

OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM
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MEMORANDUM

DATE: January 3, 2005

TO: OPERS Retirement Board Members

FROM: Julie E. Becker, General Counsel

RE: **IV. Action Items:**
C. Rule 145-1-02, Election of board members
Rule 145-1-03, Board travel and expense reimbursement policy
Rule 145-1-05, Investment department incentive plan payouts policy
Rule 145-1-06, Ohio qualified-agents and investment managers

Action requested: _____ moved, _____ seconded to approve for submission to the Joint Committee on Agency Rule Review (JCARR) and the Legislative Service Commission (LSC), the rules as set forth in this memorandum.

Summary of Proposed Rules

The new and amended rules are summarized below:

1. Rule 145-1-02, Election of board members

Sub. S.B. 133 provides that all board elections are to be conducted under the direction of the Board and in accordance with rules adopted in consultation with the Secretary of State. The rules are to be adopted in accordance with Chapter 119 of the Revised Code and must govern all of the following: the administration of elections of Board members, special elections, and elections to fill vacancies on the Board; nominating petitions for the elections; certification of the validity of nominating petitions for the elections; and certification of the results

of the elections. Staff from the Secretary of State's office has approved the suggested revisions to the rule.

OPERS rules are typically adopted under R.C. section 111.15 instead of Ohio Revised Code Chapter 119. Both types of rules are reviewed by JCARR. However, Chapter 119 rules require a special public hearing on the rules. Thirty days after the Board approves the rule and notice is issued, staff will conduct a Chapter 119 public hearing.

2. Rule 145-1-03, Board travel and expense reimbursement policy

Sub. S.B. 133 requires the Board, in conjunction with the Ohio Ethics Commission ("OEC"), to review any existing policy regarding the travel and payment of travel expenses of Board members and staff and adopt rules in accordance with the Ohio Revised Code. The statute also requires that the Board submit any recommended changes to the Ohio Retirement Study Council ("ORSC") for review at least 60 days prior to adopting a new or revised policy.

Staff reviewed and made suggested revisions to the OPERS travel policy which was provided to the Board in November, 2004. Staff is now presenting changes to the board travel rule in accordance with the travel revisions. Once the Board approves the rule, staff will forward the rule and travel policy to the OEC and ORSC. 60 days thereafter staff will present the final travel policy for the Board's adoption.

3. Rule 145-1-05, Investment department incentive plan payouts policy

Sub. S.B. 133 states that if the Board intends to award a bonus to any employee of the Board, it shall adopt rules in accordance with the Ohio Revised Code establishing a policy regarding employee bonuses. The Board must provide copies of the rule to the ORSC.

The proposed new rule incorporates by reference the Investment Department Incentive Plan recently reviewed and revised by the Board.

4. Rule 145-1-06, Ohio qualified-agents and investment managers

Ohio Revised Code Sections 145.114 and 145.116 require the Board to designate Ohio-qualified agents and investment managers and adopt policies designed to increase utilization of such agents and investment managers. The rule amplifies these provisions by clarifying that an Ohio-qualified investment manager may include any parents, affiliates, or subsidiaries of the investment manager. The rule also clarifies that the definition of "principal place of business"

in Ohio Revised Code Section 145.114 pertains to investment managers as well as agents. Finally, the rule defines “compensation” paid to Ohio-qualified brokers that must be reported to the Ohio Retirement Study Council.

145-1-02 Election of board members

(A) ~~This rule amplifies sections 145.04, 145.05, and 145.06 of the Revised Code.~~

(B) Notifications

- (1) At its regular March meeting in each year that an election of members to the board is required, the public employees retirement board shall establish an election time schedule. **The schedule shall establish the first Monday in October as the date and place for the election count to be conducted under the supervision of the secretary of state's office.**
- (2) This schedule shall include the release of news articles to interested employee and employer organizations and other interested parties, a preliminary notice to employers, the mailing of notice of elections and nominating petitions, the last date for receipt of nominating petitions **and required forms**, the date of the meeting **at which** the board shall certify candidates for election, the date ~~to mail~~ **by which** voting materials **must be mailed** to eligible voters at their home addresses, and the final date for receipt of votes.
- ~~(3) The schedule shall establish the first Monday in October as the date and place for the election count to be conducted under the supervision of the secretary of state's office.~~

(C) Nominations

- (1) Candidates for board members shall be nominated by petition on forms provided by the public employees retirement system.
- (2)
 - (a) Petitions **and required forms** for candidates as an employee representative on the board shall be mailed by the system with the notice of election posters by the system to employers not later than the thirtieth day of June. At that time petitions **and required forms** may be sent to members who have requested them.
 - (b) Any member, except a member receiving a disability benefit pursuant to sections 145.35 and 145.36 of the Revised Code, **who is not otherwise ineligible under Chapter 145 of the Revised Code**, may be nominated to represent the employee group to which the member belongs ~~with~~ **by submitting** petitions that contain at least five hundred valid nominating signatures. Petitions for an employee representative candidate shall contain not less than twenty signatures of members from each of at least ten counties in Ohio. The member's place of employment shall determine the county for such member.
 - (c) Members shall be eligible to sign a petition for an employee representative candidate if they are contributing members under an employing unit which would be represented by the candidate as of June thirtieth of the election year.

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- (3) (a) A notice of election procedures shall be sent to retirants at their home addresses of record with or at the same time the June benefit payment is released in the year of a retirant representative election. Petitions **and required forms** for candidates as the retirant representative board member shall be sent, to retirants who have requested them, on the date set by the retirement board pursuant to paragraph (B) of this rule; however, such date shall be no later than June thirtieth.
- (b) Any retirant, **who is not otherwise ineligible under Chapter 145 of the Revised Code**, may be nominated to represent the retirant group with petitions which contain at least two hundred fifty valid nominating signatures. Petitions for a retirant representative candidate shall contain not less than ten signatures of retirants from each of at least five counties in Ohio. The retirant's place of residence shall determine the county of such retirant.
- (c) Individuals shall be eligible to sign a petition for a retirant representative candidate if they are retirants eligible to receive a monthly benefit as of July first of the election year.
- (4) (a) Petitions **and completed required forms** for a candidate shall be received by the system no later than the petition filing date established by the retirement board in the election time schedule. A petition received after such date is invalid.
- (b) **Petition signatures shall be verified based on records of the retirement system and the requirements of Chapter 145 of the Revised Code. Signatures that cannot be conclusively verified shall not be counted.**
- (~~bc~~) The retirement board shall certify qualified candidates for election. A qualified candidate is an individual who meets the requirements of **Chapter 145**~~sections 145.04 and 145.05~~ of the Revised Code and this rule as established by the records of the system. **Based on the certification, the names of qualified candidates shall be placed on the ballot for election.**

(~~DC~~) Voting

- (1) The retirement board may conduct an election by paper ballots or through electronic methods.
- (2) (a) Voting materials for each voting member or retirant of the retirement system shall include a list of candidates, ~~a~~**A** biographical statement for each candidate, voting instructions, and any other materials the retirement board deems necessary.

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- (b) (i) The biographical statement of an employee representative shall carry the name, county of residence, public employer and job title (continued)

of each candidate. Job title may be the candidate's official job classification, or a descriptive title. The biographical statement of a retirant ballot shall carry the name and county of residence of each candidate.

- (ii) In addition, a candidate may provide a statement, not to exceed seventy-five words, along with an affidavit signed by the candidate verifying the accuracy and truthfulness of the statement. The board reserves the right to edit such statement for length or inappropriate content with notice to the candidate.

- (3) **In the event there is a tie vote, such vote shall be decided by a coin toss.** Certification of the election results shall be provided by the secretary of state at the office of the retirement system.

- (4) Within ten calendar days after the election count an unsuccessful candidate may request in writing a recount **in of** the candidate's election.

- (a) The cost of a recount shall be payable in advance by the candidate requesting the recount.
- (b) The cost shall be an amount equal to the cost of the original election count for all elections multiplied by the ratio of the number of valid votes received in the representative group to the number of valid votes cast in all elections but in no event in an amount less than two hundred fifty dollars.
- (c) If the candidate requesting the recount wins the election after the recount, the retirement system shall refund the recount cost paid by the candidate.

(ED) Protests

- (1) (a) An individual who fails to obtain sufficient nominating signatures by the petition filing date may file a protest on the insufficiency of such individual's petitions. The protest shall be in writing and received by the system no later than five calendar days after notice of the insufficiency.
- (b) A protest shall be heard at the retirement board's next meeting. The **protesting-candidate individual** may be represented by legal counsel at the hearing and may present any information and/or documents relevant to the protest for the board's consideration. The executive director shall notify the **protesting-candidate individual** in writing of the retirement board's decision. If the retirement board determines that the protest is valid, it shall certify the **individual candidate** for that representative group election.

- (c) Once the retirement board makes a determination of a protest on the sufficiency of an individual's petitions, neither the insufficiency nor

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(continued)

determination shall be the basis for any other protest to the board **pertaining to that individual**. The board's decision is final.

- (2) (a) An unsuccessful candidate in an election may file a protest in the candidate's representative group election. This protest shall be in writing and received by the retirement system no later than ten calendar days after the retirement board has approved the ballot count.
- (b) A protest shall be heard at the retirement board's next meeting.
 - (i) The protesting candidate may be represented by legal counsel at the hearing. The successful candidate may appear, and may be represented by legal counsel. The protesting candidate and the successful candidate may submit any information and/or documents relevant to the protest for the board's consideration.
 - (ii) The executive director shall notify the protesting candidate in writing of the retirement board's decision.
 - (iii) If the retirement board determines that the protest is valid, it shall declare the election for that representative group void, and the position vacant. A new election for that representative group shall be held pursuant to division (C) of section 145.06 of the Revised Code. The board's decision is final.

(FE) Vacancies

- (1) If a vacancy occurs in the term of an employee member or retirant member of the board, the remaining retirement board members shall determine the schedule and manner in which they will select a successor member.
 - (a) The retirement board shall notify the membership or retirant group affected by the vacancy in the same manner as is done for elections of retirement board members. This notice shall state the procedure for candidates for the vacancy to submit their names to the board, and the procedures for selection by the board of the candidate to fill the vacancy. **Candidates shall qualify under the same eligibility requirements as the predecessor in office.**
 - (b) The board shall select a successor member from those names submitted to it. A successor member shall be selected by a majority vote in which successive ballots shall occur until one candidate receives a majority. However, in the event there is a tie vote, such vote shall be decided by a coin toss.

- (2) If a vacancy occurs because an individual is unable to assume the office at the January meeting of the board following ~~his~~ **the individual's** election, the board
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shall conduct a new election as provided in this rule, except that the time schedule for the election shall occur in order to comply with section 145.06 of the Revised Code.

- (3) **All documents regarding filling the vacancy, including resumes and forms required by the retirement system, shall be made available to any person upon request and payment of the cost of compiling, copying, and mailing the documents.**

Promulgated Under: R.C. ~~441.15~~ **119.03**

Authorized By: R.C. 145.09.

Rule Amplifies: R.C. 145.04, 145.05, **145.051, 145.058**, 145.06, **145.27**.

Rule Review Date: 10/3/07; 10/15/02; 10/15/97.

Effective Date History: 6/20/03; 10/7/01; 1/5/01; 5/31/97; 6/1/96; 3/17/89; 6/9/78; 5/16/73.

145-1-03 Board travel and expense reimbursement policy

- (A) (1) As provided in section 145.08 of the Revised Code and this rule, members of the public employees retirement board shall be reimbursed by the public employees retirement system for travel expenses incurred for retirement system business which are:
- (a) Actual, necessary and reasonable, and
 - (b) (i) Incurred during attendance at meetings of the retirement board or its committees, or,
 - (ii) At meetings, conferences, seminars, workshops or sessions presented by other organizations and other group meetings as authorized by the retirement board.
- (2) Meetings shall provide education to board members, be necessary for the performance of their duties, be appropriate to the general purpose of the retirement system and be in the interest of the retirement system's participants.
- (3) “Actual, necessary and reasonable expenses” mean expenses which are incurred, appropriate in the circumstances and within prudent judgment.
- (4) “Board member” **means any member described in section 145.04 of the Revised Code.** ~~means the employee or retiree representative on the retirement board, the auditor of state, attorney general and director of administrative services or the designated board representative of the auditor, attorney general or director of administrative services.~~
- (B) Travel expenses for approved travel ~~which~~ **that** are reimbursable **from the retirement system** include, but are not limited to, the following:
- (1) Transportation
 - (a) Travel by common carrier shall be reimbursed in an amount limited to the actual cost of a coach or economy class ticket except if no such ticket is available and the travel is necessary then at the actual cost of the available ticket.
 - (b) In-state travel by personal vehicle shall be reimbursed for mileage at the established reimbursable rate. Out-of-state travel by personal vehicle shall be reimbursed at the lesser of "portal to portal" or "air travel cost."

- (i) "Portal to portal" expenditures for this calculation include the actual cost of lodging, meals, parking at place of lodging in route, and mileage at the established reimbursable rate.
 - (ii) "Air travel cost" expenditures for this calculation include the actual cost of a ~~seventy~~**thirty**-day advance coach air fare, airport parking, transportation from the airport to destination lodging, and mileage between home and the airport at the established reimbursable rate.
 - (c) The cost of a rental automobile if it is a reasonable alternative means of transportation under the circumstances.
 - (d) The cost of parking for a personal or rental vehicle if necessary and required.
 - (e) The cost of taxi cabs or public transportation where reasonable under the circumstances.
- (2) Lodging at the single occupancy rate.
- (3) Meals and beverages, **excluding alcohol**, at reasonable amounts **not to exceed limits set by the retirement board**.
- (4) Tips based on reasonable and customary amounts, **not to exceed limits set by the retirement board**.
- (5)
 - (a) Telephone calls or other electronic transmissions which are for retirement system business.
 - (b) Personal telephone calls to home/family **whenif** travel **will require an overnight stay** ~~is twenty-four hours or more~~ and then such calls must **not exceed limits set by the retirement board** ~~be reasonable in number and duration~~.
- (C) Reimbursement shall not be made for personal expenditures which include, but are not limited to, the following:
- (1) Entertainment such as movies, theater or sports tickets, or green fees.
 - (2) Personal services such as valet service, laundry or dry cleaning, or other such goods or services. However, if travel is seven days or longer, reasonable laundry and dry cleaning expenses may be reimbursed.

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- (D) (1) The retirement board, at a regular or other meeting, shall approve in advance all board travel for its board members except travel:
- (a) To and from meetings of the board or its committees or other retirement system business within the state of Ohio, or
 - (b) For which a board member will not seek reimbursement.
- (2) Requests for travel authorization shall be made in writing and submitted to the executive director who shall present the request to the retirement board at its next meeting.
- (3) A board member shall not be reimbursed for any expense if the travel for which the expense was incurred was not for retirement system business, or the travel has not been authorized by the retirement board.
- (E) Requests for reimbursement of expenses for travel shall be submitted **with the required documentation** on a form provided by the retirement system **and in accordance with the system's reimbursement procedures.** ~~and shall be processed for payment subject to verification. When applicable, a receipt for each expense twenty-five or more dollars, and the passenger receipt for air travel shall be attached to such form.~~

Promulgated Under: R.C. 111.15.

Authorized By: R.C. 145.08.

Rule Amplifies: R.C. 145.08.

Rule Review Date: 10/3/07; 10/3/02; 10/29/97.

Effective Date History: 12/9/95.

145-1-05 Investment department incentive plan payouts policy

- (A) Pursuant to section 145.09 of the Ohio Revised Code, payment of employee bonuses are subject to the guidelines established by the public employees retirement board as reflected in the Investment Department Annual Incentive Plan. The Plan shall be reviewed and approved on an annual basis by the board, and may be interpreted, amended, rescinded, and/or terminated at any time in the board's discretion. The Plan shall establish target incentive awards weighted against performance components, focusing on the public employees retirement system's actual relative investment performance compared with external benchmarks. Any and all material modifications to the Plan, including, but not limited to those related to the assignment of target incentive awards, identification of performance measures and standards, and determination of Plan payouts and actual payouts, require the board's prior approval.

- (B) Participation in the Plan is limited to certain public employees retirement system full-time investment professionals. Participation in the Plan in any one year does not confer the right to participate in the Plan in the current or any other year and does not confer the right to continued employment.

Promulgated Under: R.C. 111.15.
Authorized By: R.C. 145.09.
Rule Amplifies: R.C. 145.09, 145.092
Rule Review Date:
Effective Date History:

145-1-06 Ohio-qualified agents and investment managers

- (A) For purposes of division (A)(4) of section 145.114 and section 145.116 of the Revised Code, an investment manager may be designated as an “Ohio-qualified investment manager” if the investment manager and/or any parents, affiliates, or subsidiaries of the investment manager meets the requirements of divisions (A)(1) and (2) of section 145.116 of the Revised Code.
- (B) For purposes of sections 145.114 and 145.116 of the Revised Code, “principal place of business” includes an office in which the agent or investment manager regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.
- (C) For purposes of division (E)(4) of section 145.114 of the Revised Code, “compensation” shall mean the commissions paid on equity securities transactions and the cost or proceeds on fixed income securities transactions.

Promulgated Under: R.C. 111.15.

Authorized By: R.C. 145.09.

Rule Amplifies: R.C. 145.114, 145.116

Rule Review Date:

Effective Date History: