

**As Passed by the House**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 220**

**Senator Hottinger**

**Cosponsors: Senators Seitz, Eklund, Williams, Uecker, Bacon, Brown, Coley, Gardner, Hackett, Hite, Jones, Jordan, Schiavoni, Thomas Representatives Maag, Hambley, Anielski, Arndt, Blessing, Boose, Dever, Green, Koehler, Landis, Manning, Perales, Retherford, Rogers, Ruhl, Schuring, Smith, R., Sweeney, Terhar, Thompson, Young**

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**A BILL**

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

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

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

**Sec. 148.04.** (A) The Ohio public employees deferred compensation board shall initiate, plan, expedite, and, subject to an appropriate assurance of the approval of the internal revenue service, promulgate and offer to all eligible employees, and thereafter administer on behalf of all participating employees and continuing members, and alter as required, a

program for deferral of compensation, including a reasonable 16  
number of options to the employee for the investment of deferred 17  
funds, always in such form as will assure the desired tax 18  
treatment of such funds. The members of the board are the 19  
trustees of any deferred funds and shall discharge their duties 20  
with respect to the funds solely in the interest of and for the 21  
exclusive benefit of participating employees, continuing 22  
members, and their beneficiaries. With respect to such deferred 23  
funds, section 148.09 of the Revised Code shall apply to claims 24  
against participating employees or continuing members and their 25  
employers. 26

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

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

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

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

An election regarding participation under this section 44

shall be made in such manner and form as is prescribed by the 45  
Ohio public employees deferred compensation program and shall be 46  
filed with the program. 47

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

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

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

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

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

Such a deferred compensation program shall be in addition 73

to any retirement or any other benefit program provided by law 74  
for employees of this state. The board shall adopt rules 75  
pursuant to Chapter 119. of the Revised Code to provide any 76  
necessary standards or conditions for the administration of its 77  
programs, including any limits on the portion of a participating 78  
employee's compensation that may be deferred in order to avoid 79  
adverse treatment of the program by the internal revenue service 80  
or the occurrence of deferral, withholding, or other deductions 81  
in excess of the compensation available for any pay period. 82

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

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

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

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

township, public institution of higher education, or school 104  
district that offers such plans or programs shall include a 105  
reasonable number of options to its officers or employees for 106  
the investment of the deferred funds, including annuities, 107  
variable annuities, regulated investment trusts, or other forms 108  
of investment approved by the municipal corporation, township, 109  
public institution of higher education, or school district, that 110  
will assure the desired tax treatment of the funds. 111

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

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

~~(B)~~ (2) "Governing board" means, in the case of the 119  
county, the board of county commissioners; in the case of a park 120  
district, the board of park commissioners; in the case of a 121  
conservancy district, the district's board of directors; in the 122  
case of a sanitary district, the district's board of directors; 123  
in the case of a regional water and sewer district, the 124  
district's board of trustees; in the case of a regional transit 125  
authority, the authority's board of trustees; in the case of a 126  
health district, the board of health; in the case of a public 127  
library district, the board of library trustees; in the case of 128  
a county law library, the board of trustees of the law library 129  
association; ~~7~~ in the case of a joint county department of job 130  
and family services, the department's board of directors; and in 131  
the case of a detention facility district, the board or joint 132  
board of county commissioners. 133

(B) In addition to the program of deferred compensation 134  
that may be offered under this chapter, a governing board may 135  
offer to all of the officers and employees of the government 136  
unit not to exceed two additional programs for deferral of 137  
compensation designed for favorable tax treatment of the 138  
compensation so deferred. Any such program shall include a 139  
reasonable number of options to the officer or employee for the 140  
investment of the deferred funds, including annuities, variable 141  
annuities, regulated investment trusts, or other forms of 142  
investment approved by the governing board, that will assure the 143  
desired tax treatment of the funds. 144

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

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

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

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

officer or employee.

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**Section 2.** That existing sections 148.04 and 148.06 of the  
Revised Code are hereby repealed.

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