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Reps. Schneider, Blasdel, Schmidt, Hollister, Clancy, Trakas, Carmichael, Aslanides, Seaver, Carano, Harwood, Martin, Koziura, Reidelbach, T. Patton, J. Stewart, Allen, Cates, Collier, Faber, Grendell, Setzer, Taylor

BILL SUMMARY

STATE RETIREMENT SYSTEMS

State retirement board membership and elections

- Removes the Auditor of State from, and adds the Treasurer of State to, the boards of each of the five state retirement systems.¹
- Removes the Attorney General from the boards of PERS, SERS, STRS, and OP&F.
- Removes the Director of Administrative Services from the public Employees Retirement Board.
- Removes the Superintendent of the State Highway Patrol from the State Highway Patrol Retirement Board.
- Adds a second retiree as an elective member to the boards of PERS, SERS, STRS, and SHPRS.
- Requires the Governor to appoint to the PERS Board (from three candidates nominated by the Director of Administrative Services with organizations representing county commissioners, municipal

¹ *The five state retirement systems are the Public Employees Retirement System (PERS), School Employees Retirement System (SERS), State Teachers Retirement System (STRS), State Highway Patrol Retirement System (SHPRS), and the Ohio Police and Fire Pension Fund (OP&F).*

corporations, and townships) an individual who has at least five years of financial experience.

- Requires the Governor to appoint to the board of trustees of OP&F (from three candidates nominated by the Director of Administrative Services with the organizations representing county commissioners, municipal corporations, and townships) an individual who has at least five years of financial experience.
- Permits the Governor to appoint to the State Teachers Retirement Board, in lieu of the Superintendent of Public Instruction, an individual who has at least five years of financial experience, selected from three individuals nominated by organizations representing school boards in Ohio.
- Changes the term used to refer to the active teacher members of the State Teachers Retirement Board to "contributing members."
- Requires the boards of PERS and SERS to administer all elections for employee and retirant members of the board, rather than specifying that those elections must be held under the direction of the board.
- Makes ineligible for election as an employee, contributing, or retirant member of a state retirement board a person who has been convicted of or pleaded guilty to a felony.
- Makes ineligible to fill an elective or appointed position as a state retirement board member an individual who has been removed from a board pursuant to the bill's misconduct in office provisions.

Removal of board members

- Deems vacant the office of a member of a state retirement board who is convicted of or pleads guilty to a felony in this state or any other jurisdiction.
- Authorizes a court of appeals to remove a state retirement board member who commits misconduct in office by willfully and flagrantly exercising authority or power not authorized by law, refusing or willfully neglecting to enforce the law or to perform any official duty imposed by law, or being guilty of gross neglect of duty, gross immorality, drunkenness, misfeasance, malfeasance, or nonfeasance.

- Specifies procedures to be followed in filing a complaint alleging misconduct in office, holding a court hearing on the complaint, and issuing findings, and provides the retirement board member the right to appeal the court's decision.

Retirement system executive directors

- Requires the Treasurer of State, with the advise and consent of the retirement board, to appoint the executive director of each of the retirement systems and provides that each executive director serves at the pleasure of the Treasurer.
- Provides that the service of a retirement system executive director commences immediately following appointment, and requires each retirement board to advise and consent not later than 60 days following the appointment.

Board policies

- Extends the scope of each board's travel reimbursement policy to cover board employees, as well as board members.
- Requires each retirement board to adopt rules to establish an ethics policy to govern board members and employees in the performance of their official duties.
- Requires each retirement board to periodically provide training on the board's policies to board members and employees.
- Requires each retirement board to appoint a committee, consisting of an ex officio member, an employee member, and a retirant member, to select an internal auditor and to employ as an internal auditor the person or persons the committee selects.

Disclosure statements

- Requires each state retirement board member and each state retirement board employee whose position involves investment-making authority to file an annual financial disclosure statement with the Ohio Ethics Commission and puts in statute the existing requirement that board members file the statements.

- Requires each candidate for a state retirement system board to file with the Secretary of State two complete, accurate, and itemized campaign finance disclosure statements if the candidate, or the candidate's campaign committee, receives contributions totaling \$1,000 or more or has expenditures totaling \$1,000 or more in connection with efforts to get nominated for election to the board or to be elected to the board.

Performance audits

- Requires the Ohio Retirement Study Council (ORSC) to have a fiduciary performance audit of each state retirement system conducted by an independent auditor at least once every ten years.

Investments

- Permits a state retirement board to contract with an investment manager to develop the retirement systems' investment strategies and manage the system's assets if the investment manager meets certain qualifications.
- Requires that, if a retirement board contracts for investment management, the board provide for certain investment managers to manage not less than 50% of the retirement system's assets that are not managed by employees of the board and have the following goals: (1) that investment managers that are minority business enterprises manage not less than an additional 10% of such assets and (2) that investment managers that are emerging investment managers manage not less than an additional 3% of such assets in accordance with a policy the retirement board may adopt.
- Requires that, if a retirement board adopts a policy regarding emerging investment managers, the policy must meet certain criteria.
- Requires that the state retirement boards designate qualifying securities dealers as approved agents and that the boards provide for the following goals: (1) that in any year, not less than 70% of the equity and fixed-income trades executed on behalf of the boards be executed by approved agents and (2) that not less than an additional 10% of the trades be executed by approved agents that are minority business enterprises.
- Requires the state retirement systems to disclose certain information regarding securities dealers to the Division of Securities in the Department of Commerce and the Ohio Ethics Commission and requires

a securities dealer that receives a commission for a state retirement system to disclose certain information to the Division of Securities and the Ohio Ethics Commission.

- Requires each state retirement board to report to the Ohio Retirement Study Council, on a quarterly basis, information regarding securities dealers and investment managers and their activities on behalf of the board.

TREASURER OF STATE

Treasurer of State--sub-custody agreements

- Provides that when acting as custodian of public funds the Treasurer of State may enter into a sub-custody or other agency agreement with a trust company that meets statutory requirements, rather than a trustee that meets statutory requirements.

Treasurer of State--retirement system investment funds

- Requires the Treasurer of State or an authorized agent to deposit all domestic assets held pursuant to the retirement systems' investment authority in a bank that is eligible to become a public depository and is subject to Ohio taxes.
- Defines "domestic asset" as United States government securities, securities issued by a federal agency, corporate bonds and notes of companies incorporated in the United States, domestic equities, and any other asset considered a domestic asset by the Treasurer.

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CONTENT AND OPERATION

STATE RETIREMENT SYSTEMS

Ohio has five state retirement systems for state and local government employees: the Public Employees Retirement System (PERS), Ohio Police and Fire Pension Fund (OP&F), State Teachers Retirement System (STRS), School Employees Retirement System (SERS), and State Highway Patrol Retirement System (SHPRS). The bill makes a number of changes to existing provisions regarding governance and administration of the state retirement systems.



State retirement board membership

Overview

The bill revises the composition of the state retirement boards to do all of the following: (1) remove from all of the boards the Auditor of State and add to all of the boards the Treasurer of State, (2) remove the Attorney General from the boards of PERS, SERS, STRS, and OP&F, (3) remove the Director of Administrative Services from the PERS Board, (4) remove the Superintendent of the Highway Patrol from the SHPRS Board, (5) add an additional retirant member to the boards of PERS, STRS, SERS, and SHPRS, (6) require that an "investments expert" member be added to the boards of PERS and OP&F, and (7) permit the Governor to appoint an "investment expert" member to the STRS Board in lieu of the Superintendent of Public Instruction.

The "investments expert" member must have not less than five years of direct experience in the management, analysis, supervision, or investment of assets. For each retirement system, the Governor must request that specified officers or entities submit to the Governor the names and qualifications of three nominees.² The Governor then appoints one of the nominated persons to that board.

Public Employees Retirement Board membership

(R.C. 145.04 and 145.05(B) and (C); Section 3)

The following table describes the changes the bill makes to the board of PERS.

² For the boards of PERS and OP&F, the specified officer is the Director of Administrative Services, with the organizations representing county commissioners, municipal corporations, and townships in Ohio. For the STRS Board, the recommending entity is the organization representing school boards in Ohio.

Current Board Composition	Composition Under the Bill
Attorney General (ex officio) ³	--
Auditor of State (ex officio)	--
Director of Administrative Services (ex officio)	--
--	Treasurer of State (ex officio)
Five employee members (elected)	Five employee members (elected)
<i>One</i> retirant member (elected)	<i>Two</i> retirant members (elected)
--	Investment expert (appointed by Governor)

The initial election for the second retirant member position must be held at the first election that occurs later than 90 days after the bill's effective date. Subsequent elections are to be held each fourth year thereafter.

The term of office of the investment expert member is four years, commencing on the first day of January following appointment, except that if the Governor makes the appointment after the first day of January, the term commences on the day of appointment. The member must 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 60 days has elapsed, whichever comes first. A 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 holds office for the remainder of that term.

Not later than 90 days after the bill's effective date, the Governor is to appoint the initial investment expert member. The Auditor of State and the Director of Administrative Services remain members of the Board until the investment expert member has been appointed by the Governor and the additional retirant member has been elected.

³ *The ex officio members of the PERS and other state retirement system boards are voting members.*

Ohio Police and Fire Pension Fund Board of Trustees membership

(R.C. 742.03(B); Section 3)

The following table describes the changes the bill makes to the Board of Trustees of OP&F.

Current Board Composition	Composition Under the Bill
Attorney General (ex officio)	--
Auditor of State (ex officio)	--
--	Treasurer of State (ex officio)
Four employee members (elected)	Four employee members (elected)
Two retirant members (elected)	Two retirant members (elected)
Fiscal officer of a municipal corporation (appointed by Governor)	Fiscal officer of a municipal corporation (appointed by Governor)
--	Investment expert (appointed by Governor)

The investment expert member's term is four years, commencing on the fourth day of June and ending on the third day of June. The member holds office from the date of appointment until the end of the term for which the appointment was made. A 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 holds office for the remainder of the 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 60 days has elapsed, whichever occurs first.

Not later than 90 days after the bill's effective date, the Governor must appoint the initial investment expert member. The Auditor of State remains a member of the Board until the investment expert member has been appointed.

State Teachers Retirement Board membership

(R.C. 3307.05 and 3307.06; Section 3)

The following table describes the changes the bill makes to the board of STRS.

Current Board Composition	Composition Under the Bill
Superintendent of Public Instruction (ex officio)	At the option of the Governor, either the Superintendent of Public Instruction or an investment expert (Superintendent - ex officio; investment expert - appointed by Governor)
Auditor of State (ex officio)	--
Attorney General (ex officio)	--
--	Treasurer of State (ex officio)
Five <i>teacher</i> members (elected)	Five <i>contributing</i> members (elected) ⁴
<i>One</i> retired teacher member (elected)	<i>Two</i> retired teacher members (elected)

The initial election of the second retired teacher member must be held at the first election that occurs later than 90 days after the bill's effective date. Subsequent elections must be held each fourth year thereafter.

The term of office of an investment expert member, if any, is four years, commencing on the first day of September following the appointment, except that if the Governor makes the appointment after the first day of September, the term commences on the day of appointment. 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 60 days has elapsed, whichever comes first. An investment expert member appointed to fill a vacancy occurring prior to

⁴ The bill renames "teacher members" as "contributing members" (R.C. 3307.05, 3307.06, 3307.07, 3307.071, and 3307.10).

the expiration of the term for which the member's predecessor was appointed holds office for the remainder of that term.

If the Governor chooses to appoint an investment expert member, the appointment must be made not later than 90 days after the bill's effective date. The Auditor of State remains a member of the Board until the additional retirant member has been elected. If the Governor chooses to appoint an investment expert member to the Board in place of the Superintendent of Public Instruction, the Superintendent of Public Instruction remains a member of the Board until the investment expert member has been appointed.

School Employees Retirement Board membership

(R.C. 3309.05 and 3309.06; Section 3)

The following table describes the changes the bill makes to the board of SERS.

Current Board Composition	Composition Under the Bill
Auditor of State (ex officio)	--
Attorney General (ex officio)	--
--	Treasurer of State (ex officio)
Four employee members (elected)	Four employee members (elected)
<i>One</i> retirant member (elected)	<i>Two</i> retirant members (elected)

The initial election of the second retirant member must be held at the first election that occurs later than 90 days after the bill's effective date. Subsequent elections must be held each fourth year thereafter.

The Auditor of State and the Attorney General remain members of the Board until the additional retirant member has been elected.

State Highway Patrol Retirement Board

(R.C. 5505.04(A) and (C); Section 3)

The following table describes the changes the bill makes to the SHPRS Board.

Current Board Composition	Composition Under the Bill
Auditor of State (ex officio)	--
Superintendent of the State Highway Patrol (ex officio)	--
--	Treasurer of State (ex officio)
Four employee members (elected)	Four employee members (elected)
<i>One</i> retirant member (elected)	<i>Two</i> retirant members (elected)

The initial election of the second retirant member must be held at the first election that occurs later than 90 days after the bill's effective date. The subsequent term commences in August of the fourth year thereafter. The Superintendent of the State Highway Patrol remains a member of the Board until the additional retirant member has been elected.

State retirement board elections

Conduct of elections

(R.C. 145.05(D) and (E) and 3309.07(A))

Under current law, elections for employee and retirant members of the PERS Board and SERS Board must be *held under the direction of the board*. The bill instead *requires the board to administer* all elections for employee and retirant members of the board.⁵

⁵ *Comparable provisions in current law governing the boards of OP&F and STRS were not similarly amended. Current law governing the board of SHPRS has no comparable provision.*

Ineligibility for election or appointment as retirement board member

(R.C. 145.05(D) and (E), 145.056(D), 742.03(D), 742.046(D), 3307.07, 3307.075(D), 3309.063(D), 3309.07(B) and (C), 5505.04(C)(5), and 5505.045(D))

Under the bill, if a person has been convicted of or pleaded guilty to a felony, the person is ineligible for election as an employee, contributing, retirant, or retired teacher member of a state retirement board.

Also, no individual who has been removed from a board pursuant to the bill's misconduct in office provisions is eligible to fill an elective or appointed position as a state retirement board member.⁶

Removal of board members

Convicted felons

(R.C. 145.055, 742.045, 3307.061, 3309.062, and 5505.044)

Under the bill, the office of a member of a state retirement board who is convicted of or pleads guilty to a felony is deemed vacant.

Misconduct in office

(R.C. 145.056, 742.046, 3307.075, 3309.063, and 5505.045)

Under the bill, a state retirement system board member⁷ may be found guilty of misconduct in office for willfully and flagrantly exercising authority or power not authorized by law, refusing or willfully neglecting to enforce the law or to perform any official duty imposed by law, or being guilty of gross neglect of duty, gross immorality, drunkenness, misfeasance, malfeasance, or nonfeasance. On complaint and hearing, judgment of forfeiture of the office may be entered against the board member, creating in the office a vacancy to be filled as provided by law.

Proceedings for removal of a state retirement system board member on any of the grounds specified in the bill are to be commenced by filing with the Ohio court of appeals of the district in which the board member resides a written complaint specifically setting forth the charge. The complaint must be accepted if

⁶ See "**Removal of board members**" below.

⁷ As used in this portion of the analysis, "state retirement system board member" means a person elected or appointed to fill an elective position as a member of the board of PERS, OP&F, SERS, STRS, and SHPRS.

signed by either (1) the Governor or (2) a number of persons qualified to vote for the board member's position that equals 10% of the number of persons who voted in the last election under the standard election procedure for that board position and must include signatures of at least 20 members of the system or retirants residing in at least five different counties.

The court of appeals in which the complaint is filed must hold a public hearing on the complaint not later than 30 days after the filing. The clerk of the court of appeals must verify the signatures' validity by submitting them to the board and cause a copy of the complaint to be served on the board member at least ten days before the hearing. The court may subpoena witnesses and compel their attendance in the same manner as in civil cases, and the sheriff of the county in which the witness resides must serve the process. Witness fees and other fees in connection with the proceedings are 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 must make a finding for removal of the board member. The finding must include a full detailed statement of the reasons for the removal, 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 must hear the case in not more than 30 court days after granting leave.⁸ In other respects, the hearing must follow the regular procedure in appealable cases that originate in the court of appeals.⁹

Retirement system executive directors

(R.C. 145.09, 742.10, 3307.11, 3309.11, and 5505.07; Section 4)

Current law expressly requires the PERS Board, the STRS Board, and the SERS Board to appoint or employ an executive director. Current law does not expressly authorize the OP&F Board of Trustees or the SHPRS Board to appoint or employ an executive director.

⁸ Although not specifically referenced, "court day" probably has the same meaning as in R.C. 5122.01(L): Monday, Tuesday, Wednesday, Thursday, and Friday, except when that day is a holiday.

⁹ These provisions are based on and roughly analogous to the Revised Code's general misconduct in office provisions concerning state officers, which are contained in R.C. 3.07 to 3.10.

The bill requires the Treasurer of State, with the advice and consent of each state retirement board, to appoint an executive director for that retirement system. The executive director's service commences immediately on appointment, and the executive director serves at the pleasure of the Treasurer. The board must advise and consent regarding the appointment not later than 60 days following the appointment.

State retirement board policies

Travel reimbursement policy

(R.C. 145.08, 742.08, 3307.10, 3309.10, and 5505.05)

Current law requires each state retirement board to adopt rules establishing a reimbursement policy for board members' travel expenses. The bill extends these rules to apply to board employees.

Current law prohibits state retirement board members from accepting payment or reimbursement for travel expenses, other than meal and other food or beverage expenses, from any source other than the retirement system's expense fund. The bill provides that the prohibition includes meal and other food or beverage expenses and extends the prohibition to state retirement board employees.

Ethics policy

(R.C. 145.092, 742.102, 3307.041, 3309.041, and 5505.051)

The bill requires each state retirement board to adopt rules establishing an ethics policy to govern board members and employees in the performance of their official duties.

Policy training

(R.C. 145.093, 742.103, 3307.042, 3309.042, and 5505.052)

The bill requires each state retirement board to periodically provide training to board members and employees. The training must cover the requirements and prohibitions of Ohio's ethics laws, the board's ethics policy, the board's travel expenses reimbursement policy for board members and employees, the board's policy regarding employee compensation and bonuses, and any other training the board considers appropriate.

Internal audit selection committees

(R.C. 145.094, 742.104, 3307.032, 3309.032, and 5505.111)

The bill requires each state retirement board to appoint a committee to oversee the selection of an internal auditor for the system. The committee, which is to consist of one retirant member, one employee member, and one ex officio member of the board, must select one or more persons for employment as an internal auditor. The board must employ the person or persons selected by the committee. The bill also requires the committee to annually prepare and submit to the Ohio Retirement Study Council (ORSC) a report of its actions during the preceding year.

Ethics Commission disclosures

(R.C. 102.02)

The Ohio ethics laws¹⁰ designate various ethics commissions as the "appropriate ethics commission"¹¹ for specified types of state government employees and officials, impose reporting requirements on certain types of state officials and state employees, and prohibit certain types of behavior. The Ohio Ethics Commission is the "appropriate ethics commission" for members and employees of the state retirement system boards.

Current law requires the chief executive officer of each state retirement system to file an annual disclosure statement with the Ohio Ethics Commission.

¹⁰ *The ethics laws are contained in Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code. Chapter 102. provides for the filing of financial disclosure statements and specifies prohibited conduct, procedures for receiving and investigating complaints of ethical misconduct, and procedures for giving advisory opinions. The prohibitions include prohibitions against improper use of the influence of a public official or employee's position in government, disclosure of confidential information, accepting anything of value that is 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, and "revolving door" provisions. R.C. 2921.41 is the offense of having an unlawful interest in a public contract; R.C. 2921.43 concerns soliciting or receiving improper compensation.*

¹¹ *"Appropriate ethics commission" means (1) the Joint Legislative Ethics Commission for matters relating to members of the General Assembly, employees of the General Assembly, employees of the Legislative Service Commission, and candidates for the office of member of the General Assembly, (2) the Board of Commissioners on Grievances and Discipline of the Supreme Court for matters relating to judicial officers and employees, and candidates for judicial office, and (3) the Ohio Ethics Commission for matters relating to all other persons. (R.C. 102.01(F).)*

The Ohio Ethics Commission has adopted a rule authorizing the Commission, by vote of the Commission, to require public officials and employees in addition to those specified in the Revised Code to file financial disclosure statements. According to the Commission's website, state retirement board members must file; however, these filings are confidential.¹²

The bill requires the members of each of the state retirement boards to file an annual financial disclosure statement with the Ohio Ethics Commission. These disclosure statements will no longer be confidential. The bill also requires each employee of a state retirement system "whose position involves substantial and material exercise of discretion in the investment of retirement system funds" to file an annual financial disclosure statement. As provided in current law, the statements must reveal the names under which the filer and members of the filer's immediate family do business, the filer's sources of income, certain types of real property interests the filer has, and other information.

Campaign finance disclosures

Disclosure statements

(R.C. 111.30, 145.052, 742.042, 3307.072, 3309.071, and 5505.041)

The bill requires each candidate nominated for election to a state retirement board to file with the Secretary of State two complete, accurate, and itemized campaign finance disclosure statements if the candidate, or the candidate's campaign committee, receives contributions or in-kind contributions totaling \$1,000 or more or makes expenditures totaling \$1,000 or more in connection with the candidate's efforts to be nominated for the election or elected to the board.¹³

"Contribution," "in-kind contribution," and "expenditure" are defined very similarly to the way they are defined for the purpose of current state elections law governing campaign finance disclosure statements.

¹² *The Commission's filing requirements can be found at http://ethics.ohio.gov/FDS_BoardsAndCommissionsRequiredToFile.html.*

¹³ *The campaign finance disclosure statements must be filed even if no election is held because only one candidate is nominated for the board member position. The statements also must be filed regardless of whether the election is a regular election or a special election held when a person elected to serve on the PERS Board is unable to assume office at the January meeting of the Board following the person's election. The bill defines "campaign committee" as 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.*

"Contribution" is defined as 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 getting an individual nominated for election to a state retirement board or influencing the results of an election to the board. "Contribution" does not include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a person, ordinary home hospitality, or the personal expenses of a volunteer paid for by that volunteer campaign worker.¹⁴

"In-kind contribution" is defined as anything of value other than money that is used to get an individual nominated for election to a state retirement board or influence the results of an election to the board 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 agent is an in-kind contribution to the candidate and an expenditure by the candidate.

"Expenditure" is defined as the disbursement or use of a contribution for the purpose of getting an individual nominated for election to a state retirement board or influencing the results of an election to the board.

The campaign finance disclosure statements must set forth in detail the contributions, in-kind contributions, and expenditures and be made on a form the Secretary of State is required to prescribe. The Secretary of State is required to accept the forms.¹⁵ The bill specifies that the first statement is due not later than 4 p.m. on the day that is 12 days before the election and the second statement must be filed not sooner than the day that is eight days after the election and not later than 38 days after the election.¹⁶ The first statement must reflect contributions and

¹⁴ *The bill defines "personal expenses" as including ordinary expenses for accommodations, clothing, food, personal motor vehicle or airplane, and home telephone.*

¹⁵ *The bill does not require the Secretary to do anything with the forms.*

¹⁶ *Current law specifies the election day for each system. The bill uses those dates in the campaign finance disclosure provisions.*

in-kind contributions received and expenditures made to the close of business on the twentieth day before the election. The second statement must reflect contributions and in-kind contributions received and expenditures made during the period beginning on the nineteenth day before the election and ending on the close of business on the seventh day after the election.¹⁷

Prohibition and penalty

(R.C. 145.053, 145.99, 742.043, 742.99, 3307.073, 3307.99, 3309.072, 3309.99, 5505.042, and 5505.99)

The bill prohibits any person from knowingly failing to file a complete and accurate campaign finance disclosure statement in accordance with the bill. A person who violates this prohibition is fined not more than \$100 for each day of the violation.

Procedure

(R.C. 145.054, 145.99, 742.044, 742.99, 3307.074, 3307.99, 3309.073, 3309.99, 5505.043, and 5505.99)

The Secretary of State, and any person acting on personal knowledge and subject to the penalties of perjury, is authorized by the bill to file a complaint with the Ohio Elections Commission alleging a violation of the requirement that campaign finance disclosure statements be filed. The complaint must be made on a form prescribed and provided by the Commission.

On receipt of a complaint, the Commission is required to hold a hearing open to the public to determine whether the alleged violation occurred. The bill authorizes the Commission to 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 Franklin County Court of Common Pleas, which is required to hold contempt of court proceedings.

The Commission is required to provide the person accused of the violation at least seven days prior notice of the time, date, and place of the hearing. The

¹⁷ *If no election is to be held because only one candidate is nominated for a board position, the time for filing the statements and the period the statements are to reflect are to be based on the date the election would have been held if more than one candidate had been nominated.*

accused is permitted to be represented by an attorney and must be given an opportunity to present evidence, call witnesses, and cross-examine witnesses.

At the hearing, the Commission must determine whether the alleged violation has occurred. If the Commission determines that the violation has occurred, it must either impose the fine or enter a finding that good cause has been shown not to impose the fine.¹⁸

Performance audits

(R.C. 171.04(G))

The bill provides that, at least once every ten years, ORSC must have an independent auditor conduct a fiduciary performance audit of each of the five state retirement systems. The bill specifies that all costs associated with such a fiduciary performance audit must be paid by the retirement system that is the subject of the audit.

Retirement boards contracting with investment managers

(R.C. 145.11(B), 145.116, 145.117, 742.11(B), 742.116, 742.117, 3307.15(B), 3307.154, 3307.155, 3309.15(B), 3309.159, 3309.1510, 5505.06(B), 5505.064, and 5505.065)

The bill authorizes each state retirement board to contract with a qualified investment manager to develop its retirement system's investment strategies and to manage, on the board's behalf, the system's assets that are not managed by the board's employees. To be qualified, an investment manager must meet all of the following requirements:

(1) Be a bank, insurance company, investment company, or investment adviser as defined in state or federal law;

(2) Provide to the state retirement board the investment manager's investment strategies and objectives and evidence satisfactory to the board that the investment manager has successfully employed the investment strategies and objectives;

¹⁸ *Fines the Ohio Elections Commission imposes for a violation of the filing requirement are to be paid into the existing Ohio Elections Commission Fund. Law not changed by the bill provides that all moneys credited to that fund must be used solely for the purpose of paying expenses related to the operation of the Ohio Elections Commission.*

(3) Demonstrate to the state retirement board's satisfaction that the investment manager has, for a period of time the board specifies, (a) achieved performance measures calculated on a time-weighted basis and based on a composite of fully discretionary accounts of similar investment style and (b) had net and gross fees that are at least comparable to other investment managers with similar investment strategies and objectives;

(4) Provide to the state retirement board a performance evaluation report of the investment manager that is prepared by an objective third party not affiliated with the investment manager and illustrates the investment manager's risk and return profile relative to other investment managers with similar investment strategies and objectives;

(5) Provide to the state retirement board all information the board requires concerning the investment manager's history, personnel with substantial responsibilities regarding investment strategies and objectives, support personnel, clients, fees, and any related matter the board specifies;

(6) Not have any judgments against it that may, in the state retirement board's opinion, reflect negatively on the investment manager or retirement system.

If a state retirement board seeks to contract with an investment manager to develop the retirement system's investment strategies and to manage assets on the board's behalf, the board must provide for investment managers that meet certain requirements to manage not less than 50% of the assets of the retirement system that are not managed by employees of the board. The requirements are that the investment manager must (a) have at least one contract that the board determines is significant with another state- or federal-level government entity and (b) either have its corporate headquarters in Ohio, have at least three separate operating locations in Ohio employing at least 15 individuals at each location, or employ at least 500 individuals in Ohio. A state retirement board must also, if it seeks to contract with an investment manager, have as a goal that investment managers that are minority business enterprises manage not less than an additional 10% of the assets of the retirement system that are not managed by employees of the board.¹⁹ Finally, a state retirement board must also, if it seeks to contract with an

¹⁹ A "minority business enterprise" is defined in current law as an individual who is a United States citizen and owns and controls a business, or a partnership, corporation, or joint venture of any kind that is owned and controlled by United States citizens, which citizen or citizens are Ohio residents and members of one of the following economically disadvantaged groups: Blacks, American Indians, Hispanics, and Orientals (R.C. 122.71, not in the bill).

investment manager, have as a goal that one or more emerging investment managers manage not less than an additional 3% of the assets of the retirement system that are not managed by employees of the board in accordance with a policy the board may adopt.²⁰

An investment manager that contracts with a state retirement board must do all of the following:

(1) Comply with the board's investment policies and objectives for the operation of the board's investment program and all laws governing the board's investments when developing the retirement system's investment strategies and managing assets of the retirement system on the board's behalf;

(2) Promptly inform the board in writing of any material change to the investment manager's organization or professional staff;

(3) At the board's direction, vote by proxy for the board in a manner consistent with the long-term interests of the retirement system and the board's investment policies and objectives;

(4) Keep detailed records of any votes by proxy the investment manager makes for the board;

(5) On at least a quarterly basis, report to the board on the status of the board's investments that the investment manager manages, including the gains and losses of the investments for the reporting period;

(6) Meet with officers and employers of the retirement system at least twice a year to report on the economic outlook of the board's investments that the

²⁰ *If the board adopts such a policy, it must do both of the following:*

(1) Establish criteria that an investment manager must meet to be designated by the board as an emerging investment manager. The criteria must require that an investment manager meet at least both of the following requirements to be so designated: (a) at the time of application for designation as an emerging investment manager, manage not more than \$500 million worth of investments, and (b) have at least one contract that the board determines is significant with another state- or local-level government entity.

(2) Provide for an emerging investment manager that meets all of the following requirements to receive preference over other emerging investment managers in obtaining a contract with the board to manage assets of the retirement system that are not managed by employees of the board: (a) has its corporate headquarters in Ohio, (b) employs at least five individuals in Ohio, and (c) has other investment operations within Ohio that utilize licensed securities dealers and the board determines are significant.

investment manager manages and the investment manager's compliance with the board's investment policies and objectives.

Execution of trades by approved agents

(R.C. 145.11(B), 145.114, 145.118, 742.11(B), 742.114, 742.118, 3307.15(B), 3307.152, 3307.156, 3309.15(B), 3309.157, 3309.1511, 5505.06, 5505.062, and 5505.066)

The bill requires that, in any year, not less than 70% of the equity and fixed-income trades executed on behalf of each state retirement board be executed by licensed security dealers designated by the board as approved agents. Also, the board must have as a goal that not less than additional 10% of the equity and fixed-income trades executed on behalf of each board be executed by such approved agents that are minority business enterprises. The percentage of equity trades executed on behalf of the board must be measured by the dollar value of commissions paid. The percentage of fixed-income trades executed on behalf of the board must be measured by the face value of the fixed-income securities traded.

The state retirement boards are required to designate approved agents and annually compile and make available on request a list of approved agents. The boards are to designate a licensed securities dealer as an approved agent if the dealer meets all of the following requirements:

(1) Submits to a board all information required by the board concerning the dealer's history, personnel with substantial responsibilities regarding equity investments, support personnel, clients, fees, and any related matter specified by the board;

(2) Has practiced, or each of its principals has practiced, as a licensed securities dealer in Ohio for at least three years prior to designation;²¹

(3) Is subject to taxation by Ohio;

(4) Employs at least five Ohio residents;

(5) Has demonstrated professional and administrative ability;

(6) Has no outstanding legal judgments or past judgments that reflect negatively on the agent or on the state retirement system.

²¹ The bill defines "principals" as persons primarily responsible for directing the operations of the securities dealer.

If a state retirement board contracts with an investment manager to develop its investment strategies and manage the assets of the retirement system on the board's behalf, the board must, to the extent necessary to comply with the bill's requirement concerning outsourcing equity and fixed-income trades to approved agents, supervise and control the trades the investment manager causes to be executed on the board's behalf.

Disclosures to the Division of Securities and Ohio Ethics Commission

(R.C. 145.115, 742.115, 1707.49, 3307.153, 3309.158, and 5505.063)

Under the bill, each state retirement system is required to disclose certain information to the Division of Securities in the Department of Commerce and to the Ohio Ethics Commission. Each system must disclose any amount of money received by the system from a licensed securities dealer and any amount of money spent by a licensed securities dealer for an expense of the system. Each system must also disclose the name of any of its employees with authority over the investment of retirement system funds or any board member of the system who deals with a licensed securities dealer regarding money received by the system from the dealer and any money spent by the dealer for an expense of the system. The disclosures must be made annually in a report submitted by a date jointly prescribed by the Division of Securities and Ohio Ethics Commission.

The bill also requires a securities dealer who receives a commission from a state retirement system to disclose certain information to the Division of Securities and Ohio Ethics Commission. The dealer must disclose (1) any amount of money paid by the dealer to the state retirement system and any amount of money spent by the dealer for any expense of that system and (2) the name of the retirement system employee with authority over the investment of system's funds or retirement system board member who deals with the dealer regarding amounts disclosed under (1). The disclosures must be made semiannually in a report to the Division and Commission. The report must be made not later than the 30th day of June and the 31st day of December of each year.

Reports to ORSC regarding investments

(R.C. 145.119, 171.04(F), 742.119, 3307.157, 3309.1512, and 5505.067)

Under the bill, each quarter, each state retirement board must submit a report to ORSC that contains all of the following information:

(1) The name of each licensed securities dealer designated as an approved agent;

(2) The percentage of the equity and fixed-income trades that approved agents execute on behalf of the board pursuant to the bill's outsourcing provisions;

(3) The percentage of the equity and fixed-income trades that approved agents that are minority business enterprises execute on behalf of the board;

(4) The name of each investment manager with which the board contracts to develop the board's retirement system strategies and to manage the system's assets on the board's behalf;

(5) The percentage of the assets of the retirement system that investment managers manage pursuant to the bill's outsourcing provisions and the status of those assets;

(6) The percentage of the assets of the system that investment managers that are minority business enterprises manage and the status of those assets;

(7) The percentage of the assets of the system that emerging investment managers manage and the status of those assets;

(8) A summary of investment managers' compliance with the bill's investment manager oversight provisions.

ORSC must establish a uniform format for this report, and each retirement system must prepare the report in accordance with that format.

TREASURER OF STATE

Treasurer of State's authority to enter into sub-custody agreements

(R.C. 113.051(B), 145.11(C), 742.11(C), 3307.15(C), 3309.15(C), 3334.11(D), 4123.44, and 5505.06(C))

Current law

Under current law, the Treasurer of State or the officer who performs the duties of the office of the Treasurer is the custodian of the funds required by law to be kept in the custody of the Treasurer. The Treasurer is authorized to enter into a sub-custody or other agency agreement with a trustee who meets specified requirements in the Uniform Depository Act Law to execute the custodial duties required by law.²² The agreement applies to the custodial funds and investment

²² *These requirements include requiring the institution that is designated as a public depository to pledge to and deposit with the Treasurer, as security for the repayment of all public moneys to be deposited in the public depository during the period of designation, eligible securities of aggregate market value equal to the excess of the*

assets of an owner. The agreement may provide that the trustee has primary responsibility for custody of the funds and investments in order to execute an owner's instructions. The Treasurer or the Treasurer's authorized agent may enter into additional agreements as necessary to facilitate an owner's transactions.

In particular, the evidences of title of all investments of a state retirement system must be placed in the hands of the Treasurer, who is statutorily designated as its custodian, or in the hands of the Treasurer's authorized agent. Current law permits these evidences of title to be deposited by the Treasurer for safekeeping with an authorized agent, selected by the Treasurer, who is a qualified trustee under the Uniform Depository Act (R.C. Chapter 135.).

Current law also requires the assets of the Ohio Tuition Trust Authority reserved for payment of the Authority's tuition payment contact obligations be placed in the Ohio Tuition Trust Fund, which is in the custody of the Treasurer of State. The Authority is the trustee of the Ohio Tuition Trust Fund and has full power to invest Fund assets. The evidences of title of all investments must be delivered to the Treasurer of State or to a qualified trustee designated by the Treasurer pursuant to the Uniform Depository Act.

Also, under current law, the Administrator of Workers' Compensation is authorized to invest any of the surplus or reserve belonging to the State Insurance Fund. The evidences of title to the investments must be placed in the custody of the Treasurer, who is designated as custodian, or in the custody of the Treasurer's authorized agent. Evidences of title of the investments may be deposited by the Treasurer for safekeeping with an authorized agent selected by the Treasurer who is a qualified trustee under the Uniform Depository Act.

The bill

The bill provides that the Treasurer may enter into such sub-custody agreements with a trust company that meets the requirements of the trust company law, rather than a trustee that meets specified requirements of the Uniform Depository Act, to execute the custodial duties required by law.²³

amount of public moneys to be at the time so deposited, over and above such portion or amount of such moneys as is at such time insured by the Federal Deposit Insurance Corporation or by any other agency or instrumentality of the federal government. (R.C. 135.18.)

²³ *"Trust company" means a corporation qualified and licensed under the trust company law licensing provisions to solicit or engage in trust business in Ohio, or a person that is required by the trust company law to be a corporation qualified and licensed under that*

Deposit of state retirement systems' investments

(R.C. 113.052)

The bill requires the Treasurer of State to deposit all domestic assets²⁴ held by a state retirement system into a bank that is eligible to become a public depository and is subject to the state corporation franchise tax.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	06-19-03	p. 622
Reported, H. Banking, Pensions, & Securities	11-13-03	pp. 1159-1160
Passed House (81-13)	11-13-03	pp. 1173-1178

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law's licensing provisions to solicit or engage in trust business in Ohio. (R.C. 1101.01(S).)

²⁴ *"Domestic asset" means United States government securities, securities issued by a federal agency, corporate bonds and notes of companies incorporated in the United States, domestic equities, and any other asset the Treasurer of State considers to be a domestic asset.*

