictment.

(2) If the appropriate ethics commission does not find by a preponderance of the evidence that the facts alleged in the complaint are true and constitute a violation of section 102.02, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the Revised Code or if the commission has not scheduled a hearing within ninety days after the complaint is filed or has not finally disposed of the complaint within six months after it has been heard, it shall dismiss the complaint and notify the accused person in writing of the dismissal of the complaint. The commission shall not make a report of its finding unless the accused person requests a report. Upon the request of the accused person, the commission shall make a public report of the finding, but in this case all evidence and the record of the hearing shall remain confidential unless the accused person also requests that the evidence and record be made public. Upon request by the accused person, the commission shall make the evidence and the record available for public inspection.

(D) The commission, or a member of the commission, may administer oaths, and the commission may issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and records. The commission shall issue subpoenas to compel the attendance of witnesses and the production of documents upon the request of an accused person. Section 101.42 of the Revised Code shall govern the issuance of these subpoenas insofar as applicable. Upon the refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the commission may apply to the court of common pleas of Franklin county under section 2705.03 of the Revised Code. The court shall hold proceedings in accordance with Chapter 2705. of the Revised Code. The commission or the accused person may take the depositions of witnesses residing within or without the state in the same manner as prescribed by law for the taking of depositions in civil actions in the court of common pleas.

(E) At least once each year, the Ohio ethics commission shall report on its activities of the immediately preceding year to the majority and minority leaders of the senate and house of representatives of the general assembly. The report shall indicate the total number of complaints received, initiated, and investigated by the commission, the total number of complaints for which formal hearings were held, and the total number of complaints for which formal prosecution was recommended or requested by the commission. The report also shall indicate the nature of the inappropriate conduct alleged in each complaint and the governmental entity with which any employee or official that is the subject of a complaint was employed at the time of the alleged inappropriate conduct.

(F) All papers, records, affidavits, and documents upon any complaint, inquiry, or investigation relating to the proceedings of the appropriate commission shall be sealed and are private and confidential, except as otherwise provided in this section and section 102.07 of the Revised Code.

(G)(1) When a complaint or charge is before it, the Ohio ethics commission or the appropriate prosecuting authority, in consultation with the person filing the complaint or charge, the accused, and any other person the commission or prosecuting authority considers necessary, may compromise or settle the complaint or charge with the agreement of the accused. The compromise or settlement may include mediation, restitution, rescission of affected contracts, forfeiture of any benefits resulting from a violation or potential violation of law, resignation of a public official or employee, or any other relief that is agreed upon between the commission or prosecuting authority and the accused.

(2) Any settlement agreement entered into under division (G)(1) of this section shall be in writing and be accompanied by a statement of the findings of the commission or prosecuting authority and the reasons for entering into the agreement. The commission or prosecuting authority shall retain the agreement and statement in the commission's or prosecuting ~~attorney's~~ authority's office and, in the commission's or prosecuting authority's discretion, may make the agreement, the statement, and any supporting information public, unless the agreement provides otherwise.

(3) If a settlement agreement is breached by the accused, the commission or prosecuting authority, in the commission's or prosecuting authority's discretion, may rescind the agreement and reinstitute any investigation, hearing, or prosecution of the accused. No information obtained from the accused in reaching the settlement that is not otherwise discoverable from the accused shall be used in any proceeding before the commission or by the appropriate prosecuting authority in prosecuting the

violation. Notwithstanding any other section of the Revised Code, if a settlement agreement is breached, any statute of limitations for a violation of this chapter or section 2921.42 or 2921.43 of the Revised Code is tolled from the date the complaint or charge is filed until the date the settlement agreement is breached.

Sec. 109.98. As used in this section, "state retirement board" means the public employees retirement board, board of trustees of the Ohio police and fire pension fund, school employees retirement board, state teachers retirement board, and state highway patrol retirement board.

If a member of a state retirement board breaches the member's fiduciary duty to the retirement system, the attorney general may maintain a civil action against the board member for harm resulting from that breach. The attorney general may recover damages or be granted injunctive relief, which shall include the enjoinder of specified activities and the removal of the member from the board. Any damages awarded shall be paid to the retirement system. The authority to maintain a civil action created by this section is in addition to any authority the attorney general possesses under any other provision of the Revised Code.

Sec. 111.30. The secretary of state shall prescribe forms for campaign finance disclosure statements and independent expenditure statements for the purpose of sections 145.053, 742.042, 3307.072, 3309.072, and 5505.044 of the Revised Code and accept the forms from candidates and persons making independent expenditures filing them with the secretary pursuant to those sections.

Sec. 117.10. The auditor of state shall audit all public offices as provided in this chapter. The auditor of state also may audit the accounts of private institutions, associations, boards, and corporations receiving public money for their use and may require of them annual reports in such form as the auditor of state prescribes.

If the auditor of state performs or contracts for the performance of an audit, including a special audit, of the public employees retirement system, school employees retirement system, state teachers retirement system, state highway patrol retirement system, or Ohio police and fire pension fund, the auditor of state shall make a timely report of the results of the audit to the Ohio retirement study council.

The auditor of state may audit the accounts of any provider as defined in section 5111.06 of the Revised Code, if requested by the department of job and family services.

If a public office has been audited by an agency of the United States government, the auditor of state may, if satisfied that the federal audit has

been conducted according to principles and procedures not contrary to those of the auditor of state, use and adopt the federal audit and report in lieu of an audit by the auditor of state's own office.

Within thirty days after the creation or dissolution or the winding up of the affairs of any public office, that public office shall notify the auditor of state in writing that this action has occurred.

Sec. 145.04. The general administration and management of the public employees retirement system and the making effective of Chapter 145. of the Revised Code, are hereby vested in a board to be known as the "public employees retirement board," which shall consist of ~~nine~~ the following members ~~as follows~~:

(A) ~~The attorney general;~~ One member, known as the treasurer of state's investment designee, who shall be appointed by the treasurer of state for a term of four years and have the following qualifications:

(1) The member is a resident of this state.

(2) Within the three years immediately preceding the appointment, the member has not been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including management, analysis, supervision, or investment of assets.

(3) The member has direct experience in the management, analysis, supervision, or investment of assets.

(4) The member is not currently employed by the state or a political subdivision of the state.

~~(B) The auditor of state;~~

~~(C) The director of administrative services;~~

~~(D)~~ (C) Five members, known as employee members, one of whom shall be a state employee member of the system, who shall be elected by ballot by the state employee members of the system from among their number; another of whom shall be a county employee member of the system, who shall be elected by ballot by the county employee members of the system from among their number; another of whom shall be a municipal employee member of the system, who shall be elected by ballot by the municipal employee members of the system from among their number; another of whom shall be a university or college employee member of the system, who shall be elected by ballot by the university and college employee members of the system from among their number; and another of whom shall be a park district, conservancy district, sanitary district, health district, public

library, ~~township~~, metropolitan housing authority, union cemetery, joint hospital, township, or institutional commissary employee member of the system, who shall be elected by ballot by the park district, conservancy district, sanitary district, health district, metropolitan housing authority, ~~township~~, public library, union cemetery, joint hospital, township, and institutional commissary employee members of the system from among their number, in a manner to be approved by the board. Members of the system who are receiving a disability benefit under this chapter are ineligible for membership on the board as employee members.

~~(E) One member~~ (D) Two members, known as the retirant ~~member~~ members, who shall be a former ~~member~~ members of the public employees retirement system who ~~is a resident of~~ reside in this state and ~~a recipient of~~ receive age and service retirement, a disability benefit, or benefits paid under a PERS defined contribution plan. The retirant ~~member~~ members shall be elected by ballot by former members of the system who are receiving age and service retirement, a disability benefit, or benefits paid under a PERS defined contribution plan;

(E)(1) Two members, known as the investment expert members, who shall be appointed for four-year terms and each of whom shall have the following qualifications:

(a) The member is a resident of this state.

(b) Within the three years immediately preceding the appointment, the member has not been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(c) The member has direct experience in the management, analysis, supervision, or investment of assets.

(2) One investment expert member shall be appointed by the governor, and one investment expert member shall be jointly appointed by the speaker of the house of representatives and the president of the senate. Any investment expert member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office until the end of such term. The member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

Sec. 145.041. Each newly elected member of the public employees

retirement board and each individual appointed to fill a vacancy on the board, shall, not later than ninety days after commencing service as a board member, complete the orientation program component of the retirement board member education program established under section 171.50 of the Revised Code.

Each member of the board who has served a year or longer as a board member shall, not less than twice each year, attend one or more programs that are part of the continuing education component of the retirement board member education program established under section 171.50 of the Revised Code.

Sec. 145.042. A person who served as an elected or appointed member of the public employees retirement board for one or more entire fiscal years in fiscal years 2000, 2001, or 2002 is ineligible for re-election or reappointment to the board if the board paid travel-related expenses of the person or reimbursed the person for travel-related expenses that averaged more than ten thousand dollars annually for those fiscal years.

Sec. 145.05. (A) The terms of office of employee members of the public employees retirement board shall be for four years each beginning on the first day of January following election. The election of the county employee member of the board and the employee member of the board representing public library, health district, park district, conservancy district, sanitary district, township, metropolitan housing authority, union cemetery, joint hospital, and institutional commissary employees shall be held on the first Monday in October, 1945, and on the first Monday in October in each fourth year thereafter. The election of the state employee member of the board and the municipal employee member of the board shall be held on the first Monday in October, 1946, and on the first Monday in October in each fourth year thereafter. The election of the initial university-college employee member of the board shall be held on the first Monday in October, 1978, and elections for subsequent university-college employee members of the board shall be held on the first Monday in October in each fourth year thereafter.

(B) The term of office of the retirant ~~member~~ members of the public employees retirement board shall be for four years beginning on the first day of January following the election. The election of the initial retirant member ~~of~~ for that position on the board shall be held on the first Monday in October, 1978, and subsequent elections for ~~subsequent~~ this retirant ~~members of the board~~ position shall be held on the first Monday in October in each fourth year thereafter. The initial election for the second retirant member position shall be held at the first election that occurs later than

ninety days after the effective date of this amendment. Subsequent elections for this retirant position shall be held each fourth year thereafter.

(C) All elections for employee members of the public employees retirement board shall be held under the direction of the board in accordance with rules adopted under section 145.058 of the Revised Code. Any member of the public employees retirement system, except a member who is receiving a disability benefit under this chapter, is eligible for election as an employee member of the board to represent the employee group that includes the member, provided that the member has been nominated by a petition that is signed by at least five hundred members of the employee group to be represented ~~and further provided that there shall be, including~~ not less than twenty such signers from each of at least ten counties of the state, and certified in accordance with rules adopted under section 145.058 of the Revised Code. The name of any member so nominated shall be placed upon the ballot by the board as a regular candidate. Names of other eligible candidates may, at any election, be substituted for the regular candidates by writing such names upon the ballots. The candidate who receives the highest number of votes for a particular employee member position on the board shall be elected to that office on certification of the election results in accordance with rules adopted under section 145.058 of the Revised Code.

(D) All elections for the retirant ~~member~~ members of the public employees retirement board shall be held under the direction of the board in accordance with rules adopted under section 145.058 of the Revised Code. Any former member of the public employees retirement system who is described in division ~~(E)~~(D) of section 145.04 of the Revised Code is eligible for election as ~~the~~ a retirant member of the board to represent recipients of age and service retirement, a disability benefit, or benefits paid under a PERS defined contribution plan, provided that such person has been nominated by a petition that is signed by any combination of at least two hundred fifty eligible, former members of the system ~~who are recipients and~~ certified in accordance with rules adopted under section 145.058 of the Revised Code. To be eligible to sign the petition, a former member of the system must be a recipient of age and service retirement, a disability benefit, or benefits paid under a PERS defined contribution plan, or any combination of such recipients that totals two hundred fifty. The petition shall contain the signatures of at least ten such recipients from each of at least five counties wherein recipients of benefits from the system reside.

The name of any person nominated in this manner shall be placed upon the ballot by the board as a regular candidate. Names of other eligible candidates may, at any election for ~~the~~ a retirant member of the board, be

substituted for the regular candidates by writing the names of such persons upon the ballot. The candidate who receives the highest number of votes for any term as ~~the~~ a retirant member of the board shall be elected to office on certification of the election results in accordance with rules adopted under section 145.058 of the Revised Code.

Sec. 145.051. If a person elected to serve on the public employees retirement board is unable to assume office at the January meeting of the board following the person's election, a special election shall be held in accordance with the provisions of section 145.05 of the Revised Code within three months of the January meeting. On certification of the elections results, the newly elected person shall assume office at the meeting of the board immediately following the special election.

~~Sec. 145.051~~ 145.052. Notwithstanding sections 145.04 and 145.05 of the Revised Code, the public employees retirement board is not required to hold an election, including a special election under section ~~145.06~~ 145.051 of the Revised Code, for a position on the board as an employee member or retirant member if only one candidate has been nominated for the position by petition in accordance with section 145.05 of the Revised Code. The candidate shall take office as if elected. The term of office shall be four years beginning on the first day of January following the date the candidate was nominated.

Sec. 145.053. (A) As used in this section:

(1) "Campaign committee" means a candidate or a combination of two or more persons authorized by a candidate to receive contributions and in-kind contributions and make expenditures on behalf of the candidate.

(2) "Candidate" means an individual who has been nominated pursuant to division (C) or (D) of section 145.05 of the Revised Code for election to the public employees retirement board or who is seeking to be elected to fill a vacancy on the board pursuant to section 145.06 of the Revised Code.

(3) "Contribution" means a loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, transfer of funds or transfer of anything of value including a transfer of funds from an inter vivos or testamentary trust or decedent's estate, and the payment by any person other than the person to whom the services are rendered for the personal services of another person, which contribution is made, received, or used for the purpose of influencing the results of an election to the public employees retirement board under section 145.05 of the Revised Code, including a special election provided for by section 145.051 of the Revised Code, or the results of an election to fill a vacancy on the board pursuant to section 145.06 of the Revised Code. "Contribution" does not include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a person;

(b) Ordinary home hospitality;

(c) The personal expenses of a volunteer paid for by that volunteer campaign worker.

(4) "Election day" means the following, as appropriate to the situation:

(a) The first Monday in October of a year for which section 145.05 of the Revised Code specifies that an election for a member of the public employees retirement board be held;

(b) If, pursuant to section 145.052 of the Revised Code, no election is held, the first Monday in October of a year that the election would have been held if not for section 145.052 of the Revised Code;

(c) If the election is a special election provided for by section 145.051 of the Revised Code, a day that the board shall specify that is consistent with requirements for a special election established by section 145.051 of the Revised Code.

(5) "Expenditure" means the disbursement or use of a contribution for the purpose of influencing the results of an election to the public employees retirement board under section 145.05 of the Revised Code, including a special election provided for by section 145.051 of the Revised Code, or the results of an election to fill a vacancy on the board pursuant to section 145.06 of the Revised Code.

(6) "Independent expenditure" means an expenditure by an individual, partnership, or other entity advocating the election or defeat of an identified candidate or candidates, that is not made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of any candidate or candidates or of the campaign committee or agent of the candidate or candidates. An independent expenditure shall not be construed as being a contribution. As used in division (A)(6) of this section:

(a) "Advocating" means any communication containing a message advocating election or defeat.

(b) "Identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference.

(c) "Made in coordination, cooperation, or consultation with, or at the request or suggestion of, any candidate or the campaign committee or agent of the candidate" means made pursuant to any arrangement, coordination, or direction by the candidate, the candidate's campaign committee, or the candidate's agent prior to the publication, distribution, display, or broadcast

of the communication. An expenditure is presumed to be so made when it is any of the following:

(i) Based on information about the candidate's plans, projects, or needs provided to the person making the expenditure by the candidate, or by the candidate's campaign committee or agent, with a view toward having an expenditure made;

(ii) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of the candidate's campaign committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate or the candidate's campaign committee or agent;

(iii) Made by a political party in support of a candidate, unless the expenditure is made by a political party to conduct voter registration or voter education efforts.

(d) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position with the candidate's campaign committee or organization such that it would reasonably appear that in the ordinary course of campaign-related activities the person may authorize expenditures.

(7) "In-kind contribution" means anything of value other than money that is used to influence the results of an election to the public employees retirement board under section 145.05 of the Revised Code, including a special election provided for by section 145.051 of the Revised Code, or the results of an election to fill a vacancy on the board pursuant to section 145.06 of the Revised Code, or is transferred to or used in support of or in opposition to a candidate and that is made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of the benefited candidate. The financing of the dissemination, distribution, or republication, in whole or part, of any broadcast or of any written, graphic, or other form of campaign materials prepared by the candidate, the candidate's campaign committee, or their authorized agents is an in-kind contribution to the candidate and an expenditure by the candidate.

(8) "Personal expenses" includes ordinary expenses for accommodations, clothing, food, personal motor vehicle or airplane, and home telephone.

(B) Except as otherwise provided in division (D) of this section, each candidate who, or whose campaign committee, receives contributions or in-kind contributions totaling one thousand dollars or more or has expenditures totaling one thousand dollars or more in connection with the

candidate's efforts to be elected to the public employees retirement board shall file with the secretary of state two complete, accurate, and itemized statements setting forth in detail the contributions, in-kind contributions, and expenditures. The statements shall be filed regardless of whether the election is a regular election or, pursuant to section 145.051 of the Revised Code, a special election. The statements shall also be filed regardless of whether, pursuant to section 145.052 of the Revised Code, no election is held. The statements shall be made on a form prescribed under section 111.30 of the Revised Code. Every expenditure shall be vouched for by a receipted bill, stating the purpose of the expenditures, that shall be filed with the statement; a canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of this division.

The first statement shall be filed not later than four p.m. on the day that is twelve days before election day. The second statement shall be filed not sooner than the day that is eight days after election day and not later than thirty-eight days after election day. The first statement shall reflect contributions and in-kind contributions received and expenditures made to the close of business on the twentieth day before election day. The second statement shall reflect contributions and in-kind contributions received and expenditures made during the period beginning on the nineteenth day before election day and ending on the close of business on the seventh day after election day.

(C) Each individual, partnership, or other entity that makes an independent expenditure in connection with the candidate's efforts to be elected to the public employees retirement board shall file with the secretary of state two complete, accurate, and itemized statements setting forth in detail the independent expenditures. The statements shall be filed regardless of whether the election is a regular election or, pursuant to section 145.051 of the Revised Code, a special election. The statements also shall be filed regardless of whether, pursuant to section 145.052 of the Revised Code, no election is held. The statements shall be made on a form prescribed under section 111.30 of the Revised Code.

The first statement shall be filed not later than four p.m. on the day that is twelve days before election day. The second statement shall be filed not sooner than the day that is eight days after election day and not later than thirty-eight days after election day. The first statement shall reflect independent expenditures made to the close of business on the twentieth day before election day. The second statement shall reflect independent expenditures made during the period beginning on the nineteenth day before election day and ending on the close of business on the seventh day after

election day.

(D) Each candidate who, or whose campaign committee, receives a contribution or in-kind contribution or makes an expenditure in connection with the candidate's efforts to be elected to fill a vacancy in the public employees retirement board pursuant to section 145.06 of the Revised Code shall file with the secretary of state a complete, accurate, and itemized statement setting forth in detail the contributions, in-kind contributions, and expenditures. The statement shall be made on a form prescribed under section 111.30 of the Revised Code. Every expenditure shall be vouched for by a receipted bill, stating the purpose of the expenditures, that shall be filed with the statement; a canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of this division.

The statement shall be filed within thirty-eight days after the day the candidate takes office. The statement shall reflect contributions and in-kind contributions received and expenditures made to the close of business on the seventh day after the day the candidate takes office.

Sec. 145.054. (A) No person shall knowingly fail to file a complete and accurate campaign finance statement or independent expenditure statement in accordance with section 145.053 of the Revised Code.

(B) No person, during the course of a person seeking nomination for, or during any campaign for, election to the public employees retirement board, shall knowingly and with intent to affect the nomination or the outcome of the campaign do any of the following by means of campaign materials, an advertisement on radio or television or in a newspaper or periodical, a public speech, press release, or otherwise:

(1) With regard to a candidate, identify the candidate in a manner that implies that the candidate is a member of the board or use the term "re-elect" when the candidate is not currently a member of the board;

(2) Make a false statement concerning the formal schooling or training completed or attempted by a candidate; a degree, diploma, certificate, scholarship, grant, award, prize, or honor received, earned, or held by a candidate; or the period of time during which a candidate attended any school, college, community technical school, or institution;

(3) Make a false statement concerning the professional, occupational, or vocational licenses held by a candidate, or concerning any position the candidate held for which the candidate received a salary or wages;

(4) Make a false statement that a candidate or board member has been indicted or convicted of a theft offense, extortion, or other crime involving financial corruption or moral turpitude;

(5) Make a statement that a candidate has been indicted for any crime or

has been the subject of a finding by the Ohio elections commission without disclosing the outcome of any legal proceedings resulting from the indictment or finding;

(6) Make a false statement that a candidate or board member has a record of treatment or confinement for mental disorder;

(7) Make a false statement that a candidate or board member has been subjected to military discipline for criminal misconduct or dishonorably discharged from the armed services;

(8) Falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a candidate by a person or publication;

(9) Make a false statement concerning the voting record of a candidate or board member;

(10) Post, publish, circulate, distribute, or otherwise disseminate a false statement concerning a candidate, either knowing the same to be false or with reckless disregard of whether it was false or not, if the statement is designed to promote the election, nomination, or defeat of the candidate.

Sec. 145.055. The secretary of state, or any person acting on personal knowledge and subject to the penalties of perjury, may file a complaint with the Ohio elections commission alleging a violation of section 145.054 of the Revised Code. The complaint shall be made on a form prescribed and provided by the commission.

On receipt of a complaint under this section, the commission shall hold a hearing open to the public to determine whether the violation alleged in the complaint has occurred. The commission may administer oaths and issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and reports. On the refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the commission may apply to the court of common pleas of Franklin county under section 2705.03 of the Revised Code. The court shall hold contempt proceedings in accordance with Chapter 2705. of the Revised Code.

The commission shall provide the person accused of the violation at least seven days prior notice of the time, date, and place of the hearing. The accused may be represented by an attorney and shall have an opportunity to present evidence, call witnesses, and cross-examine witnesses.

At the hearing, the commission shall determine whether the violation alleged in the complaint has occurred. If the commission determines that a violation of division (A) of section 145.054 of the Revised Code has occurred, the commission shall either impose a fine under section 145.99 of

the Revised Code or enter a finding that good cause has been shown not to impose the fine. If the commission determines that a violation of division (B) of section 145.054 of the Revised Code has occurred, the commission shall impose the fine described in section 145.99 of the Revised Code, refer the matter to the appropriate prosecutor, or enter a finding that good cause has been shown not to impose a fine or refer the matter to a prosecutor.

Sec. 145.057. (A) The office of an employee member or retirant member of the public employees retirement board who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible for election to the office of employee member or retirant member of the public employees retirement board.

(B) A member of the public employees retirement board who willfully and flagrantly exercises authority or power not authorized by law, refuses or willfully neglects to enforce the law or to perform any official duty imposed by law, or is guilty of gross neglect of duty, gross immorality, drunkenness, misfeasance, malfeasance, or nonfeasance is guilty of misconduct in office. On complaint and hearing in the manner provided for in this section, the board member shall have judgment of forfeiture of the office with all its emoluments entered against the board member, creating in the office a vacancy to be filled as provided by law.

(C) Proceedings for removal of a board member on any of the grounds enumerated in division (B) of this section shall be commenced by filing with the court of appeals of the district in which the board member resides a written complaint specifically setting forth the charge. The complaint shall be accepted if signed by the governor or signed as follows:

(1) If the complaint is against an employee member of the board, the complaint must be signed by a number of members of the employee group represented by the member that equals at least the following and must include signatures of at least twenty employee members residing in at least five different counties:

(a) If the employee member was most recently elected in accordance with section 145.05 of the Revised Code, ten per cent of the number of members of the employee group represented by the employee member who voted in that election;

(b) If the employee member was most recently elected under section 145.06 of the Revised Code or took office in accordance with section

145.051 of the Revised Code, ten per cent of the number of members of the employee group represented by the employee member who voted in the most recent election held in accordance with section 145.05 of the Revised Code for that employee member position on the board.

(2) If the complaint is against a retirant member of the board, the complaint must be signed by a number of former members of the system authorized to vote for a retirant member in an election under section 145.05 of the Revised Code that equals at least the following and must include signatures of at least twenty former members residing in at least five different counties:

(a) If the retirant member was most recently elected in accordance with section 145.05 of the Revised Code, ten per cent of the number of former members of the system who voted in that election;

(b) If the retirant member was most recently elected under section 145.06 of the Revised Code or took office in accordance with section 145.051 of the Revised Code, ten per cent of the number of former members of the system who voted in the most recent election held in accordance with section 145.05 of the Revised Code for that retirant member position on the board.

(D) The clerk of the court of appeals in which a complaint against a member of the board is filed under division (C) of this section shall do both of the following with respect to the complaint:

(1) Submit the signatures obtained pursuant to division (C) of this section to the board for purposes of verifying the validity of the signatures. The board shall verify the validity of the signatures and report its findings to the court.

(2) Cause a copy of the complaint to be served on the board member at least ten days before the hearing on the complaint. The court shall hold a public hearing not later than thirty days after the filing of the complaint. The court may subpoena witnesses and compel their attendance in the same manner as in civil cases. Process shall be served by the sheriff of the county in which the witness resides. Witness fees and other fees in connection with the proceedings shall be the same as in civil cases. The court may suspend the board member pending the hearing.

If the court finds that one or more of the charges in the complaint are true, it shall make a finding for removal of the board member. The court's finding shall include a full detailed statement of the reasons for the removal. The finding shall be filed with the clerk of the court and be made a matter of public record.

The board member has the right of review or appeal to the supreme

court on leave first obtained. The supreme court shall hear the case in not more than thirty court days after granting leave. In other respects, the hearing shall follow the regular procedure in appealable cases that originate in the court of appeals.

(E) No individual who has been removed from the board pursuant to this section shall be eligible to fill an elective or appointed position as a member of the board.

Sec. 145.058. (A) The public employees retirement board, following consultation with the secretary of state, shall adopt rules in accordance with Chapter 119. of the Revised Code, governing all of the following:

(1) The administration of elections of members of the board under section 145.05 of the Revised Code, special elections provided for by section 145.051 of the Revised Code, and elections held under section 145.06 of the Revised Code to fill vacancies on the board;

(2) Nominating petitions for the elections;

(3) Certification of the validity of nominating petitions for the elections;

(4) Certification of the results of the elections.

(B) The board may contract with the secretary of state or an independent firm to administer the elections, certify the validity of nominating petitions, and certify the results of the elections. The secretary of state and the independent firm shall perform these services in accordance with the rules adopted under division (A) of this section. Notwithstanding section 145.27 of the Revised Code, the board shall provide information necessary for the secretary of state or the independent firm to certify the election. If the board contracts with an independent firm to administer an election, the secretary of state may audit the election.

Sec. 145.06. (A) If a vacancy occurs in the term of any employee member of the public employees retirement board, the remaining members of the board shall elect ~~an~~ a successor employee member from the employee group lacking representation because of the vacancy ~~for the unexpired term~~. On certification of the election results in accordance with rules adopted under section 145.058 of the Revised Code, the successor employee member shall hold office until the next board election that occurs not less than ninety days after the successor employee member's election.

Any employee member of the board who fails to attend the meetings of the board for three months or longer, without valid excuse, shall be considered as having resigned, and the board shall declare the employee member's office vacated as of the date of the adoption of a proper resolution.

(B) If a vacancy occurs during the term of office of ~~the~~ a retirant member of the board, the remaining members of the board shall elect a

successor retirant member who ~~shall hold office for the remainder of the predecessor retirant member's term. The successor retirant member~~ shall be a former member of the public employees retirement system who is eligible for election under section 145.04 of the Revised Code as ~~the~~ a retirant member of the board. On certification of the election results in accordance with rules adopted under section 145.058 of the Revised Code, the successor retirant member shall hold office until the next board election that occurs not less than ninety days after the successor retirant member's election.

If a retirant member of the board fails to attend the meetings of the board for three months or longer, without valid excuse, the retirant member shall be considered as having resigned, and the board shall declare the member's office vacated as of the date of the adoption of a proper resolution.

If as a result of changed circumstances ~~the~~ a retirant member would no longer qualify for membership on the board as the retirant member, the retirant member's office shall be considered vacant, and a successor retirant member shall be chosen in the manner specified in this division.

~~(C) If a person elected to serve on the board is unable to assume office at the January meeting of the board following the person's election, a special election shall be held in accordance with the provisions of section 145.05 of the Revised Code within three months of the January meeting and the newly elected person shall assume office at the meeting of the board immediately following the special election~~ Elections under this section to fill a vacancy on the board shall be conducted in accordance with rules adopted under section 145.058 of the Revised Code.

Sec. 145.09. The public employees retirement board shall elect from its membership a chairperson, and shall appoint an executive director who shall serve as secretary to the board, an actuary, and other employees as necessary for the transaction of the business of the public employees retirement system. The compensation of all persons so appointed shall be fixed by the board. ~~Every~~

Effective ninety days after the effective date of this amendment, the board may not employ a state retirement system investment officer, as defined in section 1707.01 of the Revised Code, who does not hold a valid state retirement system investment officer license issued by the division of securities in the department of commerce.

Every expense voucher of an employee, officer, or board member of the public employees retirement system shall itemize all purchases and expenditures.

The board shall perform other functions as required for the proper execution of this chapter, and may adopt rules in accordance with section

111.15 of the Revised Code for the proper administration and management of this chapter.

The board may take all appropriate action to avoid payment by the system or its members of federal or state income taxes on contributions to the system or amounts earned on such contributions.

Notice of proposed rules shall be given to interested parties and rules adopted by the board shall be published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 127.18 of the Revised Code.

The board may sue and be sued, plead and be impleaded, contract and be contracted with. All of its business shall be transacted, all of its funds invested, all warrants for money drawn and payments made, and all of its cash and securities and other property shall be held in the name of the board, or in the name of its nominee, provided that nominees are authorized by retirement board resolution for the purpose of facilitating the ownership and transfer of investments.

If the Ohio retirement study council establishes a uniform format for any report the board is required to submit to the council, the board shall submit the report in that format.

Sec. 145.092. (A) The public employees retirement board, in consultation with the Ohio ethics commission, shall review any existing policy regarding the travel and payment of travel expenses of members and employees of the public employees retirement board and adopt rules in accordance with section 145.09 of the Revised Code establishing a new or revised policy regarding travel and payment of travel expenses. Not less than sixty days before adopting a new or revised policy, the board shall submit the policy to the Ohio retirement study council for review.

(B) If the board intends to award a bonus to any employee of the board, it shall adopt rules in accordance with section 145.09 of the Revised Code establishing a policy regarding employee bonuses.

(C) The board shall provide copies of the rules adopted under divisions (A) and (B) of this section to each member of the Ohio retirement study council;

(D) The board shall submit both of the following to the Ohio retirement study council:

(1) A proposed operating budget, including an administrative budget for the board, for the next immediate fiscal year and adopt that budget not

earlier than sixty days after it is submitted to the council:

(2) A plan describing how the board will improve the dissemination of public information pertaining to the board.

Sec. 145.093. The public employees retirement board shall, in consultation with the Ohio ethics commission, develop an ethics policy to govern board members and employees in the performance of their official duties. The board shall submit this policy to the commission for approval.

The commission shall review the policy and, if the commission determines that the policy is adequate, approve the policy. If the commission determines that the policy is inadequate, it shall specify the revisions to be made and the board shall submit a revised policy. If the commission approves the revised policy, the board shall adopt it. If not, the board shall make any further revisions required by the commission and adopt the policy. Not less than sixty days before adopting the policy, the board shall submit it to the Ohio retirement study council for review.

The board periodically shall provide ethics training to members and employees of the board. The training shall include training regarding the requirements and prohibitions of Chapter 102. of the Revised Code and sections 2921.42 and 2921.43 of the Revised Code and any other training the board considers appropriate.

The board shall establish a procedure to ensure that each employee of the board is informed of the procedure for filing a complaint alleging violation of Chapter 102. of the Revised Code or section 2921.42 or 2921.43 of the Revised Code with the Ohio ethics commission or the appropriate prosecuting attorney.

Sec. 145.094. (A) The public employees retirement board shall designate a person who is a licensed state retirement system investment officer to be the chief investment officer for the public employees retirement system. The board shall notify the division of securities of the department of commerce in writing of its designation and of any change in its designation within ten calendar days of the designation or change.

(B) The chief investment officer shall reasonably supervise the licensed state retirement system investment officers and other persons employed by the public employees retirement system with a view toward preventing violations of Chapter 1707. of the Revised Code, the "Commodity Exchange Act," 42 Stat. 998, 7 U.S.C. and following, the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. and following, and the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, and following, and the rules and regulations promulgated under those statutes. This duty of reasonable supervision shall include the adoption, implementation, and enforcement of

written policies and procedures reasonably designed to prevent persons employed by the public employees retirement system from misusing material, nonpublic information in violation of those laws, rules, and regulations.

For purposes of this division, no chief investment officer shall be considered to have failed to satisfy the officer's duty of reasonable supervision if the officer has done all of the following:

(1) Adopted and implemented written procedures, and a system for applying the procedures, that would reasonably be expected to prevent and detect, insofar as practicable, any violation by its licensed investment officers and other persons employed by the public employees retirement system;

(2) Reasonably discharged the duties and obligations incumbent on the chief investment officer by reason of the established procedures and the system for applying the procedures when the officer had no reasonable cause to believe that there was a failure to comply with the procedures and systems;

(3) Reviewed, at least annually, the adequacy of the policies and procedures established pursuant to this section and the effectiveness of their implementation.

(C) The chief investment officer shall establish and maintain a policy to monitor and evaluate the effectiveness of securities transactions executed on behalf of the board.

No chief investment officer shall be considered to have failed to satisfy the officer's duty under this division if the officer has done both of the following:

(1) Implemented the policy adopted by the board under section 145.114 of the Revised Code that outlines the criteria used to select agents that execute securities transactions on behalf of the public employees retirement system.

(2) Reviewed, at least annually, the performance of agents that execute securities transactions on behalf of the public employees retirement system.

Sec. 145.095. The public employees retirement board shall appoint a committee to oversee the selection of an internal auditor. The committee shall select one or more persons for employment as an internal auditor. The board shall employ the person or persons selected by the committee.

The committee shall consist of the following board members: one retirant member, one employee member, and the director of administrative services. The committee shall annually prepare and submit to the Ohio retirement study council a report of its actions during the preceding year.

Sec. 145.11. (A) The members of the public employees retirement board shall be the trustees of the funds created by section 145.23 of the Revised Code. The board shall have full power to invest the funds. The board and other fiduciaries shall discharge their duties with respect to the funds solely in the interest of the participants and beneficiaries; for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the public employees retirement system; with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

To facilitate investment of the funds, the board may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as amended, or any other legal entity authorized to transact business in this state.

(B) In exercising its fiduciary responsibility with respect to the investment of the funds, it shall be the intent of the board to give consideration to investments that enhance the general welfare of the state and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the board. In fulfilling this intent, equal consideration shall also be given to investments otherwise qualifying under this section that involve minority owned and controlled firms and firms owned and controlled by women, either alone or in joint venture with other firms.

The board shall adopt, in regular meeting, policies, objectives, or criteria for the operation of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines. In adopting policies and criteria for the selection of agents with whom the board may contract for the administration of the funds, the board shall comply with sections 145.114 and 145.116 of the Revised Code and shall also give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and ventures involving minority owned and controlled firms and firms owned and controlled by women that otherwise meet the policies and criteria established by the board. Amendments and additions to the policies and criteria shall be adopted in regular meeting. The board shall publish its policies, objectives, and criteria

under this provision no less often than annually and shall make copies available to interested parties.

When reporting on the performance of investments, the board shall comply with the performance presentation standards established by the association for investment management and research.

(C) All investments shall be purchased at current market prices and the evidences of title of the investments shall be placed in the hands of the treasurer of state, who is hereby designated as custodian thereof, or in the hands of the treasurer of state's authorized agent. Evidences of title of the investments so purchased may be deposited by the treasurer of state for safekeeping with an authorized agent, selected by the treasurer of state, who is a qualified trustee under section 135.18 of the Revised Code. The treasurer of state or the agent shall collect the principal, dividends, distributions, and interest thereon as they become due and payable and place them when so collected into the custodial funds.

The treasurer of state shall pay for investments purchased by the retirement board on receipt of written or electronic instructions from the board or the board's designated agent authorizing the purchase and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent. The board may sell investments held by the board, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser on receipt of written or electronic instructions from the board or the board's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed in the custodial funds. The board and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.

(D) No purchase or sale of any investment shall be made under this section except as authorized by the public employees retirement board.

(E) Any statement of financial position distributed by the board shall include the fair value, as of the statement date, of all investments held by the board under this section.

Sec. 145.114. (A) As used in this section and in section 145.116 of the Revised Code:

(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.

(2) "Minority business enterprise" has the same meaning as in section

122.71 of the Revised Code.

(3) "Ohio-qualified agent" means an agent designated as such by the public employees retirement board.

(4) "Ohio-qualified investment manager" means an investment manager designated as such by the public employees retirement board.

(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

(B) The public employees retirement board shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5733., or 5747. of the Revised Code;

(2) The agent is authorized to conduct business in this state;

(3) The agent maintains a principal place of business in this state and employs at least five residents of this state.

(C) The public employees retirement board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:

(1) Commissions charged by the agent, both in the aggregate and on a per share basis;

(2) The execution speed and trade settlement capabilities of the agent;

(3) The responsiveness, reliability, and integrity of the agent;

(4) The nature and value of research provided by the agent;

(5) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.

(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on behalf of the board.

(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board pursuant to division (C) of this section, and offers quality, services, and safety comparable to other agents otherwise available to the board. The board's determination shall be final.

(E) The board shall, at least annually, submit to the Ohio retirement

study council a report containing the following information:

(1) The name of each agent designated as an Ohio-qualified agent under this section;

(2) The name of each agent that executes securities transactions on behalf of the board;

(3) The amount of equity and fixed-income trades that are executed by Ohio-qualified agents, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;

(4) The compensation paid to Ohio-qualified agents, expressed as a percentage of total compensation paid to all agents that execute securities transactions on behalf of the board;

(5) The amount of equity and fixed-income trades that are executed by agents that are minority business enterprises, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;

(6) Any other information requested by the Ohio retirement study council regarding the board's use of agents.

Sec. 145.115. (A) The public employees retirement system shall disclose the following to the Ohio ethics commission:

(1) Anything of value received by the system from an agent and anything of value given on behalf of the system by an agent;

(2) The name of any employee of the system with authority over the investment of retirement system funds or any board member of the system who deals with an agent regarding amounts described in division (A)(1) of this section.

(B) The disclosures required by this section shall be made annually in a report submitted by a date prescribed by the Ohio ethics commission.

Sec. 145.116. (A) The public employees retirement board shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:

(1) The investment manager is subject to taxation under Chapter 5725., 5733., or 5747. of the Revised Code;

(2) The investment manager meets one of the following requirements:

(a) Has its corporate headquarters or principal place of business in this state;

(b) Employs at least five hundred individuals in this state;

(c) Has a principal place of business in this state and employs at least 20 residents of this state.

(B)(1) The board shall, at least annually, establish a policy with the goal

to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following:

(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products;

(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria.

(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final.

(C) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:

(1) The name of each investment manager designated as an Ohio-qualified investment manager under this section;

(2) The name of each investment manager with which the board contracts;

(3) The amount of assets managed by Ohio-qualified investment managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers with which the board has contracted;

(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;

(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers.

Sec. 145.19. (A) Except as provided in division (D) of this section, an individual who becomes employed in a position subject to this chapter on or after the date on which the public employees retirement board first establishes a PERS defined contribution plan shall make an election under this section. Not later than one hundred eighty days after the date on which employment begins, the individual shall elect to participate either in the PERS defined benefit plan or a PERS defined contribution plan. If a form evidencing an election under this section is not received by the public employees retirement system not later than the last day of the one-hundred-eighty-day period, the individual is deemed to have elected to participate in the PERS defined benefit plan.

(B) An election under this section shall be made in writing on a form

provided by the system and filed with the system.

(C) An election under this section shall take effect on the date employment began and, except as provided in section 145.814 of the Revised Code or rules governing the PERS defined benefit plan, is irrevocable on receipt by the system.

(D) An individual is ineligible to make an election under this section if one of the following applies:

(1) At the time employment begins, the individual is a PERS retirant or other system retirant, as those terms are defined in section 145.38 of the Revised Code, or is retired under section 145.383 of the Revised Code.

(2) The individual is participating or has elected to participate in an alternative retirement plan under section 3305.05 or 3305.051 of the Revised Code and the employment is in a position that is subject to division ~~(E) of that (C)(4)~~ of section 3305.05 or division (F) of section 3305.051 of the Revised Code.

(3) The individual is a contributor who, as of the last day of the month prior to the date employment begins, has five or more years of total service credit.

(4) The individual is employed in a position covered under this chapter to which section 145.193 of the Revised Code applies.

(5) The individual is a PERS law enforcement officer or Hamilton county municipal court bailiff.

Sec. 145.193. Except as provided in division ~~(E)(C)(4)~~ of section 3305.05 and division (F) of section 3305.051 of the Revised Code, an election made or deemed to have been made under section 145.19 or 145.191 of the Revised Code applies to all positions subject to this chapter for which the member is contributing under section 145.47 or 145.85 of the Revised Code. A member who terminates employment in all positions subject to this chapter and later becomes employed in a position subject to this chapter may make an election under section 145.19 of the Revised Code as provided by that section.

Sec. 145.27. (A)(1) As used in this division, "personal history record" means information maintained by the public employees retirement board on an individual who is a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the public employees retirement system, or other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except that the following shall be excluded, except with the written authorization of

the individual concerned:

(a) The individual's statement of previous service and other information as provided for in section 145.16 of the Revised Code;

(b) The amount of a monthly allowance or benefit paid to the individual;

(c) The individual's personal history record.

(B) All medical reports and recommendations required by this chapter are privileged, except that copies of such medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release from the individual or the individual's agent, or when necessary for the proper administration of the fund, to the board assigned physician.

(C) Any person who is a member or contributor of the system shall be furnished with a statement of the amount to the credit of the individual's account upon written request. The board is not required to answer more than one such request of a person in any one year. The board may issue annual statements of accounts to members and contributors.

(D) Notwithstanding the exceptions to public inspection in division (A)(2) of this section, the board may furnish the following information:

(1) If a member, former member, contributor, former contributor, or retirant is subject to an order issued under section 2907.15 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court or administrative order issued pursuant to Chapter 3119., 3121., 3123., or 3125. of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, contributors, former contributors, retirants, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person.

(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The board and its employees shall, except for purposes of furnishing the auditor of state with

information required by this section, preserve the confidentiality of recipients of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

(5) The system shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the system shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the board shall make available to the person copies of all documents, including resumes, in the board's possession regarding filling a vacancy of an employee member or retirant member of the board. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in this division is a public record.

(E) A statement that contains information obtained from the system's records that is signed by the executive director or an officer of the system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 145.40. (A)(1) Subject to the provisions of section 145.57 of the Revised Code and except as provided in section 145.402 of the Revised Code and division (B) of this section, if a member elects to become exempt from contribution to the public employees retirement system pursuant to section 145.03 of the Revised Code or ceases to be a public employee for any cause other than death, retirement, receipt of a disability benefit, or current employment in a position in which the member has elected to participate in an alternative retirement plan under section 3305.05 or 3305.051 of the Revised Code, upon application the public employees retirement board shall pay the member the member's accumulated contributions, plus any applicable amount calculated under section 145.401 of the Revised Code, provided that both the following apply:

(a) Three months have elapsed since the member's service subject to this chapter, other than service exempted from contribution pursuant to section 145.03 of the Revised Code, was terminated;

(b) The member has not returned to service subject to this chapter, other than service exempted from contribution pursuant to section 145.03 of the Revised Code, during that three-month period.

The payment of such accumulated contributions shall cancel the total

service credit of such member in the public employees retirement system.

(2) A member described in division (A)(1) of this section who is married at the time of application for payment and is eligible for age and service retirement under section 145.32, 145.33, 145.331, or 145.34 of the Revised Code shall submit with the application a written statement by the member's spouse attesting that the spouse consents to the payment of the member's accumulated contributions. Consent shall be valid only if it is signed and witnessed by a notary public.

The board may waive the requirement of consent if the spouse is incapacitated or cannot be located, or for any other reason specified by the board. Consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.

(B) This division applies to any member who is employed in a position in which the member has made an election under section 3305.05 or 3305.051 of the Revised Code and due to the election ceases to be a public employee for purposes of that position.

Subject to section 145.57 of the Revised Code, the public employees retirement system shall do the following:

(1) On receipt of a certified copy of a form evidencing an election under section 3305.05 or 3305.051 of the Revised Code, pay to the appropriate provider, in accordance with section ~~3305.051~~ 3305.052 of the Revised Code, the amount described in section ~~3305.051~~ 3305.052 of the Revised Code;

(2) If a member has accumulated contributions, in addition to those subject to division (B)(1) of this section, standing to the credit of the member's individual account and is not otherwise employed in a position in which the member is considered a public employee for the purposes of that position, pay, to the provider the member selected pursuant to section 3305.05 or 3305.051 of the Revised Code, the member's accumulated contributions. The payment shall be made on the member's application.

(C) Payment of a member's accumulated contributions under division (B) of this section cancels the member's total service credit in the public employees retirement system. A member whose accumulated contributions are paid to a provider pursuant to division (B) of this section is forever barred from claiming or purchasing service credit under the public employees retirement system for the period of employment attributable to those contributions.

Sec. 145.99. (A) Whoever violates division (A) of section 145.054 of the Revised Code shall be fined not more than one hundred dollars for each day of the violation.

(B) Whoever violates division (B) of section 145.054 of the Revised Code shall be imprisoned for not more than six months or fined not more than five thousand dollars, or both.

(C) Fines imposed by the Ohio elections commission under this section shall be paid into the Ohio elections commission fund created under section 3513.10 of the Revised Code.

Sec. 171.01. ~~There~~ As used in this chapter, "state retirement systems" means the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, and state highway patrol retirement system.

There is hereby created the Ohio retirement study council, consisting of fourteen members to. Members of the council shall be appointed as follows:

(A) Three members of the senate, appointed by the president of the senate, not more than two of whom may be members of the same political party;

(B) Three members of the house of representatives, appointed by the speaker of the house of representatives, not more than two of whom may be members of the same political party;

(C) Three members appointed by the governor, with the advice and consent of the senate, not more than two of whom shall be members of the same political party, one of whom shall represent the state and its employees; one of whom shall represent nonstate governments and their employees; and one of whom shall represent educational employers and their employees. Of these three members, at least one shall be a person with investment expertise. Terms of the existing members appointed by the governor shall not be affected. Terms of office of members appointed by the governor shall be for three years, commencing on the first day of July and ending on the thirtieth day of June. Each member appointed by the governor shall hold office from the date of appointment until the end of the term for which the appointment was made. Any member appointed by the governor to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. ~~Any~~ Each member appointed by the governor shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first until the member's successor is appointed and qualified, notwithstanding the expiration of the member's term of office.

(D) Five ex officio members as follows: the executive director of the public employees retirement system, the executive director of the state teachers retirement system, the executive director of the school employees

retirement system, the executive secretary of the Ohio police and fire pension fund, and the secretary of the state highway patrol retirement board, who shall be nonvoting members.

A vacancy on the council shall be filled by the person qualified to make the original appointment for the unexpired term, in the same manner as the original appointment.

The members of the council who are appointed from the membership of the senate and the house of representatives shall serve during their terms as members of the general assembly and until their successors are appointed and qualified, notwithstanding the adjournment of the general assembly of which they are members or the expiration of their terms as members of such general assembly.

Sec. 171.03. The Ohio retirement study council may:

(A) Appoint a director to manage and direct the duties of the staff of the council. The director shall be a person who has had training and experience in areas related to the duties of the council.

(B) Appoint such professional, technical, and clerical employees as are necessary, and employ or hire on a consulting basis such actuarial, legal, investment, or other technical services required for the performance of its duties;

(C) Fix the compensation of the director and all other employees of the council. The employees of the council shall be members of the public employees retirement system.

(D) Require the public employees retirement board, the state teachers retirement board, the school employees retirement board, the state highway patrol retirement system, the Ohio police and fire pension fund, and any agency or official of this state or its political subdivisions to provide it with any information necessary to carry out its duties;

(E) Administer oaths and hold public hearings at such times and places within the state as may be necessary to accomplish the purposes and intent of Chapter 171. of the Revised Code;

(F) Establish a uniform format for any report that the boards of the state retirement systems are required to submit to the council and regular reporting requirements;

(G) Request that the auditor of state perform or contract for the performance of a financial or special audit of a state retirement system;

(H) Review all proposed rules submitted to the council pursuant to sections 145.09, 742.10, 3307.04, 3309.04, and 5505.04 of the Revised Code and submit any recommendations to the joint committee on agency rule review.

Sec. 171.04. The Ohio retirement study council shall:

(A) Make an impartial review from time to time of all laws governing the administration and financing of the pension and retirement funds under Chapters 145., 146., 742., 3307., 3309., and 5505. of the Revised Code and recommend to the general assembly any changes it may find desirable with respect to the allowances and benefits, sound financing of the cost of benefits, the prudent investment of funds, and the improvement of the language, structure, and organization of the laws;

(B) Make an annual report to the governor and to the general assembly covering its evaluation and recommendations with respect to the operations of the state retirement systems and their funds;

(C) Study all changes in the retirement laws proposed to the general assembly and report to the general assembly on their probable costs, actuarial implications, and desirability as a matter of public policy;

(D) Review semiannually the policies, objectives, and criteria adopted under sections 145.11, 742.11, 3307.15, 3309.15, and 5505.06 of the Revised Code for the operation of the investment programs of the state retirement systems, including a review of asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, relative volatility, and performance evaluation guidelines. The council shall, not later than thirty days after completing a review, submit to the governor and the general assembly a report summarizing its findings.

(E) Have prepared by an independent actuary, at least once every ten years, an actuarial review of the annual actuarial valuations and quinquennial actuarial investigations prepared under sections 145.22, 742.14, 3307.20, 3309.21, and 5505.12 of the Revised Code, including a review of the actuarial assumptions and methods, the data underlying the valuations and investigations, and the adequacy of each system's employee and employer contribution rates to amortize its unfunded actuarial pension liability, if any, and to support the payment of benefits authorized by Chapter 145., 742., 3307., 3309., or 5505. of the Revised Code. The council shall submit to the governor and the general assembly a report summarizing the review.

(F) Have conducted by an independent auditor at least once every ten years a fiduciary performance audit of each of the state retirement systems.

All costs associated with an audit conducted pursuant to division (F) of this section shall be paid by the retirement system audited.

(G) Provide each member of the council with copies of all proposed rules submitted to the council pursuant to sections 145.09, 742.10, 3307.04, 3309.04, and 5505.04 of the Revised Code and submit any

recommendations to the joint committee on agency rule review.

Sec. 171.06. The attorney general is the legal adviser to the Ohio retirement study council.

Sec. 171.50. The boards of the state retirement systems shall jointly develop a retirement board member education program and submit the program to the Ohio retirement study council.

The boards shall jointly pay all costs associated with establishing and conducting the retirement board member education program.

The retirement board member education program shall consist of an orientation component for newly elected and appointed members and a continuing education component for board members who have served for at least one year. The program shall incorporate into its curriculum each of the following topics: board member duties and responsibilities, retirement system member benefits and health care management, ethics, governance processes and procedures, actuarial soundness, investments, and any other subject matter the boards believe is reasonably related to the duties of a board member.

All program sessions, classes, and other events shall be held in Ohio.

Sec. 742.03. (A) As used in this section and in sections 742.04 and 742.05 of the Revised Code:

(1) "Police officer" means a member of the fund who is or has been an employee of a police department and is not a police retiree.

(2) "Firefighter" means a member of the fund who is or has been an employee of a fire department and is not a firefighter retiree.

(3) "Firefighter retiree" means a member of the fund who is receiving an age and service or disability benefit as a result of service in a fire department or a surviving spouse of a deceased member who is receiving a benefit as a result of the deceased member's service in a fire department. "Firefighter retiree" does not include a member of the fund who is participating in the deferred retirement option plan established under section 742.43 of the Revised Code.

(4) "Police retiree" means a member of the fund who is receiving an age and service or disability benefit as a result of service in a police department or a surviving spouse of a deceased member who is receiving a benefit as a result of the deceased member's service in a police department. "Police retiree" does not include a member of the fund who is participating in the deferred retirement option plan established under section 742.43 of the Revised Code.

(B) The administration, control, and management of the Ohio police and fire pension fund, created under section 742.02 of the Revised Code, is

vested in a board of trustees of the Ohio police and fire pension fund, which shall consist of ~~nine the following~~ members as follows:

(1) ~~The attorney general;~~

(2) ~~The auditor of state;~~

(3) ~~The fiscal officer of a municipal corporation who shall be appointed by the governor. This member's term shall be for three years, commencing on the fourth day of June and ending on the third day of June. The fiscal officer member shall hold office from the date of appointment until the end of the term for which appointed. Any fiscal officer member appointed to fill a vacancy occurring prior to the expiration of the term for which the fiscal officer member's predecessor was appointed shall hold office for the remainder of such term. Any fiscal officer member shall continue in office subsequent to the expiration date of the fiscal officer member's term until such member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.~~

(4) One member, known as the treasurer of state's investment designee, who shall be appointed by the treasurer of state for a term of four years and have the following qualifications:

(a) The member is a resident of this state.

(b) Within the three years immediately preceding the appointment, the member has not been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including management, analysis, supervision, or investment of assets.

(c) The member has direct experience in the management, analysis, supervision, or investment of assets.

(d) The member is not currently employed by the state or a political subdivision of the state.

(2) Two members, known as the investment expert members, who shall be appointed for four-year terms. One investment expert member shall be appointed by the governor, and one investment expert member shall be jointly appointed by the speaker of the house of representatives and the president of the senate. Each investment expert member shall have the following qualifications:

(a) Each member shall be a resident of this state.

(b) Within the three years immediately preceding the appointment, each member shall not have been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system,

school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(c) Each member shall have direct experience in the management, analysis, supervision, or investment of assets.

Any investment expert member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office until the end of such term. The member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(3) Four members known as employee members.

Two employee members shall be police officers elected by police officers. Two employee members shall be firefighters elected by firefighters. Employee members of the board shall be elected for terms of four years as provided by section 742.04 of the Revised Code.

(5)(4) One member known as the firefighter retirant member, who shall be a resident of this state elected by the firefighter retirants. The firefighter retirant member shall be elected for a term of four years as provided by section 742.04 of the Revised Code.

(6)(5) One member known as the police retirant member, who shall be a resident of this state elected by the police retirants. The police retirant member shall be elected for a term of four years as provided by section 742.04 of the Revised Code.

(C) No employee member of the board who retires while a member of the board shall be eligible to become a retirant member for three years after the date of the member's retirement.

(D) Any investment expert member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed holds office until the end of such term. The member continues in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

Sec. 742.031. Each newly elected member of the board of trustees of the Ohio police and fire pension fund and each individual appointed to fill a vacancy on the board, shall, not later than ninety days after commencing service as a board member, complete the orientation program component of the retirement board member education program established under section 171.50 of the Revised Code.

Each member of the board who has served a year or longer as a board member shall, not less than twice each year, attend one or more programs that are part of the continuing education component of the retirement board member education program established under section 171.50 of the Revised Code.

Sec. 742.032. A person who served as an elected or appointed member of the board of trustees of the Ohio police and fire pension fund for one or more entire fiscal years in fiscal years 2000, 2001, or 2002 is ineligible for re-election or reappointment to the board if the board paid travel-related expenses of the person or reimbursed the person for travel-related expenses that averaged more than ten thousand dollars annually for those fiscal years.

Sec. 742.04. As used in this section, "county" means the county of residence of an individual who signs a nominating petition.

Election of the employee members, firefighter retirant member, and police retirant member of the board of trustees of the Ohio police and fire pension fund shall be under the supervision and direction of the board in accordance with rules adopted under section 742.045 of the Revised Code.

Nominating petitions for candidates for an employee member of the board elected by police officers shall be signed by at least one hundred police officers, with at least twenty signers from each of at least five counties of the state, and certified in accordance with rules adopted under section 742.045 of the Revised Code.

Nominating petitions for candidates for an employee member of the board elected by firefighters shall be signed by at least one hundred firefighters, with at least twenty signers from each of at least five counties of the state, and certified in accordance with rules adopted under section 742.045 of the Revised Code.

Nominating petitions for candidates for an employee member of the board shall be filed in the office of the board not later than four p.m. on the first Monday in April preceding the date of the expiration of the term of the employee member of the board whose successor is to be elected.

~~The board shall determine the sufficiency of the nominating petitions filed with it and the board's decision shall be final.~~

The board shall cause ballots to be prepared for the election of employee members of the board which shall contain the names of all candidates for whom ~~proper~~ certified nominating petitions have been filed with the board.

A police officer or firefighter is eligible to vote in an election if the police officer or firefighter is a member of the fund on the first Monday in March preceding the date of the expiration of the term of the employee

member of the board whose successor is to be elected. The board shall determine whether a member of the fund is eligible to vote at an election and its decision shall be final.

On or before the first Monday in May preceding the date of the expiration of the term of the employee member of the board whose successor is to be elected, the board shall cause ballots to be sent to each member of the fund who is eligible to vote at such election to the address of such member as shown on the records of the board.

Ballots shall be returned to the board not later than the third Tuesday in May following the date that the ballots were mailed to the members of the fund eligible to vote at such election.

~~The board shall cause the ballots to be counted and shall declare~~ On certification of the election results in accordance with rules adopted under section 742.045 of the Revised Code, the person receiving the highest number of votes shall be elected as an employee member of the board for a term of four years beginning on the first Monday in June following such election.

Nominating petitions for candidates for the police retirant member of the board shall be signed by at least fifty police retirants, with at least ten signers from at least five counties of the state, and certified in accordance with rules adopted under section 742.045 of the Revised Code.

Nominating petitions for candidates for the firefighter retirant member of the board shall be signed by at least fifty firefighter retirants, with at least ten signers from at least five counties of the state, and certified in accordance with rules adopted under section 742.045 of the Revised Code.

Nominating petitions for candidates for the retirant members of the board shall be filed in the office of the board not later than four p.m. on the first Monday in April preceding the date of the expiration of the term of the retirant member of the board whose successor is to be elected.

~~The board shall determine the sufficiency of the nominating petitions filed with it, and the board's decision shall be final.~~

The board shall cause ballots to be prepared for the election of these board members which shall contain the names of all candidates for whom ~~proper~~ certified nominating petitions have been filed with the board.

A retirant is eligible to vote in an election if the retirant is a police retirant or firefighter retirant on the first Monday in April preceding the date of the expiration of the term of the retirant member of the board whose successor is to be elected. The board shall determine whether a police retirant or firefighter retirant is eligible to vote at an election and its decision shall be final.

On or before the first Monday in May preceding the date of the expiration of the term of a retirant member of the board whose successor is to be elected, the board shall cause ballots to be sent to each person who is eligible to vote in the election to the address of the person as shown on the records of the board.

Ballots shall be returned to the board not later than the third Tuesday in May following the date that the ballots were mailed to the persons eligible to vote in the election.

~~The board shall cause the ballots to be counted and shall declare~~ On certification of the election results in accordance with rules adopted under section 742.045 of the Revised Code, the person receiving the highest number of votes shall be elected as the police retirant member or the firefighter retirant member of the board for a term of four years beginning on the first Monday in June following the election.

Sec. 742.042. (A) As used in this section:

(1) "Campaign committee" means a candidate or a combination of two or more persons authorized by a candidate to receive contributions and in-kind contributions and make expenditures on behalf of the candidate.

(2) "Candidate" means an individual who has been nominated pursuant to section 742.04 of the Revised Code for election to the board of trustees of the Ohio police and fire pension fund or who is seeking to be elected to fill a vacancy on the board pursuant to section 742.05 of the Revised Code.

(3) "Contribution" means a loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, transfer of funds or transfer of anything of value including a transfer of funds from an inter vivos or testamentary trust or decedent's estate, and the payment by any person other than the person to whom the services are rendered for the personal services of another person, which contribution is made, received, or used for the purpose of influencing the results of an election to the board of trustees of the Ohio police and fire pension fund under section 742.04 of the Revised Code or the results of an election to fill a vacancy on the board pursuant to section 742.05 of the Revised Code. "Contribution" does not include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a person;

(b) Ordinary home hospitality;

(c) The personal expenses of a volunteer paid for by that volunteer campaign worker.

(4) "Election day" means the following, as appropriate to the situation:

(a) The third Tuesday in May of a year for which section 742.04 of the Revised Code specifies that an election for a member of the board of

trustees of the Ohio police and fire pension fund be held;

(b) If, pursuant to section 742.041 of the Revised Code, no election is held, the third Tuesday in May of a year that the election would have been held if not for section 742.041 of the Revised Code.

(5) "Expenditure" means the disbursement or use of a contribution for the purpose of influencing the results of an election to the board of trustees of the Ohio police and fire pension fund under section 742.04 of the Revised Code or the results of an election to fill a vacancy on the board pursuant to section 742.05 of the Revised Code.

(6) "Independent expenditure" means an expenditure by an individual, partnership, or other entity advocating the election or defeat of an identified candidate or candidates, that is not made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of any candidate or candidates or of the campaign committee or agent of the candidate or candidates. An independent expenditure shall not be construed as being a contribution. As used in division (A)(6) of this section:

(a) "Advocating" means any communication containing a message advocating election or defeat.

(b) "Identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference.

(c) "Made in coordination, cooperation, or consultation with, or at the request or suggestion of, any candidate or the campaign committee or agent of the candidate" means made pursuant to any arrangement, coordination, or direction by the candidate, the candidate's campaign committee, or the candidate's agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure is presumed to be so made when it is any of the following:

(i) Based on information about the candidate's plans, projects, or needs provided to the person making the expenditure by the candidate, or by the candidate's campaign committee or agent, with a view toward having an expenditure made;

(ii) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of the candidate's campaign committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate or the candidate's campaign committee or agent;

(iii) Made by a political party in support of a candidate, unless the expenditure is made by a political party to conduct voter registration or

voter education efforts.

(d) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position with the candidate's campaign committee or organization such that it would reasonably appear that in the ordinary course of campaign-related activities the person may authorize expenditures.

(7) "In-kind contribution" means anything of value other than money that is used to influence the results of an election to the board of trustees of the Ohio police and fire pension fund under section 742.04 of the Revised Code or the results of an election to fill a vacancy on the board pursuant to section 742.05 of the Revised Code or is transferred to or used in support of or in opposition to a candidate and that is made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of the benefited candidate. The financing of the dissemination, distribution, or republication, in whole or part, of any broadcast or of any written, graphic, or other form of campaign materials prepared by the candidate, the candidate's campaign committee, or their authorized agents is an in-kind contribution to the candidate and an expenditure by the candidate.

(8) "Personal expenses" includes ordinary expenses for accommodations, clothing, food, personal motor vehicle or airplane, and home telephone.

(B) Except as otherwise provided in division (D) of this section, each candidate who, or whose campaign committee, receives contributions or in-kind contributions totaling one thousand dollars or more or has expenditures totaling one thousand dollars or more in connection with the candidate's efforts to be elected to the board of trustees of the Ohio police and fire pension fund shall file with the secretary of state two complete, accurate, and itemized statements setting forth in detail the contributions, in-kind contributions, and expenditures. The statements shall be filed regardless of whether, pursuant to section 742.041 of the Revised Code, no election is held. The statements shall be made on a form prescribed under section 111.30 of the Revised Code. Every expenditure shall be vouched for by a receipted bill, stating the purpose of the expenditures, that shall be filed with the statement; a canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of this division.

The first statement shall be filed not later than four p.m. on the day that is twelve days before election day. The second statement shall be filed not sooner than the day that is eight days after election day and not later than thirty-eight days after election day. The first statement shall reflect

contributions and in-kind contributions received and expenditures made to the close of business on the twentieth day before election day. The second statement shall reflect contributions and in-kind contributions received and expenditures made during the period beginning on the nineteenth day before election day and ending on the close of business on the seventh day after election day.

(C) Each individual, partnership, or other entity who makes an independent expenditure in connection with the candidate's efforts to be elected to the board of trustees of the police and fire pension fund shall file with the secretary of state two complete, accurate, and itemized statements setting forth in detail the independent expenditures. The statements shall be filed regardless of whether, pursuant to section 742.041 of the Revised Code, no election is held. The statements shall be made on a form prescribed under section 111.30 of the Revised Code.

The first statement shall be filed not later than four p.m. on the day that is twelve days before election day. The second statement shall be filed not sooner than the day that is eight days after election day and not later than thirty-eight days after election day. The first statement shall reflect independent expenditures made to the close of business on the twentieth day before election day. The second statement shall reflect independent expenditures made during the period beginning on the nineteenth day before election day and ending on the close of business on the seventh day after election day.

(D) Each candidate who, or whose campaign committee, receives a contribution or in-kind contribution or makes an expenditure in connection with the candidate's efforts to be elected to fill a vacancy in the board of trustees of the police and fire pension fund pursuant to section 742.05 of the Revised Code shall file with the secretary of state a complete, accurate, and itemized statement setting forth in detail the contributions, in-kind contributions, and expenditures. The statement shall be made on a form prescribed under section 111.30 of the Revised Code. Every expenditure shall be vouched for by a receipted bill, stating the purpose of the expenditures, that shall be filed with the statement; a canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of this division.

The statement shall be filed within thirty-eight days after the day the candidate takes office. The statement shall reflect contributions and in-kind contributions received and expenditures made to the close of business on the seventh day after the day the candidate takes office.

Sec. 742.043. (A) No person shall knowingly fail to file a complete and

accurate campaign finance statement or independent expenditure statement in accordance with section 742.042 of the Revised Code.

(B) No person, during the course of a person seeking nomination for, and during any campaign for, election to the board of trustees of the police and fire pension fund, shall knowingly and with intent to affect the nomination or the outcome of the campaign do any of the following by means of campaign materials, an advertisement on radio or television or in a newspaper or periodical, a public speech, press release, or otherwise:

(1) With regard to a candidate, identify the candidate in a manner that implies that the candidate is a member of the board or use the term "re-elect" when the candidate is not currently a member of the board;

(2) Make a false statement concerning the formal schooling or training completed or attempted by a candidate; a degree, diploma, certificate, scholarship, grant, award, prize, or honor received, earned, or held by a candidate; or the period of time during which a candidate attended any school, college, community technical school, or institution;

(3) Make a false statement concerning the professional, occupational, or vocational licenses held by a candidate, or concerning any position the candidate held for which the candidate received a salary or wages;

(4) Make a false statement that a candidate or board member has been indicted or convicted of a theft offense, extortion, or other crime involving financial corruption or moral turpitude;

(5) Make a statement that a candidate has been indicted for any crime or has been the subject of a finding by the Ohio elections commission without disclosing the outcome of any legal proceedings resulting from the indictment or finding;

(6) Make a false statement that a candidate or board member has a record of treatment or confinement for mental disorder;

(7) Make a false statement that a candidate or board member has been subjected to military discipline for criminal misconduct or dishonorably discharged from the armed services;

(8) Falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a candidate by a person or publication;

(9) Make a false statement concerning the voting record of a candidate or board member;

(10) Post, publish, circulate, distribute, or otherwise disseminate a false statement concerning a candidate, either knowing the same to be false or with reckless disregard of whether it was false or not, if the statement is designed to promote the election, nomination, or defeat of the candidate.

Sec. 742.044. The secretary of state, or any person acting on personal knowledge and subject to the penalties of perjury, may file a complaint with the Ohio elections commission alleging a violation of section 742.043 of the Revised Code. The complaint shall be made on a form prescribed and provided by the commission.

On receipt of a complaint under this section, the commission shall hold a hearing open to the public to determine whether the violation alleged in the complaint has occurred. The commission may administer oaths and issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and reports. On the refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the commission may apply to the court of common pleas of Franklin county under section 2705.03 of the Revised Code. The court shall hold contempt proceedings in accordance with Chapter 2705. of the Revised Code.

The commission shall provide the person accused of the violation at least seven days prior notice of the time, date, and place of the hearing. The accused may be represented by an attorney and shall have an opportunity to present evidence, call witnesses, and cross-examine witnesses.

At the hearing, the commission shall determine whether the violation alleged in the complaint has occurred. If the commission determines that a violation of division (A) of section 742.043 of the Revised Code has occurred, the commission shall either impose a fine under section 742.99 of the Revised Code or enter a finding that good cause has been shown not to impose the fine. If the commission determines that a violation of division (B) of section 742.043 of the Revised Code has occurred, the commission shall impose the fine described in section 742.99 of the Revised Code, refer the matter to the appropriate prosecutor, or enter a finding that good cause has been shown not to impose a fine or refer the matter to a prosecutor.

Sec. 742.045. (A) The board of trustees of the Ohio police and fire pension fund, after consultation with the secretary of state, shall adopt rules in accordance with Chapter 119. of the Revised Code, governing all of the following:

(1) The administration of elections of members of the board of trustees under section 742.04 of the Revised Code and elections held under section 742.05 of the Revised Code to fill vacancies on the board of trustees;

(2) Nominating petitions for the elections;

(3) Certification of the validity of nominating petitions for the elections;

(4) Certification of the results of the elections.

(B) The board may contract with the secretary of state or an independent

firm to administer the elections, certify the validity of nominating petitions, and certify the results of the elections. The secretary of state and the independent firm shall perform these services in accordance with the rules adopted under division (A) of this section. Notwithstanding section 742.41 of the Revised Code, the board shall provide information necessary for the secretary of state or the independent firm to certify the election. If the board contracts with an independent firm to administer an election, the secretary of state may audit the election.

Sec. 742.046. (A) The office of an employee member, firefighter retirant member, or police retirant member of the board of trustees of the police and fire pension fund who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible for election to the office of employee member, firefighter retirant member, or police retirant member of the board of trustees of the police and fire pension fund.

(B) A member of the board of trustees of the police and fire pension fund who willfully and flagrantly exercises authority or power not authorized by law, refuses or willfully neglects to enforce the law or to perform any official duty imposed by law, or is guilty of gross neglect of duty, gross immorality, drunkenness, misfeasance, malfeasance, or nonfeasance is guilty of misconduct in office. On complaint and hearing in the manner provided for in this section, the board member shall have judgment of forfeiture of the office with all its emoluments entered against the board member, creating in the office a vacancy to be filled as provided by law.

(C) Proceedings for removal of a board member on any of the grounds enumerated in division (B) of this section shall be commenced by filing with the court of appeals of the district in which the board member resides a written complaint specifically setting forth the charge. The complaint shall be accepted if signed by the governor or signed as follows:

(1) If the complaint is against a police officer employee member of the board, the complaint must be signed by a number of police officer members of the fund that equals at least the following and must include signatures of at least twenty police officer members residing in at least five different counties:

(a) If the police officer employee member was most recently elected in accordance with section 742.04 of the Revised Code, ten per cent of the

number of police officers who voted in that election;

(b) If the police officer employee member most recently became a member of the board of trustees pursuant to section 742.05 of the Revised Code or took office in accordance with section 742.041 of the Revised Code, ten per cent of the number of police officers who voted in the most recent election held in accordance with section 742.04 of the Revised Code for that police officer employee member position on the board of trustees.

(2) If the complaint is against a firefighter employee member of the board of trustees, the complaint must be signed by a number of firefighter members of the fund that equals at least the following and must include signatures of at least twenty firefighter members residing in at least five different counties:

(a) If the firefighter employee member was most recently elected in accordance with section 742.04 of the Revised Code, ten per cent of the number of firefighters who voted in that election;

(b) If the firefighter employee member most recently became a member of the board of trustees pursuant to section 742.05 of the Revised Code or took office in accordance with section 742.041 of the Revised Code, ten per cent of the number of firefighters who voted in the most recent election held in accordance with section 742.04 of the Revised Code for that firefighter employee member position on the board.

(3) If the complaint is against the police retirant member of the board of trustees, the complaint must be signed by a number of police retirants that equals at least the following and must include signatures of at least twenty police retirants residing in at least five different counties:

(a) If the police retirant member was most recently elected in accordance with section 742.04 of the Revised Code, ten per cent of the number of police retirants who voted in that election;

(b) If the police retirant member most recently became a member of the board of trustees under section 742.05 of the Revised Code or took office in accordance with section 742.041 of the Revised Code, ten per cent of the number of police retirants who voted in the most recent election held in accordance with section 742.04 of the Revised Code for the police retirant member position on the board.

(4) If the complaint is against the firefighter retirant member of the board of trustees, the complaint must be signed by a number of firefighter retirants that equals at least the following and must include signatures of at least twenty firefighter retirants residing in at least five different counties:

(a) If the firefighter retirant member was most recently elected in accordance with section 742.04 of the Revised Code, ten per cent of the

number of firefighter retirants who voted in that election:

(b) If the firefighter retirant member most recently became a member of the board of trustees under section 742.05 of the Revised Code or took office in accordance with section 742.041 of the Revised Code, ten per cent of the number of firefighter retirants who voted in the most recent election held in accordance with section 742.04 of the Revised Code for the firefighter retirant member position on the board.

(D) The clerk of the court of appeals in which a complaint against a member of the board of trustees is filed under division (A) of this section shall do both of the following with respect to the complaint:

(1) Submit the signatures obtained pursuant to division (C) of this section to the board for purposes of verifying the validity of the signatures. The board shall verify the validity of the signatures and report its findings to the court.

(2) Cause a copy of the complaint to be served on the board member at least ten days before the hearing on the complaint. The court shall hold a public hearing not later than thirty days after the filing of the complaint. The court may subpoena witnesses and compel their attendance in the same manner as in civil cases. Process shall be served by the sheriff of the county in which the witness resides. Witness fees and other fees in connection with the proceedings shall be the same as in civil cases. The court may suspend the board member pending the hearing.

If the court finds that one or more of the charges in the complaint are true, it shall make a finding for removal of the board member. The court's finding shall include a full detailed statement of the reasons for the removal. The finding shall be filed with the clerk of the court and be made a matter of public record.

The board member has the right of review or appeal to the supreme court on leave first obtained. The supreme court shall hear the case in not more than thirty court days after granting leave. In other respects, the hearing shall follow the regular procedure in appealable cases that originate in the court of appeals.

(E) No individual who has been removed from the board pursuant to this section shall be eligible to fill an elective or appointed position as a member of the board.

Sec. 742.05. Any vacancy occurring in the term of a member of the board of trustees of the Ohio police and fire pension fund who is the fiscal officer of a municipal corporation shall be filled by appointment by the governor for the unexpired term of such member.

~~Any~~ If a vacancy occurring occurs in the term of an employee or retirant

~~member of the board shall be filled by, all the remaining employee members and the retirant members of the board for the unexpired term of such shall~~ elect a successor employee or retirant member. On certification of the election results in accordance with rules adopted under section 742.045 of the Revised Code, the successor member shall hold office until the next board election that occurs not less than ninety days after the successor member's election.

~~Any vacancy occurring in the term of a retirant member of the board shall be filled by the employee members and the remaining retirant member of the board for the unexpired term.~~

Elections under this section to fill a vacancy on the board shall be conducted in accordance with rules adopted under section 742.045 of the Revised Code.

If a member of the board who is the fiscal officer of a municipal corporation ceases to be a fiscal officer of a municipal corporation, a vacancy shall exist.

If an employee member of the board ceases to be a member of the fund, a vacancy shall exist.

If as a result of changed circumstances a retirant member no longer qualifies for membership on the board as a retirant member, a vacancy shall exist.

~~Any employee or retirant elected or appointed member of the board or member of the board who is the fiscal officer of a municipal corporation~~ who fails to attend three consecutive meetings of the board, without valid excuse, shall be considered as having resigned from the board and the board shall declare the member's office vacated and as of the date of the adoption of a proper resolution a vacancy shall exist.

Sec. 742.10. The board of trustees of the Ohio police and fire pension fund may sue and be sued, plead and be impleaded, contract and be contracted with, employ and fix the compensation of employees, and adopt rules for the proper administration and management of the fund.

Effective ninety days after the effective date of this amendment, the board of trustees may not employ a state retirement system investment officer, as defined in section 1707.01 of the Revised Code, who does not hold a valid state retirement system investment officer license issued by the division of securities in the department of commerce.

If the Ohio retirement study council establishes a uniform format for any report the board is required to submit to the council, the board shall submit the report in that format.

The attorney general shall prescribe procedures for the adoption of rules

authorized under this chapter, consistent with the provisions of section 111.15 of the Revised Code under which all rules shall be filed in order to be effective. Such procedures shall establish methods by which notice of proposed rules is given to interested parties and rules adopted by the board published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 127.18 of the Revised Code.

All rules adopted pursuant to this chapter, prior to August 20, 1976, shall be published and made available to interested parties by January 1, 1977.

Sec. 742.102. The board of trustees of the police and fire pension fund shall do all of the following:

(A) In consultation with the Ohio ethics commission, review any existing policy regarding the travel and payment of travel expenses of members of the board of trustees and employees of the fund and adopt rules in accordance with section 742.10 of the Revised Code establishing a new or revised policy regarding travel and payment of travel expenses. Not less than sixty days before adopting a new or revised policy, the board shall submit the policy to the Ohio retirement study council for review.

(B) If the board intends to award a bonus to any employee of the board, adopt rules in accordance with section 742.10 of the Revised Code establishing a policy regarding employee bonuses;

(C) Provide copies of the rules adopted under divisions (A) and (B) of this section to each member of the Ohio retirement study council;

(D) Submit to the Ohio retirement study council a proposed operating budget, including an administrative budget for the board, for the next immediate fiscal year and adopt that budget not earlier than sixty days after it is submitted to the council;

(E) Submit to the council a plan describing how the board will improve the dissemination of public information pertaining to the board.

Sec. 742.103. The board of trustees of the police and fire pension fund shall, in consultation with the Ohio ethics commission, develop an ethics policy to govern board members and employees in the performance of their official duties. The board shall submit this policy to the commission for approval.

The commission shall review the policy and, if the commission determines that the policy is adequate, approve the policy. If the commission

determines that the policy is inadequate, it shall specify the revisions to be made and the board shall submit a revised policy. If the commission approves the revised policy, the board shall adopt it. If not, the board shall make any further revisions required by the commission and adopt the policy. Not less than sixty days before adopting the policy, the board shall submit it to the Ohio retirement study council for review.

The board periodically shall provide ethics training to members and employees of the board. The training shall include training regarding the requirements and prohibitions of Chapter 102. of the Revised Code and sections 2921.42 and 2921.43 of the Revised Code and any other training the board considers appropriate.

The board shall establish a procedure to ensure that each employee of the board is informed of the procedure for filing a complaint alleging violation of Chapter 102. of the Revised Code or section 2921.42 or 2921.43 of the Revised Code with the Ohio ethics commission or the appropriate prosecuting attorney.

Sec. 742.104. (A) The board of trustees of the police and fire pension fund shall designate a person who is a licensed state retirement system investment officer to be the chief investment officer for the police and fire pension fund. The board shall notify the division of securities of the department of commerce in writing of its designation and of any change in its designation within ten calendar days of the designation or change.

(B) The chief investment officer shall reasonably supervise the licensed state retirement system investment officers and other persons employed by the police and fire pension fund with a view toward preventing violations of Chapter 1707. of the Revised Code, the "Commodity Exchange Act," 42 Stat. 998, 7 U.S.C. and following, the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. and following, and the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, and following, and the rules and regulations promulgated under those statutes. This duty of reasonable supervision shall include the adoption, implementation, and enforcement of written policies and procedures reasonably designed to prevent persons employed by the police and fire pension fund from misusing material, nonpublic information in violation of those laws, rules, and regulations.

For purposes of this division, no chief investment officer shall be considered to have failed to satisfy the officer's duty of reasonable supervision if the officer has done all of the following:

(1) Adopted and implemented written procedures, and a system for applying the procedures, that would reasonably be expected to prevent and detect, insofar as practicable, any violation by its licensed investment

officers and other persons employed by the police and fire pension fund:

(2) Reasonably discharged the duties and obligations incumbent on the chief investment officer by reason of the established procedures and the system for applying the procedures when the officer had no reasonable cause to believe that there was a failure to comply with the procedures and systems;

(3) Reviewed, at least annually, the adequacy of the policies and procedures established pursuant to this section and the effectiveness of their implementation.

(C) The chief investment officer shall establish and maintain a policy to monitor and evaluate the effectiveness of securities transactions executed on behalf of the board. No chief investment officer shall be considered to have failed to satisfy the officer's duty under this division if the officer has done both of the following:

(1) Implemented the policy adopted by the board under section 742.114 of the Revised Code that outlines the criteria used to select agents that execute securities transactions on behalf of the police and fire pension fund.

(2) Reviewed, at least annually, the performance of broker-dealers that execute securities transactions on behalf of the police and fire pension fund.

Sec. 742.105. The Ohio police and fire pension board of trustees shall appoint a committee to oversee the selection of an internal auditor. The committee shall select one or more persons for employment as an internal auditor. The board shall employ the person or persons selected by the committee.

The committee shall consist of the following board members: one retirant member, one employee member, and one other member. The committee shall annually prepare and submit to the Ohio retirement study council a report of its actions during the preceding year.

Sec. 742.11. (A) The members of the board of trustees of the Ohio police and fire pension fund shall be the trustees of the funds created by section 742.59 of the Revised Code. The board shall have full power to invest the funds. The board and other fiduciaries shall discharge their duties with respect to the funds solely in the interest of the participants and beneficiaries; for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the Ohio police and fire pension fund; with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the disability and pension fund so as to

minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

To facilitate investment of the funds, the board may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, or any other legal entity authorized to transact business in this state.

(B) In exercising its fiduciary responsibility with respect to the investment of the funds, it shall be the intent of the board to give consideration to investments that enhance the general welfare of the state and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the board. In fulfilling this intent, equal consideration shall be given to investments otherwise qualifying under this section that involve minority owned and controlled firms and firms owned and controlled by women, either alone or in joint venture with other firms.

The board shall adopt, in regular meeting, policies, objectives, or criteria for the operation of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines. In adopting policies and criteria for the selection of agents with whom the board may contract for the administration of the funds, the board shall comply with sections 742.114 and 742.116 of the Revised Code and shall also give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and joint ventures involving minority owned and controlled firms and firms owned and controlled by women that otherwise meet the policies and criteria established by the board. Amendments and additions to the policies and criteria shall be adopted in regular meeting. The board shall publish its policies, objectives, and criteria under this provision no less often than annually and shall make copies available to interested parties.

When reporting on the performance of investments, the board shall comply with the performance presentation standards established by the association for investment management and research.

(C) All bonds, notes, certificates, stocks, or other evidences of investments purchased by the board shall be delivered to the treasurer of state, who is hereby designated as custodian thereof, or to the treasurer of state's authorized agent, and the treasurer of state or the agent shall collect the principal, interest, dividends, and distributions that become due and payable and place them when so collected into the custodial funds.

Evidences of title of the investments may be deposited by the treasurer of state for safekeeping with an authorized agent, selected by the treasurer of state, who is a qualified trustee under section 135.18 of the Revised Code. The treasurer of state shall pay for the investments purchased by the board on receipt of written or electronic instructions from the board or the board's designated agent authorizing the purchase and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent. The board may sell investments held by the board, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser on receipt of written or electronic instructions from the board or the board's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed into the custodial funds. The board and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.

(D) All of the board's business shall be transacted, all its funds shall be invested, all warrants for money drawn and payments shall be made, and all of its cash, securities, and other property shall be held, in the name of the board or its nominee, provided that nominees are authorized by board resolution for the purpose of facilitating the ownership and transfer of investments.

(E) No purchase or sale of any investment shall be made under this section except as authorized by the board of trustees of the Ohio police and fire pension fund.

(F) Any statement of financial position distributed by the board shall include the fair value, as of the statement date, of all investments held by the board under this section.

Sec. 742.114. (A) As used in this section and in section 742.116 of the Revised Code:

(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.

(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(3) "Ohio-qualified agent" means an agent designated as such by the board of trustees of the fund.

(4) "Ohio-qualified investment manager" means an investment manager designated as such by the board of trustees of the fund.

(5) "Principal place of business" means an office in which the agent

regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

(B) The board of trustees of the fund shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5733., or 5747. of the Revised Code;

(2) The agent is authorized to conduct business in this state;

(3) The agent maintains a principal place of business in this state and employs at least five residents of this state.

(C) The board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:

(1) Commissions charged by the agent, both in the aggregate and on a per share basis;

(2) The execution speed and trade settlement capabilities of the agent;

(3) The responsiveness, reliability, and integrity of the agent;

(4) The nature and value of research provided by the agent;

(5) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed-income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.

(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on behalf of the board.

(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board pursuant to division (C) of this section, and offers quality, services, and safety comparable to other agents otherwise available to the board. The board's determination shall be final.

(E) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:

(1) The name of each agent designated as an Ohio-qualified agent under this section;

(2) The name of each agent that executes securities transactions on behalf of the board;

(3) The amount of equity and fixed-income trades that are executed by

Ohio-qualified agents, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;

(4) The compensation paid to Ohio-qualified agents, expressed as a percentage of total compensation paid to all agents that execute securities transactions on behalf of the board;

(5) The amount of equity and fixed-income trades that are executed by agents that are minority business enterprises, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;

(6) Any other information requested by the Ohio retirement study council regarding the board's use of agents.

Sec. 742.115. (A) The Ohio police and fire pension fund shall disclose the following to the Ohio ethics commission:

(1) Anything of value received by the system from an agent and anything of value given on behalf of the system by an agent;

(2) The name of any employee of the system with authority over the investment of retirement system funds or any board member of the system who deals with an agent regarding amounts described in division (A)(1) of this section.

(B) The disclosures required by this section shall be made annually in a report submitted by a date prescribed by the Ohio ethics commission.

Sec. 742.116. (A) The board of trustees of the pension fund shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:

(1) The investment manager is subject to taxation under Chapter 5725., 5733., or 5747. of the Revised Code;

(2) The investment manager meets one of the following requirements:

(a) Has its corporate headquarters or principal place of business in this state;

(b) Employs at least five hundred individuals in this state;

(c) Has a principal place of business in this state and employs at least 20 residents of this state.

(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following:

(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products;

(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria.

(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final.

(C) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:

(1) The name of each investment manager designated as an Ohio-qualified investment manager under this section;

(2) The name of each investment manager with which the board contracts;

(3) The amount of assets managed by Ohio-qualified investment managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers with which the board has contracted;

(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;

(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers.

Sec. 742.41. (A) As used in this section:

(1) "Other system retirant" has the same meaning as in section 742.26 of the Revised Code.

(2) "Personal history record" includes a member's, former member's, or other system retirant's name, address, telephone number, social security number, record of contributions, correspondence with the Ohio police and fire pension fund, status of any application for benefits, and any other information deemed confidential by the trustees of the fund.

(B) The treasurer of state shall furnish annually to the board of trustees of the fund a sworn statement of the amount of the funds in the treasurer of state's custody belonging to the Ohio police and fire pension fund. The records of the fund shall be open for public inspection except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(1) The individual's personal history record;

(2) Any information identifying, by name and address, the amount of a monthly allowance or benefit paid to the individual.

(C) All medical reports and recommendations required are privileged,

except that copies of such medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent or, when necessary for the proper administration of the fund, to the board-assigned physician.

(D) Any person who is a member of the fund or an other system retirant shall be furnished with a statement of the amount to the credit of the person's individual account upon the person's written request. The fund need not answer more than one such request of a person in any one year.

(E) Notwithstanding the exceptions to public inspection in division (B) of this section, the fund may furnish the following information:

(1) If a member, former member, or other system retirant is subject to an order issued under section 2907.15 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the fund shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court order issued pursuant to Chapter 3119., 3121., 3123., or 3125. of the Revised Code, the fund shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the request of any organization or association of members of the fund, the fund shall provide a list of the names and addresses of members of the fund and other system retirants. The fund shall comply with the request of such organization or association at least once a year and may impose a reasonable charge for the list.

(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the fund shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member or other system retirant whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The fund and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

(5) The fund shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section

3105.80 of the Revised Code, the fund shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the fund shall make available to the person copies of all documents, including resumes, in the fund's possession regarding filling a vacancy of a police officer employee member, firefighter employee member, police retirant member, or firefighter retirant member of the board of trustees. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in this division is a public record.

(F) A statement that contains information obtained from the fund's records that is signed by the secretary of the board of trustees of the Ohio police and fire pension fund and to which the board's official seal is affixed, or copies of the fund's records to which the signature and seal are attached, shall be received as true copies of the fund's records in any court or before any officer of this state.

Sec. 742.99. (A) Whoever violates section 742.043 of the Revised Code shall be fined not more than one hundred dollars for each day of the violation.

(B) Whoever violates division (B) of section 742.043 of the Revised Code shall be imprisoned for not more than six months or fined not more than five thousand dollars, or both.

(C) Fines imposed by the Ohio elections commission under this section shall be paid into the Ohio elections commission fund created under section 3513.10 of the Revised Code.

Sec. 1707.01. As used in this chapter:

(A) Whenever the context requires it, "division" or "division of securities" may be read as "director of commerce" or as "commissioner of securities."

(B) "Security" means any certificate or instrument, or any oral, written, or electronic agreement, understanding, or opportunity, that represents title to or interest in, or is secured by any lien or charge upon, the capital, assets, profits, property, or credit of any person or of any public or governmental body, subdivision, or agency. It includes shares of stock, certificates for shares of stock, an uncertificated security, membership interests in limited liability companies, voting-trust certificates, warrants and options to purchase securities, subscription rights, interim receipts, interim certificates, promissory notes, all forms of commercial paper, evidences of indebtedness, bonds, debentures, land trust certificates, fee certificates, leasehold

certificates, syndicate certificates, endowment certificates, interests in or under profit-sharing or participation agreements, interests in or under oil, gas, or mining leases, preorganization or reorganization subscriptions, preorganization certificates, reorganization certificates, interests in any trust or pretended trust, any investment contract, any life settlement interest, any instrument evidencing a promise or an agreement to pay money, warehouse receipts for intoxicating liquor, and the currency of any government other than those of the United States and Canada, but sections 1707.01 to 1707.45 of the Revised Code do not apply to the sale of real estate.

(C)(1) "Sale" has the full meaning of "sale" as applied by or accepted in courts of law or equity, and includes every disposition, or attempt to dispose, of a security or of an interest in a security. "Sale" also includes a contract to sell, an exchange, an attempt to sell, an option of sale, a solicitation of a sale, a solicitation of an offer to buy, a subscription, or an offer to sell, directly or indirectly, by agent, circular, pamphlet, advertisement, or otherwise.

(2) "Sell" means any act by which a sale is made.

(3) The use of advertisements, circulars, or pamphlets in connection with the sale of securities in this state exclusively to the purchasers specified in division (D) of section 1707.03 of the Revised Code is not a sale when the advertisements, circulars, and pamphlets describing and offering those securities bear a readily legible legend in substance as follows: "This offer is made on behalf of dealers licensed under sections 1707.01 to 1707.45 of the Revised Code, and is confined in this state exclusively to institutional investors and licensed dealers."

(4) The offering of securities by any person in conjunction with a licensed dealer by use of advertisement, circular, or pamphlet is not a sale if that person does not otherwise attempt to sell securities in this state.

(5) Any security given with, or as a bonus on account of, any purchase of securities is conclusively presumed to constitute a part of the subject of that purchase and has been "sold."

(6) "Sale" by an owner, pledgee, or mortgagee, or by a person acting in a representative capacity, includes sale on behalf of such party by an agent, including a licensed dealer or salesperson.

(D) "Person," except as otherwise provided in this chapter, means a natural person, firm, partnership, limited partnership, partnership association, syndicate, joint-stock company, unincorporated association, trust or trustee except where the trust was created or the trustee designated by law or judicial authority or by a will, and a corporation or limited liability company organized under the laws of any state, any foreign government, or

any political subdivision of a state or foreign government.

(E)(1) "Dealer," except as otherwise provided in this chapter, means every person, other than a salesperson, who engages or professes to engage, in this state, for either all or part of the person's time, directly or indirectly, either in the business of the sale of securities for the person's own account, or in the business of the purchase or sale of securities for the account of others in the reasonable expectation of receiving a commission, fee, or other remuneration as a result of engaging in the purchase and sale of securities. "Dealer" does not mean any of the following:

(a) Any issuer, including any officer, director, employee, or trustee of, or member or manager of, or partner in, or any general partner of, any issuer, that sells, offers for sale, or does any act in furtherance of the sale of a security that represents an economic interest in that issuer, provided no commission, fee, or other similar remuneration is paid to or received by the issuer for the sale;

(b) Any licensed attorney, public accountant, or firm of such attorneys or accountants, whose activities are incidental to the practice of the attorney's, accountant's, or firm's profession;

(c) Any person that, for the account of others, engages in the purchase or sale of securities that are issued and outstanding before such purchase and sale, if a majority or more of the equity interest of an issuer is sold in that transaction, and if, in the case of a corporation, the securities sold in that transaction represent a majority or more of the voting power of the corporation in the election of directors;

(d) Any person that brings an issuer together with a potential investor and whose compensation is not directly or indirectly based on the sale of any securities by the issuer to the investor;

(e) Any bank;

(f) Any person that the division of securities by rule exempts from the definition of "dealer" under division (E)(1) of this section.

(2) "Licensed dealer" means a dealer licensed under this chapter.

(F)(1) "Salesman" or "salesperson" means every natural person, other than a dealer, who is employed, authorized, or appointed by a dealer to sell securities within this state.

(2) The general partners of a partnership, and the executive officers of a corporation or unincorporated association, licensed as a dealer are not salespersons within the meaning of this definition, nor are such clerical or other employees of an issuer or dealer as are employed for work to which the sale of securities is secondary and incidental; but the division of securities may require a license from any such partner, executive officer, or

employee if it determines that protection of the public necessitates the licensing.

(3) "Licensed salesperson" means a salesperson licensed under this chapter.

(G) "Issuer" means every person who has issued, proposes to issue, or issues any security.

(H) "Director" means each director or trustee of a corporation, each trustee of a trust, each general partner of a partnership, except a partnership association, each manager of a partnership association, and any person vested with managerial or directory power over an issuer not having a board of directors or trustees.

(I) "Incorporator" means any incorporator of a corporation and any organizer of, or any person participating, other than in a representative or professional capacity, in the organization of an unincorporated issuer.

(J) "Fraud," "fraudulent," "fraudulent acts," "fraudulent practices," or "fraudulent transactions" means anything recognized on or after July 22, 1929, as such in courts of law or equity; any device, scheme, or artifice to defraud or to obtain money or property by means of any false pretense, representation, or promise; any fictitious or pretended purchase or sale of securities; and any act, practice, transaction, or course of business relating to the purchase or sale of securities that is fraudulent or that has operated or would operate as a fraud upon the seller or purchaser.

(K) Except as otherwise specifically provided, whenever any classification or computation is based upon "par value," as applied to securities without par value, the average of the aggregate consideration received or to be received by the issuer for each class of those securities shall be used as the basis for that classification or computation.

(L)(1) "Intangible property" means patents, copyrights, secret processes, formulas, services, good will, promotion and organization fees and expenses, trademarks, trade brands, trade names, licenses, franchises, any other assets treated as intangible according to generally accepted accounting principles, and securities, accounts receivable, or contract rights having no readily determinable value.

(2) "Tangible property" means all property other than intangible property and includes securities, accounts receivable, and contract rights, when the securities, accounts receivable, or contract rights have a readily determinable value.

(M) "Public utilities" means those utilities defined in sections 4905.02, 4905.03, 4907.02, and 4907.03 of the Revised Code; in the case of a foreign corporation, it means those utilities defined as public utilities by the laws of

its domicile; and in the case of any other foreign issuer, it means those utilities defined as public utilities by the laws of the situs of its principal place of business. The term always includes railroads whether or not they are so defined as public utilities.

(N) "State" means any state of the United States, any territory or possession of the United States, the District of Columbia, and any province of Canada.

(O) "Bank" means any bank, trust company, savings and loan association, savings bank, or credit union that is incorporated or organized under the laws of the United States, any state of the United States, Canada, or any province of Canada and that is subject to regulation or supervision by that country, state, or province.

(P) "Include," when used in a definition, does not exclude other things or persons otherwise within the meaning of the term defined.

(Q)(1) "Registration by description" means that the requirements of section 1707.08 of the Revised Code have been complied with.

(2) "Registration by qualification" means that the requirements of sections 1707.09 and 1707.11 of the Revised Code have been complied with.

(3) "Registration by coordination" means that there has been compliance with section 1707.091 of the Revised Code. Reference in this chapter to registration by qualification also shall be deemed to include registration by coordination unless the context otherwise indicates.

(R) "Intoxicating liquor" includes all liquids and compounds that contain more than three and two-tenths per cent of alcohol by weight and are fit for use for beverage purposes.

(S) "Institutional investor" means any corporation, bank, insurance company, pension fund or pension fund trust, employees' profit-sharing fund or employees' profit-sharing trust, any association engaged, as a substantial part of its business or operations, in purchasing or holding securities, or any trust in respect of which a bank is trustee or cotrustee. "Institutional investor" does not include any business entity formed for the primary purpose of evading sections 1707.01 to 1707.45 of the Revised Code.

(T) "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 77a, "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, "Investment Advisers Act of 1940," 54 Stat. 847, 15 U.S.C. 80b, and "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a mean the federal statutes of those names as amended before or after March 18, 1999.

(U) "Securities and exchange commission" means the securities and

exchange commission established by the Securities Exchange Act of 1934.

(V)(1) "Control bid" means the purchase of or offer to purchase any equity security of a subject company from a resident of this state if either of the following applies:

(a) After the purchase of that security, the offeror would be directly or indirectly the beneficial owner of more than ten per cent of any class of the issued and outstanding equity securities of the issuer.

(b) The offeror is the subject company, there is a pending control bid by a person other than the issuer, and the number of the issued and outstanding shares of the subject company would be reduced by more than ten per cent.

(2) For purposes of division (V)(1) of this section, "control bid" does not include any of the following:

(a) A bid made by a dealer for the dealer's own account in the ordinary course of business of buying and selling securities;

(b) An offer to acquire any equity security solely in exchange for any other security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, in good faith and not for the purpose of avoiding the provisions of this chapter, and not involving any public offering of the other security within the meaning of Section 4 of Title I of the "Securities Act of 1933," 48 Stat. 77, 15 U.S.C.A. 77d(2), as amended;

(c) Any other offer to acquire any equity security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, from not more than fifty persons, in good faith and not for the purpose of avoiding the provisions of this chapter.

(W) "Offeror" means a person who makes, or in any way participates or aids in making, a control bid and includes persons acting jointly or in concert, or who intend to exercise jointly or in concert any voting rights attached to the securities for which the control bid is made and also includes any subject company making a control bid for its own securities.

(X)(1) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of regular business, issues or promulgates analyses or reports concerning securities.

(2) "Investment adviser" does not mean any of the following:

(a) Any attorney, accountant, engineer, or teacher, whose performance of investment advisory services described in division (X)(1) of this section is solely incidental to the practice of the attorney's, accountant's, engineer's, or teacher's profession;

(b) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation;

(c) A person who acts solely as an investment adviser representative;

(d) A bank holding company, as defined in the "Bank Holding Company Act of 1956," 70 Stat. 133, 12 U.S.C. 1841, that is not an investment company;

(e) A bank, or any receiver, conservator, or other liquidating agent of a bank;

(f) Any licensed dealer or licensed salesperson whose performance of investment advisory services described in division (X)(1) of this section is solely incidental to the conduct of the dealer's or salesperson's business as a licensed dealer or licensed salesperson and who receives no special compensation for the services;

(g) Any person, the advice, analyses, or reports of which do not relate to securities other than securities that are direct obligations of, or obligations guaranteed as to principal or interest by, the United States, or securities issued or guaranteed by corporations in which the United States has a direct or indirect interest, and that have been designated by the secretary of the treasury as exempt securities as defined in the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78c;

(h) Any person that is excluded from the definition of investment adviser pursuant to section 202(a)(11)(A) to (E) of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11), or that has received an order from the securities and exchange commission under section 202(a)(11)(F) of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11)(F), declaring that the person is not within the intent of section 202(a)(11) of the Investment Advisers Act of 1940.

(i) A person who acts solely as a state retirement system investment officer;

(j) Any other person that the division designates by rule, if the division finds that the designation is necessary or appropriate in the public interest or for the protection of investors or clients and consistent with the purposes fairly intended by the policy and provisions of this chapter.

(Y)(1) "Subject company" means an issuer that satisfies both of the following:

(a) Its principal place of business or its principal executive office is located in this state, or it owns or controls assets located within this state that have a fair market value of at least one million dollars.

(b) More than ten per cent of its beneficial or record equity security holders are resident in this state, more than ten per cent of its equity

securities are owned beneficially or of record by residents in this state, or more than one thousand of its beneficial or record equity security holders are resident in this state.

(2) The division of securities may adopt rules to establish more specific application of the provisions set forth in division (Y)(1) of this section. Notwithstanding the provisions set forth in division (Y)(1) of this section and any rules adopted under this division, the division, by rule or in an adjudicatory proceeding, may make a determination that an issuer does not constitute a "subject company" under division (Y)(1) of this section if appropriate review of control bids involving the issuer is to be made by any regulatory authority of another jurisdiction.

(Z) "Beneficial owner" includes any person who directly or indirectly through any contract, arrangement, understanding, or relationship has or shares, or otherwise has or shares, the power to vote or direct the voting of a security or the power to dispose of, or direct the disposition of, the security. "Beneficial ownership" includes the right, exercisable within sixty days, to acquire any security through the exercise of any option, warrant, or right, the conversion of any convertible security, or otherwise. Any security subject to any such option, warrant, right, or conversion privilege held by any person shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by that person, but shall not be deemed to be outstanding for the purpose of computing the percentage of the class owned by any other person. A person shall be deemed the beneficial owner of any security beneficially owned by any relative or spouse or relative of the spouse residing in the home of that person, any trust or estate in which that person owns ten per cent or more of the total beneficial interest or serves as trustee or executor, any corporation or entity in which that person owns ten per cent or more of the equity, and any affiliate or associate of that person.

(AA) "Offeree" means the beneficial or record owner of any security that an offeror acquires or offers to acquire in connection with a control bid.

(BB) "Equity security" means any share or similar security, or any security convertible into any such security, or carrying any warrant or right to subscribe to or purchase any such security, or any such warrant or right, or any other security that, for the protection of security holders, is treated as an equity security pursuant to rules of the division of securities.

(CC)(1) "Investment adviser representative" means a supervised person of an investment adviser, provided that the supervised person has more than five clients who are natural persons other than excepted persons defined in division (EE) of this section, and that more than ten per cent of the

supervised person's clients are natural persons other than excepted persons defined in division (EE) of this section. "Investment adviser representative" does not mean any of the following:

(a) A supervised person that does not on a regular basis solicit, meet with, or otherwise communicate with clients of the investment adviser;

(b) A supervised person that provides only investment advisory services described in division (X)(1) of this section by means of written materials or oral statements that do not purport to meet the objectives or needs of specific individuals or accounts;

(c) Any other person that the division designates by rule, if the division finds that the designation is necessary or appropriate in the public interest or for the protection of investors or clients and is consistent with the provisions fairly intended by the policy and provisions of this chapter.

(2) For the purpose of the calculation of clients in division (CC)(1) of this section, a natural person and the following persons are deemed a single client: Any minor child of the natural person; any relative, spouse, or relative of the spouse of the natural person who has the same principal residence as the natural person; all accounts of which the natural person or the persons referred to in division (CC)(2) of this section are the only primary beneficiaries; and all trusts of which the natural person or persons referred to in division (CC)(2) of this section are the only primary beneficiaries. Persons who are not residents of the United States need not be included in the calculation of clients under division (CC)(1) of this section.

(3) If subsequent to March 18, 1999, amendments are enacted or adopted defining "investment adviser representative" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "investment adviser representative" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the substance of the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(DD) "Supervised person" means a natural person who is any of the following:

(1) A partner, officer, or director of an investment adviser, or other person occupying a similar status or performing similar functions with respect to an investment adviser;

(2) An employee of an investment adviser;

(3) A person who provides investment advisory services described in division (X)(1) of this section on behalf of the investment adviser and is

subject to the supervision and control of the investment adviser.

(EE) "Excepted person" means a natural person to whom any of the following applies:

(1) Immediately after entering into the investment advisory contract with the investment adviser, the person has at least seven hundred fifty thousand dollars under the management of the investment adviser.

(2) The investment adviser reasonably believes either of the following at the time the investment advisory contract is entered into with the person:

(a) The person has a net worth, together with assets held jointly with a spouse, of more than one million five hundred thousand dollars.

(b) The person is a qualified purchaser as defined in division (FF) of this section.

(3) Immediately prior to entering into an investment advisory contract with the investment adviser, the person is either of the following:

(a) An executive officer, director, trustee, general partner, or person serving in a similar capacity, of the investment adviser;

(b) An employee of the investment adviser, other than an employee performing solely clerical, secretarial, or administrative functions or duties for the investment adviser, which employee, in connection with the employee's regular functions or duties, participates in the investment activities of the investment adviser, provided that, for at least twelve months, the employee has been performing such nonclerical, nonsecretarial, or nonadministrative functions or duties for or on behalf of the investment adviser or performing substantially similar functions or duties for or on behalf of another company.

If subsequent to March 18, 1999, amendments are enacted or adopted defining "excepted person" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "excepted person" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the substance of the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(FF)(1) "Qualified purchaser" means either of the following:

(a) A natural person who owns not less than five million dollars in investments as defined by rule by the division of securities;

(b) A natural person, acting for the person's own account or accounts of other qualified purchasers, who in the aggregate owns and invests on a discretionary basis, not less than twenty-five million dollars in investments as defined by rule by the division of securities.

(2) If subsequent to March 18, 1999, amendments are enacted or adopted defining "qualified purchaser" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "qualified purchaser" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(GG)(1) "Purchase" has the full meaning of "purchase" as applied by or accepted in courts of law or equity and includes every acquisition of, or attempt to acquire, a security or an interest in a security. "Purchase" also includes a contract to purchase, an exchange, an attempt to purchase, an option to purchase, a solicitation of a purchase, a solicitation of an offer to sell, a subscription, or an offer to purchase, directly or indirectly, by agent, circular, pamphlet, advertisement, or otherwise.

(2) "Purchase" means any act by which a purchase is made.

(3) Any security given with, or as a bonus on account of, any purchase of securities is conclusively presumed to constitute a part of the subject of that purchase.

(HH) "Life settlement interest" means the entire interest or any fractional interest in an insurance policy or certificate of insurance, or in an insurance benefit under such a policy or certificate, that is the subject of a life settlement contract.

For purposes of this division, "life settlement contract" means an agreement for the purchase, sale, assignment, transfer, devise, or bequest of any portion of the death benefit or ownership of any life insurance policy or contract, in return for consideration or any other thing of value that is less than the expected death benefit of the life insurance policy or contract. "Life settlement contract" includes a viatical settlement contract as defined in section 3916.01 of the Revised Code, but does not include any of the following:

(1) A loan by an insurer under the terms of a life insurance policy, including, but not limited to, a loan secured by the cash value of the policy;

(2) An agreement with a bank that takes an assignment of a life insurance policy as collateral for a loan;

(3) The provision of accelerated benefits as defined in section 3915.21 of the Revised Code;

(4) Any agreement between an insurer and a reinsurer;

(5) An agreement by an individual to purchase an existing life insurance

policy or contract from the original owner of the policy or contract, if the individual does not enter into more than one life settlement contract per calendar year;

(6) The initial purchase of an insurance policy or certificate of insurance from its owner by a viatical settlement provider, as defined in section 3916.01 of the Revised Code, that is licensed under Chapter 3916. of the Revised Code.

(II) "State retirement system" means the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, and state highway patrol retirement system.

(JJ) "State retirement system investment officer" means an individual employed by a state retirement system as a chief investment officer, assistant investment officer, or the person in charge of a class of assets or in a position that is substantially equivalent to chief investment officer, assistant investment officer, or person in charge of a class of assets.

Sec. 1707.03. (A) As used in this section, "exempt" means that, except in the case of securities the right to buy, sell, or deal in which has been suspended or revoked under an existing order of the division of securities under section 1707.13 of the Revised Code or under a cease and desist order under division ~~(H)~~(G) of section 1707.23 of the Revised Code, transactions in securities may be carried on and completed without compliance with sections 1707.08 to 1707.11 of the Revised Code.

(B) A sale of securities made by or on behalf of a bona fide owner, neither the issuer nor a dealer, is exempt if the sale is made in good faith and not for the purpose of avoiding this chapter and is not made in the course of repeated and successive transactions of a similar character. Any sale of securities over a stock exchange that is lawfully conducted in this state and regularly open for public patronage and that has been established and operated for a period of at least five years prior to the sale at a commission not exceeding the commission regularly charged in such transactions also is exempt.

(C) The sale of securities by executors, administrators, receivers, trustees, or anyone acting in a fiduciary capacity is exempt, where such relationship was created by law, by a will, or by judicial authority, and where such sales are subject to approval by, or are made in pursuance to authority granted by, any court of competent jurisdiction or are otherwise authorized and lawfully made by such fiduciary.

(D) A sale to the issuer, to a dealer, or to an institutional investor is exempt.

(E) A sale in good faith, and not for the purpose of avoiding this chapter, by a pledgee of a security pledged for a bona fide debt is exempt.

(F) The sale at public auction by a corporation of shares of its stock because of delinquency in payment for the shares is exempt.

(G)(1) The giving of any conversion right with, or on account of the purchase of, any security that is exempt, is the subject matter of an exempt transaction, has been registered by description, by coordination, or by qualification, or is the subject matter of a transaction that has been registered by description is exempt.

(2) The giving of any subscription right, warrant, or option to purchase a security or right to receive a security upon exchange, which security is exempt at the time the right, warrant, or option to purchase or right to receive is given, is the subject matter of an exempt transaction, is registered by description, by coordination, or by qualification, or is the subject matter of a transaction that has been registered by description is exempt.

(3) The giving of any subscription right or any warrant or option to purchase a security, which right, warrant, or option expressly provides that it shall not be exercisable except for a security that at the time of the exercise is exempt, is the subject matter of an exempt transaction, is registered by description, by coordination, or by qualification, or at such time is the subject matter of a transaction that has been registered by description is exempt.

(H) The sale of notes, bonds, or other evidences of indebtedness that are secured by a mortgage lien upon real estate, leasehold estate other than oil, gas, or mining leasehold, or tangible personal property, or which evidence of indebtedness is due under or based upon a conditional-sale contract, if all such notes, bonds, or other evidences of indebtedness are sold to a single purchaser at a single sale, is exempt.

(I) The delivery of securities by the issuer on the exercise of conversion rights, the sale of securities by the issuer on exercise of subscription rights or of warrants or options to purchase securities, the delivery of voting-trust certificates for securities deposited under a voting-trust agreement, the delivery of deposited securities on surrender of voting-trust certificates, and the delivery of final certificates on surrender of interim certificates are exempt; but the sale of securities on exercise of subscription rights, warrants, or options is not an exempt transaction unless those rights, warrants, or options when granted were the subject matter of an exempt transaction under division (G) of this section or were registered by description, by coordination, or by qualification.

(J) The sale of securities by a bank, savings and loan association,

savings bank, or credit union organized under the laws of the United States or of this state is exempt if at a profit to that seller of not more than two per cent of the total sale price of the securities.

(K)(1) The distribution by a corporation of its securities to its security holders as a share dividend or other distribution out of earnings or surplus is exempt.

(2) The exchange or distribution by the issuer of any of its securities or of the securities of any of the issuer's wholly owned subsidiaries exclusively with or to its existing security holders, if no commission or other remuneration is given directly or indirectly for soliciting the exchange, is exempt.

(3) The sale of preorganization subscriptions for shares of stock of a corporation prior to the incorporation of the corporation is exempt, when the sale is evidenced by a written agreement, no remuneration is given, or promised, directly or indirectly, for or in connection with the sale of those securities, and no consideration is received, directly or indirectly, by any person from the purchasers of those securities until registration by qualification, by coordination, or by description of those securities is made under this chapter.

(L) The issuance of securities in exchange for one or more bona fide outstanding securities, claims, or property interests, not including securities sold for a consideration payable in whole or in part in cash, under a plan of reorganization, recapitalization, or refinancing approved by a court pursuant to the Bankruptcy Act of the United States or to any other federal act giving any federal court jurisdiction over such plan of reorganization, or under a plan of reorganization approved by a court of competent jurisdiction of any state of the United States is exempt. As used in this division, "reorganization," "recapitalization," and "refinancing" have the same meanings as in section 1707.04 of the Revised Code.

(M) A sale by a licensed dealer, acting either as principal or as agent, of securities issued and outstanding before the sale is exempt, unless the sale is of one or more of the following:

(1) Securities constituting the whole or a part of an unsold allotment to or subscription by a dealer as an underwriter or other participant in the distribution of those securities by the issuer, whether that distribution is direct or through an underwriter, provided that, if the issuer is such by reason of owning one-fourth or more of those securities, the dealer has knowledge of this fact or reasonable cause to believe this fact;

(2) Any class of shares issued by a corporation when the number of beneficial owners of that class is less than twenty-five, with the record

owner of securities being deemed the beneficial owner for this purpose, in the absence of actual knowledge to the contrary;

(3) Securities that within one year were purchased outside this state or within one year were transported into this state, if the dealer has knowledge or reasonable cause to believe, before the sale of those securities, that within one year they were purchased outside this state or within one year were transported into this state; but such a sale of those securities is exempt if any of the following occurs:

(a) A recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within eighteen months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations;

(b) Those securities, or securities of the same class, within one year were registered or qualified under section 1707.09 or 1707.091 of the Revised Code, and that registration or qualification is in full force and effect;

(c) The sale is made by a licensed dealer on behalf of the bona fide owner of those securities in accordance with division (B) of this section;

(d) Those securities were transported into Ohio in a transaction of the type described in division (L), (K), or (I) of this section, or in a transaction registered under division (A) of section 1707.06 of the Revised Code.

(N) For the purpose of this division and division (M) of this section, "underwriter" means any person who has purchased from an issuer with a view to, or sells for an issuer in connection with, the distribution of any security, or who participates directly or indirectly in any such undertaking or in the underwriting thereof, but "underwriter" does not include a person whose interest is limited to a discount, commission, or profit from the underwriter or from a dealer that is not in excess of the customary distributors' or sellers' discount, commission, or profit; and "issuer" includes any person or any group of persons acting in concert in the sale of such securities, owning beneficially one-fourth or more of the outstanding securities of the class involved in the transactions in question, with the record owner of securities being deemed the beneficial owner for this purpose, in the absence of actual knowledge to the contrary.

(O)(1) The sale of any equity security is exempt if all the following conditions are satisfied:

(a) The sale is by the issuer of the security.

(b) The total number of purchasers in this state of all securities issued or sold by the issuer in reliance upon this exemption during the period of one year ending with the date of the sale does not exceed ten. A sale of securities

registered under this chapter or sold pursuant to an exemption under this chapter other than this exemption shall not be integrated with a sale pursuant to this exemption in computing the number of purchasers under this exemption.

(c) No advertisement, article, notice, or other communication published in any newspaper, magazine, or similar medium or broadcast over television or radio is used in connection with the sale, but the use of an offering circular or other communication delivered by the issuer to selected individuals does not destroy this exemption.

(d) The issuer reasonably believes after reasonable investigation that the purchaser is purchasing for investment.

(e) The aggregate commission, discount, and other remuneration, excluding legal, accounting, and printing fees, paid or given directly or indirectly does not exceed ten per cent of the initial offering price.

(f) Any such commission, discount, or other remuneration for sales in this state is paid or given only to dealers or salespersons registered pursuant to this chapter.

(2) For the purposes of division (O)(1) of this section, each of the following is deemed to be a single purchaser of a security: husband and wife, a child and its parent or guardian when the parent or guardian holds the security for the benefit of the child, a corporation, a limited liability company, a partnership, an association or other unincorporated entity, a joint-stock company, or a trust, but only if the corporation, limited liability company, partnership, association, entity, joint-stock company, or trust was not formed for the purpose of purchasing the security.

(3) As used in division (O)(1) of this section, "equity security" means any stock or similar security of a corporation or any membership interest in a limited liability company; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security that the division considers necessary or appropriate, by such rules as it may prescribe in the public interest or for the protection of investors, to treat as an equity security.

(P) The sale of securities representing interests in or under profit-sharing or participation agreements relating to oil or gas wells located in this state, or representing interests in or under oil or gas leases of real estate situated in this state, is exempt if the securities are issued by an individual, partnership, limited partnership, partnership association, syndicate, pool, trust or trust fund, or other unincorporated association and if each of the following conditions is complied with:

(1) The beneficial owners of the securities do not, and will not after the sale, exceed five natural persons;

(2) The securities constitute or represent interests in not more than one oil or gas well;

(3) A certificate or other instrument in writing is furnished to each purchaser of the securities at or before the consummation of the sale, disclosing the maximum commission, compensation for services, cost of lease, and expenses with respect to the sale of such interests and with respect to the promotion, development, and management of the oil or gas well, and the total of that commission, compensation, costs, and expenses does not exceed twenty-five per cent of the aggregate interests in the oil or gas well, exclusive of any landowner's rental or royalty;

(4) The sale is made in good faith and not for the purpose of avoiding this chapter.

(Q) The sale of any security is exempt if all of the following conditions are satisfied:

(1) The provisions of section 5 of the Securities Act of 1933 do not apply to the sale by reason of an exemption under section 4 (2) of that act.

(2) The aggregate commission, discount, and other remuneration, excluding legal, accounting, and printing fees, paid or given directly or indirectly does not exceed ten per cent of the initial offering price.

(3) Any such commission, discount, or other remuneration for sales in this state is paid or given only to dealers or salespersons registered under this chapter.

(4) The issuer or dealer files with the division of securities, not later than sixty days after the sale, a report setting forth the name and address of the issuer, the total amount of the securities sold under this division, the number of persons to whom the securities were sold, the price at which the securities were sold, and the commissions or discounts paid or given.

(5) The issuer pays a filing fee of one hundred dollars for the first filing and fifty dollars for every subsequent filing during each calendar year.

(R) A sale of a money order, travelers' check, or other instrument for the transmission of money by a person qualified to engage in such business under section 1109.60 or Chapter 1315. of the Revised Code is exempt.

(S) A sale by a licensed dealer of securities that are in the process of registration under the Securities Act of 1933, unless exempt under that act, and that are in the process of registration, if registration is required under this chapter, is exempt, provided that no sale of that nature shall be consummated prior to the registration by description or qualification of the securities.

(T) The execution by a licensed dealer of orders for the purchase of any security is exempt, provided that the dealer acts only as agent for the purchaser, has made no solicitation of the order to purchase the security, has no interest in the distribution of the security, and delivers to the purchaser written confirmation of the transaction that clearly itemizes the dealer's commission. "Solicitation," as used in this division, means solicitation of the order for the specific security purchased and does not include general solicitations or advertisements of any kind.

(U) The sale insofar as the security holders of a person are concerned, where, pursuant to statutory provisions of the jurisdiction under which that person is organized or pursuant to provisions contained in its articles of incorporation, certificate of incorporation, partnership agreement, declaration of trust, trust indenture, or similar controlling instrument, there is submitted to the security holders, for their vote or consent, (1) a plan or agreement for a reclassification of securities of that person that involves the substitution of a security of that person for another security of that person, (2) a plan or agreement of merger or consolidation or a similar plan or agreement of acquisition in which the securities of that person held by the security holders will become or be exchanged for securities of any other person, or (3) a plan or agreement for a combination as defined in division (Q) of section 1701.01 of the Revised Code or a similar plan or agreement for the transfer of assets of that person to another person in consideration of the issuance of securities of any person, is exempt if, with respect to any of the foregoing transactions, either of the following conditions is satisfied:

(a) The securities to be issued to the security holders are effectively registered under sections 6 to 8 of the Securities Act of 1933 and offered and sold in compliance with section 5 of that act;

(b) At least twenty days prior to the date on which a meeting of the security holders is held or the earliest date on which corporate action may be taken when no meeting is held, there is submitted to the security holders, by that person, or by the person whose securities are to be issued in the transaction, information substantially equivalent to the information that would be required to be included in a proxy statement or information statement prepared by or on behalf of the management of an issuer subject to section 14(a) or 14(c) of the Securities Exchange Act of 1934.

(V) The sale of any security is exempt if the division by rule finds that registration is not necessary or appropriate in the public interest or for the protection of investors.

(W) Any offer or sale of securities made in reliance on the exemptions provided by Rule 505 of Regulation D made pursuant to the Securities Act

of 1933 and the conditions and definitions provided by Rules 501 to 503 thereunder is exempt if the offer or sale satisfies all of the following conditions:

(1) No commission or other remuneration is given, directly or indirectly, to any person for soliciting or selling to any person in this state in reliance on the exemption under this division, except to dealers licensed in this state.

(2)(a) Unless the cause for disqualification is waived under division (W)(2)(b) of this section, no exemption under this section is available for the securities of an issuer unless the issuer did not know and in the exercise of reasonable care could not have known that any of the following applies to any of the persons described in Rule 262(a) to (c) of Regulation A under the Securities Act of 1933:

(i) The person has filed an application for registration or qualification that is the subject of an effective order entered against the issuer, its officers, directors, general partners, controlling persons or affiliates thereof, pursuant to the law of any state within five years before the filing of a notice required under division (W)(3) of this section denying effectiveness to, or suspending or revoking the effectiveness of, the registration statement.

(ii) The person has been convicted of any offense in connection with the offer, sale, or purchase of any security or franchise, or any felony involving fraud or deceit, including, but not limited to, forgery, embezzlement, fraud, theft, or conspiracy to defraud.

(iii) The person is subject to an effective administrative order or judgment that was entered by a state securities administrator within five years before the filing of a notice required under division (W)(3) of this section and that prohibits, denies, or revokes the use of any exemption from securities registration, prohibits the transaction of business by the person as a dealer, or is based on fraud, deceit, an untrue statement of a material fact, or an omission to state a material fact.

(iv) The person is subject to any order, judgment, or decree of any court entered within five years before the filing of a notice required under division (W)(3) of this section, temporarily, preliminarily, or permanently restraining or enjoining the person from engaging in or continuing any conduct or practice in connection with the offer, sale, or purchase of any security, or the making of any false filing with any state.

(b)(i) Any disqualification under this division involving a dealer may be waived if the dealer is or continues to be licensed in this state as a dealer after notifying the commissioner of the act or event causing disqualification.

(ii) The commissioner may waive any disqualification under this paragraph upon a showing of good cause that it is not necessary under the

circumstances that use of the exemption be denied.

(3) Not later than five business days before the earlier of the date on which the first use of an offering document or the first sale is made in this state in reliance on the exemption under this division, there is filed with the commissioner a notice comprised of offering material in compliance with the requirements of Rule 502 of Regulation D under the Securities Act of 1933 and a fee of one hundred dollars. Material amendments to the offering document shall be filed with the commissioner not later than the date of their first use in this state.

(4) The aggregate commission, discount, and other remuneration paid or given, directly or indirectly, does not exceed twelve per cent of the initial offering price, excluding legal, accounting, and printing fees.

(X) Any offer or sale of securities made in reliance on the exemption provided in Rule 506 of Regulation D under the Securities Act of 1933, and in accordance with Rules 501 to 503 of Regulation D under the Securities Act of 1933, is exempt provided that all of the following apply:

(1) The issuer makes a notice filing with the division on form D of the securities and exchange commission within fifteen days of the first sale in this state;

(2) Any commission, discount, or other remuneration for sales of securities in this state is paid or given only to dealers or salespersons licensed under this chapter;

(3) The issuer pays a filing fee of one hundred dollars to the division; however, no filing fee shall be required to file amendments to the form D of the securities and exchange commission.

(Y) The offer or sale of securities by an issuer is exempt provided that all of the following apply:

(1) The sale of securities is made only to persons who are, or who the issuer reasonably believes are, accredited investors as defined in Rule 501 of Regulation D under the Securities Act of 1933.

(2) The issuer reasonably believes that all purchasers are purchasing for investment and not with a view to or for sale in connection with a distribution of the security. Any resale of a security sold in reliance on this exemption within twelve months of sale shall be presumed to be with a view to distribution and not for investment, except a resale to which any of the following applies:

(a) The resale is pursuant to a registration statement effective under section 1707.09 or 1707.091 of the Revised Code.

(b) The resale is to an accredited investor, as defined in Rule 501 of Regulation D under the Securities Act of 1933.

(c) The resale is to an institutional investor pursuant to the exemptions under division (B) or (D) of this section.

(3) The exemption under this division is not available to an issuer that is in the development stage and that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entities or persons.

(4) The exemption under this division is not available to an issuer, if the issuer, any of the issuer's predecessors, any affiliated issuer, any of the issuer's directors, officers, general partners, or beneficial owners of ten per cent or more of any class of its equity securities, any of the issuer's promoters presently connected with the issuer in any capacity, any underwriter of the securities to be offered, or any partner, director, or officer of such underwriter:

(a) Within the past five years, has filed a registration statement that is the subject of a currently effective registration stop order entered by any state securities administrator or the securities and exchange commission;

(b) Within the past five years, has been convicted of any criminal offense in connection with the offer, purchase, or sale of any security, or involving fraud or deceit;

(c) Is currently subject to any state or federal administrative enforcement order or judgment, entered within the past five years, finding fraud or deceit in connection with the purchase or sale of any security;

(d) Is currently subject to any order, judgment, or decree of any court of competent jurisdiction, entered within the past five years, that temporarily, preliminarily, or permanently restrains or enjoins the party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security.

(5) Division (Y)(4) of this section is inapplicable if any of the following applies:

(a) The party subject to the disqualification is licensed or registered to conduct securities business in the state in which the order, judgment, or decree creating the disqualification was entered against the party described in division (Y)(4) of this section.

(b) Before the first offer is made under this exemption, the state securities administrator, or the court or regulatory authority that entered the order, judgment, or decree, waives the disqualification.

(c) The issuer did not know and, in the exercise of reasonable care based on reasonable investigation, could not have known that a disqualification from the exemption existed under division (Y)(4) of this section.

(6) A general announcement of the proposed offering may be made by any means; however, the general announcement shall include only the following information, unless additional information is specifically permitted by the division by rule:

(a) The name, address, and telephone number of the issuer of the securities;

(b) The name, a brief description, and price of any security to be issued;

(c) A brief description of the business of the issuer;

(d) The type, number, and aggregate amount of securities being offered;

(e) The name, address, and telephone number of the person to contact for additional information; and

(f) A statement indicating all of the following:

(i) Sales will only be made to accredited investors as defined in Rule 501 of Regulation D under the Securities Act of 1933;

(ii) No money or other consideration is being solicited or will be accepted by way of this general announcement;

(iii) The securities have not been registered with or approved by any state securities administrator or the securities and exchange commission and are being offered and sold pursuant to an exemption from registration.

(7) The issuer, in connection with an offer, may provide information in addition to the general announcement described in division (Y)(6) of this section, provided that either of the following applies:

(a) The information is delivered through an electronic database that is restricted to persons that are accredited investors as defined in Rule 501 of Regulation D under the Securities Act of 1933.

(b) The information is delivered after the issuer reasonably believes that the prospective purchaser is an accredited investor as defined in Rule 501 of Regulation D under the Securities Act of 1933.

(8) No telephone solicitation shall be done, unless prior to placing the telephone call, the issuer reasonably believes that the prospective purchaser to be solicited is an accredited investor as defined in Rule 501 of Regulation D under the Securities Act of 1933.

(9) Dissemination of the general announcement described in division (Y)(6) of this section to persons that are not accredited investors, as defined in Rule 501 of Regulation D under the Securities Act of 1933, does not disqualify the issuer from claiming an exemption under this division.

(10) The issuer shall file with the division notice of the offering of securities within fifteen days after notice of the offering is made or a general announcement is made in this state. The filing shall be on forms adopted by the division and shall include a copy of the general announcement, if one is

made regarding the proposed offering, and copies of any offering materials, circulars, or prospectuses. A filing fee of one hundred dollars also shall be included.

Sec. 1707.162. (A) No person shall act as a state retirement system investment officer unless the person is licensed as a state retirement system investment officer by the division of securities.

(B) No state retirement system investment officer shall act as a dealer, salesperson, investment advisor, or investment advisor representative.

Sec. 1707.163. (A) Application for a state retirement system investment officer's license shall be made in accordance with this section by filing with the division of securities the information, materials, and forms specified in rules adopted by the division.

(B)(1) The division may investigate any applicant for a license and may require any additional information as it considers necessary to determine the applicant's business repute and qualifications to act as an investment officer.

(2) If the application for a state retirement system investment officer's license involves investigation outside of this state, the applicant may be required by the division to advance sufficient funds to pay any of the actual expenses of the investigation. The division shall furnish the applicant with an itemized statement of the expenses the applicant is required to pay.

(C) The division shall by rule require an applicant for a state retirement system investment officer's license to pass an examination designated by the division or achieve a specified professional designation unless the applicant meets both of the following requirements:

(1) Acts as a state retirement system investment officer on the effective date of this section;

(2) Has experience or equivalent education acceptable to the division.

(D) If the division finds that the applicant is of good business repute, appears to be qualified to act as a state retirement system investment officer, and has complied with this chapter and rules adopted under this chapter by the division, the division, on payment of the fees prescribed by division (B) of section 1707.17 of the Revised Code, shall issue to the applicant a license authorizing the applicant to act as a state retirement system investment officer.

Sec. 1707.17. (A)(1) The license of every dealer in and salesperson of securities shall expire on the thirty-first day of December of each year, and may be renewed upon the filing with the division of securities of an application for renewal, and the payment of the fee prescribed in this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal of a dealer's or salesperson's license.

(2) The license of every investment adviser and investment adviser representative licensed under section 1707.141 or 1707.161 of the Revised Code shall expire on the thirty-first day of December of each year. The licenses may be renewed upon the filing with the division of an application for renewal, and the payment of the fee prescribed in division (B) of this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal.

(3) An investment adviser required to make a notice filing under division (B) of section 1707.141 of the Revised Code annually shall file with the division the notice filing and the fee prescribed in division (B) of this section, no later than the thirty-first day of December of each year.

(4) The license of every state retirement system investment officer licensed under section 1707.163 of the Revised Code shall expire on the thirtieth day of June of each year. The licenses may be renewed on the filing with the division of an application for renewal, and the payment of the fee prescribed in division (B) of this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal.

(B)(1) The fee for each dealer's license, and for each annual renewal thereof, shall be one hundred dollars. ~~The fee for the examination of applicant dealers, when administered by the division, shall be seventy-five dollars.~~

(2) The fee for each salesperson's license, and for each annual renewal thereof, shall be fifty dollars. ~~The fee for the examination of an applicant salesperson, when administered by the division, shall be fifty dollars.~~

(3) The fee for each investment adviser's license, and for each annual renewal thereof, shall be fifty dollars.

(4) The fee for each investment adviser notice filing required by division (B) of section 1707.141 of the Revised Code shall be fifty dollars.

(5) The fee for each investment adviser representative's license, and for each annual renewal thereof, shall be thirty-five dollars.

(6) The fee for each state retirement system investment officer's license, and for each annual renewal thereof, shall be fifty dollars.

(C) A dealer's, salesperson's, investment adviser's, ~~or~~ investment adviser representative's, or state retirement system investment officer's license may be issued at any time for the remainder of the calendar year. In that event, the annual fee shall not be reduced.

Sec. 1707.19. (A) An original license, or a renewal thereof, applied for by a dealer or salesperson of securities, or by an investment adviser ~~or an~~ investment adviser representative, or state retirement system investment officer, may be refused, and any such license granted may be suspended

and, after notice and hearing in accordance with Chapter 119. of the Revised Code, may be revoked, by the division of securities, if the division determines that the applicant or the licensed dealer, salesperson, investment adviser, ~~or investment adviser representative,~~ or state retirement system investment officer:

- (1) Is not of good business repute;
- (2) Is conducting an illegitimate or fraudulent business;
- (3) Is, in the case of a dealer or investment adviser, insolvent;
- (4) Has knowingly violated any provision of sections 1707.01 to 1707.45 of the Revised Code, or any regulation or order made thereunder;
- (5) Has knowingly made a false statement of a material fact or an omission of a material fact in an application for a license, in a description or application that has been filed, or in any statement made to the division under such sections;
- (6) Has refused to comply with any lawful order or requirement of the division under section 1707.23 of the Revised Code;
- (7) Has been guilty of any fraudulent act in connection with the sale of any securities or in connection with acting as an investment adviser ~~or,~~ investment adviser representative, or state retirement system investment officer;
- (8) Conducts business in purchasing or selling securities at such variations from the existing market as in the light of all the circumstances are unconscionable;
- (9) Conducts business in violation of such rules and regulations as the division prescribes for the protection of investors, clients, or prospective clients;
- (10)(a) Has failed to furnish to the division any information with respect to the purchases or sales of securities within this state that may be reasonably requested by the division as pertinent to the protection of investors in this state.
- (b) Has failed to furnish to the division any information with respect to acting as an investment adviser ~~or an,~~ investment adviser representative, or state retirement system investment officer within this state that may be reasonably requested by the division.
- (B) For the protection of investors the division may prescribe reasonable rules defining fraudulent, evasive, deceptive, or grossly unfair practices or devices in the purchase or sale of securities.
- (C) For the protection of investors, clients, or prospective clients, the division may prescribe reasonable rules regarding the acts and practices of an investment adviser or an investment adviser representative.

(D) Pending any investigation or hearing provided for in sections 1707.01 to 1707.45 of the Revised Code, the division may order the suspension of any dealer's, salesperson's, investment adviser's, ~~or~~ investment adviser representative's, or state retirement system investment officer's license by notifying the party concerned of such suspension and the cause for it. If it is a salesperson whose license is suspended, the division shall also notify the dealer employing the salesperson. If it is an investment adviser representative whose license is suspended, the division also shall notify the investment adviser with whom the investment adviser representative is employed or associated. If it is a state retirement system investment officer whose license is suspended, the division shall also notify the state retirement system with whom the state retirement system investment officer is employed.

(E)(1) The suspension or revocation of the dealer's license suspends the licenses of all the dealer's salespersons.

(2) The suspension or revocation of the investment adviser's license suspends the licenses of all the investment adviser's investment adviser representatives. The suspension or revocation of an investment adviser's registration under section 203 of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-3, suspends the licenses of all the investment adviser's investment adviser representatives.

(F) It is sufficient cause for refusal, revocation, or suspension of the license in case of a partnership, partnership association, corporation, or unincorporated association if any general partner of the partnership, manager of the partnership association, or executive officer of the corporation or unincorporated association is not of good business repute or has been guilty of any act or omission which would be cause for refusing or revoking the license of an individual dealer, salesperson, investment adviser, or investment adviser representative.

Sec. 1707.20. (A) The division of securities may adopt, amend, and rescind such rules, forms, and orders as are necessary to carry out sections 1707.01 to 1707.45 of the Revised Code, including rules and forms governing registration statements, applications, and reports, and defining any terms, whether or not used in sections 1707.01 to 1707.45 of the Revised Code, insofar as the definitions are not inconsistent with these sections. For the purpose of rules and forms, the division may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

(B) No rule, form, or order may be made, amended, or rescinded unless the division finds that the action is necessary or appropriate in the public

interest or for the protection of investors, clients, ~~or~~ prospective clients, or state retirement systems and consistent with the purposes fairly intended by the policy and provisions of sections 1707.01 to 1707.45 of the Revised Code. In prescribing rules and forms and in otherwise administering sections 1707.01 to 1707.45 of the Revised Code, the division may cooperate with the securities administrators of the other states and the securities and exchange commission with a view of effectuating the policy of this section to achieve maximum uniformity in the form and content of registration statements, applications, reports, and overall securities regulation wherever practicable.

(C) The division may by rule or order prescribe:

(1) The form and content of financial statements required under sections 1707.01 to 1707.45 of the Revised Code;

(2) The circumstances under which consolidated financial statements shall be filed;

(3) Whether any required financial statements shall be certified by independent or certified public accountants. All financial statements shall be prepared in accordance with generally accepted accounting practices.

(D) All rules and forms of the division shall be published; and in addition to fulfilling the requirements of Chapter 119. of the Revised Code, the division shall prescribe, and shall publish and make available its rules regarding the sale of securities, the administration of sections 1707.01 to 1707.45 of the Revised Code, and the procedure and practice before the division.

(E) No provision of sections 1707.01 to 1707.45 of the Revised Code imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form, or order of the division of securities, notwithstanding that the rule, form, or order may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason, except that the issuance of an order granting effectiveness to a registration under section 1707.09 or 1707.091 of the Revised Code for the purposes of this division shall not be deemed an order other than as the establishment of the fact of registration.

Sec. 1707.22. Whenever a dealer's, salesperson's, investment adviser's, ~~or investment adviser representative's~~, or state retirement system investment officer's license has been refused, suspended, or revoked, or a renewal thereof has been denied, by the division of securities, or whenever the division has refused to qualify securities or has suspended or revoked the registration of any particular security by description or by qualification, or the right to buy, sell, or deal in any particular security whether it is

registered or qualified or exempt, or whether the transactions in it are registered or exempt, the aggrieved party may appeal in accordance with Chapter 119. of the Revised Code.

An order sustaining the refusal of the division to grant or renew a dealer's, salesperson's, investment adviser's, ~~or~~ investment adviser representative's, or state retirement system investment officer's license or to grant qualification of securities, or an order sustaining the division in suspending or revoking a dealer's, salesperson's, investment adviser's, ~~or~~ investment adviser representative's, or state retirement system investment officer's license, the registration of any particular security by description or by qualification, or the right to buy, sell, or deal in any particular security, shall not bar, after ten days from the order, a new registration by description, or a new application of the plaintiff for such a license or qualification or for a withdrawal of a revocation or suspension; nor shall an order in favor of the plaintiff prevent the division, after proper notice and hearing, from thereafter revoking or suspending such license, registration, or right to buy, sell, or deal in a particular security, for any proper cause which may, after the order, accrue or be discovered.

Sec. 1707.23. Whenever it appears to the division of securities, from its files, upon complaint, or otherwise, that any person has engaged in, is engaged in, or is about to engage in any practice declared to be illegal or prohibited by this chapter or rules adopted under this chapter by the division, or defined as fraudulent in this chapter or rules adopted under this chapter by the division, or any other deceptive scheme or practice in connection with the sale of securities, or acting as a dealer, a salesperson, an investment adviser ~~or~~, investment adviser representative, or state retirement system investment officer or when the division believes it to be in the best interests of the public and necessary for the protection of investors, the division may do any of the following:

(A) Require any person to file with it, on such forms as it prescribes, an original or additional statement or report in writing, under oath or otherwise, as to any facts or circumstances concerning the issuance, sale, or offer for sale of securities within this state by the person, as to the person's acts or practices as a dealer, a salesperson, an investment adviser ~~or~~, investment adviser representative, or state retirement system investment officer within this state, and as to other information as it deems material or relevant thereto;

(B) Examine any investment adviser, investment adviser representative, state retirement system investment officer, or any seller, dealer, salesperson, or issuer of any securities, and any of their agents, employees, partners,

officers, directors, members, or shareholders, wherever located, under oath; and examine and produce records, books, documents, accounts, and papers as the division deems material or relevant to the inquiry;

(C) Require the attendance of witnesses, and the production of books, records, and papers, as are required either by the division or by any party to a hearing before the division, and for that purpose issue a subpoena for any witness, or a subpoena duces tecum to compel the production of any books, records, or papers. The subpoena shall be served by personal service or by certified mail, return receipt requested. If the subpoena is returned because of inability to deliver, or if no return is received within thirty days of the date of mailing, the subpoena may be served by ordinary mail. If no return of ordinary mail is received within thirty days after the date of mailing, service shall be deemed to have been made. If the subpoena is returned because of inability to deliver, the division may designate a person or persons to effect either personal or residence service upon the witness. The person designated to effect personal or residence service under this division may be the sheriff of the county in which the witness resides or may be found or any other duly designated person. The fees and mileage of the person serving the subpoena shall be the same as those allowed by the courts of common pleas in criminal cases, and shall be paid from the funds of the division. Fees and mileage for the witness shall be the same as those allowed for witnesses by the courts of common pleas in criminal cases, and shall be paid from the funds of the division upon request of the witness following the hearing.

~~(D) Proceed under section 1707.19 of the Revised Code to refuse a license applied for by a dealer, salesperson, investment adviser, or investment adviser representative or to suspend the license of any licensed dealer, licensed salesperson, licensed investment adviser, or licensed investment adviser representative and ultimately, if the division determines, revoke such license under that section;~~

~~(E)~~ Initiate criminal proceedings under section 1707.042 or 1707.44 of the Revised Code or rules adopted under those sections by the division by laying before the prosecuting attorney of the proper county any evidence of criminality which comes to its knowledge; and in the event of the neglect or refusal of the prosecuting attorney to prosecute such violations, or at the request of the prosecuting attorney, the division shall submit the evidence to the attorney general, who may proceed in the prosecution with all the rights, privileges, and powers conferred by law on prosecuting attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries.

~~(F)~~(E) Require any dealers immediately to furnish to the division copies of prospectuses, circulars, or advertisements respecting securities that they publish or generally distribute, or require any investment advisers immediately to furnish to the division copies of brochures, advertisements, publications, analyses, reports, or other writings that they publish or distribute;

~~(G)~~(F) Require any dealers to mail to the division, prior to sale, notices of intention to sell, in respect to all securities which are not exempt under section 1707.02 of the Revised Code, or which are sold in transactions not exempt under section 1707.03 or 1707.04 of the Revised Code;

~~(H)~~(G) Issue and cause to be served by certified mail upon all persons affected an order requiring the person or persons to cease and desist from the acts or practices appearing to the division to constitute violations of this chapter or rules adopted under this chapter by the division. The order shall state specifically the section or sections of this chapter or the rule or rules adopted under this chapter by the division that appear to the division to have been violated and the facts constituting the violation. If after the issuance of the order it appears to the division that any person or persons affected by the order have engaged in any act or practice from which the person or persons shall have been required, by the order, to cease and desist, the director of commerce may apply to the court of common pleas of any county for, and upon proof of the validity of the order of the division, the delivery of the order to the person or persons affected, and of the illegality and the continuation of the acts or practices that are the subject of the order, the court may grant an injunction implementing the order of the division.

~~(I)~~(H) Issue and initiate contempt proceedings in this state regarding subpoenas and subpoenas duces tecum at the request of the securities administrator of another state, if it appears to the division that the activities for which the information is sought would violate this chapter if the activities had occurred in this state.

~~(J)~~(I) The remedies provided by this section are cumulative and concurrent with any other remedy provided in this chapter, and the exercise of one remedy does not preclude or require the exercise of any other remedy.

Sec. 1707.25. In case any person fails to file any statement or report required by sections 1707.01 to 1707.45 of the Revised Code, to obey any subpoena the issuance of which is provided for in those sections, or to produce books, records, or papers, give testimony, or answer questions, as required by those sections, the director of commerce may apply to a court of common pleas of any county for, and upon proof of such failure the court

may grant, an injunction restraining the acting as an investment adviser ~~or~~, investment adviser representative, or state retirement system investment officer, or the issuance, sale, or offer for sale of any securities by the person or by its agents, employees, partners, officers, directors, or shareholders, until such failure has been remedied and other relief as the facts may warrant has been had. Such injunctive relief is available in addition to the other remedies provided for in sections 1707.01 to 1707.45 of the Revised Code.

Where the person refusing to comply with such order of court is an issuer of securities, the court may enjoin the sale by any dealer of any securities of the issuer, and the division of securities may revoke the qualification of the securities of the issuer, or suspend or revoke the sale of any securities of the issuer which have been registered by description, and such securities shall not thereafter be sold by any dealer until the order of the court or of the division is withdrawn.

Sec. 1707.261. (A) If a court of common pleas grants an injunction pursuant to section 1707.26 of the Revised Code, after consultation with the attorney general the director of commerce may request that court to order the defendant or defendants that are subject to the injunction to make restitution or rescission to any purchaser or holder of securities damaged by the defendant's or defendants' violation of any provision of sections 1707.01 to 1707.45 of the Revised Code.

(B) If the court of common pleas is satisfied with the sufficiency of the director's request for restitution or rescission under division (A) of this section and with the sufficiency of the proof of a substantial violation of any provision of sections 1707.01 to 1707.45 of the Revised Code, or of the use of any act, practice, or transaction declared to be illegal or prohibited or defined as fraudulent by those sections or rules adopted under those sections by the division of securities, to the material prejudice of a purchaser or holder of securities, the court may order the defendant or defendants subject to the injunction to make restitution or rescission to any purchaser or holder of securities damaged by the defendant's or defendants' violation of sections 1707.01 to 1707.45 of the Revised Code.

(C) A court order granting restitution or rescission based upon a request made pursuant to division (A) of this section shall meet the requirements of division (B) of this section and may not be based solely upon a final order issued by the division of securities pursuant to Chapter 119. of the Revised Code or upon an action to enforce a final order issued by the division pursuant to that chapter. Notwithstanding the foregoing provision, a request for restitution or rescission pursuant to division (A) of this section may

concern the same acts, practices, or transactions that were, or may later be, the subject of a division of securities action for a violation of any provision of sections 1707.01 to 1707.45 of the Revised Code. If a request for restitution or rescission pursuant to division (A) of this section concerns the same acts, practices, or transactions that were the subject of a final order issued by the division of securities pursuant to Chapter 119. of the Revised Code, the court shall review the request in accordance with division (B) of this section, and the standard of review in section 119.12 of the Revised Code shall not apply to the request.

(D) No purchaser or holder of securities who is entitled to restitution or rescission under this section shall recover, pursuant to this section or any other proceeding, a total amount in excess of the person's purchase price for the securities sold in violation of sections 1707.01 to 1707.45 of the Revised Code.

(E)(1) If a court of common pleas grants an injunction pursuant to section 1707.26 of the Revised Code against any state retirement system investment officer, after consultation with the attorney general, the director of commerce may request that court to order the state retirement system investment officer or officers that are subject to the injunction to make restitution to the state retirement system damaged by the state retirement system investment officer's or officers' violation of any provision of sections 1707.01 to 1707.45 of the Revised Code.

(2) If the court of common pleas is satisfied with the sufficiency of the director's request for restitution under division (E)(1) of this section and with the sufficiency of the proof of a substantial violation of any provision of sections 1707.01 to 1707.45 of the Revised Code, or of the use of any act, practice, or transaction declared to be illegal or prohibited or defined as fraudulent by those sections or rules adopted under those sections by the division of securities, to the material prejudice of a state retirement system, the court may order the state retirement system investment officer or officers subject to the injunction to make restitution to the state retirement system damaged by the state retirement system investment officer's or officers' violation of sections 1707.01 to 1707.45 of the Revised Code. A request for restitution pursuant to division (E)(1) of this section may concern the same acts, practices, or transactions that were, or may later be, the subject of a division of securities action for a violation of any provision of section 1707.01 to 1707.45 of the Revised Code.

Sec. 1707.39. When any securities have been sold without compliance with sections 1707.01 to 1707.45 of the Revised Code, or any former law in force at the time of such sale, any interested person may apply in writing to

the division of securities for the qualification of such securities under such sections. If it appears to the division that no person has been defrauded, prejudiced, or damaged by such noncompliance or sale and that no person will be defrauded, prejudiced, or damaged by such qualification, the division may permit such securities to be so qualified upon the payment of a fee of one hundred dollars plus a fee of one-fifth of one per cent of the aggregate price at which the securities have been sold in this state, which fee shall in no case be less than one hundred dollars nor more than two thousand dollars. In addition, the division may require the applicant to advance sufficient funds to pay the actual expenses of an examination or investigation by the division, whether to be conducted in this state or outside this state. An itemized statement of such expenses shall be furnished to the applicant.

Such qualification shall estop the division from proceeding under division ~~(E)~~(D) of section 1707.23 of the Revised Code against anyone who has violated division (C)(1) of section 1707.44 of the Revised Code for acts within the scope of the application, or from proceeding with administrative action pursuant to section 1707.13 of the Revised Code.

Sec. 1707.431. For purposes of this section, the following persons shall not be deemed to have effected, participated in, or aided the seller in any way in making, a sale or contract of sale in violation of sections 1707.01 to 1707.45 of the Revised Code:

(A) Any attorney, accountant, or engineer whose performance is incidental to the practice of the person's profession;

(B) Any person, other than an investment adviser ~~or an~~ investment adviser representative, or state retirement system investment officer, who brings any issuer together with any potential investor, without receiving, directly or indirectly, a commission, fee, or other remuneration based on the sale of any securities by the issuer to the investor. Remuneration received by the person solely for the purpose of offsetting the reasonable out-of-pocket costs incurred by the person shall not be deemed a commission, fee, or other remuneration.

Any person claiming exemption under this division for a publicly advertised meeting shall file a notice with the division of securities indicating an intent to cause or hold such a meeting at least twenty-one days prior to the meeting. The division may, upon receipt of such notice, issue an order denying the availability of an exemption under this division not more than fourteen days after receipt of the notice based on a finding that the applicant is not entitled to the exemption. Notwithstanding the notice described in this section, a failure to file the notice does not create a

presumption that a person was participating in or aiding in the making of a sale or contract of sale in violation of this chapter.

(C) Any person whom the division exempts from this provision by rule.

Sec. 1707.44. (A)(1) No person shall engage in any act or practice that violates division (A), (B), or (C) of section 1707.14 of the Revised Code, and no salesperson shall sell securities in this state without being licensed pursuant to section 1707.16 of the Revised Code.

(2) No person shall engage in any act or practice that violates division (A) of section 1707.141 or section 1707.161 of the Revised Code.

(3) No person shall engage in any act or practice that violates section 1707.162 of the Revised Code.

(B) No person shall knowingly make or cause to be made any false representation concerning a material and relevant fact, in any oral statement or in any prospectus, circular, description, application, or written statement, for any of the following purposes:

(1) Registering securities or transactions, or exempting securities or transactions from registration, under this chapter;

(2) Securing the qualification of any securities under this chapter;

(3) Procuring the licensing of any dealer, salesperson, investment adviser, ~~or investment adviser representative,~~ or state retirement system investment officer under this chapter;

(4) Selling any securities in this state;

(5) Advising for compensation, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities;

(6) Submitting a notice filing to the division under division (X) of section 1707.03 or section 1707.092 or 1707.141 of the Revised Code.

(C) No person shall knowingly sell, cause to be sold, offer for sale, or cause to be offered for sale, any security which comes under any of the following descriptions:

(1) Is not exempt under section 1707.02 of the Revised Code, nor the subject matter of one of the transactions exempted in section 1707.03, 1707.04, or 1707.34 of the Revised Code, has not been registered by coordination or qualification, and is not the subject matter of a transaction that has been registered by description;

(2) The prescribed fees for registering by description, by coordination, or by qualification have not been paid in respect to such security;

(3) The person has been notified by the division, or has knowledge of the notice, that the right to buy, sell, or deal in such security has been suspended or revoked, or that the registration by description, by coordination, or by qualification under which it may be sold has been

suspended or revoked;

(4) The offer or sale is accompanied by a statement that the security offered or sold has been or is to be in any manner indorsed by the division.

(D) No person who is an officer, director, or trustee of, or a dealer for, any issuer, and who knows such issuer to be insolvent in that the liabilities of the issuer exceed its assets, shall sell any securities of or for any such issuer, without disclosing the fact of the insolvency to the purchaser.

(E) No person with intent to aid in the sale of any securities on behalf of the issuer, shall knowingly make any representation not authorized by such issuer or at material variance with statements and documents filed with the division by such issuer.

(F) No person, with intent to deceive, shall sell, cause to be sold, offer for sale, or cause to be offered for sale, any securities of an insolvent issuer, with knowledge that such issuer is insolvent in that the liabilities of the issuer exceed its assets, taken at their fair market value.

(G) No person in purchasing or selling securities shall knowingly engage in any act or practice that is, in this chapter, declared illegal, defined as fraudulent, or prohibited.

(H) No licensed dealer shall refuse to buy from, sell to, or trade with any person because the person appears on a blacklist issued by, or is being boycotted by, any foreign corporate or governmental entity, nor sell any securities of or for any issuer who is known in relation to the issuance or sale of the securities to have engaged in such practices.

(I) No dealer in securities, knowing that the dealer's liabilities exceed the reasonable value of the dealer's assets, shall accept money or securities, except in payment of or as security for an existing debt, from a customer who is ignorant of the dealer's insolvency, and thereby cause the customer to lose any part of the customer's securities or the value of those securities, by doing either of the following without the customer's consent:

(1) Pledging, selling, or otherwise disposing of such securities, when the dealer has no lien on or any special property in such securities;

(2) Pledging such securities for more than the amount due, or otherwise disposing of such securities for the dealer's own benefit, when the dealer has a lien or indebtedness on such securities.

It is an affirmative defense to a charge under this division that, at the time the securities involved were pledged, sold, or disposed of, the dealer had in the dealer's possession or control, and available for delivery, securities of the same kinds and in amounts sufficient to satisfy all customers entitled to the securities, upon demand and tender of any amount due on the securities.

(J) No person, with purpose to deceive, shall make, issue, publish, or cause to be made, issued, or published any statement or advertisement as to the value of securities, or as to alleged facts affecting the value of securities, or as to the financial condition of any issuer of securities, when the person knows that such statement or advertisement is false in any material respect.

(K) No person, with purpose to deceive, shall make, record, or publish or cause to be made, recorded, or published, a report of any transaction in securities which is false in any material respect.

(L) No dealer shall engage in any act that violates the provisions of section 15(c) or 15(g) of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C.A. 78o(c) or (g), or any rule or regulation promulgated by the securities and exchange commission thereunder. If, subsequent to October 11, 1994, additional amendments to section 15(c) or 15(g) are adopted, or additional rules or regulations are promulgated pursuant to such sections, the division of securities shall, by rule, adopt the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(M)(1) No investment adviser or investment adviser representative shall do any of the following:

(a) Employ any device, scheme, or artifice to defraud any person;

(b) Engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person;

(c) In acting as principal for the investment adviser's or investment adviser representative's own account, knowingly sell any security to or purchase any security from a client, or in acting as salesperson for a person other than such client, knowingly effect any sale or purchase of any security for the account of such client, without disclosing to the client in writing before the completion of the transaction the capacity in which the investment adviser or investment adviser representative is acting and obtaining the consent of the client to the transaction. Division (M)(1)(c) of this section does not apply to any investment adviser registered with the securities and exchange commission under section 203 of the "Investment Advisers Act of 1940," 15 U.S.C. 80b-3, or to any transaction with a customer of a licensed dealer or salesperson if the licensed dealer or salesperson is not acting as an investment adviser or investment adviser representative in relation to the transaction.

(d) Engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative. The division of securities may adopt rules reasonably designed to prevent such acts, practices, or courses of business

that are fraudulent, deceptive, or manipulative.

(2) No investment adviser or investment adviser representative licensed or required to be licensed under this chapter shall take or have custody of any securities or funds of any person, except as provided in rules adopted by the division.

(3) In the solicitation of clients or prospective clients, no person shall make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made not misleading in light of the circumstances under which the statements were made.

(N) No person knowingly shall influence, coerce, manipulate, or mislead any person engaged in the preparation, compilation, review, or audit of financial statements to be used in the purchase or sale of securities for the purpose of rendering the financial statements materially misleading.

(O) No state retirement system investment officer shall do any of the following:

(1) Employ any device, scheme, or artifice to defraud any state retirement system;

(2) Engage in any act, practice, or course of business that operates or would operate as a fraud or deceit on any state retirement system;

(3) Engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative. The division of securities may adopt rules reasonably designed to prevent such acts, practices, or courses of business as are fraudulent, deceptive, or manipulative;

(4) Knowingly fail to comply with any policy adopted regarding the officer established pursuant to section 145.094, 742.104, 3307.043, 3309.043, or 5505.066 of the Revised Code.

Sec. 1707.46. The principal executive officer of the division of securities shall be the commissioner of securities, who shall be appointed by the director of commerce. The commissioner of securities shall enforce all the laws and administrative rules enacted or adopted to regulate the sale of bonds, stocks, and other securities and to prevent fraud in such sales. The commissioner also shall enforce all the laws and administrative rules enacted or adopted to regulate investment advisers ~~and~~, investment adviser representatives, and state retirement system investment officers and to prevent fraud in their acts, practices, and transactions.

The commissioner shall be paid at a rate not less than pay range 47 set out in schedule E-2 of section 124.152 of the Revised Code, to be paid as other operating expenses of the division.

Sec. 3105.80. As used in this section and sections 3105.81 to 3105.90 of the Revised Code:

(A) "Alternate payee" means a party in an action for divorce, legal separation, annulment, or dissolution of marriage who is to receive one or more payments from a benefit or lump sum payment under an order issued under section 3105.171 or 3105.65 of the Revised Code that is in compliance with sections 3105.81 to 3105.90 of the Revised Code.

(B) "Benefit" means a periodic payment under a pension, annuity, allowance, or other type of benefit, other than a survivor benefit, that has been or may be granted to a participant under sections 742.01 to 742.61 or Chapter 145., 3307., 3309., or 5505. of the Revised Code or any payment that is to be made under a contract a participant has entered into for the purposes of an alternative retirement plan. "Benefit" also includes all amounts received or to be received under a plan of payment elected under division (B)(3) of section 145.46, division (B) of section 3307.60, or division (B)(3) of section 3309.46 of the Revised Code.

(C) "Lump sum payment" means a payment of accumulated contributions standing to a participant's credit under sections 742.01 to 742.61 or Chapter 145., 3307., 3309., or 5505. of the Revised Code or pursuant to a contract a participant has entered into for the purposes of an alternative retirement plan and any other payment made or that may be made to a participant under those sections or chapters on withdrawal of a participant's contributions. "Lump sum payment" includes a lump sum payment under section 145.384, 742.26, 3307.352, or 3309.344 of the Revised Code.

(D) "Participant" means a member, contributor, retirant, or disability benefit recipient who is or will be entitled to a benefit or lump sum payment under sections 742.01 to 742.61 or Chapter 145., 3307., 3309., or 5505. of the Revised Code or an ~~academic or administrative~~ employee who elects to participate in an alternative retirement plan under Chapter 3305. of the Revised Code.

(E) "Personal history record" has the same meaning as in ~~section~~ sections 145.27, 742.41, 3305.20, 3307.20, 3309.22, and 5505.04 of the Revised Code.

(F) "Public retirement program" means the public employees retirement system, Ohio police and fire pension fund, school employees retirement system, state teachers retirement system, state highway patrol retirement system, or an entity providing an alternative retirement plan under Chapter 3305. of the Revised Code.

Sec. 3305.01. As used in this chapter:

(A) "Public institution of higher education" means a state university as defined in section 3345.011 of the Revised Code, the medical college of

Ohio at Toledo, the northeastern Ohio universities college of medicine, or a university branch, technical college, state community college, community college, or municipal university established or operating under Chapter 3345., 3349., 3354., 3355., 3357., or 3358. of the Revised Code.

(B) "State retirement system" means the public employees retirement system created under Chapter 145. of the Revised Code, the state teachers retirement system created under Chapter 3307. of the Revised Code, or the school employees retirement system created under Chapter 3309. of the Revised Code.

(C) "~~Academic or administrative~~ Eligible employee" means any person employed as a full-time employee not receiving any benefit, allowance, or other payment granted on the employee's account from a state retirement system who meets one of the following requirements:

(1) ~~The employee is a member of the faculty of a public institution of higher education.~~

(2) ~~The employee is a member of the administrative staff of a public institution of higher education serving in a position in the unclassified civil service pursuant to section 124.11 of the Revised Code.~~

(3) ~~If section 124.11 of the Revised Code does not apply to the public institution of higher education, the employee is a member of the administrative staff of a public institution of higher education serving in a position comparable to a position in the unclassified civil service of a public institution of higher education.~~

In all cases of doubt, the board of trustees of the public institution of higher education shall determine whether any person is an ~~academic or administrative~~ eligible employee for purposes of this chapter, and the board's decision shall be final.

(D) "Electing employee" means any ~~academic or administrative~~ eligible employee who elects, pursuant to section 3305.05 or 3305.051 of the Revised Code, to participate in an alternative retirement plan provided pursuant to this chapter or an eligible employee who is required to participate in an alternative retirement plan pursuant to division ~~(E)(C)(4)~~ of section 3305.05 or division (F) of section 3305.051 of the Revised Code.

(E) "Compensation," for purposes of an electing employee, has the same meaning as the applicable one of the following:

(1) If the electing employee would be subject to Chapter 145. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, "earnable salary" as defined in division (R) of section 145.01 of the Revised Code;

(2) If the electing employee would be subject to Chapter 3307. of the

Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, "compensation" as defined in division (L) of section 3307.01 of the Revised Code;

(3) If the electing employee would be subject to Chapter 3309. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, "compensation" as defined in division (V) of section 3309.01 of the Revised Code.

(F) "Provider" means an entity designated under section 3305.03 of the Revised Code as a provider of investment options for an alternative retirement plan.

Sec. 3305.02. An alternative retirement program is hereby established in accordance with this chapter for the purpose of providing to ~~academic or administrative~~ eligible employees the opportunity of participating in an alternative retirement plan as an alternative to participating in a state retirement system. The employer is the sponsor of each alternative retirement plan offered under this chapter.

Each alternative retirement plan offered under this program ~~to academic or administrative employees electing to participate~~ shall be a defined contribution plan qualified under section 401 (a) of the Internal Revenue Code that provides retirement and death benefits through investment options. The options shall be offered to electing employees pursuant to group or individual contracts, and certificates issued under group contracts, and may include life insurance, annuities, variable annuities, regulated investment trusts, pooled investment funds, or other forms of investment, at the option of each electing employee.

Notwithstanding this chapter, any retirement plan established by a public institution of higher education prior to March 31, 1997, as an alternative to participating in any state retirement system may continue in effect and be modified without regard to this chapter for all employees at the public institution eligible to participate in the plan.

Sec. 3305.03. (A) The department of insurance shall designate three or more entities to provide investment options under alternative retirement plans established by public institutions of higher education in accordance with this chapter. An entity shall be designated a provider under this section if the entity meets both of the following requirements:

(1) It is authorized to conduct business in this state with regard to the investment options to be offered under an alternative retirement plan;

(2) It provides the same or similar investment options to be offered under alternative retirement plans, as group or individual contracts, or a combination thereof, in at least ten other states.

(B) In designating a provider under this section, the department of insurance shall consider all of the following:

(1) The experience of the provider in providing investment options under alternative retirement programs in other states;

(2) The potential effectiveness of the provider in recruiting ~~academic or administrative~~ eligible employees to enter into contracts and in retaining those contracts;

(3) The nature and extent of the rights and benefits to be provided under the investment options;

(4) The relationship between the rights and benefits under the investment options and the amount of the contributions made under those options;

(5) The suitability of the rights and benefits under the investment options to the needs and interests of ~~academic or administrative~~ eligible employees;

(6) The capability of the provider to provide the rights and benefits under the investment options;

(7) Any other matters it considers relevant.

(C) The department of insurance shall periodically review each provider designated under division (A) of this section and the investment options being offered to ensure that the requirements and purposes of this chapter are being met. If the department finds that the provider is not in compliance with any requirement of this chapter or the provider is not satisfactorily meeting the purposes of this chapter, the department may rescind the provider's designation.

(D) Notwithstanding sections 125.01 to 125.11 of the Revised Code, designation of a provider or the execution of any contract under this chapter is not subject to competitive bidding under those sections.

Sec. 3305.05. (A) As used in this section and section 3305.051 of the Revised Code, "academic or administrative employee" means any full-time employee not receiving any benefit, allowance, or other payment granted on the employee's account from a state retirement system who, before the effective date of this section, met one of the following requirements:

(1) The employee was a member of the faculty of a public institution of higher education.

(2) The employee was a member of the administrative staff of a public institution of higher education serving in a position in the unclassified civil service pursuant to section 124.11 of the Revised Code.

(3) If section 124.11 of the Revised Code did not apply to the public institution of higher education, the employee was a member of the

administrative staff of a public institution of higher education serving in a position comparable to a position in the unclassified civil service.

In all cases of doubt, the board of trustees of the public institution of higher education shall determine whether any person is an academic or administrative employee for purposes of this chapter, and the board's decision shall be final.

(B)(1) Each person who, on the effective date of this section, is an eligible employee of a public institution of higher education and has accrued less than five years of service credit in a state retirement system may, not later than one hundred twenty days after the effective date of this section, make an election to participate in an alternative retirement plan available at the employing public institution, unless, prior to the effective date of this section, the person had an opportunity pursuant to former section 3305.05 of the Revised Code to make such an election as an academic or administrative employee of that public institution of higher education.

(2) An eligible employee whose employment with a public institution of higher education commences on or after the effective date of this section may, not later than one hundred twenty days after the starting date of the employment, make an election to participate in an alternative retirement plan available at the employing public institution.

(3) An eligible employee who, on or after the effective date of this section, terminates employment at one public institution of higher education and subsequently is employed by another public institution of higher education in a position for which an alternative retirement plan is available may, not later than one hundred twenty days after the starting date of the employment, elect to participate in an alternative retirement plan available at that public institution.

(C)(1) An eligible employee who makes an election under division (B) of this section shall submit the election in writing to the designated officer of the employee's employing public institution of higher education. Once submitted, the election is irrevocable while the eligible employee continues to be employed by the public institution of higher education. Not later than ten days after the election becomes irrevocable, the officer shall file a certified copy of the election with the state retirement system to which, apart from the election, the employee's employment would be subject.

Each public institution of higher education that employs a person eligible to make an election under division (B) of this section shall notify in writing, within ten days of the person's employment, the state retirement system that applies to that employment in the manner specified by that state retirement system. The notice shall include the person's name and address.

(2) Elections made under division (B) of this section take effect as follows:

(a) An election under division (B)(1) of this section is effective as of the date on which the employee's election to participate in the alternative retirement plan becomes irrevocable.

(b) An election under division (B)(2) or (3) of this section is effective as of the electing employee's starting date of employment.

(3) An eligible employee's election under division (B) of this section applies to the employee's employment in all positions at that public institution, unless the employee terminates employment at the public institution and does not return to employment in any position at that public institution prior to one year after the date of termination.

(4) An eligible employee who makes an election under division (B) of this section is forever barred from claiming or purchasing service credit under any state retirement system for the period of employment while the election is in effect.

(D)(1) An eligible employee who fails to make an election under division (B) of this section within the one-hundred-twenty day election period shall be deemed to have elected to participate in the state retirement system that applies to the employee's employment.

(2) An eligible employee who fails to make an election under division (B) of this section shall not be permitted to make an election for employment in any other position at the public institution of higher education while employed at that public institution, unless the employee terminates employment at the public institution and does not return to employment in any position at the public institution prior to one year after the date of termination.

Sec. 3305.05 3305.051. (A) This section applies only to elections made prior to the effective date of this amendment.

(B) A person whose employment as an academic or administrative employee of a public institution of higher education ~~commences~~ commenced after the initial date on which the board of trustees of the public institution ~~adopts~~ adopted an alternative retirement plan may, not later than one hundred twenty days after the starting date of employment, make an election to participate in an alternative retirement plan available at the public institution. If no election to participate in an alternative retirement plan is made by the end of one hundred twenty days after the person's starting date of employment, the person shall be deemed to have elected participation in the state retirement system that applies to the person's employment.

An election made under this division or division ~~(B)~~(C) of this section

shall be irrevocable while the electing employee is employed by that public institution.

A person who makes an election to participate in an alternative retirement plan shall be forever barred from claiming or purchasing service credit under any state retirement system for the period of that person's employment during which the election is in effect. If a person terminates employment at one public institution of higher education and subsequently is employed by another public institution of higher education in a position for which an alternative retirement plan is available under this chapter, the person may make another election under this division. Each public institution of higher education employing a person eligible to make an election under this division shall notify, within ten days of the person's employment, the state retirement system that applies to that person's employment in the manner specified by that state retirement system, which notice shall include the new employee's name and address.

~~(B)(C)~~(1) Not later than one hundred twenty days after the date on which the board of trustees of a public institution of higher education adopts an alternative retirement plan for that public institution, each eligible academic or administrative employee of the public institution may make an election to participate in an alternative retirement plan available at the public institution. If a person to whom this division applies fails to make an election, the person shall be deemed to have elected continued participation in the state retirement system in which the person is a member.

(2)(a) A member of the public employees retirement system or school employees retirement system who is an academic or administrative employee of the public institution is eligible to make an election if, on April 1, 1998, the member had less than five years of service credit in the retirement system in which the member is making contributions and the public institution of higher education at which the member is employed adopted an alternative retirement plan after December 8, 1998, but before April 1, 1999.

(b) A member of the state teachers retirement system who is an academic or administrative employee of a public institution that establishes an alternative retirement plan is eligible to make an election if the member has less than five years of service credit in the state teachers retirement system on the thirtieth day of June immediately preceding the date the plan is adopted.

~~(C) Each academic or administrative employee shall make an~~ (D) An election under division ~~(A)(B)~~ or ~~(B)(C)~~ of this section shall be in writing ~~and submit the election submitted~~ to the designated officer of the employee's

employing public institution of higher education. Not later than ten days after the election becomes irrevocable, the officer shall file a certified copy of the election with the state retirement system to which, apart from this election, the employee's employment would be subject.

~~(D)~~(E)(1) Each election made under division ~~(A)~~(B) of this section shall be effective as of the electing employee's starting date of employment.

(2) In the case of a member of the public employees retirement system or school employees retirement system, an election made under division ~~(B)~~(C) of this section shall be effective as of April 1, 1998. In the case of a member of the state teachers retirement system, an election shall be effective as of the date described in division ~~(B)~~(C)(2)(b) of this section.

~~(E)~~(F) If an individual makes an election under division ~~(A)~~(B) or ~~(B)~~(C) of this section, the election shall apply to the individual's employment in all positions at a public institution of higher education, unless the individual terminates employment at the public institution and does not return to employment in any position at that public institution prior to one year after the date of termination.

If an individual is eligible to make an election under division ~~(A)~~(B) or ~~(B)~~(C) of this section for employment at a public institution and does not make the election, the individual shall not be permitted to make an election for employment in any other position at the public institution while employed at that public institution, unless the individual terminates employment at the public institution and does not return to employment in any position at the public institution prior to one year after the date of termination.

~~(F) The board of trustees of a public institution of higher education shall permit an electing employee to do all of the following:~~

~~(1) Select, from among the providers that have entered into a contract with the public institution of higher education under section 3305.04 of the Revised Code, the provider of an investment option for that employee;~~

~~(2) Except as permitted under division (F)(3) of this section, contract with only one provider in any plan year;~~

~~(3) Change the provider selected under division (F)(1) of this section at the following times:~~

~~(a) Once during the first payroll period in any plan year;~~

~~(b) Any time the provider that the employee selected ceases to be designated under division (C) of section 3305.03 of the Revised Code.~~

~~(G) If under division (F)(3) of this section, an employee changes providers, the provider shall transfer the employee's account balance to the new provider.~~

Sec. ~~3305.051~~ 3305.052. (A) The state retirement system that covers the position held by an employee of a public institution of higher education who makes an election under division ~~(A)~~(B)(2) or (3) of section 3305.05 or division (B) of section 3305.051 of the Revised Code to participate in the public institution's alternative retirement plan shall, not later than thirty days after the date on which the certified copy of the employee's election is filed with the state retirement system under that section, do one of the following:

(1) If the employee was participating in a defined benefit plan as provided in sections 145.201 to 145.79, sections 3307.50 to 3307.79, or sections 3309.18 to 3309.76 of the Revised Code, pay to the provider of the investment option selected by the employee any employee and employer contributions made to the retirement system by or on behalf of that employee for the period beginning on the employee's starting day of employment and ending on the day before the day on which contributions commence under an alternative retirement plan, less the amount due the retirement system pursuant to division (D) of section 3305.06 of the Revised Code for that period.

(2) If the employee was participating in a defined contribution plan as provided in section 145.81, 3307.81, or 3309.81 of the Revised Code, pay to the provider of the investment option selected by the employee the amount on deposit in the employee's individual account for the period beginning on the employee's starting day of employment and ending on the day before the day on which contributions commence under an alternative retirement plan.

(B) The state retirement system that covers the position held by an employee of a public institution of higher education who makes an election under division (B)(1) of section 3305.05 or division (C) of section 3305.051 of the Revised Code to participate in the public institution's alternative retirement plan shall, not later than thirty days after the date on which a certified copy of the employee's election is filed with the state retirement system under that section, do one of the following:

(1) If the employee was participating in a defined benefit plan as provided in sections 145.201 to 145.79, sections 3307.50 to 3307.79, or sections 3309.18 to 3309.70 of the Revised Code, pay to the provider of the investment option selected by the employee any employee and employer contributions made to the retirement system by or on behalf of that employee for any period commencing after the date on which the election becomes irrevocable under division (C)(1) of section 3305.05 of the Revised Code or the applicable date described in division ~~(B)~~(C)(2)(a) or (b) of section ~~3305.05~~ 3305.051 of the Revised Code and ending on the day before the day on which contributions commence under an alternative retirement

plan, less the amount due the retirement system pursuant to division (D) of section 3305.06 of the Revised Code for that period.

(2) If the employee was participating in a defined contribution plan as provided in section 145.81, 3307.81, or 3309.81 of the Revised Code, pay to the provider of the investment option selected by the employee the amount on deposit in the employee's individual account for the period commencing after the date on which the election becomes irrevocable under division (C)(1) of section 3305.05 of the Revised Code and ending on the day before the day on which contributions commence under an alternative retirement plan.

Sec. 3305.053. The board of trustees of a public institution of higher education shall permit an employee who makes an election under section 3305.05 or 3305.051 of the Revised Code to do all of the following:

(A) Select, from among the providers that have entered into a contract with the public institution of higher education under section 3305.04 of the Revised Code, the provider of an investment option for that employee;

(B) Except as permitted under division (C) of this section, contract with only one provider in any plan year;

(C) Change the provider selected under division (A) of this section at the following times:

(1) Once during the first payroll period in any plan year;

(2) Any time the provider that the employee selected ceases, under division (C) of section 3305.03 of the Revised Code, to be designated.

(D) If under division (C) of this section an employee changes providers, the provider shall transfer to the new provider the employee's account balance either in whole or in part, as directed by the employee, except that the provider is not required to immediately transfer any part of the account invested at the employee's election in a fixed annuity account if the contract under which the investment was made permits the provider to make such a transfer over a period of time not exceeding ten years and the contract was filed with and approved by the department of insurance pursuant to section 3911.011 of the Revised Code.

Sec. 3305.06. (A) Each electing employee shall contribute an amount, which shall be a certain percentage of the employee's compensation, to the provider of the investment option the employee has selected. This percentage shall be the percentage the electing employee would have otherwise been required to contribute to the state retirement system that applies to the employee's position, except that the percentage shall not be less than three per cent. Employee contributions under this division may be treated as employer contributions in accordance with Internal Revenue Code

414(h).

(B) Each public institution of higher education employing an electing employee shall contribute ~~an amount, which shall be a certain~~ percentage of the employee's compensation; to the provider of the investment option the employee has selected. This percentage shall be ~~determined by the board of trustees of the public institution~~ equal to the percentage that the public institution of higher education would otherwise contribute on behalf of that employee to the state retirement system that would otherwise cover that employee's position, less the percentage contributed by the public institution of higher education under division (D) of this section.

(C)(1) In no event shall the amount contributed by the electing employee pursuant to division (A) of this section and on the electing employee's behalf pursuant to division (B) of this section be less than the amount necessary to qualify the plan as a state retirement system pursuant to Internal Revenue Code 3121(B)(7) and the regulations adopted thereunder.

(2) The full amount of the electing employee's contribution under division (A) of this section and the full amount of the employer's contribution made on behalf of that employee under division (B) of this section shall be paid to the appropriate provider for application to the electing employee's investment option.

(D) Each public institution of higher education employing an electing employee shall contribute on behalf of that employee to the state retirement system that otherwise applies to the electing employee's position a percentage of the electing employee's compensation to mitigate any negative financial impact of the alternative retirement program on the state retirement system. The percentage shall be six per cent, except that the percentage may be adjusted by the Ohio retirement study council to reflect the determinations made by actuarial studies conducted under section 171.07 of the Revised Code. Any adjustment shall become effective on the first day of the second month following submission of the actuarial study to the board of regents under section 171.07 of the Revised Code.

Contributions on behalf of an electing employee shall continue in accordance with this division until the occurrence of the following:

(1) If the electing employee would be subject to Chapter 145. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, until the unfunded actuarial accrued liability for all benefits, except health care benefits provided under section 145.325 or 145.58 of the Revised Code and benefit increases provided after March 31, 1997, is fully amortized, as determined by the annual actuarial valuation prepared under section 145.22 of the Revised

Code;

(2) If the electing employee would be subject to Chapter 3307. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, until the unfunded actuarial accrued liability for all benefits, except health care benefits provided under section 3307.39 or 3307.61 of the Revised Code and benefit increases provided after March 31, 1997, is fully amortized, as determined by the annual actuarial valuation prepared under section 3307.51 of the Revised Code;

(3) If the electing employee would be subject to Chapter 3309. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, until the unfunded actuarial accrued liability for all benefits, except health care benefits provided under section 3309.375 or 3309.69 of the Revised Code and benefit increases provided after March 31, 1997, is fully amortized, as determined by the annual actuarial valuation prepared under section 3309.21 of the Revised Code.

Sec. 3305.07. (A) Neither the state nor a public institution of higher education shall be a party to any contract purchased in whole or in part with contributions to an alternative retirement plan made under section 3305.06 of the Revised Code. No retirement, death, or other benefits shall be payable by the state or by any public institution of higher education under any alternative retirement plan elected pursuant to this chapter.

(B)(1) Except as provided under division (B)(2) of this section and sections 3305.08 and 3305.09 of the Revised Code, benefits shall be paid to an electing employee or the employee's beneficiaries in accordance with the alternative retirement plan adopted by the public institution of higher education at which the employee is employed.

(2) A benefit or payment shall not be paid under an investment option prior to the time an electing employee dies, terminates employment with the public institution of higher education, or, if provided under the alternative retirement plan or investment option, becomes disabled, except that the provider of the investment option shall transfer the employee's account balance to another provider as provided under ~~division (G) of~~ section ~~3305.05~~ 3305.053 of the Revised Code.

Sec. 3307.01. As used in this chapter:

(A) "Employer" means the board of education, school district, governing authority of any community school established under Chapter 3314. of the Revised Code, college, university, institution, or other agency within the state by which a teacher is employed and paid.

(B) "Teacher" means all of the following:

(1) Any person paid from public funds and employed in the public schools of the state under any type of contract described in section 3319.08 of the Revised Code in a position for which the person is required to have a license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code;

(2) Any person employed as a teacher by a community school pursuant to Chapter 3314. of the Revised Code;

(3) Any person having a license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code and employed in a public school in this state in an educational position, as determined by the state board of education, under programs provided for by federal acts or regulations and financed in whole or in part from federal funds, but for which no licensure requirements for the position can be made under the provisions of such federal acts or regulations;

(4) Any other teacher or faculty member employed in any school, college, university, institution, or other agency wholly controlled and managed, and supported in whole or in part, by the state or any political subdivision thereof, including Central state university, Cleveland state university, the university of Toledo, and the medical college of Ohio at Toledo;

(5) The educational employees of the department of education, as determined by the state superintendent of public instruction.

In all cases of doubt, the state teachers retirement board shall determine whether any person is a teacher, and its decision shall be final.

"Teacher" does not include any ~~academic or administrative~~ eligible employee of a public institution of higher education, as defined in section 3305.01 of the Revised Code, who ~~participates~~ elects to participate in an alternative retirement plan established under Chapter 3305. of the Revised Code.

(C) "Member" means any person included in the membership of the state teachers retirement system, which shall consist of all teachers and contributors as defined in divisions (B) and (D) of this section and all disability benefit recipients, as defined in section 3307.50 of the Revised Code. However, for purposes of this chapter, the following persons shall not be considered members:

(1) A student, intern, or resident who is not a member while employed part-time by a school, college, or university at which the student, intern, or resident is regularly attending classes;

(2) A person denied membership pursuant to section 3307.24 of the Revised Code;

(3) An other system retirant, as defined in section 3307.35 of the Revised Code, or a superannuate;

(4) An individual employed in a program established pursuant to the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501.

(D) "Contributor" means any person who has an account in the teachers' savings fund or defined contribution fund.

(E) "Beneficiary" means any person eligible to receive, or in receipt of, a retirement allowance or other benefit provided by this chapter.

(F) "Year" means the year beginning the first day of July and ending with the thirtieth day of June next following, except that for the purpose of determining final average salary under the plan described in sections 3307.50 to 3307.79 of the Revised Code, "year" may mean the contract year.

(G) "Local district pension system" means any school teachers pension fund created in any school district of the state in accordance with the laws of the state prior to September 1, 1920.

(H) "Employer contribution" means the amount paid by an employer, as determined by the employer rate, including the normal and deficiency rates, contributions, and funds wherever used in this chapter.

(I) "Five years of service credit" means employment covered under this chapter and employment covered under a former retirement plan operated, recognized, or endorsed by a college, institute, university, or political subdivision of this state prior to coverage under this chapter.

(J) "Actuary" means the actuarial consultant to the state teachers retirement board, who shall be either of the following:

(1) A member of the American academy of actuaries;

(2) A firm, partnership, or corporation of which at least one person is a member of the American academy of actuaries.

(K) "Fiduciary" means a person who does any of the following:

(1) Exercises any discretionary authority or control with respect to the management of the system, or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) Has any discretionary authority or responsibility in the administration of the system.

(L)(1) Except as provided in this division, "compensation" means all salary, wages, and other earnings paid to a teacher by reason of the teacher's employment, including compensation paid pursuant to a supplemental contract. The salary, wages, and other earnings shall be determined prior to

determination of the amount required to be contributed to the teachers' savings fund or defined contribution fund under section 3307.26 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes.

(2) Compensation does not include any of the following:

(a) Payments for accrued but unused sick leave or personal leave, including payments made under a plan established pursuant to section 124.39 of the Revised Code or any other plan established by the employer;

(b) Payments made for accrued but unused vacation leave, including payments made pursuant to section 124.13 of the Revised Code or a plan established by the employer;

(c) Payments made for vacation pay covering concurrent periods for which other salary, compensation, or benefits under this chapter are paid;

(d) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the teacher or the teacher's family, or amounts paid by the employer to the teacher in lieu of providing the insurance;

(e) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, use of the employer's property or equipment, and reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;

(f) Payments made by the employer in exchange for a member's waiver of a right to receive any payment, amount, or benefit described in division (L)(2) of this section;

(g) Payments by the employer for services not actually rendered;

(h) Any amount paid by the employer as a retroactive increase in salary, wages, or other earnings, unless the increase is one of the following:

(i) A retroactive increase paid to a member employed by a school district board of education in a position that requires a license designated for teaching and not designated for being an administrator issued under section 3319.22 of the Revised Code that is paid in accordance with uniform criteria applicable to all members employed by the board in positions requiring the licenses;

(ii) A retroactive increase paid to a member employed by a school district board of education in a position that requires a license designated for being an administrator issued under section 3319.22 of the Revised Code that is paid in accordance with uniform criteria applicable to all members employed by the board in positions requiring the licenses;

(iii) A retroactive increase paid to a member employed by a school district board of education as a superintendent that is also paid as described in division (L)(2)(h)(i) of this section;

(iv) A retroactive increase paid to a member employed by an employer other than a school district board of education in accordance with uniform criteria applicable to all members employed by the employer.

(i) Payments made to or on behalf of a teacher that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended. For a teacher who first establishes membership before July 1, 1996, the annual compensation that may be taken into account by the retirement system shall be determined under division (d)(3) of section 13212 of the "Omnibus Budget Reconciliation Act of 1993," Pub. L. No. 103-66, 107 Stat. 472.

(j) Payments made under division (B), (C), or (E) of section 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly, Section 3 of Amended Substitute Senate Bill No. 164 of the 124th general assembly, or Amended Substitute House Bill No. 405 of the 124th general assembly;

(k) Anything of value received by the teacher that is based on or attributable to retirement or an agreement to retire.

(3) The retirement board shall determine by rule both of the following:

(a) Whether particular forms of earnings are included in any of the categories enumerated in this division;

(b) Whether any form of earnings not enumerated in this division is to be included in compensation.

Decisions of the board made under this division shall be final.

(M) "Superannuate" means both of the following:

(1) A former teacher receiving from the system a retirement allowance under section 3307.58 or 3307.59 of the Revised Code;

(2) A former teacher receiving a benefit from the system under a plan established under section 3307.81 of the Revised Code, except that "superannuate" does not include a former teacher who is receiving a benefit based on disability under a plan established under section 3307.81 of the Revised Code.

For purposes of sections 3307.35 and 3307.353 of the Revised Code, "superannuate" also means a former teacher receiving from the system a combined service retirement benefit paid in accordance with section 3307.57 of the Revised Code, regardless of which retirement system is paying the benefit.

Sec. 3307.03. A state teachers retirement system is hereby established for the teachers of the public schools of the state which includes the several funds created and placed under the management of a state teachers retirement board for the payment of retirement allowances and other benefits under Chapter 3307. of the Revised Code. The board may sue and be sued, plead and be impleaded, contract and be contracted with, and do all things necessary to carry out such sections. All of its business shall be transacted, and all of its funds invested, all warrants for money drawn and payments made, and all of its cash, securities, and other property shall be held in the name of the board or in the name of its nominee, provided that nominees are authorized by retirement board resolution for the purpose of facilitating the ownership and transfer of investments and are restricted to members of the board, the executive director, and designated members of the staff, or a partnership or corporation composed of any of the foregoing persons.

If the Ohio retirement study council establishes a uniform format for any report the board is required to submit to the council, the board shall submit the report in that format.

Sec. 3307.041. The state teachers retirement board shall do all of the following:

(A) In consultation with the Ohio ethics commission, review any existing policy regarding the travel and payment of travel expenses of members and employees of the state teachers retirement board and adopt rules in accordance with section 3307.04 of the Revised Code establishing a new or revised policy regarding travel and payment of travel expenses. Not less than sixty days before adopting a new or revised policy, the board shall submit the policy to the Ohio retirement study council for review.

(B) If the board intends to award a bonus to any employee of the board, adopt rules in accordance with section 3307.04 of the Revised Code establishing a policy regarding employee bonuses;

(C) Provide copies of the rules adopted under divisions (A) and (B) of this section to each member of the Ohio retirement study council;

(D) Submit to the Ohio retirement study council a proposed operating budget, including an administrative budget for the board, for the next immediate fiscal year and adopt that budget not earlier than sixty days after it is submitted to the council;

(E) Submit to the council a plan describing how the board will improve the dissemination of public information pertaining to the board.

Sec. 3307.042. The state teachers retirement board shall, in consultation with the Ohio ethics commission, develop an ethics policy to govern board

members and employees in the performance of their official duties. The board shall submit this policy to the commission for approval.

The commission shall review the policy and, if the commission determines that the policy is adequate, approve the policy. If the commission determines that the policy is inadequate, it shall specify the revisions to be made and the board shall submit a revised policy. If the commission approves the revised policy, the board shall adopt it. If not, the board shall make any further revisions required by the commission and adopt the policy. Not less than sixty days before adopting the policy, the board shall submit it to the Ohio retirement study council for review.

The board periodically shall provide ethics training to members and employees of the board. The training shall include training regarding the requirements and prohibitions of Chapter 102. of the Revised Code and sections 2921.42 and 2921.43 of the Revised Code and any other training the board considers appropriate.

The board shall establish a procedure to ensure that each employee of the board is informed of the procedure for filing a complaint alleging violation of Chapter 102. of the Revised Code or section 2921.42 or 2921.43 of the Revised Code with the Ohio ethics commission or the appropriate prosecuting attorney.

Sec. 3307.043. (A) The state teachers retirement board shall designate a person who is a licensed state retirement system investment officer to be the chief investment officer for the state teachers retirement system. The board shall notify the division of securities of the department of commerce in writing of its designation and of any change in its designation within ten calendar days of the designation or change.

(B) The chief investment officer shall reasonably supervise the licensed state retirement system investment officers and other persons employed by the state teachers retirement system with a view toward preventing violations of Chapter 1707. of the Revised Code, the "Commodity Exchange Act," 42 Stat. 998, 7 U.S.C. and following, the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. and following, and the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, and following, and the rules and regulations promulgated under those statutes. This duty of reasonable supervision shall include the adoption, implementation, and enforcement of written policies and procedures reasonably designed to prevent persons employed by the state teachers retirement system from misusing material, nonpublic information in violation of those laws, rules, and regulations.

For purposes of this division, no chief investment officer shall be considered to have failed to satisfy the officer's duty of reasonable

supervision if the officer has done all of the following:

(1) Adopted and implemented written procedures, and a system for applying the procedures, that would reasonably be expected to prevent and detect, insofar as practicable, any violation by its licensed investment officers and other persons employed by the state teachers retirement system;

(2) Reasonably discharged the duties and obligations incumbent on the chief investment officer by reason of the established procedures and the system for applying the procedures when the officer had no reasonable cause to believe that there was a failure to comply with the procedures and systems;

(3) Reviewed, at least annually, the adequacy of the policies and procedures established pursuant to this section and the effectiveness of their implementation.

(C) The chief investment officer shall establish and maintain a policy to monitor and evaluate the effectiveness of securities transactions executed on behalf of the board.

No chief investment officer shall be considered to have failed to satisfy the officer's duty under this division if the officer has done both of the following:

(1) Implemented the policy adopted by the board under section 3307.152 of the Revised Code that outlines the criteria used to select agents that execute securities transactions on behalf of the state teachers retirement system.

(2) Reviewed, at least annually, the performance of agents that execute securities transactions on behalf of the state teachers retirement system.

Sec. 3307.044. The state teachers retirement board shall appoint a committee to oversee the selection of an internal auditor. The committee shall select one or more persons for employment as an internal auditor. The board shall employ the person or persons selected by the committee.

The committee shall consist of the following board members: one retirant member, one contributing member, and one ex officio member. The committee shall annually prepare and submit to the Ohio retirement study council a report of its actions during the preceding year.

Sec. 3307.05. The state teachers retirement board shall consist of the following ~~nine~~ members:

(A) The superintendent of public instruction; or a designee of the superintendent who has the following qualifications:

(1) The designee is a resident of this state.

(2) Within the three years immediately preceding the appointment, the designee has not been employed by the public employees retirement system.

police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(3) The designee has direct experience in the management, analysis, supervision, or investment of assets.

(B) ~~The auditor of state;~~ One member, known as the treasurer of state's investment designee, who shall be appointed by the treasurer of state for a term of four years and have the following qualifications:

(a) The member is a resident of this state.

(b) Within the three years immediately preceding the appointment, the member has not been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including management, analysis, supervision, or investment of assets.

(c) The member has direct experience in the management, analysis, supervision, or investment of assets.

(d) The member is not currently employed by the state or a political subdivision of the state.

(C) ~~The attorney general;~~ Two members, known as the investment expert members, who shall be appointed for four-year terms. One investment expert member shall be appointed by the governor, and one investment expert member shall be jointly appointed by the speaker of the house of representatives and the president of the senate. Each investment expert member shall have the following qualifications:

(a) Each member shall be a resident of this state.

(b) Within the three years immediately preceding the appointment, each member shall not have been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(c) Each member shall have direct experience in the management, analysis, supervision, or investment of assets.

Any investment expert member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was

appointed shall hold office until the end of such term. The member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(D) Five members, known as ~~teacher~~ contributing members, who shall be members of the state teachers retirement system;

(E) ~~A Two~~ former ~~member~~ members of the system, known as ~~the~~ retired teacher ~~member~~ members, who shall be ~~a superannuate and~~ superannuates who ~~is~~ are not otherwise employed in ~~a position~~ positions requiring ~~the retired teacher member~~ them to make contributions to the system.

Sec. 3307.051. Each newly elected member of the state teachers retirement board and each individual appointed to fill a vacancy on the board, shall, not later than ninety days after commencing service as a board member, complete the orientation program component of the retirement board member education program established under section 171.50 of the Revised Code.

Each member of the board who has served a year or longer as a board member shall, not less than twice each year, attend one or more programs that are part of the continuing education component of the retirement board member education program established under section 171.50 of the Revised Code.

Sec. 3307.052. A person who served as an elected or appointed member of the state teachers retirement board for one or more entire fiscal years in fiscal years 2000, 2001, or 2002 is ineligible for re-election or reappointment to the board if the board paid travel-related expenses of the person or reimbursed the person for travel-related expenses that averaged more than ten thousand dollars annually for those fiscal years.

Sec. 3307.06. (A) Annually on the first Monday of May, one ~~teacher~~ contributing member, as defined in division (D) of section 3307.05 of the Revised Code, shall be elected by ballot to the state teachers retirement board, except that, beginning with the annual election for ~~teacher~~ contributing members in May, 1978, and in the annual election of each fourth year thereafter, two ~~teacher~~ contributing members shall be elected to the board. Elected ~~teacher~~ contributing members shall begin their respective terms of office on the first day of September following their election and shall serve for a term of four years.

(B) The retired teacher ~~member~~ members of the board, as defined in division (E) of section 3307.05 of the Revised Code, shall be elected for a term of four years, ~~except that the initial retired teacher member shall be elected for a term of three years.~~ The retired teacher ~~member~~ members shall

be elected to the board at the annual election for ~~teacher~~ contributing members of the board, as provided in division (A) of this section, in the year in which the term of the current retired teacher ~~member~~ members would expire. The retired teacher ~~member~~ members shall begin ~~his term~~ their respective terms of office on the first day of September following ~~his~~ their election.

No ~~teacher~~ contributing member of the board who retires while a member of the board shall be eligible to become a retired teacher member of the board for three years after the date of the member's retirement.

(C) If a vacancy occurs during the term of office of any elected member of the board, the remaining members of the board shall elect a successor member ~~who~~. On certification of the election results in accordance with rules adopted under section 3307.075 of the Revised Code the successor member shall hold office for the remainder of his predecessor's term until the next board election that occurs not less than ninety days after the successor member's election. The successor member shall qualify for board membership under the same division of section 3307.05 of the Revised Code as ~~his~~ the member's predecessor in office. Elections under this division shall be conducted in accordance with rules adopted under section 3307.075 of the Revised Code.

(D) If as a result of changed circumstances an elected member of the board would no longer qualify for board membership under that division of section 3307.05 of the Revised Code on the basis of which ~~he~~ the member was elected, or if such a member fails to attend the meetings of the board for four months or longer, without being excused, ~~his~~ the member's position on the board shall be considered vacant, and a successor member shall be ~~chosen~~ elected, under division (C) of this section, for the remainder of ~~his~~ the unexpired term.

Sec. 3307.061. (A) The office of a contributing member or retired teacher member of the state teachers retirement board who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible for election to the office of contributing or retired teacher member of the state teachers retirement board.

(B) A member of the state teachers retirement board who willfully and flagrantly exercises authority or power not authorized by law, refuses or willfully neglects to enforce the law or to perform any official duty imposed

by law, or is guilty of gross neglect of duty, gross immorality, drunkenness, misfeasance, malfeasance, or nonfeasance is guilty of misconduct in office. On complaint and hearing in the manner provided for in this section, the board member shall have judgment of forfeiture of the office with all its emoluments entered against the board member, creating in the office a vacancy to be filled as provided by law.

(C) Proceedings for removal of a board member on any of the grounds enumerated in division (B) of this section shall be commenced by filing with the court of appeals of the district in which the board member resides a written complaint specifically setting forth the charge. The complaint shall be accepted if signed by the governor or signed as follows:

(1) If the complaint is against a contributing member of the board, the complaint must be signed by a number of contributing members of the retirement system that equals at least the following and must include signatures of at least twenty contributing members residing in at least five different counties:

(a) If the contributing member was most recently elected in accordance with division (A) of section 3307.06 of the Revised Code, ten per cent of the number of contributing members of the system who voted in that election;

(b) If the contributing member was most recently elected under division (D) of section 3307.06 of the Revised Code or took office in accordance with section 3307.071 of the Revised Code, ten per cent of the number of contributing members of the system who voted in the most recent election held in accordance with division (A) of section 3307.06 of the Revised Code for that contributing member position on the board.

(2) If the complaint is against a retired teacher member of the board, the complaint must be signed by a number of former members of the system who are superannuates, as defined in section 3307.01 of the Revised Code, that equals at least the following and must include signatures of at least twenty retired teacher members residing in at least five different counties:

(a) If the retired teacher member was most recently elected in accordance with division (C) of section 3307.06 of the Revised Code, ten per cent of the number of former members of the system who voted in that election;

(b) If the retired teacher member was most recently elected under division (D) of section 3307.06 of the Revised Code or took office in accordance with section 3307.071 of the Revised Code, ten per cent of the number of former members of the system who voted in the most recent election held in accordance with division (B) of section 3307.06 of the Revised Code for that retired teacher member position on the board.

(D) The clerk of the court of appeals in which a complaint against a member of the state teachers retirement board is filed under division (C) of this section shall do both of the following with respect to the complaint:

(1) Submit the signatures obtained pursuant to division (C) of this section to the board for purposes of verifying the validity of the signatures. The board shall verify the validity of the signatures and report its findings to the court.

(2) Cause a copy of the complaint to be served on the board member at least ten days before the hearing on the complaint. The court shall hold a public hearing not later than thirty days after the filing of the complaint. The court may subpoena witnesses and compel their attendance in the same manner as in civil cases. Process shall be served by the sheriff of the county in which the witness resides. Witness fees and other fees in connection with the proceedings shall be the same as in civil cases. The court may suspend the board member pending the hearing.

If the court finds that one or more of the charges in the complaint are true, it shall make a finding for removal of the board member. The court's finding shall include a full detailed statement of the reasons for the removal. The finding shall be filed with the clerk of the court and be made a matter of public record.

The board member has the right of review or appeal to the supreme court on leave first obtained. The supreme court shall hear the case in not more than thirty court days after granting leave. In other respects, the hearing shall follow the regular procedure in appealable cases that originate in the court of appeals.

(E) No individual who has been removed from the board pursuant to this section shall be eligible to fill an elective or appointed position as a member of the board.

Sec. 3307.07. All elections of members of the state teachers retirement board shall be held under the direction of the board in accordance with rules adopted under section 3307.075 of the Revised Code. Any member of the state teachers retirement system, who has been nominated by a petition that is signed by five hundred or more members of the system and certified in accordance with rules adopted under section 3307.075 of the Revised Code, shall be eligible for election as a ~~teacher~~ contributing member of the board. The petition shall contain the signatures of twenty or more members of the system from each of at least ten counties wherein members of the system are employed.

Any retired teacher who is a superannuate and a resident of Ohio is eligible for election as ~~the~~ a retired teacher member of the board, if such

retired teacher has been nominated by a petition that is signed by five hundred or more retired teachers, who are also superannuates, and certified in accordance with rules adopted under section 3307.075 of the Revised Code. The petition shall contain the signatures of twenty or more retired teachers from each of at least ten counties wherein superannuates under the system reside.

The board shall place the name of any eligible candidate upon the appropriate ballot as a regular candidate. At any election, qualified voters, as defined in this section, may vote for the regular candidates or for other eligible candidates, in which case the names of such persons shall be written upon the appropriate ballots, except that members of the system and former members of the system who are superannuates shall vote respectively for teacher contributing members and the retired teacher member members of the board. The candidate who receives the highest number of votes for any term of office shall be elected to the board on certification of the election results in accordance with rules adopted under section 3307.075 of the Revised Code. If, at any election, teacher contributing members or retired teacher members are to be elected for concurrent terms, eligible candidates shall be placed on the ballot, and the candidates who receive the highest numbers of votes shall be elected to the board on certification of the election results in accordance with rules adopted under section 3307.075 of the Revised Code.

Elected members of the board shall be elected on the basis of the total number of ballots cast by qualified voters, who shall consist of members of the system and former members of the system who are superannuates.

Sec. 3307.071. Notwithstanding sections 3307.06 and 3307.07 of the Revised Code, the state teachers retirement board is not required to hold an election for a position on the board as a teacher contributing member or retired teacher member if only one candidate has been nominated for the position by petition in accordance with section 3307.07 of the Revised Code. The candidate shall take office as if elected. The term of office shall be four years beginning on the first day of September following the date the candidate was nominated.

Sec. 3307.072. (A) As used in this section:

(1) "Campaign committee" means a candidate or a combination of two or more persons authorized by a candidate to receive contributions and in-kind contributions and make expenditures on behalf of the candidate.

(2) "Candidate" means an individual who has been nominated pursuant to section 3307.07 of the Revised Code for election to the state teachers retirement board or who is seeking to be elected to fill a vacancy on the

board pursuant to division (D) of section 3307.06 of the Revised Code.

(3) "Contribution" means a loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, transfer of funds or transfer of anything of value including a transfer of funds from an inter vivos or testamentary trust or decedent's estate, and the payment by any person other than the person to whom the services are rendered for the personal services of another person, which contribution is made, received, or used for the purpose of influencing the results of an election to the state teachers retirement board under section 3307.07 of the Revised Code or the results of an election to fill a vacancy on the board pursuant to division (D) of section 3307.06 of the Revised Code. "Contribution" does not include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a person;

(b) Ordinary home hospitality;

(c) The personal expenses of a volunteer paid for by that volunteer campaign worker.

(4) "Election day" means the following, as appropriate to the situation:

(a) The first Monday in May of a year for which section 3307.06 of the Revised Code specifies that an election for a member of the state teachers retirement board be held;

(b) If, pursuant to section 3307.071 of the Revised Code, no election is held, the first Monday in May of a year that the election would have been held if not for section 3307.071 of the Revised Code.

(5) "Expenditure" means the disbursement or use of a contribution for the purpose of influencing the results of an election to the state teachers retirement board under section 3307.07 of the Revised Code or the results of an election to fill a vacancy on the board pursuant to division (D) of section 3307.06 of the Revised Code.

(6) "Independent expenditure" means an expenditure by an individual, partnership, or other entity advocating the election or defeat of an identified candidate or candidates, that is not made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of any candidate or candidates or of the campaign committee or agent of the candidate or candidates. An independent expenditure shall not be construed as being a contribution. As used in division (A)(6) of this section:

(a) "Advocating" means any communication containing a message advocating election or defeat.

(b) "Identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the

candidate is otherwise apparent by unambiguous reference.

(c) "Made in coordination, cooperation, or consultation with, or at the request or suggestion of, any candidate or the campaign committee or agent of the candidate" means made pursuant to any arrangement, coordination, or direction by the candidate, the candidate's campaign committee, or the candidate's agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure is presumed to be so made when it is any of the following:

(i) Based on information about the candidate's plans, projects, or needs provided to the person making the expenditure by the candidate, or by the candidate's campaign committee or agent, with a view toward having an expenditure made;

(ii) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of the candidate's campaign committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate or the candidate's campaign committee or agent;

(iii) Made by a political party in support of a candidate, unless the expenditure is made by a political party to conduct voter registration or voter education efforts.

(d) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position with the candidate's campaign committee or organization such that it would reasonably appear that in the ordinary course of campaign-related activities the person may authorize expenditures.

(7) "In-kind contribution" means anything of value other than money that is used to influence the results of an election to the state teachers retirement board under section 3307.07 of the Revised Code or the results of an election to fill a vacancy on the board pursuant to division (D) of section 3307.06 of the Revised Code or is transferred to or used in support of or in opposition to a candidate and that is made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of the benefited candidate. The financing of the dissemination, distribution, or republication, in whole or part, of any broadcast or of any written, graphic, or other form of campaign materials prepared by the candidate, the candidate's campaign committee, or their authorized agents is an in-kind contribution to the candidate and an expenditure by the candidate.

(8) "Personal expenses" includes ordinary expenses for accommodations, clothing, food, personal motor vehicle or airplane, and

home telephone.

(B) Except as otherwise provided in division (D) of this section, each candidate who, or whose campaign committee, receives contributions or in-kind contributions totaling one thousand dollars or more or has expenditures totaling one thousand dollars or more in connection with the candidate's efforts to be elected to the state teachers retirement board shall file with the secretary of state two complete, accurate, and itemized statements setting forth in detail the contributions, in-kind contributions, and expenditures. The statements shall be filed regardless of whether, pursuant to section 3307.071 of the Revised Code, no election is held. The statements shall be made on a form prescribed under section 111.30 of the Revised Code. Every expenditure shall be vouched for by a receipted bill, stating the purpose of the expenditures, that shall be filed with the statement; a canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of this division.

The first statement shall be filed not later than four p.m. on the day that is twelve days before election day. The second statement shall be filed not sooner than the day that is eight days after election day and not later than thirty-eight days after election day. The first statement shall reflect contributions and in-kind contributions received and expenditures made to the close of business on the twentieth day before election day. The second statement shall reflect contributions and in-kind contributions received and expenditures made during the period beginning on the nineteenth day before election day and ending on the close of business on the seventh day after election day.

(C) Each individual, partnership, or other entity who makes an independent expenditure in connection with the candidate's efforts to be elected to the state teachers retirement board shall file with the secretary of state two complete, accurate, and itemized statements setting forth in detail the independent expenditures. The statements shall be filed regardless of whether, pursuant to section 3307.071 of the Revised Code, no election is held. The statements shall be made on a form prescribed under section 111.30 of the Revised Code.

The first statement shall be filed not later than four p.m. on the day that is twelve days before election day. The second statement shall be filed not sooner than the day that is eight days after election day and not later than thirty-eight days after election day. The first statement shall reflect independent expenditures made to the close of business on the twentieth day before election day. The second statement shall reflect independent expenditures made during the period beginning on the nineteenth day before

election day and ending on the close of business on the seventh day after election day.

(D) Each candidate who, or whose campaign committee, receives a contribution or in-kind contribution or makes an expenditure in connection with the candidate's efforts to be elected to fill a vacancy in the state teachers retirement board pursuant to division (D) of section 3307.06 of the Revised Code shall file with the secretary of state a complete, accurate, and itemized statement setting forth in detail the contributions, in-kind contributions, and expenditures. The statement shall be made on a form prescribed under section 111.30 of the Revised Code. Every expenditure shall be vouched for by a receipted bill, stating the purpose of the expenditures, that shall be filed with the statement; a canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of this division.

The statement shall be filed within thirty-eight days after the day the candidate takes office. The statement shall reflect contributions and in-kind contributions received and expenditures made to the close of business on the seventh day after the day the candidate takes office.

Sec. 3307.073. (A) No person shall knowingly fail to file a complete and accurate campaign finance statement or independent expenditure statement in accordance with section 3307.072 of the Revised Code.

(B) No person, during the course of a person seeking nomination for, and during any campaign for, election to the state teachers retirement board, shall knowingly and with intent to affect the nomination or the outcome of the campaign do any of the following by means of campaign materials, an advertisement on radio or television or in a newspaper or periodical, a public speech, press release, or otherwise:

(1) With regard to a candidate, identify the candidate in a manner that implies that the candidate is a member of the board or use the term "re-elect" when the candidate is not currently a member of the board;

(2) Make a false statement concerning the formal schooling or training completed or attempted by a candidate; a degree, diploma, certificate, scholarship, grant, award, prize, or honor received, earned, or held by a candidate; or the period of time during which a candidate attended any school, college, community technical school, or institution;

(3) Make a false statement concerning the professional, occupational, or vocational licenses held by a candidate, or concerning any position the candidate held for which the candidate received a salary or wages;

(4) Make a false statement that a candidate or board member has been indicted or convicted of a theft offense, extortion, or other crime involving

financial corruption or moral turpitude;

(5) Make a statement that a candidate has been indicted for any crime or has been the subject of a finding by the Ohio elections commission without disclosing the outcome of any legal proceedings resulting from the indictment or finding;

(6) Make a false statement that a candidate or board member has a record of treatment or confinement for mental disorder;

(7) Make a false statement that a candidate or board member has been subjected to military discipline for criminal misconduct or dishonorably discharged from the armed services;

(8) Falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a candidate by a person or publication;

(9) Make a false statement concerning the voting record of a candidate or board member;

(10) Post, publish, circulate, distribute, or otherwise disseminate a false statement concerning a candidate, either knowing the same to be false or with reckless disregard of whether it was false or not, if the statement is designed to promote the election, nomination, or defeat of the candidate.

Sec. 3307.074. The secretary of state, or any person acting on personal knowledge and subject to the penalties of perjury, may file a complaint with the Ohio elections commission alleging a violation of section 3307.073 of the Revised Code. The complaint shall be made on a form prescribed and provided by the commission.

On receipt of a complaint under this section, the commission shall hold a hearing open to the public to determine whether the violation alleged in the complaint has occurred. The commission may administer oaths and issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and reports. On the refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the commission may apply to the court of common pleas of Franklin county under section 2705.03 of the Revised Code. The court shall hold contempt proceedings in accordance with Chapter 2705. of the Revised Code.

The commission shall provide the person accused of the violation at least seven days prior notice of the time, date, and place of the hearing. The accused may be represented by an attorney and shall have an opportunity to present evidence, call witnesses, and cross-examine witnesses.

At the hearing, the commission shall determine whether the violation alleged in the complaint has occurred. If the commission determines that a

violation of division (A) of section 3307.073 of the Revised Code has occurred, the commission shall either impose a fine under section 3307.99 of the Revised Code or enter a finding that good cause has been shown not to impose the fine. If the commission determines that a violation of division (B) of section 3307.073 of the Revised Code has occurred, the commission shall impose the fine described in section 3307.99 of the Revised Code, refer the matter to the appropriate prosecutor, or enter a finding that good cause has been shown not to impose a fine or refer the matter to a prosecutor.

Sec. 3307.075. (A) The state teachers retirement board, after consultation with the secretary of state, shall adopt rules in accordance with Chapter 119. of the Revised Code, governing all of the following:

(1) The administration of elections of members of the board under section 3307.07 of the Revised Code and elections held under section 3307.06 of the Revised Code to fill vacancies on the board;

(2) Nominating petitions for the elections;

(3) Certification of the validity of nominating petitions for the elections;

(4) Certification of the results of the elections.

(B) The board may contract with the secretary of state or an independent firm to administer the elections, certify the validity of nominating petitions, and certify the results of the elections. The secretary of state and the independent firm shall perform these services in accordance with the rules adopted under division (A) of this section. Notwithstanding section 3307.20 of the Revised Code, the board shall provide information necessary for the secretary of state or the independent firm to certify the election. If the board contracts with an independent firm to administer an election, the secretary of state may audit the election.

Sec. 3307.10. (A) The members of the state teachers retirement board shall serve without compensation, except that members shall be reimbursed from the expense fund for all actual necessary expenses incurred while serving on the board.

(B) The board may secure insurance coverage designed to indemnify board members and employees for their actions or conduct in the performance of official duties, and may pay required premiums for such coverage from the expense fund.

(C) If the officers of the board determine that a meeting of the entire membership, or any part thereof, is necessary, such determination shall be final, and ~~teacher~~ contributing members shall be given time off from their employment to attend any such meeting. The employer of a ~~teacher~~ contributing member shall not reduce the member's earned compensation as

a teacher or any contribution required under section 3307.26 of the Revised Code, because of the ~~teacher~~ contributing member's absence from employment to attend any such meeting.

The portion of the employer contribution required under section 3307.28 of the Revised Code that represents earned compensation of a ~~teacher~~ contributing member paid for the period of an absence from employment to attend a board meeting, shall be annually transferred from the expense fund and forwarded to the employer of the ~~teacher~~ contributing member.

(D) The board shall adopt rules in accordance with section 111.15 of the Revised Code establishing a policy for reimbursement of travel expenses incurred by board members in the performance of their official duties. As part of any audit performed under Chapter 117. of the Revised Code, an inquiry shall be made into whether board members have complied with these rules.

(E) No board member shall accept payment or reimbursement for travel expenses, other than for meals and other food and beverages provided to the member, from any source other than the expense fund. Except in the case of an emergency, no out-of-state travel expenses shall be reimbursed unless approved in advance by a majority of the board at a regular board meeting.

Sec. 3307.11. The state teachers retirement board shall elect from its membership, a chairperson and a vice-chairperson. The board shall employ an executive director who shall serve as secretary, and shall employ other persons necessary to operate the system and to fulfill the board's duties and responsibilities under Chapter 3307. of the Revised Code. ~~The~~

Effective ninety days after the effective date of this amendment, the board may not employ a state retirement system investment officer, as defined in section 1707.01 of the Revised Code, who does not hold a valid state retirement system investment officer license issued by the division of securities in the department of commerce.

The compensation of all employees and all other expenses of the board necessary for the proper operation of the system shall be paid in such amounts as the board approves.

Every expense voucher of an employee, officer, or board member of the state teachers retirement system shall itemize all purchases and expenditures.

The board shall receive all applications for retirement under the plans described in section 3307.031 of the Revised Code, shall provide for the payment of all retirement allowances and other benefits payable under this chapter, and shall make other expenditures authorized by this chapter.

Sec. 3307.15. (A) The members of the state teachers retirement board shall be the trustees of the funds created by section 3307.14 of the Revised Code. The board shall have full power to invest the funds. The board and other fiduciaries shall discharge their duties with respect to the funds solely in the interest of the participants and beneficiaries; for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the system; with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

To facilitate investment of the funds, the board may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as amended, or any other legal entity authorized to transact business in this state.

(B) In exercising its fiduciary responsibility with respect to the investment of the funds, it shall be the intent of the board to give consideration to investments that enhance the general welfare of the state and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the board. In fulfilling this intent, equal consideration shall also be given to investments otherwise qualifying under this section that involve minority owned and controlled firms and firms owned and controlled by women, either alone or in joint venture with other firms.

The board shall adopt, in regular meeting, policies, objectives, or criteria for the operation of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines. In adopting policies and criteria for the selection of agents with whom the board may contract for the administration of the funds, the board shall comply with sections 3307.152 and 3307.154 of the Revised Code and shall also give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and ventures involving minority owned and controlled firms and firms owned and controlled by women that otherwise meet the policies and criteria established by the board. Amendments and additions to the policies and criteria shall be adopted in regular meeting. The board shall publish its policies, objectives, and criteria under this provision no less often than annually and shall make copies

available to interested parties.

When reporting on the performance of investments, the board shall comply with the performance presentation standards established by the association for investment management and research.

(C) All bonds, notes, certificates, stocks, or other evidences of investments purchased by the board shall be delivered to the treasurer of state, who is hereby designated as custodian thereof, or to the treasurer of state's authorized agent, and the treasurer of state or the agent shall collect the principal, interest, dividends, and distributions that become due and payable and place them when so collected into the custodial funds. Evidences of title of the investments may be deposited by the treasurer of state for safekeeping with an authorized agent, selected by the treasurer of state, who is a qualified trustee under section 135.18 of the Revised Code. The treasurer of state shall pay for the investments purchased by the board on receipt of written or electronic instructions from the board or the board's designated agent authorizing the purchase and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent. The board may sell investments held by the board, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser on receipt of written or electronic instructions from the board or the board's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed into the custodial funds. The board and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.

(D) No purchase or sale of any investment shall be made under this section except as authorized by the board.

(E) Any statement of financial position distributed by the board shall include the fair value, as of the statement date, of all investments held by the board under this section.

Sec. 3307.152. (A) As used in this section and in section 3307.154 of the Revised Code:

(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.

(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(3) "Ohio-qualified agent" means an agent designated as such by the state teachers retirement board.

(4) "Ohio-qualified investment manager" means an investment manager designated as such by the state teachers retirement board.

(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

(B) The state teachers retirement board shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5733., or 5747. of the Revised Code.

(2) The agent is authorized to conduct business in this state.

(3) The agent maintains a principal place of business in this state and employs at least five residents of this state.

(C) The state teachers retirement board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:

(a) Commissions charged by the agent, both in the aggregate and on a per share basis;

(b) The execution speed and trade settlement capabilities of the agent;

(c) The responsiveness, reliability, and integrity of the agent;

(d) The nature and value of research provided by the agent;

(e) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.

(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on behalf of the board.

(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board pursuant to division (C) of this section, and offers quality, services, and safety comparable to other agents otherwise available to the board. The board's determination shall be final.

(E) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:

(1) The name of each agent designated as an Ohio-qualified agent under this section;

(2) The name of each agent that executes securities transactions on behalf of the board;

(3) The amount of equity and fixed-income trades that are executed by Ohio-qualified agents, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;

(4) The compensation paid to Ohio-qualified agents, expressed as a percentage of total compensation paid to all agents that execute securities transactions on behalf of the board;

(5) The amount of equity and fixed-income trades that are executed by agents that are minority business enterprises, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;

(6) Any other information requested by the Ohio retirement study council regarding the board's use of agents.

Sec. 3307.153. (A) The state teachers retirement system shall disclose the following to the Ohio ethics commission:

(1) Anything of value received by the system from an agent and anything of value given on behalf of the system by an agent;

(2) The name of any employee of the system with authority over the investment of retirement system funds or any board member of the system who deals with an agent regarding amounts described in division (A)(1) of this section.

(B) The disclosures required by this section shall be made annually in a report submitted by a date prescribed by the Ohio ethics commission.

Sec. 3307.154. (A) The state teachers retirement board shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:

(1) The investment manager is subject to taxation under Chapter 5725., 5733., or 5747. of the Revised Code.

(2) The investment manager meets one of the following requirements:

(a) Has its corporate headquarters or principal place of business in this state;

(b) Employs at least five hundred individuals in this state;

(c) Has a principal place of business in this state and employs at least twenty residents of this state.

(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the

board. The policy shall also provide for the following:

(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products;

(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria.

(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final.

(C) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:

(1) The name of each investment manager designated as an Ohio-qualified investment manager under this section;

(2) The name of each investment manager with which the board contracts;

(3) The amount of assets managed by Ohio-qualified investment managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers with which the board has contracted;

(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;

(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers.

Sec. 3307.20. (A) As used in this section:

(1) "Personal history record" means information maintained by the state teachers retirement board on an individual who is a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the state teachers retirement system, or other information the board determines to be confidential.

(2) "Retirant" has the same meaning as in section 3307.50 of the Revised Code.

(B) The records of the board shall be open to public inspection, except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(1) The individual's personal records provided for in section 3307.23 of the Revised Code;

(2) The individual's personal history record;

(3) Any information identifying, by name and address, the amount of a monthly allowance or benefit paid to the individual.

(C) All medical reports and recommendations under sections 3307.62, 3307.64, and 3307.66 of the Revised Code are privileged, except that copies of such medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent, or, when necessary for the proper administration of the fund, to the board assigned physician.

(D) Any person who is a member or contributor of the system shall be furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more than one request of a person in any one year.

(E) Notwithstanding the exceptions to public inspection in division (B) of this section, the board may furnish the following information:

(1) If a member, former member, retirant, contributor, or former contributor is subject to an order issued under section 2907.15 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court or administrative order issued under section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, retirants, contributors, former contributors, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person.

(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The board and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with division (A) of section

5101.181 of the Revised Code.

(5) The system shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the system shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the board shall make available to the person copies of all documents, including resumes, in the board's possession regarding filling a vacancy of a contributing member or retired teacher member of the board. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in this division is a public record.

(F) A statement that contains information obtained from the system's records that is signed by an officer of the retirement system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 3307.25. (A) An individual who becomes a member of the state teachers retirement system on or after the date on which the state teachers retirement board establishes a plan under section 3307.81 of the Revised Code shall make an election under this section. Not later than one hundred eighty days after the date on which employment begins, the individual shall elect to participate either in the plan described in sections 3307.50 to 3307.79 of the Revised Code or one of the plans established under section 3307.81 of the Revised Code. If a form evidencing an election under this section is not on file with the system at the end of the one-hundred-eighty-day period, the individual is deemed to have elected to participate in the plan described in sections 3307.50 to 3307.79 of the Revised Code.

(B) An election under this section shall be made in writing on a form provided by the system and filed with the system.

(C) An election under this section shall take effect on the date employment began and, except as provided in section 3307.88 of the Revised Code, is irrevocable at the end of the election period described in division (A) of this section.

(D) An individual is ineligible to make an election under this section if one of the following applies:

(1) At the time employment begins, the individual is already a member

or contributor participating in the plan described in sections 3307.50 to 3307.79 of the Revised Code, a superannuate of the system, or an other system retirant, as defined in section 3307.35 of the Revised Code;

(2) An election to participate in an alternative retirement plan under section 3305.05 or 3305.051 of the Revised Code is in effect for employment covered by the system.

Sec. 3307.56. (A)(1) Subject to sections 3307.37 and 3307.561 of the Revised Code and except as provided in division (B)(2) of this section, a member participating in the plan described in sections 3307.50 to 3307.79 of the Revised Code who ceases to be a teacher for any cause other than death, retirement, receipt of a disability benefit, or current employment in a position in which the member has elected to participate in an alternative retirement plan under section 3305.05 or 3305.051 of the Revised Code, upon application, shall be paid the accumulated contributions standing to the credit of the member's individual account in the teachers' savings fund plus an amount calculated in accordance with section 3307.563 of the Revised Code. If the member or the member's legal representative cannot be found within ten years after the member ceased making contributions pursuant to section 3307.26 of the Revised Code, the accumulated contributions may be transferred to the guarantee fund and thereafter paid to the member, to the member's beneficiaries, or to the member's estate, upon proper application.

(2) A member described in division (A)(1) of this section who is married at the time of application for payment and is eligible for age and service retirement under section 3307.58 or 3307.59 of the Revised Code shall submit with the application a written statement by the member's spouse attesting that the spouse consents to the payment of the member's accumulated contributions. Consent shall be valid only if it is signed and witnessed by a notary public. If the statement is not submitted under this division, the application shall be considered an application for service retirement and shall be subject to division (G)(1) of section 3307.60 of the Revised Code.

The state teachers retirement board may waive the requirement of consent if the spouse is incapacitated or cannot be located, or for any other reason specified by the board. Consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.

(B) This division applies to any member who is employed in a position in which the member has elected under section 3305.05 or 3305.051 of the Revised Code to participate in an alternative retirement plan and due to the election ceases to be a teacher for the purposes of that position.

Subject to sections 3307.37 and 3307.561 of the Revised Code, the state

teachers retirement system shall do the following:

(1) On receipt of a certified copy of an election under section 3305.05 or ~~3305.051~~ of the Revised Code, pay, in accordance with section ~~3305.051~~ 3305.052 of the Revised Code, the amount described in that section to the appropriate provider;

(2) If a member has accumulated contributions, in addition to those subject to division (B)(1) of this section, standing to the credit of a member's individual account and is not otherwise in a position in which the member is considered a teacher for the purposes of that position, pay, to the provider the member selected pursuant to section 3305.05 or ~~3305.051~~ of the Revised Code, the accumulated contributions standing to the credit of the member's individual account in the teachers' saving fund plus an amount calculated in accordance with section 3307.80 of the Revised Code. The payment shall be made on the member's application.

(C) Payment of a member's accumulated contributions under division (B) of this section cancels the member's total service credit in the state teachers retirement system. A member whose accumulated contributions are paid to a provider pursuant to division (B) of this section is forever barred from claiming or purchasing service credit under the state teachers retirement system for the period of employment attributable to those contributions.

Sec. 3307.71. Except as provided in this section ~~or~~, section 3305.05, or section 3305.051 of the Revised Code, a member or former member of the state teachers retirement system participating in the plan described in sections 3307.50 to 3307.79 of the Revised Code who has at least one and one-half years of contributing service credit in this system, the public employees retirement system, the school employees retirement system, the Ohio police and fire pension fund, or the state highway patrol retirement system after the withdrawal and cancellation of service credit in this system may restore all or part of such service credit by repayment of the amount withdrawn. To this amount shall be added interest at a rate per annum, compounded annually, to be determined by the state teachers retirement board. Interest shall be payable from the first of the month of withdrawal through the month of repayment. A member may choose to purchase only part of such credit in any one payment. The cost for restoring partial service shall be calculated as the proportion that it bears to the total cost at the time of purchase and is subject to the rules established by the board. If a former member is eligible to buy the service credit as a member of the Ohio police and fire pension fund, the state highway patrol retirement system, or the city of Cincinnati Retirement System, the former member is ineligible to restore

that service credit under this section.

The total payment to restore canceled service credit shall be credited as follows:

(A) The amount that equals contributions made pursuant to section 3307.26 of the Revised Code, plus any interest on the contributions paid by the member pursuant to this section, to the member's account in the teachers' savings fund;

(B) The amount that equals the amount paid under section 3307.563 of the Revised Code, to the employers trust fund;

(C) The remainder of the payment to restore canceled service credit, to the guarantee fund.

Sec. 3307.99. (A) Whoever violates division (A) of section 3307.073 of the Revised Code shall be fined not more than one hundred dollars for each day of the violation.

(B) Whoever violates division (B) of section 3307.073 of the Revised Code shall be imprisoned for not more than six months or fined not more than five thousand dollars, or both.

(C) Fines imposed by the Ohio elections commission under this section shall be paid into the Ohio elections commission fund created under section 3513.10 of the Revised Code.

Sec. 3309.03. A school employees retirement system is hereby established for the employees as defined in section 3309.01 of the Revised Code, which shall include the several funds created and placed under the management of the school employees retirement board for the payment of retirement allowances and other benefits provided in Chapter 3309. of the Revised Code. The board may sue and be sued, plead and be impleaded, contract and be contracted with, and do all things necessary to carry out Chapter 3309. of the Revised Code. All of its business shall be transacted, all of its funds invested, all warrants for money drawn and payments made, and all of its cash, securities, and other property shall be held in the name of the board, or in the name of its nominee, provided that nominees are authorized by retirement board resolution for such purposes. The board may take all appropriate action to avoid payment by the system or its members of federal or state income taxes on contributions to the system or amounts earned on those contributions.

If the Ohio retirement study council establishes a uniform format for any report the board is required to submit to the council, the board shall submit the report in that format.

Sec. 3309.041. The school employees retirement board shall do all of the following:

(A) In consultation with the Ohio ethics commission, review any existing policy regarding the travel and payment of travel expenses of members and employees of the school employees retirement board and adopt rules in accordance with section 3309.04 of the Revised Code establishing a new or revised policy regarding travel and payment of travel expenses. Not less than sixty days before adopting a new or revised policy, the board shall submit the policy to the Ohio retirement study council for review.

(B) If the board intends to award a bonus to any employee of the board, adopt rules in accordance with section 3309.04 of the Revised Code establishing a policy regarding employee bonuses;

(C) Provide copies of the rules adopted under divisions (A) and (B) of this section to each member of the Ohio retirement study council;

(D) Submit to the Ohio retirement study council a proposed operating budget, including an administrative budget for the board, for the next immediate fiscal year and adopt that budget not earlier than sixty days after it is submitted to the council;

(E) Submit to the council a plan describing how the board will improve the dissemination of public information pertaining to the board.

Sec. 3309.042. The school employees retirement board shall, in consultation with the Ohio ethics commission, develop an ethics policy to govern board members and employees in the performance of their official duties. The board shall submit this policy to the commission for approval.

The commission shall review the policy and, if the commission determines that the policy is adequate, approve the policy. If the commission determines that the policy is inadequate, it shall specify the revisions to be made and the board shall submit a revised policy. If the commission approves the revised policy, the board shall adopt it. If not, the board shall make any further revisions required by the commission and adopt the policy. Not less than sixty days before adopting the policy, the board shall submit it to the Ohio retirement study council for review.

The board periodically shall provide ethics training to members and employees of the board. The training shall include training regarding the requirements and prohibitions of Chapter 102. of the Revised Code and sections 2921.42 and 2921.43 of the Revised Code and any other training the board considers appropriate.

The board shall establish a procedure to ensure that each employee of the board is informed of the procedure for filing a complaint alleging violation of Chapter 102. of the Revised Code or section 2921.42 or 2921.43 of the Revised Code with the Ohio ethics commission or the appropriate

prosecuting attorney.

Sec. 3309.043. (A) The school employees retirement board shall designate a person who is a licensed state retirement system investment officer to be the chief investment officer for the school employees retirement system. The board shall notify the division of securities of the department of commerce in writing of its designation and of any change in its designation within ten calendar days of the designation or change.

(B) The chief investment officer shall reasonably supervise the licensed state retirement system investment officers and other persons employed by the school employees retirement system with a view toward preventing violations of Chapter 1707. of the Revised Code, the "Commodity Exchange Act," 42 Stat. 998, 7 U.S.C. and following, the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. and following, and the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, and following, and the rules and regulations promulgated under those statutes. This duty of reasonable supervision shall include the adoption, implementation, and enforcement of written policies and procedures reasonably designed to prevent persons employed by the school employees retirement system from misusing material, nonpublic information in violation of those laws, rules, and regulations.

For purposes of this division, no chief investment officer shall be considered to have failed to satisfy the officer's duty of reasonable supervision if the officer has done all of the following:

(1) Adopted and implemented written procedures, and a system for applying the procedures, that would reasonably be expected to prevent and detect, insofar as practicable, any violation by its licensed investment officers and other persons employed by the school employees retirement system;

(2) Reasonably discharged the duties and obligations incumbent on the chief investment officer by reason of the established procedures and the system for applying the procedures when the officer had no reasonable cause to believe that there was a failure to comply with the procedures and systems;

(3) Reviewed, at least annually, the adequacy of the policies and procedures established pursuant to this section and the effectiveness of their implementation.

(C) The chief investment officer shall establish and maintain a policy to monitor and evaluate the effectiveness of securities transactions executed on behalf of the board.

No chief investment officer shall be considered to have failed to satisfy

the officer's duty under this division if the officer has done both of the following:

(1) Implemented the policy adopted by the board under section 3309.157 of the Revised Code that outlines the criteria used to select agents that execute securities transactions on behalf of the school employees retirement system.

(2) Reviewed, at least annually, the performance of agents that execute securities transactions on behalf of the school employees retirement system.

Sec. 3309.044. The school employees retirement board shall appoint a committee to oversee the selection of an internal auditor. The committee shall select one or more persons for employment as an internal auditor. The board shall employ the person or persons selected by the committee.

The committee shall consist of the following board members: one retirant member, one employee member, and one other member. The committee shall annually prepare and submit to the Ohio retirement study council a report of its actions during the preceding year.

Sec. 3309.05. The school employees retirement board shall consist of the following ~~seven~~ members:

(A) ~~The auditor of state;~~ One member, known as the treasurer of state's investment designee, who shall be appointed by the treasurer of state for a term of four years and who shall have the following qualifications:

(a) The member is a resident of this state.

(b) Within the three years immediately preceding the appointment, the member has not been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(c) The member has direct experience in the management, analysis, supervision, or investment of assets.

(d) The member is not currently employed by the state or a political subdivision of the state.

(B) ~~The attorney general;~~

(~~C~~) Four members, known as employee members, who shall be members of the school employees retirement system, and who shall be elected by ballot by the members of the system;

(~~D~~) ~~One member~~ (C) Two members, known as the retirant ~~member~~ members, who shall be a former ~~member~~ members of the retirement system who ~~is a resident of~~ reside in this state and currently ~~receiving~~ receive an

age and service retirement benefit, a disability benefit, or benefits under a plan established under section 3309.81 of the Revised Code. The retirant ~~member~~ members shall be elected by ballot by former members of the system who are currently receiving an age and service retirement benefit, a disability benefit, or benefits under a plan established under section 3309.81 of the Revised Code.

(D)(1) Two members, known as the investment expert members, who shall be appointed to four-year terms. One investment expert member shall be appointed by the governor, and one investment expert member shall be jointly appointed by the speaker of the house of representatives and the president of the senate. Each investment expert member shall have the following qualifications:

(a) The member is a resident of this state;

(b) Within the three years immediately preceding the appointment, the member has not been employed by the public employees state retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets;

(c) The member has direct experience in the management, analysis, supervision, or investment of assets.

(2) Any investment expert member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed holds office until the end of such term. The member continues in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

Sec. 3309.051. Each newly elected member of the school employees retirement board and each individual appointed to fill a vacancy on the board shall, not later than ninety days after commencing service as a board member, complete the orientation program component of the retirement board member education program established under section 171.50 of the Revised Code.

Each member of the board who has served a year or longer as a board member shall, not less than twice each year, attend one or more programs that are part of the continuing education component of the retirement board member education program established under section 171.50 of the Revised Code.

Sec. 3309.052. A person who served as an elected or appointed member

of the school employees retirement board for one or more entire fiscal years in fiscal years 2000, 2001, or 2002 is ineligible for re-election or reappointment to the board if the board paid travel-related expenses of the person or reimbursed the person for travel-related expenses that averaged more than ten thousand dollars annually for those fiscal years.

Sec. 3309.06. (A) Elections for employee and retirant members of the school employees retirement board shall be held on the first Monday of March. Terms of office of the employee and retirant members ~~and the retirant member~~ of the board shall be for four years each, commencing on the first day of July following the election and ending on the thirtieth day of June. The initial terms of the first retirant member and the new employee member shall commence on July 1, 1984, and end on June 30, 1988.

~~Vacancies occurring in~~

(B) The initial election of the second retirant member shall be held at the first election that occurs later than ninety days after the effective date of this amendment. Subsequent elections shall be held each fourth year thereafter.

(C) If a vacancy occurs during the terms term of employee members or the retirant an elected member of the board shall be filled by, the remaining members of the board for the unexpired terms shall elect a successor member. Employee On certification of the election results in accordance with rules adopted under section 3309.075 of the Revised Code, the successor member shall hold office until the next board election that occurs not less than ninety days after the successor member's election. The successor member shall qualify for board membership under the same division of section 3309.05 of the Revised Code as the member's predecessor in office. Elections under this division shall be conducted in accordance with rules adopted under section 3309.075 of the Revised Code.

(D) Employee members or the retirant member members of the board who fail to attend the meetings of the board for four months or longer, without being excused, shall be considered as having resigned and successors shall be elected for their unexpired terms pursuant to division (C) of this section. If as a result of changed circumstances the retirant member would no longer qualify for membership on the board as the a retirant member, the office shall be considered vacant, and a successor retirant member shall be elected pursuant to division (C) of this section.

Sec. 3309.061. (A) The office of an employee member or retirant member of the school employees retirement board who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02,

2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible for election to the office of employee or retirant member of the school employees retirement board.

(B) A member of the school employees retirement board who willfully and flagrantly exercises authority or power not authorized by law, refuses or willfully neglects to enforce the law or to perform any official duty imposed by law, or is guilty of gross neglect of duty, gross immorality, drunkenness, misfeasance, malfeasance, or nonfeasance is guilty of misconduct in office. On complaint and hearing in the manner provided for in this section, the board member shall have judgment of forfeiture of the office with all its emoluments entered against the board member, creating in the office a vacancy to be filled as provided by law.

(C) Proceedings for removal of a board member on any of the grounds enumerated in division (B) of this section shall be commenced by filing with the court of appeals of the district in which the board member resides a written complaint specifically setting forth the charge. The complaint shall be accepted if signed by the governor or signed as follows:

(1) If the complaint is against an employee member of the board, the complaint must be signed by a number of members of the retirement system that equals at least the following and must include signatures of at least twenty employee members residing in at least five different counties:

(a) If the employee member was most recently elected in accordance with division (B) of section 3309.07 of the Revised Code, ten per cent of the number of members of the system who voted in that election;

(b) If the employee member most recently became a member of the board pursuant to section 3309.06 of the Revised Code to fill a vacancy in the board or took office in accordance with section 3309.061 of the Revised Code, ten per cent of the number of members of the system who voted in the most recent election held in accordance with division (B) of section 3309.07 of the Revised Code for that employee member position on the board.

(2) If the complaint is against a retirant member of the board, the complaint must be signed by a number of system retirants that equals at least the following and must include signatures of at least twenty retirant members residing in at least five different counties:

(a) If the retirant member was most recently elected in accordance with division (C) of section 3309.07 of the Revised Code, ten per cent of the number of former members of the system who voted in that election;

(b) If the retirant member most recently became a member of the board

pursuant to section 3309.06 of the Revised Code to fill a vacancy in the board or took office in accordance with section 3309.061 of the Revised Code, ten per cent of the number of former members of the system who voted in the most recent election held in accordance with division (C) of section 3309.07 of the Revised Code for that retirant member position on the board.

(D) The clerk of the court of appeals in which a complaint against a board member is filed under division (C) of this section shall do both of the following with respect to the complaint:

(1) Submit the signatures obtained pursuant to division (C) of this section to the board for purposes of verifying the validity of the signatures. The board shall verify the validity of the signatures and report its findings to the court.

(2) Cause a copy of the complaint to be served on the board member at least ten days before the hearing on the complaint. The court shall hold a public hearing not later than thirty days after the filing of the complaint. The court may subpoena witnesses and compel their attendance in the same manner as in civil cases. Process shall be served by the sheriff of the county in which the witness resides. Witness fees and other fees in connection with the proceedings shall be the same as in civil cases. The court may suspend the board member pending the hearing.

If the court finds that one or more of the charges in the complaint are true, it shall make a finding for removal of the board member. The court's finding shall include a full detailed statement of the reasons for the removal. The finding shall be filed with the clerk of the court and be made a matter of public record.

The board member has the right of review or appeal to the supreme court on leave first obtained. The supreme court shall hear the case in not more than thirty court days after granting leave. In other respects, the hearing shall follow the regular procedure in appealable cases that originate in the court of appeals.

(E) No individual who has been removed from the board pursuant to this section shall be eligible to fill an elective or appointed position as a member of the board.

Sec. 3309.07. (A) All elections for employee or retirant members of the school employees retirement board shall be held under the direction of the board in accordance with rules adopted under section 3309.075 of the Revised Code.

(B) Any member of the school employees retirement system, other than a disability benefit recipient, shall be eligible to be nominated for election as

an employee member of the board who has been nominated by a petition that is signed by at least five hundred members, provided that there shall be and certified in accordance with rules adopted under section 3309.075 of the Revised Code. The petition shall contain the signatures of not less than twenty ~~signers~~ members each from at least ten counties wherein such members are employed. The petition shall specify the term of office and position. The name of any member so nominated shall be placed upon the ballot by the board as a regular candidate. Other names of eligible candidates may at any election be substituted for the regular candidates by writing such names upon the ballot. The candidate receiving the highest number of votes for any term as member of the board shall be elected for such term on certification of the election results in accordance with rules adopted under section 3309.075 of the Revised Code. In any year in which two employee member or two retirant member positions must be filled, the candidates who receive the highest and second highest number of votes shall be elected to the offices on certification of the election results in accordance with rules adopted under section 3309.075 of the Revised Code.

(C) Any former member of the school employees retirement system described in division (D) of section 3309.05 of the Revised Code is eligible for election as ~~the~~ a retirant member of the board to represent former members currently receiving an age and service retirement benefit, a disability benefit, or benefits under a plan established under section 3309.81 of the Revised Code, provided that such person has been nominated by a petition that is certified in accordance with rules adopted under section 3309.075 of the Revised Code and signed by at least one hundred fifty former members of the system who are currently receiving an age and service retirement benefit, a disability benefit, or benefits under a plan established under section 3309.81 of the Revised Code. The petition shall contain the signatures of at least ten such recipients from each of at least five counties wherein recipients of benefits from this system reside. The petition shall specify the term of office and position. The name of any person so nominated shall be placed upon the ballot by the board as a regular candidate. Other names of eligible candidates may at any election be substituted for the regular candidates by writing such names upon the ballot. The candidate receiving the highest number of votes for any term as member of the board shall be elected for such term on certification of the election results in accordance with rules adopted under section 3309.075 of the Revised Code.

No employee member of the board who retires while a member of the board shall be eligible to become a retirant member of the board for three

years after the date of the member's retirement.

Sec. ~~3309.061~~ 3309.071. Notwithstanding sections 3309.05, 3309.06, and 3309.07 of the Revised Code, the school employees retirement board is not required to hold an election for a position on the board as an employee member or retirant member if only one candidate has been nominated for the position by petition in accordance with section 3309.07 of the Revised Code. The candidate shall take office as if elected. The term of office shall be four years beginning on the first day of July following the date the candidate was nominated.

Sec. 3309.072. (A) As used in this section:

(1) "Campaign committee" means a candidate or a combination of two or more persons authorized by a candidate to receive contributions and in-kind contributions and make expenditures on behalf of the candidate.

(2) "Candidate" means an individual who has been nominated pursuant to section 3309.07 of the Revised Code for election to the school employees retirement board or who is seeking to be elected to fill a vacancy on the board pursuant to division (D) of section 3309.06 of the Revised Code.

(3) "Contribution" means a loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, transfer of funds or transfer of anything of value including a transfer of funds from an inter vivos or testamentary trust or decedent's estate, and the payment by any person other than the person to whom the services are rendered for the personal services of another person, which contribution is made, received, or used for the purpose of influencing the results of an election to the school employees retirement board under section 3309.07 of the Revised Code or the results of an election to fill a vacancy on the board pursuant to division (C) of section 3309.06 of the Revised Code. "Contribution" does not include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a person;

(b) Ordinary home hospitality;

(c) The personal expenses of a volunteer paid for by that volunteer campaign worker.

(4) "Election day" means the following, as appropriate to the situation:

(a) The first Monday in March of a year for which section 3309.06 of the Revised Code specifies that an election for a member of the school employees retirement board be held;

(b) If, pursuant to section 3309.071 of the Revised Code, no election is held, the first Monday in March of a year that the election would have been held if not for section 3309.071 of the Revised Code.

(5) "Expenditure" means the disbursement or use of a contribution for

the purpose of influencing the results of an election to the school employees retirement board under section 3309.07 of the Revised Code or the results of an election to fill a vacancy on the board pursuant to division (D) of section 3309.06 of the Revised Code.

(6) "Independent expenditure" means an expenditure by an individual, partnership, or other entity advocating the election or defeat of an identified candidate or candidates, that is not made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of any candidate or candidates or of the campaign committee or agent of the candidate or candidates. An independent expenditure shall not be construed as being a contribution. As used in division (A)(6) of this section:

(a) "Advocating" means any communication containing a message advocating election or defeat.

(b) "Identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference.

(c) "Made in coordination, cooperation, or consultation with, or at the request or suggestion of, any candidate or the campaign committee or agent of the candidate" means made pursuant to any arrangement, coordination, or direction by the candidate, the candidate's campaign committee, or the candidate's agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure is presumed to be so made when it is any of the following:

(i) Based on information about the candidate's plans, projects, or needs provided to the person making the expenditure by the candidate, or by the candidate's campaign committee or agent, with a view toward having an expenditure made;

(ii) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of the candidate's campaign committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate or the candidate's campaign committee or agent;

(iii) Made by a political party in support of a candidate, unless the expenditure is made by a political party to conduct voter registration or voter education efforts.

(d) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position with the candidate's campaign committee or

organization such that it would reasonably appear that in the ordinary course of campaign-related activities the person may authorize expenditures.

(7) "In-kind contribution" means anything of value other than money that is used to influence the results of an election to the school employees retirement board under section 3309.07 of the Revised Code or the results of an election to fill a vacancy on the board pursuant to division (C) of section 3309.06 of the Revised Code or is transferred to or used in support of or in opposition to a candidate and that is made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of the benefited candidate. The financing of the dissemination, distribution, or republication, in whole or part, of any broadcast or of any written, graphic, or other form of campaign materials prepared by the candidate, the candidate's campaign committee, or their authorized agents is an in-kind contribution to the candidate and an expenditure by the candidate.

(8) "Personal expenses" includes ordinary expenses for accommodations, clothing, food, personal motor vehicle or airplane, and home telephone.

(B) Except as otherwise provided in division (D) of this section, each candidate who, or whose campaign committee, receives contributions or in-kind contributions totaling one thousand dollars or more or has expenditures totaling one thousand dollars or more in connection with the candidate's efforts to be elected to the school employees retirement board shall file with the secretary of state two complete, accurate, and itemized statements setting forth in detail the contributions, in-kind contributions, and expenditures. The statements shall be filed regardless of whether, pursuant to section 3309.071 of the Revised Code, no election is held. The statements shall be made on a form prescribed under section 111.30 of the Revised Code. Every expenditure shall be vouched for by a receipted bill, stating the purpose of the expenditures, that shall be filed with the statement; a canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of this division.

The first statement shall be filed not later than four p.m. on the day that is twelve days before election day. The second statement shall be filed not sooner than the day that is eight days after election day and not later than thirty-eight days after election day. The first statement shall reflect contributions and in-kind contributions received and expenditures made to the close of business on the twentieth day before election day. The second statement shall reflect contributions and in-kind contributions received and expenditures made during the period beginning on the nineteenth day before election day and ending on the close of business on the seventh day after

election day.

(C) Each individual, partnership, or other entity who makes an independent expenditure in connection with the candidate's efforts to be elected to the school employees retirement board shall file with the secretary of state two complete, accurate, and itemized statements setting forth in detail the independent expenditures. The statements shall be filed regardless of whether, pursuant to section 3309.071 of the Revised Code, no election is held. The statements shall be made on a form prescribed under section 111.30 of the Revised Code.

The first statement shall be filed not later than four p.m. on the day that is twelve days before election day. The second statement shall be filed not sooner than the day that is eight days after election day and not later than thirty-eight days after election day. The first statement shall reflect independent expenditures made to the close of business on the twentieth day before election day. The second statement shall reflect independent expenditures made during the period beginning on the nineteenth day before election day and ending on the close of business on the seventh day after election day.

(D) Each candidate who, or whose campaign committee, receives a contribution or in-kind contribution or makes an expenditure in connection with the candidate's efforts to be elected to fill a vacancy in the state teachers retirement board pursuant to division (C) of section 3309.06 of the Revised Code shall file with the secretary of state a complete, accurate, and itemized statement setting forth in detail the contributions, in-kind contributions, and expenditures. The statement shall be made on a form prescribed under section 111.30 of the Revised Code. Every expenditure shall be vouched for by a receipted bill, stating the purpose of the expenditures, that shall be filed with the statement; a canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of this division.

The statement shall be filed within thirty-eight days after the day the candidate takes office. The statement shall reflect contributions and in-kind contributions received and expenditures made to the close of business on the seventh day after the day the candidate takes office.

Sec. 3309.073. (A) No person shall knowingly fail to file a complete and accurate campaign finance statement or independent expenditure statement in accordance with section 3309.072 of the Revised Code.

(B) No person, during the course of a person seeking nomination for, and during any campaign for, election to the school employees retirement board, shall knowingly and with intent to affect the nomination or the

outcome of the campaign do any of the following by means of campaign materials, an advertisement on radio or television or in a newspaper or periodical, a public speech, press release, or otherwise:

(1) With regard to a candidate, identify the candidate in a manner that implies that the candidate is a member of the board or use the term "re-elect" when the candidate is not currently a member of the board;

(2) Make a false statement concerning the formal schooling or training completed or attempted by a candidate; a degree, diploma, certificate, scholarship, grant, award, prize, or honor received, earned, or held by a candidate; or the period of time during which a candidate attended any school, college, community technical school, or institution;

(3) Make a false statement concerning the professional, occupational, or vocational licenses held by a candidate, or concerning any position the candidate held for which the candidate received a salary or wages;

(4) Make a false statement that a candidate or board member has been indicted or convicted of a theft offense, extortion, or other crime involving financial corruption or moral turpitude;

(5) Make a statement that a candidate has been indicted for any crime or has been the subject of a finding by the Ohio elections commission without disclosing the outcome of any legal proceedings resulting from the indictment or finding;

(6) Make a false statement that a candidate or board member has a record of treatment or confinement for mental disorder;

(7) Make a false statement that a candidate or board member has been subjected to military discipline for criminal misconduct or dishonorably discharged from the armed services;

(8) Falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a candidate by a person or publication;

(9) Make a false statement concerning the voting record of a candidate or board member;

(10) Post, publish, circulate, distribute, or otherwise disseminate a false statement concerning a candidate, either knowing the same to be false or with reckless disregard of whether it was false or not, if the statement is designed to promote the election, nomination, or defeat of the candidate.

Sec. 3309.074. The secretary of state, or any person acting on personal knowledge and subject to the penalties of perjury, may file a complaint with the Ohio elections commission alleging a violation of section 3309.073 of the Revised Code. The complaint shall be made on a form prescribed and provided by the commission.

On receipt of a complaint under this section, the commission shall hold a hearing open to the public to determine whether the violation alleged in the complaint has occurred. The commission may administer oaths and issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and reports. On the refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the commission may apply to the court of common pleas of Franklin county under section 2705.03 of the Revised Code. The court shall hold contempt proceedings in accordance with Chapter 2705. of the Revised Code.

The commission shall provide the person accused of the violation at least seven days prior notice of the time, date, and place of the hearing. The accused may be represented by an attorney and shall have an opportunity to present evidence, call witnesses, and cross-examine witnesses.

At the hearing, the commission shall determine whether the violation alleged in the complaint has occurred. If the commission determines that a violation of division (A) of section 3309.073 of the Revised Code has occurred, the commission shall either impose a fine under section 3309.99 of the Revised Code or enter a finding that good cause has been shown not to impose the fine. If the commission determines that a violation of division (B) of section 3309.073 of the Revised Code has occurred, the commission shall impose the fine described in section 3309.99 of the Revised Code, refer the matter to the appropriate prosecutor, or enter a finding that good cause has been shown to not impose a fine or refer the matter to the appropriate prosecutor.

Sec. 3309.075. (A) The school employees retirement board, after consultation with the secretary of state, shall adopt rules in accordance with Chapter 119. of the Revised Code, governing all of the following:

(1) The administration of elections of members of the board under section 3309.07 of the Revised Code and elections held under section 3309.06 of the Revised Code to fill vacancies on the board;

(2) Nominating petitions for the elections;

(3) Certification of the validity of nominating petitions for the elections;

(4) Certification of the results of the elections.

(B) The board may contract with the secretary of state or an independent firm to administer the elections, certify the validity of nominating petitions, and certify the results of the elections. The secretary of state and the independent firm shall perform these services in accordance with the rules adopted under division (A) of this section. Notwithstanding section 3309.22 of the Revised Code, the board shall provide information necessary for the

secretary of state or the independent firm to certify the election. If the board contracts with an independent firm to administer an election, the secretary of state may audit the election.

Sec. 3309.09. ~~Four~~ A majority of the members of the school employees retirement board constitutes a quorum for the transaction of any business. Any action taken by the board shall be approved by ~~four or more~~ a majority of its the members of the board. All meetings of the board shall be open to the public except executive sessions as set forth in division (G) of section 121.22 of the Revised Code, and any portions of any sessions discussing medical records or the degree of disability of a member excluded from public inspection by section 3309.22 of the Revised Code.

Sec. 3309.14. The school employees retirement board shall secure the service of such technical and administrative employees as are necessary for the transaction of the business of the school employees retirement system. ~~The~~

Effective ninety days after the effective date of this amendment, the board may not employ a state retirement system investment officer, as defined in section 1707.01 of the Revised Code, who does not hold a valid state retirement system investment officer license issued by the division of securities in the department of commerce.

The compensation of all persons engaged by the board and all other expenses of the board necessary for the proper operation of the system shall be paid at such rates and in such amounts as the board approves. Every expense voucher of an employee, officer, or board member of the school employees retirement system shall itemize all purchases and expenditures.

The board shall receive and act upon all applications for retirement under Chapter 3309. of the Revised Code, and shall provide for the payment of all retirement allowances and other benefits and shall make other expenditures required or authorized by this chapter.

Sec. 3309.15. (A) The members of the school employees retirement board shall be the trustees of the funds created by section 3309.60 of the Revised Code. The board shall have full power to invest the funds. The board and other fiduciaries shall discharge their duties with respect to the funds solely in the interest of the participants and beneficiaries; for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the school employees retirement system; with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the

investments of the system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

The board may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, or any other legal entity authorized to transact business in this state.

(B) In exercising its fiduciary responsibility with respect to the investment of the funds, it shall be the intent of the board to give consideration to investments that enhance the general welfare of the state and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the board. In fulfilling this intent, equal consideration shall also be given to investments otherwise qualifying under this section that involve minority owned and controlled firms and firms owned and controlled by women, either alone or in joint venture with other firms.

The board shall adopt, in regular meeting, policies, objectives, or criteria for the operation of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines. In adopting policies and criteria for the selection of agents with whom the board may contract for the administration of the funds, the board shall comply with sections 3309.157 and 3309.159 of the Revised Code and shall also give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and ventures involving minority owned and controlled firms and firms owned and controlled by women that otherwise meet the policies and criteria established by the board. Amendments and additions to the policies and criteria shall be adopted in regular meeting. The board shall publish its policies, objectives, and criteria under this provision no less often than annually and shall make copies available to interested parties.

When reporting on the performance of investments, the board shall comply with the performance presentation standards established by the association for investment management and research.

(C) All evidences of title of investments purchased by the board under this section shall be delivered to the treasurer of state, who is hereby designated as custodian thereof, or to the treasurer of state's authorized agent, and the treasurer of state or the agent shall collect principal, interest, dividends, and distributions that become due and payable and place the same when so collected into the custodial funds. Evidences of title of the investments may be deposited by the treasurer of state for safekeeping with

an authorized agent, selected by the treasurer of state, who is a qualified trustee under section 135.18 of the Revised Code. The treasurer of state shall pay for the investments purchased by the board pending receipt of the evidence of title of the investments by the treasurer of state or to the treasurer of state's authorized agent, and on receipt of written or electronic instructions from the board or the board's designated agent authorizing the purchase. The board may sell any investments held by the board, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser on receipt of written or electronic instructions from the board or the board's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed into the custodial funds. The board and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investment.

(D) No purchase or sale of any investment shall be made under this section except as authorized by the school employees retirement board.

(E) Any statement of financial position distributed by the board shall include the fair value, as of the statement date, of all investments held by the board under this section.

Sec. 3309.157. (A) As used in this section and in section 3309.159 of the Revised Code:

(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.

(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(3) "Ohio-qualified agent" means an agent designated as such by the school employees retirement board.

(4) "Ohio-qualified investment manager" means an investment manager designated as such by the school employees retirement board.

(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

(B) The school employees retirement board shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5733., or 5747. of the Revised Code.

(2) The agent is authorized to conduct business in this state.

(3) The agent maintains a principal place of business in this state and employees at least five residents of this state.

(C) The school employees retirement board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:

(a) Commissions charged by the agent, both in the aggregate and on a per share basis;

(b) The execution speed and trade settlement capabilities of the agent;

(c) The responsiveness, reliability, and integrity of the agent;

(d) The nature and value of research provided by the agent;

(e) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.

(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on behalf of the board.

(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board pursuant to division (C) of this section, and offers quality, services, and safety comparable to other agents otherwise available to the board. The board's determination shall be final.

(E) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:

(1) The name of each agent designated as an Ohio-qualified agent under this section;

(2) The name of each agent that executes securities transactions on behalf of the board;

(3) The amount of equity and fixed-income trades that are executed by Ohio-qualified agents, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;

(4) The compensation paid to Ohio-qualified agents, expressed as a percentage of total compensation paid to all agents that execute securities transactions on behalf of the board;

(5) The amount of equity and fixed-income trades that are executed by agents that are minority business enterprises, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of

the board:

(6) Any other information requested by the Ohio retirement study council regarding the board's use of agents.

Sec. 3309.158. (A) The school employees retirement system shall disclose the following to the Ohio ethics commission:

(1) Anything of value received by the system from an agent and anything of value given on behalf of the system by an agent;

(2) The name of any employee of the system with authority over the investment of retirement system funds or any board member of the system who deals with an agent regarding amounts described in division (A)(1) of this section.

(B) The disclosures required by this section shall be made annually in a report submitted by a date prescribed by the Ohio ethics commission.

Sec. 3309.159. (A) The school employees retirement board shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:

(1) The investment manager is subject to taxation under Chapter 5725., 5733., or 5747. of the Revised Code.

(2) The investment manager meets one of the following requirements:

(a) Has its corporate headquarters or principal place of business in this state;

(b) Employs at least five hundred individuals in this state;

(c) Has a principal place of business in this state and employs at least 20 residents of this state.

(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following:

(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products;

(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria.

(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final.

(C) The board shall, at least annually, submit to the Ohio retirement

study council a report containing the following information:

(1) The name of each investment manager designated as an Ohio-qualified investment manager under this section;

(2) The name of each investment manager with which the board contracts;

(3) The amount of assets managed by Ohio-qualified investment managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers with which the board has contracted;

(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;

(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers.

Sec. 3309.22. (A)(1) As used in this division, "personal history record" means information maintained by the board on an individual who is a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the system, and other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(a) The individual's statement of previous service and other information as provided for in section 3309.28 of the Revised Code;

(b) Any information identifying by name and address the amount of a monthly allowance or benefit paid to the individual;

(c) The individual's personal history record.

(B) All medical reports and recommendations required by the system are privileged except that copies of such medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent, or when necessary for the proper administration of the fund, to the board assigned physician.

(C) Any person who is a contributor of the system shall be furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more than one such request of a person in any one year.

(D) Notwithstanding the exceptions to public inspection in division

(A)(2) of this section, the board may furnish the following information:

(1) If a member, former member, contributor, former contributor, or retirant is subject to an order issued under section 2907.15 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court or administrative order issued under section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, retirants, contributors, former contributors, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person.

(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each contributor whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The board and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

(5) The system shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the system shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the board shall make available to the person copies of all documents, including resumes, in the board's possession regarding filling a vacancy of an employee member or retirant member of the board. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in this division is a public record.

(E) A statement that contains information obtained from the system's

records that is signed by an officer of the retirement system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 3309.251. (A) Except as provided in division (D) of this section, an individual who becomes a member of the school employees retirement system on or after the date on which the school employees retirement board establishes a plan under section 3309.81 of the Revised Code shall make an election under this section. Not later than one hundred eighty days after the date on which employment begins, the individual shall elect to participate either in the plan described in sections 3309.18 to 3309.70 of the Revised Code or one of the plans established under section 3309.81 of the Revised Code. If a form evidencing an election under this section is not on file with the employer at the end of the one-hundred-eighty-day period, the individual is deemed to have elected to participate in the plan described in sections 3309.18 to 3309.70 of the Revised Code.

(B) An election under this section shall be made in writing on a form provided by the retirement system and filed with the employer's personnel officer. Not later than ten days after receiving the form evidencing the election, the employer shall transmit to the system a copy that includes a statement certifying that it is a true and accurate copy of the original.

(C) An election under this section shall take effect on the date employment began and is irrevocable on receipt by the employer.

(D) An individual is ineligible to make an election under this section if either of the following applies:

(1) At the time employment begins, the individual is already a member or contributor participating in the plan described in sections 3309.18 to 3309.70 of the Revised Code or an SERS retiree, as defined in section 3309.341 of the Revised Code.

(2) An election to participate in an alternative retirement plan under section 3305.05 or 3305.051 of the Revised Code is in effect for employment covered by the system.

Sec. 3309.42. (A) Subject to sections 3309.43 and 3309.67 of the Revised Code and except as provided in division (B) of this section, a member who elects to become exempt from contribution to the school employees retirement system pursuant to section 3309.23 of the Revised Code, or ceases to be an employee for any cause other than death, retirement, receipt of a disability benefit, or current employment in a position in which the member has elected to participate in an alternative retirement plan pursuant to section 3305.05 or 3305.051 of the Revised

Code, shall be paid the accumulated contributions standing to the credit of the member's individual account in the employees' savings fund upon application and subject to such rules as are established by the school employees retirement board and provided three months have elapsed since employment, other than employment exempt from contribution under division (C) of section 3309.23 of the Revised Code, ceased.

(B) This division applies to any member who is employed in a position in which the member has elected under section 3305.05 or 3305.051 of the Revised Code to participate in an alternative retirement plan and due to the election ceases to be an employee for purposes of that position.

Subject to sections 3309.43 and 3309.67 of the Revised Code, the school employees retirement system shall do the following:

(1) On receipt of an election under section 3305.05 or 3305.051 of the Revised Code, pay, in accordance with section ~~3305.051~~ 3305.052 of the Revised Code, the amount described in that section to the appropriate provider;

(2) If a member has accumulated contributions, in addition to those subject to division (B)(1) of this section, standing to the credit of the member's individual account and is not otherwise in a position in which the member is considered an employee for the purposes of that position, pay, to the provider the member selected pursuant to section 3305.05 or 3305.051 of the Revised Code, the accumulated contributions standing to the credit of the member's individual account in the employees' saving fund. The payment shall be made on the member's application.

(C) Payment of a member's accumulated contributions under this section cancels the member's total service credit in the school employees retirement system. A member whose accumulated contributions are paid to a provider pursuant to division (B) of this section is forever barred from claiming or purchasing service credit under the school employees retirement system for the period of employment attributable to those contributions.

Sec. 3309.99. (A) Whoever violates division (A) of section 3309.073 of the Revised Code shall be fined not more than one hundred dollars for each day of the violation.

(B) Whoever violates division (B) of section 3309.073 of the Revised Code shall be imprisoned for not more than six months or fined not more than five thousand dollars, or both.

(C) Fines imposed by the Ohio elections commission under this section shall be paid into the Ohio elections commission fund created under section 3513.10 of the Revised Code.

Sec. 5505.04. (A)(1) The general administration and management of the

state highway patrol retirement system and the making effective of this chapter are hereby vested in the state highway patrol retirement board. The board may sue and be sued, plead and be impleaded, contract and be contracted with, and do all things necessary to carry out this chapter.

The board shall consist of the ~~auditor of state~~, the following members:

(a) The superintendent of the state highway patrol, a retirant member;

(b) Two retirant members who is a resident of reside in this state, and
~~four;~~

(c) Five employee-members;

(d) One member, known as the treasurer of state's investment designee, who shall be appointed by the treasurer of state for a term of four years and who shall have the following qualifications:

(i) The member is a resident of this state.

(ii) Within the three years immediately preceding the appointment, the member has not been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(iii) The member has direct experience in the management, analysis, supervision, or investment of assets.

(iv) The member is not currently employed by the state or a political subdivision of the state.

(e) Two investment expert members, who shall be appointed to four-year terms. One investment expert member shall be appointed by the governor, and one investment expert member shall be jointly appointed by the speaker of the house of representatives and the president of the senate. Each investment expert member shall have the following qualifications:

(i) Each investment expert member shall be a resident of this state.

(ii) Within the three years immediately preceding the appointment, each investment expert member shall not have been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(iii) Each investment expert member shall have direct experience in the management, analysis, supervision, or investment of assets.

(2) The board shall annually elect a chairperson and vice-chairperson from among its members. The vice-chairperson shall act as chairperson in the absence of the chairperson. A majority of the members of the board shall constitute a quorum and any action taken shall be approved by ~~four or more~~ a majority of the members of the board. The board shall meet not less than once each year, upon sufficient notice to the members. All meetings of the board shall be open to the public except executive sessions as set forth in division (G) of section 121.22 of the Revised Code, and any portions of any sessions discussing medical records or the degree of disability of a member excluded from public inspection by this section.

(3) Any investment expert member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed holds office until the end of such term. The member continues in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(B) The attorney general shall prescribe procedures for the adoption of rules authorized under this chapter, consistent with the provision of section 111.15 of the Revised Code under which all rules shall be filed in order to be effective. Such procedures shall establish methods by which notice of proposed rules are given to interested parties and rules adopted by the board published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 127.18 of the Revised Code.

~~(C)(1) Except as provided in division (C)(4) of this section, the retirant member of the board shall be elected for a four-year term by a general election of service and disability retirants conducted in a manner approved by the board. The term of the initial retirant member shall commence in August 1990. A person who at the time of retirement is an employee member of the board is not eligible to become a retirant member until three years after such person's retirement date.~~

~~(2) Except as provided in division (C)(4) of this section, employee members of the board shall be elected for terms of four years by a general election of contributing members conducted in a manner approved by the board. The term of office of each employee member shall commence in August of the year in which such member is elected.~~

~~(3) Except as provided in division (C)(4) of this section, any vacancy~~

~~occurring in the term of the retirant member or any employee member of the board shall be filled by an election conducted in the same manner as other retirant member and employee member elections. The retirant member or employee member elected shall fill the unexpired term.~~

~~(4) The state highway patrol retirement board is not required to hold an election for a position on the board as a retirant member, employee member, or vacancy for a retirant member or employee member if only one candidate has been nominated for the position or vacancy in the manner approved by the board. The candidate shall take office as if elected. In the case of a retirant member or employee member, the term of office shall be four years beginning in August of the year the candidate was nominated. In the case of a vacancy, the candidate shall fill the unexpired term.~~

~~(D)~~(1) As used in this division, "personal history record" means information maintained by the board on an individual who is a member, former member, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the system, and other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except for the following which shall be excluded: the member's, former member's, retirant's, or beneficiary's personal history record and the amount of a monthly allowance or benefit paid to a retirant, beneficiary, or survivor, except with the written authorization of the individual concerned. All medical reports and recommendations are privileged except that copies of such medical reports or recommendations shall be made available to the individual's personal physician, attorney, or authorized agent upon written release received from such individual or such individual's agent, or when necessary for the proper administration of the fund to the board-assigned physician.

~~(E)(D)~~ Notwithstanding the exceptions to public inspection in division ~~(D)(C)~~(2) of this section, the board may furnish the following information:

(1) If a member, former member, or retirant is subject to an order issued under section 2907.15 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court order issued under Chapters 3119., 3121., and 3123. of the Revised Code, the board shall furnish to a court or child support

enforcement agency the information required under those chapters.

(3) At the written request of any nonprofit organization or association providing services to retirement system members, retirants, or beneficiaries, the board shall provide to the organization or association a list of the names and addresses of members, former members, retirants, or beneficiaries if the organization or association agrees to use such information solely in accordance with its stated purpose of providing services to such individuals and not for the benefit of other persons, organizations, or associations. The costs of compiling, copying, and mailing the list shall be paid by such entity.

(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member whose name and social security number are the same as those of a person whose name or social security number was submitted by the director. The board and its employees, except for purposes of furnishing the auditor of state with information required by this section, shall preserve the confidentiality of recipients of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

(5) The system shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the system shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the board shall make available to the person copies of all documents, including resumes, in the board's possession regarding filling a vacancy of an employee member or retirant member of the board. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in this division is a public record.

~~(F)~~(E) A statement that contains information obtained from the system's records that is certified and signed by an officer of the retirement system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 5505.041. All elections for retirant member and employee members of the state highway patrol retirement board shall be held under

the direction of the board in accordance with rules adopted under section 5505.047 of the Revised Code. A person who at the time of retirement is an employee member of the board is not eligible to become a retirant member of the board until three years after the person's retirement date. Service and disability retirants may vote in elections for the retirant member of the board. Contributing members may vote in elections for the employee member of the board.

On certification of the election results in accordance with rules adopted under section 5505.047 of the Revised Code, the person elected as a retirant member of the board or an employee member of the board shall serve a four-year term beginning on the first day of August following the election.

The initial election of the second retirant-member shall be held at the first election that occurs later than ninety days after the effective date of this section. The subsequent term shall commence on the first day of August of the fourth year thereafter.

Sec. 5505.042. Except as provided in section 5505.043 of the Revised Code, any vacancy occurring in the term of a retirant member of the state highway patrol retirement board or an employee member of the board shall be filled by an election conducted in the same manner as other retirant member and employee member elections under section 5505.041 of the Revised Code. On certification of the election results in accordance with rules adopted under section 5505.047 of the Revised Code, the retirant member or employee member elected shall hold office until the next board election that occurs not less than ninety days after the member's election.

Sec. 5505.043. The state highway patrol retirement board is not required to hold an election for a position on the board as a retirant member, employee member, or vacancy for a retirant member or employee member if only one candidate has been nominated for the position or vacancy in accordance with rules governing the election adopted under section 5505.047 of the Revised Code. The candidate shall take office as if elected. In the case of a retirant member or employee member, the term of office shall be four years beginning in August of the year the candidate was nominated. In the case of a vacancy, the candidate shall fill the unexpired term.

Sec. 5505.044. (A) As used in this section:

(1) "Campaign committee" means a candidate or a combination of two or more persons authorized by a candidate to receive contributions and in-kind contributions and make expenditures on behalf of the candidate.

(2) "Candidate" means an individual who has been nominated in accordance with rules adopted under section 5505.047 of the Revised Code

for election to the state highway patrol retirement board or who is seeking to be elected to fill a vacancy on the board pursuant to section 5505.042 of the Revised Code.

(3) "Contribution" means a loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, transfer of funds or transfer of anything of value including a transfer of funds from an inter vivos or testamentary trust or decedent's estate, and the payment by any person other than the person to whom the services are rendered for the personal services of another person, which contribution is made, received, or used for the purpose of influencing the results of an election to the state highway patrol retirement board under section 5505.041 or 5505.042 of the Revised Code or the results of an election to fill a vacancy on the board pursuant to section 5505.042 of the Revised Code. "Contribution" does not include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a person;

(b) Ordinary home hospitality;

(c) The personal expenses of a volunteer paid for by that volunteer campaign worker.

(4) "Election day" means the following, as appropriate to the situation:

(a) The last day that ballots for an election to the state highway patrol retirement board under section 5505.041 or 5505.042 of the Revised Code may be returned in order for the ballot to be counted;

(b) If, pursuant to section 5505.043 of the Revised Code, no election is held, the last day that ballots would have been required to be returned in order to be counted if an election was to be held under section 5505.041 or 5505.042 of the Revised Code.

(5) "Expenditure" means the disbursement or use of a contribution for the purpose of influencing the results of an election to the state highway patrol retirement board under section 5505.041 or 5505.042 of the Revised Code or the results of an election to fill a vacancy on the board pursuant to section 5505.042 of the Revised Code.

(6) "Independent expenditure" means an expenditure by an individual, partnership, or other entity advocating the election or defeat of an identified candidate or candidates, that is not made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of any candidate or candidates or of the campaign committee or agent of the candidate or candidates. An independent expenditure shall not be construed as being a contribution. As used in division (A)(6) of this section:

(a) "Advocating" means any communication containing a message

advocating election or defeat.

(b) "Identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference.

(c) "Made in coordination, cooperation, or consultation with, or at the request or suggestion of, any candidate or the campaign committee or agent of the candidate" means made pursuant to any arrangement, coordination, or direction by the candidate, the candidate's campaign committee, or the candidate's agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure is presumed to be so made when it is any of the following:

(i) Based on information about the candidate's plans, projects, or needs provided to the person making the expenditure by the candidate, or by the candidate's campaign committee or agent, with a view toward having an expenditure made;

(ii) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of the candidate's campaign committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate or the candidate's campaign committee or agent;

(iii) Made by a political party in support of a candidate, unless the expenditure is made by a political party to conduct voter registration or voter education efforts.

(d) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position with the candidate's campaign committee or organization such that it would reasonably appear that in the ordinary course of campaign-related activities the person may authorize expenditures.

(7) "In-kind contribution" means anything of value other than money that is used to influence the results of an election to the state highway patrol retirement board under section 5505.041 or 5505.042 of the Revised Code or the results of an election to fill a vacancy on the board pursuant to section 5505.042 of the Revised Code or is transferred to or used in support of or in opposition to a candidate and that is made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of the benefited candidate. The financing of the dissemination, distribution, or republication, in whole or in part, of any broadcast or of any written, graphic, or other form of campaign materials prepared by the candidate, the candidate's campaign committee, or their authorized agents is

an in-kind contribution to the candidate and an expenditure by the candidate.

(8) "Personal expenses" includes ordinary expenses for accommodations, clothing, food, personal motor vehicle or airplane, and home telephone.

(B) Except as otherwise provided in division (D) of this section, each candidate who, or whose campaign committee, receives contributions or in-kind contributions totaling one thousand dollars or more or has expenditures totaling one thousand dollars or more in connection with the candidate's efforts to be elected to the state highway patrol retirement board shall file with the secretary of state two complete, accurate, and itemized statements setting forth in detail the contributions, in-kind contributions, and expenditures. The statements shall be filed regardless of whether an election is held or, pursuant to section 5505.043 of the Revised Code, an election is not held. The statements shall be made on a form prescribed under section 111.30 of the Revised Code. Every expenditure shall be vouched for by a receipted bill, stating the purpose of the expenditures, that shall be filed with the statement; a canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of this division.

The first statement shall be filed not later than four p.m. on the day that is twelve days before election day. The second statement shall be filed not sooner than the day that is eight days after election day and not later than thirty-eight days after election day. The first statement shall reflect contributions and in-kind contributions received and expenditures made to the close of business on the twentieth day before election day. The second statement shall reflect contributions and in-kind contributions received and expenditures made during the period beginning on the nineteenth day before election day and ending on the close of business on the seventh day after election day.

(C) Each individual, partnership, or other entity who makes an independent expenditure in connection with the candidate's efforts to be elected to the state highway patrol retirement board shall file with the secretary of state two complete, accurate, and itemized statements setting forth in detail the independent expenditures. The statements shall be filed regardless of whether an election is held or, pursuant to section 5505.043 of the Revised Code, an election is not held. The statements shall be made on a form prescribed under section 111.30 of the Revised Code.

The first statement shall be filed not later than four p.m. on the day that is twelve days before election day. The second statement shall be filed not sooner than the day that is eight days after election day and not later than thirty-eight days after election day. The first statement shall reflect

independent expenditures made to the close of business on the twentieth day before election day. The second statement shall reflect independent expenditures made during the period beginning on the nineteenth day before election day and ending on the close of business on the seventh day after election day.

(D) Each candidate who, or whose campaign committee, receives a contribution or in-kind contribution or makes an expenditure in connection with the candidate's efforts to be elected to fill a vacancy in the public employees retirement board pursuant to section 5505.042 of the Revised Code shall file with the secretary of state a complete, accurate, and itemized statement setting forth in detail the contributions, in-kind contributions, and expenditures. The statement shall be made on a form prescribed under section 111.30 of the Revised Code. Every expenditure shall be vouched for by a receipted bill, stating the purpose of the expenditures, that shall be filed with the statement; a canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of this division.

The statement shall be filed within thirty-eight days after the day the candidate takes office. The statement shall reflect contributions and in-kind contributions received and expenditures made to the close of business on the seventh day after the day the candidate takes office.

Sec. 5505.045. (A) No person shall knowingly fail to file a complete and accurate campaign finance statement or independent expenditure statement in accordance with section 5505.044 of the Revised Code.

(B) No person, during the course of a person seeking nomination for, and during any campaign for, election to the state highway patrol retirement board, shall knowingly and with intent to affect the nomination or the outcome of the campaign do any of the following by means of campaign materials, an advertisement on radio or television or in a newspaper or periodical, a public speech, press release, or otherwise:

(1) With regard to a candidate, identify the candidate in a manner that implies that the candidate is a member of the board or use the term "re-elect" when the candidate is not currently a member of the board;

(2) Make a false statement concerning the formal schooling or training completed or attempted by a candidate; a degree, diploma, certificate, scholarship, grant, award, prize, or honor received, earned, or held by a candidate; or the period of time during which a candidate attended any school, college, community technical school, or institution;

(3) Make a false statement concerning the professional, occupational, or vocational licenses held by a candidate, or concerning any position the candidate held for which the candidate received a salary or wages;

(4) Make a false statement that a candidate or board member has been indicted or convicted of a theft offense, extortion, or other crime involving financial corruption or moral turpitude;

(5) Make a statement that a candidate has been indicted for any crime or has been the subject of a finding by the Ohio elections commission without disclosing the outcome of any legal proceedings resulting from the indictment or finding;

(6) Make a false statement that a candidate or board member has a record of treatment or confinement for mental disorder;

(7) Make a false statement that a candidate or board member has been subjected to military discipline for criminal misconduct or dishonorably discharged from the armed services;

(8) Falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a candidate by a person or publication;

(9) Make a false statement concerning the voting record of a candidate or board member;

(10) Post, publish, circulate, distribute, or otherwise disseminate a false statement concerning a candidate, either knowing the same to be false or with reckless disregard of whether it was false or not, if the statement is designed to promote the election, nomination, or defeat of the candidate.

Sec. 5505.046. The secretary of state, or any person acting on personal knowledge and subject to the penalties of perjury, may file a complaint with the Ohio elections commission alleging a violation of section 5505.045 of the Revised Code. The complaint shall be made on a form prescribed and provided by the commission.

On receipt of a complaint under this section, the commission shall hold a hearing open to the public to determine whether the violation alleged in the complaint has occurred. The commission may administer oaths and issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and reports. On the refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the commission may apply to the court of common pleas of Franklin county under section 2705.03 of the Revised Code. The court shall hold contempt proceedings in accordance with Chapter 2705. of the Revised Code.

The commission shall provide the person accused of the violation at least seven days prior notice of the time, date, and place of the hearing. The accused may be represented by an attorney and shall have an opportunity to present evidence, call witnesses, and cross-examine witnesses.

At the hearing, the commission shall determine whether the violation alleged in the complaint has occurred. If the commission determines that a violation of division (A) of section 5505.045 of the Revised Code has occurred, the commission shall either impose a fine under section 5505.99 of the Revised Code or enter a finding that good cause has been shown not to impose the fine. If the commission determines that a violation of division (B) of section 5505.045 of the Revised Code has occurred, the commission shall impose the fine described in section 5505.99 of the Revised Code, refer the matter to the appropriate prosecutor, or enter a finding that good cause has been shown not to impose a fine or refer the matter to the appropriate prosecutor.

Sec. 5505.047. (A) The state highway patrol board, after consultation with the secretary of state, shall adopt rules in accordance with Chapter 119. of the Revised Code, governing all of the following:

(1) The administration of elections of members of the board under section 5505.041 of the Revised Code and elections held under section 5505.042 of the Revised Code to fill vacancies on the board;

(2) Nominating petitions for the elections;

(3) Certification of the validity of nominating petitions for the elections;

(4) Certification of the results of the elections.

(B) The board may contract with the secretary of state or an independent firm to administer the elections, certify the validity of nominating petitions, and certify the results of the elections. The secretary of state and the independent firm shall perform these services in accordance with the rules adopted under division (A) of this section. Notwithstanding section 5505.04 of the Revised Code, the board shall provide information necessary for the secretary of state or the independent firm to certify the election. If the board contracts with an independent firm to administer an election, the secretary of state may audit the election.

Sec. 5505.048. (A) The office of an employee member or retirant member of the state highway patrol retirement board who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible for election to the office of employee member or retirant member of the state highway patrol retirement board.

(B) A member of the state highway patrol retirement board who willfully and flagrantly exercises authority or power not authorized by law,

refuses or willfully neglects to enforce the law or to perform any official duty imposed by law, or is guilty of gross neglect of duty, gross immorality, drunkenness, misfeasance, malfeasance, or nonfeasance is guilty of misconduct in office. On complaint and hearing in the manner provided for in this section, the board member shall have judgment of forfeiture of the office with all its emoluments entered against the board member, creating in the office a vacancy to be filled as provided by law.

(C) Proceedings for removal of a state retirement system board member on any of the grounds enumerated in division (B) of this section shall be commenced by filing with the court of appeals of the district in which the board member resides a written complaint specifically setting forth the charge. The complaint shall be accepted if signed by the governor or signed as follows:

(1) If the complaint is against an employee member of the board, the complaint must be signed by a number of members of the retirement system that equals at least the following and must include signatures of at least twenty employee members residing in at least five different counties:

(a) If the employee member was most recently elected in accordance with division (C)(2) of section 5505.04 of the Revised Code, ten per cent of the number of contributing members of the system who voted in that election;

(b) If the employee member was most recently elected to the board pursuant to division (C)(3) of section 5505.04 of the Revised Code or took office in accordance with division (C)(4) of that section, ten per cent of the number of contributing members of the system who voted in the most recent election held in accordance with division (C)(2) of section 5505.04 of the Revised Code for that employee member position on the board.

(2) If the complaint is against the retirant member of the board, the complaint must be signed by a number of service and disability retirants that equals at least the following and must include signatures of at least twenty service and disability members residing in at least five different counties:

(a) If the retirant member was most recently elected in accordance with division (C)(1) of section 5505.04 of the Revised Code, ten per cent of the number of service and disability retirants who voted in that election;

(b) If the retirant member was most recently elected to the board pursuant to division (C)(3) of section 5505.04 of the Revised Code or took office in accordance with division (C)(4) of that section, ten per cent of the number of service and disability retirants who voted in the most recent election held in accordance with division (C)(1) of section 5505.04 of the Revised Code for that retirant member position on the board.

(D) The clerk of the court of appeals in which a complaint against a board member is filed under division (C) of this section shall do both of the following with respect to the complaint:

(1) Submit the signatures obtained pursuant to division (C) of this section to the board for purposes of verifying the validity of the signatures. The board shall verify the validity of the signatures and report its findings to the court.

(2) Cause a copy of the complaint to be served on the board member at least ten days before the hearing on the complaint. The court shall hold a public hearing not later than thirty days after the filing of the complaint. The court may subpoena witnesses and compel their attendance in the same manner as in civil cases. Process shall be served by the sheriff of the county in which the witness resides. Witness fees and other fees in connection with the proceedings shall be the same as in civil cases. The court may suspend the board member pending the hearing.

If the court finds that one or more of the charges in the complaint are true, it shall make a finding for removal of the board member. The court's finding shall include a full, detailed statement of the reasons for the removal. The finding shall be filed with the clerk of the court and be made a matter of public record.

The board member has the right of review or appeal to the supreme court on leave first obtained. The supreme court shall hear the case in not more than thirty court days after granting leave. In other respects, the hearing shall follow the regular procedure in appealable cases that originate in the court of appeals.

(E) No individual who has been removed from the board pursuant to this section shall be eligible to fill an elective or appointed position as a member of the board.

Sec. 5505.049. A person who served as an elected or appointed member of the state highway patrol retirement board for one or more entire fiscal years in fiscal years 2000, 2001, or 2002 is ineligible for re-election or reappointment to the board if the board paid travel-related expenses of the person or reimbursed the person for travel-related expenses that averaged more than ten thousand dollars annually for those fiscal years.

Sec. 5505.06. (A) The members of the state highway patrol retirement board shall be the trustees of the funds created by section 5505.03 of the Revised Code. The board shall have full power to invest the funds. The board and other fiduciaries shall discharge their duties with respect to the funds solely in the interest of the participants and beneficiaries; for the exclusive purpose of providing benefits to participants and their

beneficiaries and defraying reasonable expenses of administering the system; with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

To facilitate investment of the funds, the board may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as amended, or any other legal entity authorized to transact business in this state.

(B) In exercising its fiduciary responsibility with respect to the investment of the funds, it shall be the intent of the board to give consideration to investments that enhance the general welfare of the state and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the board. In fulfilling this intent, equal consideration shall be given to investments otherwise qualifying under this section that involve minority owned and controlled firms and firms owned and controlled by women, either alone or in joint venture with other firms.

The board shall adopt, in regular meeting, policies, objectives, or criteria for the operation of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines. In adopting policies and criteria for the selection of agents with whom the board may contract for the administration of the funds, the board shall comply with sections 5505.062 and 5505.064 of the Revised Code and shall also give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and joint ventures involving minority owned and controlled firms and firms owned and controlled by women that otherwise meet the policies and criteria established by the board. Amendments and additions to the policies and criteria shall be adopted in regular meeting. The board shall publish its policies, objectives, and criteria under this provision no less often than annually and shall make copies available to interested parties.

When reporting on the performance of investments, the board shall comply with the performance presentation standards established by the association for investment management and research.

(C) All evidences of title of the investments purchased by the board

shall be delivered to the treasurer of state, who is hereby designated as the custodian thereof, or to the treasurer of state's authorized agent. Evidences of title of the investments may be deposited by the treasurer of state for safekeeping with an authorized agent, selected by the treasurer of state, who is a qualified trustee under section 135.18 of the Revised Code. The treasurer of state shall collect the principal, interest, dividends, and distributions that become due and payable and, when collected, shall credit them to the custodial funds.

The treasurer of state shall pay for the investments purchased by the board on receipt of written or electronic instructions from the board or the board's designated agent authorizing the purchase and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent. The board may sell investments held by the board, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser on receipt of written or electronic instructions from the board or the board's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed in the custodial funds. The board and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.

(D) All of the board's business shall be transacted, all its funds shall be invested, all warrants for money drawn and payments shall be made, and all of its cash, securities, and other property shall be held, in the name of the board or its nominee, provided that nominees are authorized by board resolution for the purpose of facilitating the ownership and transfer of investments.

(E) No purchase or sale of any investment shall be made under this section except as authorized by the board.

(F) Any statement of financial position distributed by the board shall include the fair value, as of the statement date, of all investments held by the board under this section.

Sec. 5505.062. The state highway patrol retirement board shall do all of the following:

(A) In consultation with the Ohio ethics commission, review any existing policy regarding the travel and payment of travel expenses of members and employees of the state highway patrol retirement board and adopt rules in accordance with section 5505.04 of the Revised Code establishing a new or revised policy regarding travel and payment of travel expenses. Not less than sixty days before adopting a new or revised policy,

the board shall submit the policy to the Ohio retirement study council for review.

(B) If the board intends to award a bonus to any employee of the board, adopt rules in accordance with section 5505.04 of the Revised Code establishing a policy regarding employee bonuses;

(C) Provide copies of the rules adopted under divisions (A) and (B) of this section to each member of the Ohio retirement study council;

(D) Submit to the Ohio retirement study council a proposed operating budget, including an administrative budget for the board, for the next immediate fiscal year and adopt that budget not earlier than sixty days after it is submitted to the council;

(E) Submit to the council a plan describing how the board will improve the dissemination of public information pertaining to the board.

Sec. 5505.063. The state highway patrol retirement board shall, in consultation with the Ohio ethics commission, develop an ethics policy to govern board members and employees in the performance of their official duties. The board shall submit this policy to the commission for approval.

The commission shall review the policy and, if the commission determines that the policy is adequate, approve the policy. If the commission determines that the policy is inadequate, it shall specify the revisions to be made and the board shall submit a revised policy. If the commission approves the revised policy, the board shall adopt it. If not, the board shall make any further revisions required by the commission and adopt the policy. Not less than sixty days before adopting the policy, the board shall submit it to the Ohio retirement study council for review.

The board periodically shall provide ethics training to members and employees of the board. The training shall include training regarding the requirements and prohibitions of Chapter 102. of the Revised Code and sections 2921.42 and 2921.43 of the Revised Code and any other training the board considers appropriate.

The board shall establish a procedure to ensure that each employee of the board is informed of the procedure for filing a complaint alleging violation of Chapter 102. of the Revised Code or section 2921.42 or 2921.43 of the Revised Code with the Ohio ethics commission or the appropriate prosecuting attorney.

Sec. 5505.064. Each newly elected member of the state highway patrol retirement board and each individual appointed to fill a vacancy on the board, shall, not later than ninety days after commencing service as a board member, complete the orientation program component of the retirement board member education program established under section 171.50 of the

Revised Code.

Each member of the board who has served a year or longer as a board member shall, not less than twice each year, attend one or more programs that are part of the continuing education component of the retirement board member education program established under section 171.50 of the Revised Code.

Sec. 5505.065. (A) The state highway patrol retirement board shall designate a person who is a licensed state retirement system investment officer to be the chief investment officer for the state highway patrol retirement system. The board shall notify the division of securities of the department of commerce in writing of its designation and of any change in its designation within ten calendar days of the designation or change.

(B) The chief investment officer shall reasonably supervise the licensed state retirement system investment officers and other persons employed by the state highway patrol retirement system with a view toward preventing violations of Chapter 1707. of the Revised Code, the "Commodity Exchange Act," 42 Stat. 998, 7 U.S.C. and following, the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. and following, and the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, and following, and the rules and regulations promulgated under those statutes. This duty of reasonable supervision shall include the adoption, implementation, and enforcement of written policies and procedures reasonably designed to prevent persons employed by the state highway patrol retirement system from misusing material, nonpublic information in violation of those laws, rules, and regulations.

For purposes of this division, no chief investment officer shall be considered to have failed to satisfy the officer's duty of reasonable supervision if the officer has done all of the following:

(1) Adopted and implemented written procedures, and a system for applying the procedures, that would reasonably be expected to prevent and detect, insofar as practicable, any violation by its licensed investment officers and other persons employed by the state highway patrol retirement system;

(2) Reasonably discharged the duties and obligations incumbent on the chief investment officer by reason of the established procedures and the system for applying the procedures when the officer had no reasonable cause to believe that there was a failure to comply with the procedures and systems;

(3) Reviewed, at least annually, the adequacy of the policies and procedures established pursuant to this section and the effectiveness of their

implementation.

(C) The chief investment officer shall establish and maintain a policy to monitor and evaluate the effectiveness of securities transactions executed on behalf of the board.

No chief investment officer shall be considered to have failed to satisfy the officer's duty under this section if the officer has done both of the following:

(1) Implemented the policy adopted by the board under section 5505.068 of the Revised Code that outlines the criteria used to select agents that execute securities transactions on behalf of the state highway patrol retirement system.

(2) Reviewed, at least annually, the performance of agents that execute securities transactions on behalf of the state highway patrol retirement system.

Sec. 5505.068. (A) As used in this section and in section 5505.0610 of the Revised Code:

(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.

(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(3) "Ohio-qualified agent" means an agent designated as such by the state highway patrol retirement board.

(4) "Ohio-qualified investment manager" means an investment manager designated as such by the state highway patrol retirement board.

(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

(B) The state highway patrol retirement board shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5733., or 5747. of the Revised Code.

(2) The agent is authorized to conduct business in this state;

(3) The agent maintains a principal place of business in this state and employs at least five residents of this state.

(C) The state highway patrol retirement board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:

(1) Commissions charged by the agent, both in the aggregate and on a per share basis;

(2) The execution speed and trade settlement capabilities of the agent;

(3) The responsiveness, reliability, and integrity of the agent;

(4) The nature and value of research provided by the agent;

(5) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.

(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on behalf of the board.

(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board pursuant to division (C) of this section, and offers quality, services, and safety comparable to other agents otherwise available to the board. The board's determination shall be final.

(E) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:

(1) The name of each agent designated as an Ohio-qualified agent under this section;

(2) The name of each agent that executes securities transactions on behalf of the board;

(3) The amount of equity and fixed-income trades that are executed by Ohio-qualified agents, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;

(4) The compensation paid to Ohio-qualified agents, expressed as a percentage of total compensation paid to all agents that execute securities transactions on behalf of the board;

(5) The amount of equity and fixed-income trades that are executed by agents that are minority business enterprises, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;

(6) Any other information requested by the Ohio retirement study council regarding the board's use of agents.

Sec. 5505.069. (A) The state highway patrol retirement system shall disclose the following to the Ohio ethics commission:

(1) Anything of value received by the system from an agent and

anything of value given on behalf of the system by an agent:

(2) The name of any employee of the system with authority over the investment of retirement system funds or any board member of the system who deals with an agent regarding amounts described in division (A)(1) of this section.

(B) The disclosures required by this section shall be made annually in a report submitted by a date prescribed by the Ohio ethics commission.

Sec. 5505.0610. (A) The state highway patrol retirement board shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:

(1) The investment manager is subject to taxation under Chapter 5725., 5733., or 5747. of the Revised Code.

(2) The investment manager meets one of the following requirements:

(a) Has its corporate headquarters or principal place of business in this state;

(b) Employs at least five hundred individuals in this state;

(c) Has a principal place of business in this state and employs at least 20 residents of this state.

(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following:

(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products;

(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria.

(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final.

(C) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:

(1) The name of each investment manager designated as an Ohio-qualified investment manager under this section;

(2) The name of each investment manager with which the board contracts;

(3) The amount of assets managed by Ohio-qualified investment

managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers with which the board has contracted;

(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;

(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers.

Sec. 5505.07. (A) The state highway patrol retirement board may employ a secretary and secure the services of employees for the transaction of business of the state highway patrol retirement system. ~~The~~

Effective ninety days after the effective date of this amendment, the board may not employ a state retirement system investment officer, as defined in section 1707.01 of the Revised Code, who does not hold a valid state retirement system investment officer license issued by the division of securities in the department of commerce.

The compensation of all persons engaged by the board and all other expenses of the board necessary for the proper operation of the pension fund shall be paid at such rates and in such amounts as the board approves. Every expense voucher of an employee, officer, or board member of the state highway patrol retirement system shall itemize all purchases and expenditures.

(B) The clerical procedures required in the operation of the retirement system shall be performed by the staff of the secretary appointed by the board. The cost of such clerical procedures and the services performed by the secretary of the retirement system shall be paid by the retirement system.

(C) The board shall appoint an actuary who shall be its technical advisor.

(D) The board shall from time to time adopt such mortality and other tables of experience, and such rate or rates of interest, as are required in the proper operation of the retirement system.

(E) The board shall determine by appropriate rules the service to be credited any member in any calendar year.

The board shall perform other functions and adopt rules as required for the proper execution of Chapter 5505. of the Revised Code.

Sec. 5505.111. The state highway patrol retirement board shall appoint a committee to oversee the selection of an internal auditor. The committee shall select one or more persons for employment as an internal auditor. The board shall employ the person or persons selected by the committee.

The committee shall consist of the following board members: one

retirant member, one employee member, and one ex officio member. The committee shall annually prepare and submit to the Ohio retirement study council a report of its actions during the preceding year.

Sec. 5505.122. If the Ohio retirement study council establishes a uniform format for any report the state highway patrol retirement board is required to submit to the council, the board shall submit the report in that format.

Sec. 5505.99. (A) Whoever violates division (A) of section 5505.045 of the Revised Code shall be fined not more than one hundred dollars for each day of the violation.

(B) Whoever violates division (B) of section 5505.045 of the Revised Code shall be imprisoned for not more than six months or fined not more than five thousand dollars, or both.

(C) Fines imposed by the Ohio elections commission under this section shall be paid into the Ohio elections commission fund created under section 3513.10 of the Revised Code.

SECTION?2. That existing sections 101.34, 101.99, 102.02, 102.03, 102.06, 117.10, 145.04, 145.05, 145.051, 145.06, 145.09, 145.11, 145.19, 145.193, 145.27, 145.40, 171.01, 171.03, 171.04, 742.03, 742.04, 742.05, 742.10, 742.11, 742.41, 1707.01, 1707.03, 1707.17, 1707.19, 1707.20, 1707.22, 1707.23, 1707.25, 1707.261, 1707.39, 1707.431, 1707.44, 1707.46, 3105.80, 3305.01, 3305.02, 3305.03, 3305.05, 3305.051, 3305.06, 3305.07, 3307.01, 3307.03, 3307.05, 3307.06, 3307.07, 3307.071, 3307.10, 3307.11, 3307.15, 3307.20, 3307.25, 3307.56, 3307.71, 3309.03, 3309.05, 3309.06, 3309.061, 3309.07, 3309.09, 3309.14, 3309.15, 3309.22, 3309.251, 3309.42, 5505.04, 5505.06, and 5505.07 of the Revised Code are hereby repealed.

SECTION?3. Section 1707.162 of the Revised Code, as enacted by this act, shall take effect ninety days after the effective date of this section.

SECTION?4. Sections 145.19, 145.193, 145.40, 3105.80, 3305.01, 3305.02, 3305.03, 3305.05, 3305.051, 3305.06, 3305.07, 3307.01, 3307.25, 3307.56, 3307.71, 3309.251, and 3309.42 of the Revised Code, as amended by this act; sections 3305.05 (3305.051) and 3305.051 (3305.052), as amended by this act for the purpose of adopting new section numbers as indicated in parentheses; and new section 3305.05 and section 3305.053 of the Revised Code, as enacted by this act, shall take effect on August 1,

2005.

SECTION?5. Nothing in this act shall affect the term of any elected member of a state retirement board serving on the effective date of this act.

The additional members of the state retirement systems to be appointed pursuant to this act shall be appointed and take office not later than ninety days after the effective date of this act, except that an investment expert member appointed jointly by the Speaker of the House of Representatives and the President of the Senate shall not immediately take office if taking office would result in an even number of members on that state retirement board. The member shall take office at the earliest time that taking office will result in an odd number of members on that board.

Not later than ninety days after the effective date of this act, the Governor shall appoint the initial additional retirant member of the public employees retirement board created by this act. The retirant member shall hold office until the next board election that occurs not less than ninety days after the appointment.

Not later than ninety days after the effective date of this act, the Governor shall appoint the initial additional retired teacher member position created by this act. The retired teacher member shall hold office until the next board election that occurs not less than ninety days after the appointment.

Not later than ninety days after the effective date of this act, the Governor shall appoint the initial additional retirant member of the school employees retirement board created by this act. The retirant member shall hold office until the next board election that occurs not less than ninety days after the appointment.

Not later than ninety days after the effective date of this act, the Governor shall appoint the initial additional retirant member of the state highway patrol retirement board created by this act. The retirant member shall hold office until the next board election that occurs not less than ninety days after the appointment.

SECTION?6. Nothing in this act shall be construed to be a limitation of the Ohio Ethics Commission's authority, responsibility, and powers under Chapter 102. of the Revised Code as it existed immediately prior to the effective date of this act as applied to members and employees of the state

retirement boards. Any authority, power, or responsibilities of the Ohio Ethics Commission expressly created by this act are in addition to any authority, power, or responsibilities of the Commission in effect immediately prior to the effective date of this act.

SECTION 7. A member of a state retirement board who, pursuant to this act, is replaced on that board by an elected or appointed member shall remain in office until the replacement member is appointed or elected.

SECTION?8. Section 742.41 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 535 and Am. Sub. S.B. 180 of the 123rd General Assembly. Section 3307.20 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 535 and Am. Sub. S.B. 180 of the 123rd General Assembly. Section 3309.22 of the Revised Code is presented in this act as a composite of the section as amended by Sub. H.B. 535, Sub. S.B. 270, and Am. Sub. S.B. 180 all of the 123rd General Assembly. Section 5505.04 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 535 and Am. Sub. S.B. 180 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composites are the resulting versions of the sections in effect prior to the effective dates of the sections as presented in this act.

?

Speaker _____ of the House of Representatives.

?

President _____ of the Senate.

?

Passed _____, 20____

?

Approved _____, 20____

Sub. S. B. No. 133

214

?

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

?

Director, Legislative Service Commission.

?

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

?

Secretary of State.

?

File No. _____Effective Date _____