



# OHIO LEGISLATIVE SERVICE COMMISSION

## Final Analysis

Bethany Boyd

### S.B. 220

131st General Assembly  
(As Passed by the General Assembly)

**Sens.** Hottinger, Seitz, Eklund, Williams, Uecker, Bacon, Brown, Coley, Gardner, Hackett, Hite, Jones, Jordan, Schiavoni, Thomas

**Reps.** Maag, Hambley, Anielski, Arndt, Blessing, Boose, Dever, Green, Koehler, Landis, Manning, Perales, Retherford, Rogers, Ruhl, Schuring, R. Smith, Sweeney, Terhar, Thompson, Young

**Effective date:** March 21, 2017

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## ACT SUMMARY

- Permits the Ohio Public Employees Deferred Compensation Program and certain local government deferred compensation programs to include Roth accounts or other features for contributions that are not tax-deferred.

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## CONTENT AND OPERATION

### Roth accounts and other nontax-deferred contributions

The act authorizes the board governing the Ohio Public Employees Deferred Compensation Program and the governing boards of certain local government entities to establish designated Roth account features or any other feature for retirement savings account contributions that are subject to state and federal income taxes when made, rather than tax-deferred until retirement. These features are in addition to the tax-deferred retirement savings accounts the programs can offer under state and federal law.<sup>1</sup>

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\* This version updates the effective date.

<sup>1</sup> R.C. 148.04(D) and (E) and 148.06(B).

Federal law permits government deferred compensation programs to offer designated Roth account features, as well as tax-deferred features.<sup>2</sup> Contributions to a Roth account are not tax-deferred, but earnings are not taxed if no money is distributed until at least five years after the first contribution.<sup>3</sup>

### **Background – state and local deferred compensation programs**

Under ongoing law not changed by the act, the Ohio Deferred Compensation Program is a voluntary retirement savings plan that allows eligible state and local government employees to supplement retirement income by saving and investing pre-tax dollars by payroll deduction.<sup>4</sup> The Program is a government deferred compensation plan administered in accordance with Internal Revenue Code Section 457(b). Under this 457(b) plan, all contributions and earnings on contributions are tax-deferred until money is withdrawn.<sup>5</sup>

In addition to establishing the state program, Ohio law specifically authorizes the governing board of each of the following to offer up to two additional deferred compensation programs: a county, park district, conservancy district, sanitary district, regional water and sewer district, regional transit authority, health district, public library district, county law library, joint county department of job and family services, and detention facility district.<sup>6</sup> This authorization does not limit the authority of local governments to establish other deferred compensation programs.<sup>7</sup>

Contributions to deferred contribution programs do not affect the obligation of government employers and employees to contribute to the state's public employee retirement systems.

### **Withholdings**

If the Deferred Compensation Board or a governing board establishes a Roth account feature or other feature for nontax-deferred contributions, the act requires federal and state income taxes to be withheld when contributions are made to the

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<sup>2</sup> 26 U.S.C. 402A.

<sup>3</sup> U.S. Internal Revenue Service, *Designated Roth Accounts – Distributions*, <https://www.irs.gov/Retirement-Plans/Designated-Roth-Accounts-Distributions>.

<sup>4</sup> R.C. Chapter 148.

<sup>5</sup> Ohio Deferred Compensation, *Frequently Asked Questions*, <https://www.ohio457.org/iApp/tcm/ohio457/about/faqs/index.jsp>.

<sup>6</sup> R.C. 148.06.

<sup>7</sup> R.C. 148.04.



account of an employee who selects this feature. That is, contributions are made on an "after-tax" basis.<sup>8</sup>

Federal law requires contributions to a designated Roth account to be maintained in an account separate from tax-deferred contributions to a 457(b) plan. An employee participating in a 457(b) plan can contribute to both a Roth account and a tax-deferred account in the same year in any proportion the employee chooses. However, contributions made to a Roth account may not later be moved to a tax-deferred account.<sup>9</sup>

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## HISTORY

ACTION	DATE
Introduced	10-05-15
Reported, S. State & Local Gov't	04-26-16
Passed Senate (32-0)	04-27-16
Reported, H. State Gov't	11-17-16
Passed House (93-0)	12-08-16

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<sup>8</sup> R.C. 148.04(E)(2) and 148.06(B)(2).

<sup>9</sup> Internal Revenue Service, *Retirement Plan FAQs on Designated Roth Accounts*, <https://www.irs.gov/Retirement-Plans/Retirement-Plans-FAQs-on-Designated-Roth-Accounts>.

