



Members Only

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Laws Affecting Members Leaving the General Assembly*

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A number of laws have particular significance for legislators leaving the General Assembly, either for the limits they place on the actions of former legislators or for the benefits they make available to them. This brief describes these laws, starting with those that impose limits.

The “Revolving Door Provision”

Section 102.03 of the Revised Code establishes restrictions during and after employment for public officials and employees generally, including members of the General Assembly. Division (A)(4) of section 102.03 includes the restriction that is commonly referred to as the “revolving door provision”:

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.

“Matter” is defined to include “the proposal, consideration, or enactment of statutes, resolutions, or constitutional amendments.” “Represent” is defined as “any formal or informal appearance before, or any written or oral communication with, any public agency on behalf of any person.” (Sec. 102.03(A)(5).)

Ohio’s “revolving door provision” prohibits former members of the General Assembly, for a period of one year following termination of service, from representing any person on any matter before the General Assembly, its committees, or the Controlling Board.

* This *Members Only* brief is an update of an earlier brief on this subject dated January 24, 2001 (Volume 124 Issue 3).



Opinions of the Joint Legislative Ethics Committee

Sections 101.34 and 102.08 require the Joint Legislative Ethics Committee to act as an advisory body to members and employees of the General Assembly on questions relating to ethics, conflicts of interest, and financial disclosure. Former members also may request opinions of the Committee since they remain subject to section 102.03 for 12 months following separation from the General Assembly.

Two types of opinions may be requested from the Joint Legislative Ethics Committee: written and advisory. When the Committee renders an advisory opinion that is publicly or privately sought and that relates to a special set of circumstances involving ethics, conflicts of interest, or financial disclosure under the Ethics Law (Chapter 102.) or specified criminal statutes,¹ and the opinion states that there is no violation of those laws, the person to whom the opinion is directed or a person who is similarly situated may reasonably rely upon the opinion and is immune from criminal prosecutions, civil suits, or actions for removal from office or position of employment based upon the facts and circumstances covered by the opinion. When the Committee renders a written opinion that is privately sought, that is not requested to be issued as an advisory opinion, and that relates to a special set of circumstances involving ethics, conflicts of interest, or financial disclosure under the same laws described in the preceding sentence,

the written opinion does *not* have the legal effect of an advisory opinion. (Sec. 102.08(C) and (D).)

Advisory opinions regarding the Revolving Door Provision

The following paragraphs describe four issues affecting former legislators that the Joint Legislative Ethics Committee has dealt with in advisory opinions. (The opinions apply to former General Assembly employees as well as former members.)

Acceptance of employment with a representing entity. In Advisory Opinion 96-003, the Committee considered whether a former member may accept employment with an entity or person who is represented before, or who represents a variety of clients before, the General Assembly, and whether the employer of the former member may represent persons before the General Assembly.

The law does not prevent a former member from accepting employment with a person who represents others before the General Assembly. A former member may be associated with an employer who represents clients before the General Assembly as long as the former member does not personally represent those clients; the law restricts the actions a former member may take on behalf of the employer during the 12-month period following the former member's General Assembly service. The hiring of a former member does not preclude the employer from representing persons before the General Assembly.

The Joint Legislative Ethics Committee advises members and employees of the General Assembly on questions of ethics, conflicts of interest, and financial disclosure. Under certain circumstances, an advisory opinion of the Committee can provide immunity from legal action or removal from office.



Activities encompassed by “representation.” As mentioned above, “representation” for purposes of the revolving door provision includes “any formal or informal appearance before, or any written or oral communication with, any public agency on behalf of any person.” As an employee of the new employer, the former member may not engage in any activities that constitute “representation.”

Advisory Opinion 96-003 explains that “representation” may range from an appearance on behalf of a private client in a formal proceeding or hearing to informal lobbying of General Assembly personnel by telephone or in person and that the term includes written communications ranging from formal documents to informal letters and notes. The prohibition would apply where another person contacts a member of the General Assembly “on behalf of” the former member. Thus, the status of a former member may not be used by the new employer who is representing persons before the General Assembly.

State agency exception. Section 102.03(A)(4) excludes certain entities from the definition of “person.” Although a former member is prohibited from representing a “person,” “person” does not include any state agency or political subdivision of the state. Accordingly, a former member is not prohibited from representing a state agency or political subdivision of the state before the General Assembly or the Controlling Board

on the proposal, consideration, or enactment of statutes, resolutions, or constitutional amendments. Advisory Opinion 95-018.

In Advisory Opinion 97-001, the Committee found that a state institution of higher education is not a state agency, and, therefore, a former member may not, within the 12-month period after separating from the General Assembly, represent, or act in a representative capacity for, the institution on any matter before the General Assembly, its committees, or the Controlling Board.

Representation before executive agencies. In Advisory Opinion 97-001, the Committee also considered whether a former member of the General Assembly may represent a person before an executive agency² within the 12-month period following separation from the General Assembly. The Committee said the answer depends on the subject matter of the representation.

The Opinion noted that the prohibition is tied to the subject matter of the representation (“matter” being defined by the statute to include the proposal, consideration, or enactment of statutes, resolutions, or constitutional amendments). So the subject matter, rather than the public official sought to be influenced, determines whether the prohibition applies. For example, a former member may not represent a person before the Governor or any other executive agency when the subject matter is pending legislation. When the rep-

The Committee has held in an advisory opinion that the law does not prohibit a former member from accepting employment with an entity that or individual who represents clients before the General Assembly, but the law restricts the actions that a former member may take on behalf of the employer for 12 months following the former member’s General Assembly service.

The “representation” prohibited by the revolving door provision is broadly construed.

Since state agencies and political subdivisions are not included in the revolving door provision’s definition of “person,” a former member may represent a state agency or political subdivision before the General Assembly or Controlling Board.



resentation concerns an executive agency decision and not a matter before the General Assembly or the Controlling Board, a former member may represent a person before an executive agency.³

Restrictions on the appointment or election of a former member to an office if the office was created or its compensation was increased during the former member's term

Section 4 of Article II of the Ohio Constitution prohibits a member of the General Assembly, during the term for which the member is elected and for one year thereafter, from being appointed to a public office that is created or the compensation of which is increased during the term for which the member is elected. Thus, if an office is created or the compensation of an existing office is increased during a member's term, the member cannot be appointed to the office during that term or for one year thereafter. It does not matter whether the member votes for or against the bill involved, or whether the public office in question is added to the bill after the member votes on it. This restriction forbids only the former member's appointment, not election, to a public office.

In *State ex rel. Landis v. Bd. of Commrs. of Butler Cty.* (1917), 95

Ohio St. 157, 159, the Ohio Supreme Court described the characteristics of a public office as follows:

The chief and most-decisive characteristic of a public office is determined by the quality of the duties with which the appointee is invested, and by the fact that such duties are conferred upon the appointee by law. If official duties are prescribed by statute, and their performance involves the exercise of continuing, independent, political or governmental functions, then the position is a public office and not an employment.

In a later case, *State ex rel. Herbert v. Ferguson* (1944), 142 Ohio St. 496, 501, the Ohio Supreme Court held that a "public office" is a position created by law, with independent and continuing duties involving in their performance the exercise of some portion of the sovereign power.

In Opinion No. 83-004, the Attorney General stated that a General Assembly member who serves a term during which pay ranges are increased may constitutionally be appointed as the director of a state department within one year after the end of that term, as long as the individual does not, as director, receive compensation in excess of the maximum amount of compensation authorized for the position immediately prior to the member's term. It appears that the Attorney General reached this conclusion because the General Assembly only indirectly sets the compensation of department directors by establishing the pay ranges within which directors are paid; the Director

The Ohio Constitution prohibits a General Assembly member from being appointed during the member's term or for one year thereafter to a public office that is created, or the compensation of which is increased, during the term for which the member is elected.

The Ohio Supreme Court has held that the chief and most decisive characteristic of a public office is determined by the quality of the duties with which the holder of a position is invested and by the fact that the duties are conferred by law.



of Administrative Services assigns the directors' job classifications to specific pay ranges and the Governor, as the directors' appointing authority, fixes their specific compensation. The Opinion contains this statement, however, about situations in which the General Assembly directly sets the compensation of a public officer:

If I were considering a situation in which the General Assembly, by statute, designated the salary which a director would receive, the application of art. II, § 4 would be clear: a legislator could not accept a position as director during the term for which he was elected, or for one year thereafter, if the General Assembly, during that term, increased the compensation of the position.

Effect of term limits on a former General Assembly member's return to office

Section 2 of Article II of the Ohio Constitution prohibits a former member of the House of Representatives from holding the office of state representative for at least four years after leaving that office, if the former member served four consecutive terms as a state representative immediately preceding the departure. Section 2 of Article II also forbids a former member of the Senate from holding the office of senator for at least four years after leaving that office if the former member served two consecutive terms as a senator immediately preceding the departure.

These prohibitions do not prevent a person who has served four consecutive terms as a state representative from immediately thereafter being elected as a senator, nor do they prevent a person who has served two consecutive terms as a senator from being elected immediately thereafter as a state representative.

Section 9 of Article V of the Ohio Constitution provides that time spent in an office in fulfillment of a term to which another person was first elected generally is not to be considered for the purpose of calculating consecutive terms, provided that at least four years have passed since the person previously held that office. On the other hand, Section 9 of Article V specifies that a person who is elected in a regularly scheduled general election and who resigns prior to the completion of the term for which the person was elected is considered to have served the full term in that office for the purpose of calculating consecutive terms.

Continuation of health-care coverage

Departing members of the General Assembly may generally continue health care coverage for themselves and their dependents for 18 months under a federally mandated program established by the Consolidated Omnibus Budget Reconciliation Act (COBRA). The departing member electing to continue coverage is responsible for the total monthly

The Ohio Constitution may not prevent a member from being appointed to an office if the General Assembly does not directly fix the compensation of the office, but merely establishes pay ranges for it and requires another entity to set an office holder's actual compensation.

The Ohio Constitution prohibits a former House of Representatives member from returning to the member's House office for at least four years after leaving that office, if the member held that office for four consecutive terms immediately before leaving the office, and prohibits a former Senate member from returning to the member's Senate office for the same period, if the member held that office for two consecutive terms immediately before leaving the office.



Under federal law, departing General Assembly members may maintain their health care coverage for 18 months, but are responsible for the total monthly premium plus an administrative surcharge.

A legislator leaving public service may withdraw PERS contributions or leave them with PERS and maintain eligibility for future benefits.

premium plus an administrative surcharge. Coverage under COBRA may be terminated prior to the end of the 18-month period if the departing member becomes covered under another group health care plan because of reemployment, marriage, or Medicare eligibility.

Retirement system membership

On leaving the General Assembly, legislators who are members of the Public Employees Retirement System (PERS) and do not intend to continue in state or local government service will have to decide whether to withdraw their PERS contributions and forfeit entitlement to future benefits or leave the contributions on deposit and maintain PERS membership. Those who are continuing public service in a position covered by one of Ohio's state retirement systems⁴ must leave their contributions in PERS. Legislators not continuing public service who leave their contributions on deposit with PERS maintain PERS membership and are potentially eligible for disability, survivor, and age and service retirement benefits, depending on the plan in which the member participates.

PERS has three plans: the Traditional Plan, the Member-Directed Plan, and the Combined Plan. Participation in the latter two plans is limited to new PERS members and members who had less than five years of service on December 31, 2001.

Most PERS members are in the Traditional Plan, which is a defined benefit plan. Under this plan a member receives a retirement benefit based on years of service, final average salary, and sometimes age. The plan includes disability and survivor benefits and may include retiree health care coverage.

Under the Member-Directed Plan, the member directs the investment of the contributions in the member's account; benefits are based solely on the success of those investments. This plan does not provide distinct disability or survivor benefits.

The Combined Plan includes elements of both the Traditional Plan and Member-Directed Plan. Under this plan, benefits are based on a combination of (1) the success of the investments and (2) the member's years of service, final average salary, and sometimes age. Disability, survivor, and retiree health care benefits are provided to the same extent as under the Traditional Plan.

Traditional Plan

On leaving the General Assembly, a legislator in the Traditional Plan who is not continuing in other public service may receive a refund of the member's contributions to PERS, but the application may not be made until three months after the last day of employment (sec. 145.40). The refund includes interest on the member's contributions and, if the member has five or more years of service credit, a portion of the employer contributions made on the member's behalf by the



Senate or House of Representatives. Depending on the length of covered service, the portion of employer contributions is calculated as 33% or 67% of the amount refunded to the member, excluding the employer contributions. (Sec. 145.401.) If a member is married and eligible to retire at the time of a refund, the member's spouse must consent to the refund.

The refund may have federal tax consequences.⁵ In addition, those who withdraw their contributions forfeit entitlement to the following benefits (described in detail below) from PERS:

(1) A member with five or more years of service credit has a right to a retirement benefit at age 60.

(2) A member with 18 months of service credit, with three of the 18 months occurring within two and one-half years prior to the member's death, has earned survivor benefit protection for qualified dependents.

(3) A member with five or more years of service credit who becomes disabled within two years of termination of employment may be granted disability benefits.

Disability and survivor benefits

—***Disability.*** For disability coverage a member must have at least five years of service credit and the disability must be permanent or presumed permanent. An application for disability benefits must be made within two years from the date that the member's contributing service

terminated, unless the PERS Board determines that the member's medical records demonstrate conclusively that, at the time the two-year period ended, the member was physically and mentally incapacitated and unable to apply.

—***Survivor benefits.*** If a PERS member dies before age and service retirement, his or her contributions are paid to the beneficiary designated by the member. If there is no designated beneficiary, the beneficiary is determined by an order of succession established in statute. In lieu of accepting payment of the deceased member's contributions, qualified dependents may be eligible to receive monthly survivor benefits if, at the time of death, the PERS member met one of the following qualifications:

- (1) Was eligible for retirement;
- (2) Was receiving a disability benefit;
- (3) Had at least 18 months of Ohio service credit with three of the 18 months occurring within the two and one-half years immediately before death. (Sec. 145.45.)

Age and service retirement benefits

—***Eligibility.*** A PERS member qualifies for age and service retirement at age 60 with at least five years of total service credit,⁶ or at any age with 30 years of total service credit. A reduced retirement benefit is available as early as age 55 with 25 years of total service credit.

Survivor benefit protection continues for a time after a PERS member leaves public service.

A PERS member qualifies for full retirement benefits at age 60 with at least five years' service credit or at any age with 30 years' service credit.

PERS members maintain disability benefit eligibility for two years after leaving public service.

Retirement benefits are calculated through a formula using both final average salary and years of service.



—**Benefit formulas.** The retirement benefit formula is 2.2% of the PERS member’s final average salary (FAS) for each of the first 30 years of service credit, and 2.5% of FAS for each year, or portion thereof, of service credit over 30 years. For example, a PERS member with 22 years of service credit would receive 48.4% of his or her FAS (2.2% x 22). (Sec. 145.33.) Final average salary is determined by taking the average of the three highest years of earnable salary. Earnable salary includes all salary, wages, and other earnings paid by reason of employment. Earnable salary does not include employer-paid amounts for insurance, reimbursement for job-related expenses, or other incidental benefits. (Sec. 145.01.)

—**Purchasing service credit.** An elected official has the option of purchasing, prior to retirement, additional service credit in an amount subject to certain limits imposed by federal law and not exceeding 35% of his or her service as an elected official (sec. 145.201). Service credit also may be purchased for various kinds of prior public service, including military service; police, fire, or highway patrol service; and service for another state, the federal government, or the city of Cincinnati. After 18 months of new contributing service, a member also may purchase credit for prior noncontributing service (also called “exempt service”) and service for which the member withdrew his or her accumulated contributions. (Sec. 145.28.)

—**Applying for retirement.** A PERS member may obtain an application for retirement from either PERS or the member’s employer. After the application is filed with PERS, the member’s benefit will be effective on the first day of the month immediately following the later of the following dates:

- (1) The last day for which the member was paid by the member’s employer;
- (2) Attainment of the minimum age or service credit eligibility required by law. (Sec. 145.32.)

—**Payment plans.** At the time of filing an application for age and service retirement, a PERS member may select one of several payment plans. A member may elect to receive benefits payable throughout the member’s lifetime (Plan B—single-life annuity) or in a lesser amount during the member’s life and continuing after the member’s death to the member’s spouse or a designated beneficiary (Plan A, C, or D—joint-and-survivor annuity). Spousal consent is required for a member to elect a payment plan other than a joint-and-survivor annuity. Plan F provides a continuing payment to multiple beneficiaries.

Benefit payments vary in amount depending on a member’s length of public service, final average salary, age, and payment plan selection. However, a benefit cannot exceed the lesser of 100% of final average salary or the benefit limit established under federal law (26 U.S.C.A. 415).

Elected officials have the option of purchasing additional service credit.

Retirement benefits may be paid for a retirant’s life or for that life plus the life of a survivor.



A benefit under Plan A, C, D, or F is the actuarial equivalent of Plan B, but the payment is reduced because it is based on the combined life expectancies of the member and the member's spouse, beneficiary, or beneficiaries. A fifth payment plan (Plan E—guaranteed period) is also the actuarial equivalent of Plan B, but the payment is reduced because of the guarantee of payment until the end of the period. (Sec. 145.46.)

—**Health-care coverage.** PERS is authorized, but not required, to provide health-care coverage for its retirants. A PERS member becoming eligible for retirement after June 13, 1986, must have at least ten years of Ohio service credit to be eligible for health-care coverage. The ten years of service credit may not include credit for out-of-state or military service purchased after January 29, 1981, credit for exempt service purchased after May 4, 1992, or credit granted under a retirement incentive program. All other purchased service credit is counted to meet the ten-year requirement. Dependents may be covered through premium deductions from the member's retirement benefit.

If a PERS member is receiving a disability benefit, health-care coverage is provided regardless of the member's years of service. If a member dies while contributing to PERS, health-care coverage may be available to survivors receiving a monthly benefit regardless of the member's years of service.

—**Cost-of-living adjustments.** An annual cost-of-living adjustment (COLA) of 3% is provided to disability, survivor, and age and service retirement benefit recipients. (Sec. 145.323.) All benefit recipients who have received benefits for at least 12 months are entitled to the increase to the extent that the increase does not exceed benefit limits established under federal law (26 U.S.C.A. 415).

—**Continuing employment after age and service retirement.** A PERS member who holds two or more positions covered by PERS, the School Employees Retirement System, or State Teachers Retirement System may retire from the highest-paying position and continue employment in the other position or positions. Contributions and service credit for all positions are used to determine the member's retirement allowance. Contributions to the retirement system that covers the continuing position continue after retirement and are made toward a separate annuity paid after the continuing employment terminates. (Sec. 145.383.)

The retirant is not subject to a reemployment penalty for the continuing position; however, if the retirant is reemployed in another position covered by a state retirement system and has not been receiving a retirement allowance for two months, the retirant will be treated as a reemployed retirant (see "**Reemployment after retirement**" below).

To be eligible for health insurance, a PERS retirant must have ten years of service credit.

A PERS retirant may be reemployed in a position covered by PERS, but will forfeit part of the retirement allowance if reemployment commences less than two months after retirement.



PERS pays a death benefit based on the retirant's years of service credit.

—**Death benefit.** On the death of a PERS retirant who had at least five years of service credit, PERS will pay a lump-sum death benefit, based on years of service, to a person established by statute. The benefit schedule is as follows (sec. 145.451):

Service credit	Benefit
Less than 10 years	\$ 500
10 to 15 years	\$1,000
15 to 20 years	\$1,500
20 to 25 years	\$2,000
More than 25 years	\$2,500

Member-Directed Plan

On leaving public service, a member participating in the Member-Directed Plan may elect to receive a lump-sum distribution of the vested amounts in the member's account and any rollover amounts, but the withdrawal may have federal tax consequences if the member does not properly "roll over" the distribution to another eligible retirement plan. A member who receives this distribution forfeits entitlement to future benefits.

A member who has reached age 55 and has amounts on deposit in his or her account may receive benefits from the vested amounts in the account under several payment options: monthly annuity payments, periodic payments of various types, a partial lump-sum distribution, or a combination of these options. The

plan requires the member to begin receiving benefits by a federally required beginning date. In some circumstances, the member may "roll over" the distribution to another eligible retirement plan.

Combined Plan

On leaving public service, a member participating in the Combined Plan may elect to receive a lump-sum distribution of all the amounts under the member's control (his or her contributions and any rollover amounts) and a portion of the House or Senate contributions. The withdrawal may have federal tax consequences if the member does not properly "roll over" the distribution to another retirement plan.

As under the Traditional Plan, a PERS member under the Combined Plan who elects to maintain contributions in the system qualifies for retirement benefits at age 65 with at least five years of total service credit or at any age with at least 30 years of total service credit. A reduced retirement benefit is available as early as age 55 with 25 years of total service credit or age 60 with five years of total service credit.

Under the Combined Plan, the retirement benefit formula is 1% of the member's final annual salary (FAS) per year for each of the first 30 years of service, and 1.25% of FAS for each year, or portion thereof, of service over 30 years. For example, a Combined Plan Member with 30 years of service receives 30% of his



or her FAS (1.0% x 30). The member will also receive distributions of the member's investment earnings.

The retirement benefit can come in the form of either (1) an annuity or (2) a lump-sum amount and a smaller annuity. The Combined Plan requires the member to begin receiving benefits by a federally required beginning date. In some circumstances, the member may "roll over" the distribution to another eligible retirement plan.

Under the Combined Plan, the member has the same option of purchasing additional service credit as under the Defined Benefit Plan.

Reemployment after retirement

A PERS age and service retiree may become reemployed in a position covered by PERS or another of Ohio's state retirement systems. Contributions to the retirement system that covers the position begin on the first day of reemployment and are made toward a separate annuity paid after reemployment terminates.

A retiree who returns to employment less than two months after retirement forfeits the retirement allowance for the period beginning on the date the reemployment begins and ending on the date that is two months after the allowance began. (Sec. 145.38.)

Additional information

Additional information on PERS membership, benefits, and service

credit can be found in the *PERS Member Handbook* and the *PERS Information Series Leaflet-H*, "Elected Officials," available online at www.opers.org/publications/members.shtml. These publications and leaflets on a variety of other topics are also available from PERS. Members can contact PERS at 1-800-222-7377 for more information or to request publications. The PERS web site is <http://www.opers.org>.

Deferred compensation

Members of the General Assembly have the option of participating in the Ohio Public Employees Deferred Compensation Program, a federally approved savings and investment program that provides tax savings and supplements future retirement income. Through the use of payroll deductions, participants in the program generate assets to fund benefits payable after leaving public service.⁷ Assets are generated through the purchase of fixed annuities, variable annuities, no-load mutual funds, or any combination of these investments.

"Catch-up" option

The Program has a "catch-up" option available to a legislator who has not deferred the maximum amount allowed or, despite being eligible, has not participated in the Program. The "catch-up" option allows a participant to defer a larger

Legislators may participate in the Ohio Public Employees Deferred Compensation Program.

The "catch-up" option permits a deferred compensation program participant to contribute extra amounts.



A participant has choices regarding when benefit payments begin and the methods of receiving benefit payments.

amount during a three-year period than would otherwise be allowed.

The period during which a participant may take advantage of the catch-up option is the three-year period preceding the year the participant attains the age that constitutes a normal retirement age for purposes of the participant's plan. A participant has some choice regarding this age. For PERS members, the age is not earlier than the earliest at which the member can retire under PERS with full benefits. For a PERS member who does not make a choice, the age is 70-1/2. A participant who is not a PERS member may choose any age from 65 to 70-1/2 as the normal retirement age.

Receiving payments

A legislator may not continue to participate in the Deferred Compensation Program after leaving office unless he or she moves to another position covered by the Program. A participant moving to another position covered by the Program may have his or her account transferred to a new account with the Program. A participant moving to a position covered by another federally approved deferred compensation program may have the account transferred to that program. An account may not be transferred if benefits have begun to be paid out of it.

A participant who is not eligible to have an account transferred or wants to commence receipt of benefit payments may choose when to begin receiving the payments. Payments begin the 20th of the month following the month in which an election to receive payments was received prior to the 15th day of that month.

A participant may choose one of the following methods of receiving benefit payments under the Program:

An annual percentage of the account value (this amount decreases over time);

An annuity payable for a specified period, for the life of the participant, or for the life of the participant and spouse;

Fixed payments until a fixed dollar amount is reached;

Payment of part of the account in a lump sum with the remainder paid by one of the methods listed above;

Payment of all of the account in a lump sum.

Information on the deferred compensation program is available online at: <http://www.ohio457.org>.





Endnotes

¹ These statutes deal with having an unlawful interest in a public contract (sec. 2921.42) and soliciting or receiving improper compensation (sec. 2921.43).

² “Executive agency” means the office of an elected executive official, a department created under section 121.02, or any other state agency, department, board, or commission controlled or directed by an elected executive official or otherwise subject to the authority of such an official. “Executive agency” does not include any court, the General Assembly, or the Controlling Board. (Sec. 121.60(F).)

³ “Executive agency decision” generally means a decision of an executive agency regarding the expenditure of funds of the state or of an executive agency with respect to the award of a contract, grant, lease, or other financial arrangement under which the funds are distributed or allocated, or a regulatory decision of an executive agency or any board or commission of the state (sec. 121.60(G)).

⁴ Ohio’s state retirement systems are PERS, the Police and Fire Pension Fund, the School Employees Retirement System, the State Teachers Retirement System, and the State Highway Patrol Retirement System.

⁵ The amount of the refund is reported to the Internal Revenue Service as taxable income and is subject to a 10% excise tax (in addition to the annual income tax) if the member is under age 55. A member may avoid the excise tax by “rolling over” the refund amount into an Individual Retirement Account (IRA) or other qualified retirement plan within 60 days after the date of refund.

⁶ Total service credit includes credit purchased for such things as military and out-of-state service, as well as credit for contributing service.

⁷ In limited unforeseen emergencies, benefits may be paid prior to the end of public service. A participant whose account value does not exceed \$5,000 and has not contributed to the Program for at least two years may be paid in a lump sum the money in the account, less tax withholdings. This may be done only once and the participant may not resume contributing for one year. A participant who terminates employment may also receive a lump-sum payment of an account with a balance of less than \$1,000.

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