

Sec. 145.73. (A) The Ohio public employees deferred compensation board shall initiate, plan, expedite, and, subject to an appropriate assurance of the approval of the internal revenue service, promulgate and offer to all eligible employees, and thereafter administer on behalf of all participating employees and continuing members, and alter as required, a program for deferral of compensation, including a reasonable number of options to the employee for the investment of deferred funds, including life insurance, annuities, variable annuities, ~~regulated investment trusts~~, pooled investment funds managed by the board, or other forms of investment approved by the board, always in such form as will assure the desired tax treatment of such funds. THE MEMBERS OF THE OHIO PUBLIC EMPLOYEES DEFERRED COMPENSATION BOARD ARE THE TRUSTEES OF ANY DEFERRED FUNDS AND SHALL DISCHARGE THEIR DUTIES WITH RESPECT TO THE FUNDS SOLELY IN THE INTEREST OF AND FOR THE EXCLUSIVE BENEFIT OF PARTICIPATING EMPLOYEES, CONTINUING MEMBERS, AND THEIR BENEFICIARIES. WITH RESPECT TO SUCH DEFERRED FUNDS, SECTION 145.75 OF THE REVISED CODE SHALL APPLY TO CLAIMS AGAINST PARTICIPATING EMPLOYEES OR CONTINUING MEMBERS AND THEIR EMPLOYERS.

(B) Every employer of an eligible employee shall contract with such employee upon THE EMPLOYEE'S application for his participation in a deferred compensation program offered by the board. Every retirement system serving an eligible employee shall serve as collection agent for compensation deferred by any of its members and account for and deliver such sums to the board.

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

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

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

Any income deferred under such a plan shall continue to be included as regular compensation for the purpose of computing the contributions to and benefits from the retirement system of such employee. Any sum so deferred shall not be included in the computation of any federal and state income taxes withheld on behalf of any such employee.

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