

may request from the public employees retirement board a determination of whether the individual should have been classified as a public employee for purposes of this chapter. The request shall be made on a form provided by the board.

(2) Division (B)(1) of this section does not apply to an individual employed by a business entity under contract with a public employer to provide personal services to the employer.

(C) Not later than thirty days after the effective date of this section, the board shall notify each employer of the right of an individual described in division (B)(1) of this section to seek the determination described in that division. The notice shall be accompanied by copies of the form described in division (B)(1) of this section.

Not later than sixty days after the effective date of this section, the employer shall send to each individual described in division (B)(1) of this section a copy of the form provided by the retirement system and written notice of the right to seek a determination of whether the individual should have been classified as a public employee. The notice shall be sent to the individual's last known address on record with the employer.

On receipt of a properly completed form, the board shall determine whether the individual should have been classified as a public employee. If the board determines that the individual is not a public employee with regard to the services in question, for the purposes of this chapter the individual shall be considered an independent contractor with regard to the services in question. The board's determination is final.

The board shall notify the individual and the employer of its determination. The determination shall apply to services performed before, on, or after the effective date of this section for the same employer in the same capacity.

(D) Regardless of whether an individual actually receives notice under this section, the request for a determination must be made not later than one year after the effective date of this section unless the individual can demonstrate to the board's satisfaction through medical records that at the time the one-year period ended the individual was physically or mentally incapacitated and unable to request a determination.

Sec. 145.038. (A) A public employer who on or after the effective date of this section begins to receive personal services from an individual it classifies as an independent contractor or another classification other than public employee shall inform the individual of the classification and that no contributions will be made to the public employees retirement system. Not later than thirty days after the services begin, the employer shall require the

individual to acknowledge, in writing on a form provided by the system, that the individual has been informed that the employer does not consider the individual a public employee and no contributions will be made to the public employees retirement system. The employer shall retain the acknowledgement and immediately transmit a copy of it to the system.

(B)(1) Regardless of whether the individual has made an acknowledgement under division (A) of this section and, except as provided in division (B)(2) of this section, an individual may request that the public employees retirement board determine whether the individual is a public employee for purposes of this chapter.

(2) Division (B)(1) of this section does not apply to an individual employed by a business entity under contract with a public employer to provide personal services to the employer.

(C) A request for a determination must be made not later than five years after the individual begins to provide personal services to the employer, unless one of the following is the case:

(1) The individual demonstrates to the board's satisfaction through medical records that at the time the five-year period ended the individual was physically or mentally incapacitated and unable to request a determination.

(2) The employer has not obtained or has failed to retain the acknowledgement required by division (A) of this section.

(D) On receipt of a request under division (B)(1) of this section, the board shall determine whether the individual is a public employee for the purposes of this chapter. If the board determines that the individual is not a public employee, for the purposes of this chapter the individual shall be considered an independent contractor with regard to the services in question. The board's determination is final.

The board shall notify the individual and the employer of its determination. The determination shall apply to services performed before, on, or after the effective date of this section for the same employer in the same capacity.

(E) The board may adopt rules under section 145.09 of the Revised Code to implement this section and sections 145.036 and 145.037 of the Revised Code.

Sec. 145.04. (A) 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 the following members: