

AN ACT

To amend sections 9.84, 119.12, 124.01, 124.03, 124.04, 124.07, 124.09, 124.11, 124.133, 124.134, 124.14, 124.15, 124.20, 124.22, 124.23, 124.26, 124.27, 124.271, 124.30, 124.31, 124.32, 124.321, 124.322, 124.323, 124.324, 124.325, 124.326, 124.327, 124.33, 124.34, 124.341, 124.38, 124.383, 124.384, 124.385, 124.386, 124.388, 124.40, 124.44, 124.45, 124.46, 124.48, 302.202, 325.19, 329.02, 329.021, 1513.03, 1513.34, 4111.03, 4112.01, 5107.52, 5119.09, 5155.03, and 5703.17, to enact sections 124.12 and 124.141, and to repeal section 124.311 of the Revised Code to implement recommendations of the Civil Service Review Commission and to make other changes to the civil service laws.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 9.84, 119.12, 124.01, 124.03, 124.04, 124.07, 124.09, 124.11, 124.133, 124.134, 124.14, 124.15, 124.20, 124.22, 124.23, 124.26, 124.27, 124.271, 124.30, 124.31, 124.32, 124.321, 124.322, 124.323, 124.324, 124.325, 124.326, 124.327, 124.33, 124.34, 124.341, 124.38, 124.383, 124.384, 124.385, 124.386, 124.388, 124.40, 124.44, 124.45, 124.46, 124.48, 302.202, 325.19, 329.02, 329.021, 1513.03, 1513.34, 4111.03, 4112.01, 5107.52, 5119.09, 5155.03, and 5703.17 be amended and sections 124.12 and 124.141 of the Revised Code be enacted to read as follows:

Sec. 9.84. ~~Any~~ Except as otherwise provided in this section, any person appearing as a witness before any public official, department, board, bureau, commission, or agency, or any representative ~~thereof~~ of a public official, department, board, bureau, commission, or agency, in any administrative or executive proceeding or investigation, public or private, if ~~he~~ the witness so

requests, shall be permitted to be accompanied, represented, and advised by an attorney, whose participation ~~in the hearing~~ shall be limited to the protection of the rights of the witness, and who may not examine or cross-examine witnesses, ~~and the~~. The witness shall be advised of his the right to counsel before he the witness is interrogated. This section shall does not apply to proceedings before a grand jury or to an employee of an appointing authority, as defined in section 124.01 of the Revised Code, who appears only as a witness in an employment interview, investigation, or proceeding conducted by or for the appointing authority.

Sec. 119.12. Any party adversely affected by any order of an agency issued pursuant to an adjudication denying an applicant admission to an examination, or denying the issuance or renewal of a license or registration of a licensee, or revoking or suspending a license, or allowing the payment of a forfeiture under section 4301.252 of the Revised Code; may appeal from the order of the agency to the court of common pleas of the county in which the place of business of the licensee is located or the county in which the licensee is a resident, except that appeals from decisions of the liquor control commission, the state medical board, state chiropractic board, and board of nursing shall be to the court of common pleas of Franklin county. If any ~~such~~ party appealing from the order is not a resident of and has no place of business in this state, the party may appeal to the court of common pleas of Franklin county.

Any party adversely affected by any order of an agency issued pursuant to any other adjudication may appeal to the court of common pleas of Franklin county, except that appeals from orders of the fire marshal issued under Chapter 3737. of the Revised Code may be to the court of common pleas of the county in which the building of the aggrieved person is located and except that appeals under division (B) of section 124.34 of the Revised Code from a decision of the state personnel board of review or a municipal or civil service township civil service commission shall be taken to the court of common pleas of the county in which the appointing authority is located or, in the case of an appeal by the department of rehabilitation and correction, to the court of common pleas of Franklin county.

This section does not apply to appeals from the department of taxation.

Any party desiring to appeal shall file a notice of appeal with the agency setting forth the order appealed from and the grounds of the party's appeal. A copy of ~~such~~ the notice of appeal shall also be filed by the appellant with the court. Unless otherwise provided by law relating to a particular agency, ~~such~~ notices of appeal shall be filed within fifteen days after the mailing of the notice of the agency's order as provided in this section. For purposes of

this paragraph, an order includes a determination appealed pursuant to division (C) of section 119.092 of the Revised Code.

The filing of a notice of appeal shall not automatically operate as a suspension of the order of an agency. If it appears to the court that an unusual hardship to the appellant will result from the execution of the agency's order pending determination of the appeal, the court may grant a suspension and fix its terms. If an appeal is taken from the judgment of the court and the court has previously granted a suspension of the agency's order as provided in this section, ~~such~~ the suspension of the agency's order shall not be vacated and shall be given full force and effect until the matter is finally adjudicated. No renewal of a license or permit shall be denied by reason of ~~such~~ the suspended order during the period of the appeal from the decision of the court of common pleas. In the case of an appeal from the state medical board or state chiropractic board, the court may grant a suspension and fix its terms if it appears to the court that an unusual hardship to the appellant will result from the execution of the agency's order pending determination of the appeal and the health, safety, and welfare of the public will not be threatened by suspension of the order. This provision shall not be construed to limit the factors the court may consider in determining whether to suspend an order of any other agency pending determination of an appeal.

The final order of adjudication may apply to any renewal of a license or permit which has been granted during the period of the appeal.

Notwithstanding any other provision of this section, any order issued by a court of common pleas or a court of appeals suspending the effect of an order of the liquor control commission issued pursuant to Chapter 4301. or 4303. of the Revised Code that suspends, revokes, or cancels a permit issued under Chapter 4303. of the Revised Code; or that allows the payment of a forfeiture under section 4301.252 of the Revised Code; shall terminate not more than six months after the date of the filing of the record of the liquor control commission with the clerk of the court of common pleas and shall not be extended. The court of common pleas, or the court of appeals on appeal, shall render a judgment in that matter within six months after the date of the filing of the record of the liquor control commission with the clerk of the court of common pleas. A court of appeals shall not issue an order suspending the effect of an order of the liquor control commission that extends beyond six months after the date on which the record of the liquor control commission is filed with a court of common pleas.

Notwithstanding any other provision of this section, any order issued by a court of common pleas suspending the effect of an order of the state

medical board or state chiropractic board that limits, revokes, suspends, places on probation, or refuses to register or reinstate a certificate issued by the board or reprimands the holder of ~~such a~~ the certificate shall terminate not more than fifteen months after the date of the filing of a notice of appeal in the court of common pleas, or upon the rendering of a final decision or order in the appeal by the court of common pleas, whichever occurs first.

Within thirty days after receipt of a notice of appeal from an order in any case in which a hearing is required by sections 119.01 to 119.13 of the Revised Code, the agency shall prepare and certify to the court a complete record of the proceedings in the case. Failure of the agency to comply within the time allowed, upon motion, shall cause the court to enter a finding in favor of the party adversely affected. Additional time, however, may be granted by the court, not to exceed thirty days, when it is shown that the agency has made substantial effort to comply. ~~Such~~ The record shall be prepared and transcribed, and the expense of it shall be taxed as a part of the costs on the appeal. The appellant shall provide security for costs satisfactory to the court of common pleas. Upon demand by any interested party, the agency shall furnish at the cost of the party requesting it a copy of the stenographic report of testimony offered and evidence submitted at any hearing and a copy of the complete record.

Notwithstanding any other provision of this section, any party desiring to appeal an order or decision of the state personnel board of review shall, at the time of filing a notice of appeal with the board, provide a security deposit in an amount and manner prescribed in rules that the board shall adopt in accordance with this chapter. In addition, the board is not required to prepare or transcribe the record of any of its proceedings unless the appellant has provided the deposit described above. The failure of the board to prepare or transcribe a record for an appellant who has not provided a security deposit shall not cause a court to enter a finding adverse to the board.

Unless otherwise provided by law, in the hearing of the appeal, the court is confined to the record as certified to it by the agency. Unless otherwise provided by law, the court may grant a request for the admission of additional evidence when satisfied that ~~such~~ the additional evidence is newly discovered and could not with reasonable diligence have been ascertained prior to the hearing before the agency.

The court shall conduct a hearing on ~~such~~ the appeal and shall give preference to all proceedings under sections 119.01 to 119.13 of the Revised Code, over all other civil cases, irrespective of the position of the proceedings on the calendar of the court. An appeal from an order of the

state medical board issued pursuant to division (G) of either section 4730.25 or 4731.22 of the Revised Code, or the state chiropractic board issued pursuant to section 4734.37 of the Revised Code, or the liquor control commission issued pursuant to Chapter 4301. or 4303. of the Revised Code shall be set down for hearing at the earliest possible time and takes precedence over all other actions. The hearing in the court of common pleas shall proceed as in the trial of a civil action, and the court shall determine the rights of the parties in accordance with the laws applicable to ~~such a~~ a civil action. At ~~such the~~ hearing, counsel may be heard on oral argument, briefs may be submitted, and evidence may be introduced if the court has granted a request for the presentation of additional evidence.

The court may affirm the order of the agency complained of in the appeal if it finds, upon consideration of the entire record and ~~such any~~ any additional evidence ~~as~~ the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of ~~such a~~ this finding, it may reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The court shall award compensation for fees in accordance with section 2335.39 of the Revised Code to a prevailing party, other than an agency, in an appeal filed pursuant to this section.

The judgment of the court shall be final and conclusive unless reversed, vacated, or modified on appeal. ~~Such~~ These appeals may be taken either by the party or the agency, shall proceed as in the case of appeals in civil actions, and shall be pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code. ~~Such An~~ An appeal by the agency shall be taken on questions of law relating to the constitutionality, construction, or interpretation of statutes and rules of the agency, and, in ~~such the~~ the appeal, the court may also review and determine the correctness of the judgment of the court of common pleas that the order of the agency is not supported by any reliable, probative, and substantial evidence in the entire record.

The court shall certify its judgment to ~~such the~~ the agency or take ~~such any~~ any other action necessary to give its judgment effect.

Sec. 124.01. ~~As~~ Except as otherwise provided in this chapter, as used in Chapter 124. of the Revised Code ~~this chapter:~~

(A) "Civil service" includes all offices and positions of trust or employment in the service of the state and in the service of the counties, cities, city health districts, general health districts, and city school districts ~~thereof of the state.~~

(B) "State service" includes all ~~such~~ offices and positions in the service of the state; and the counties; and general health districts ~~thereof, except of~~ the state. "State service" does not include offices and positions in the service of the cities, city health districts, and city school districts of the state.

(C) "Classified service" means the competitive classified civil service of the state, the several counties, cities, city health districts, general health districts, and city school districts ~~thereof~~ of the state, and civil service townships.

(D) "Appointing authority" means the officer, commission, board, or body having the power of appointment to, or removal from, positions in any office, department, commission, board, or institution.

(E) "Commission" means the municipal civil service commission of any city, except that, when in reference to the commission that serves a city school district, "commission" means the civil service commission determined under section 124.011 of the Revised Code.

(F) "Employee" means any person holding a position subject to appointment, removal, promotion, or reduction by an appointing officer.

(G) "Civil service township" means any township with a population of ten thousand or more persons residing within the township and outside any municipal corporation, which has a police or fire department of ten or more full-time paid employees; and which has a civil service commission established under division (B) of section 124.40 of the Revised Code.

(H) "Flexible hours employee" means an employee who may work more or less than eight hours on any given day so long as ~~he~~ the employee works forty hours in the same week.

(I) "Classification series" means any group of classification titles that have the identical name but different numerical designations, or identical titles except for designated levels of supervision, except for those classification series established by the director of administrative services in accordance with division (A) of section 124.14 of the Revised Code.

(J) "Classification change" means a change in an employee's classification in the job classification plan.

(K) "Service of the state" or "civil service of the state" includes all offices and positions of trust or employment with the government of the state. "Service of the state" and "civil service of the state" do not include offices and positions of trust or employment with state-supported colleges and universities, counties, cities, city health districts, city school districts, general health districts, and civil service townships of the state.

Sec. 124.03. (A) The state personnel board of review shall exercise the following powers and perform the following duties:

~~(A)~~(1) Hear appeals, as provided by law, of employees in the classified state service from final decisions of appointing authorities or the director of administrative services relative to reduction in pay or position, job abolishments, layoff, suspension, discharge, assignment or reassignment to a new or different position classification, or refusal of the director, or anybody authorized to perform the director's functions, to reassign an employee to another classification or to reclassify the employee's position with or without a job audit under division (D) of section 124.14 of the Revised Code. As used in this division, "discharge" includes disability separations.

The board may affirm, disaffirm, or modify the decisions of the appointing authorities or the director, as the case may be, and its decision is final. The board's decisions shall be consistent with the applicable classification specifications.

The board shall not be deprived of jurisdiction to hear any appeal due to the failure of an appointing authority to file its decision with the board. Any final decision of an appointing authority or of the director not filed in the manner provided in this chapter shall be disaffirmed.

The board may place an exempt employee, as defined in section 124.152 of the Revised Code, into a bargaining unit classification, if the board determines that the bargaining unit classification is the proper classification for that employee. Notwithstanding Chapter 4117. of the Revised Code or instruments and contracts negotiated under it, such placements are at the board's discretion.

The mere failure of an employee's appointing authority to file a statement with the department of administrative services indicating that the employee is in the unclassified civil service, or the mere late filing of such a statement, does not prevent the board from determining that the employee is in the unclassified civil service. In determining whether an employee is in the unclassified civil service, the board shall consider the inherent nature of the duties of the employee's classification during the two-year period immediately preceding the appointing authority's appealable action relating to the employee.

In any hearing before the board, including any hearing at which a record is taken that may be the basis of an appeal to a court, an employee may be represented by a person permitted to practice before the board who is not an attorney at law as long as the person does not receive any compensation from the employee for the representation.

~~(B)~~(2) Hear appeals, as provided by law, of appointing authorities from final decisions of the director relative to the classification or reclassification of any position in the classified state service under the jurisdiction of that

appointing authority. The board may affirm, disaffirm, or modify the decisions of the director, and its decision is final. The board's decisions shall be consistent with the applicable classification specifications.

~~(C)~~(3) Exercise the authority provided by section 124.40 of the Revised Code, for appointment, removal, and supervision of municipal and civil service township civil service commissions;

~~(D)~~(4) Appoint a secretary, referees, examiners, and whatever other employees are necessary in the exercise of its powers and performance of its duties and functions. The board shall determine appropriate education and experience requirements for its secretary, referees, examiners, and other employees and shall prescribe their duties. A referee or examiner does not need to have been admitted to the practice of law.

~~(E)~~(5) Maintain a journal that shall be open to public inspection, in which it shall keep a record of all of its proceedings and of the vote of each of its members upon every action taken by it;

~~(F)~~(6) Adopt rules in accordance with Chapter 119. of the Revised Code relating to the procedure of the board in administering the laws it has the authority or duty to administer and for the purpose of invoking the jurisdiction of the board in hearing appeals of appointing authorities and employees in matters set forth in divisions (A)(1) and ~~(B)~~(2) of this section;

~~(G)~~(7) Subpoena and require the attendance and testimony of witnesses and the production of books, papers, public records, and other documentary evidence pertinent to any matter it has authority to investigate, inquire into, or hear in the same manner and to the same extent as provided by division (G) of section 124.09 of the Revised Code. All witness fees shall be paid in the manner set forth in that division.

~~(H)~~(B) The board shall be funded by general revenue fund appropriations. All moneys received by the board for copies of documents, rule books, and transcriptions shall be paid into the state treasury to the credit of the transcript and other documents fund, which is hereby created to defray the cost of producing an administrative record.

Sec. 124.04. In addition to those powers enumerated in Chapters 123. and 125. of the Revised Code and as provided elsewhere by law, the powers, duties, and functions of the department of administrative services not specifically vested in and assigned to, or to be performed by, the state personnel board of review are hereby vested in and assigned to, and shall be performed by, the director of administrative services. These powers, duties, and functions shall include, but shall not be limited to, the following powers, duties, and functions:

(A) To prepare, conduct, and grade all competitive examinations for

positions in the classified state service;

(B) To prepare, conduct, and grade all noncompetitive examinations for positions in the classified state service;

(C) To prepare eligible lists containing the names of persons qualified for appointment to positions in the classified state service;

(D) To prepare or amend, in accordance with section 124.14 of the Revised Code, specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of the various classifications of positions in the state service;

(E) To allocate and reallocate, upon the motion of the director or upon request of an appointing authority and in accordance with section 124.14 of the Revised Code, any position, office, or employment in the state service to the appropriate classification on the basis of the duties, responsibilities, requirements, and qualifications of that position, office, or employment;

(F) To develop and conduct personnel recruitment services for positions in the state service;

(G) To conduct research on specifications, classifications, and salaries of positions in the state service;

(H) To develop and conduct personnel training programs, including supervisory training programs and best practices plans, and to develop merit hiring processes, in cooperation with appointing authorities;

(I) To include periodically in communications sent to state employees both of the following:

(1) Information developed under section 2108.15 of the Revised Code promoting the donation of anatomical gifts under Chapter 2108. of the Revised Code;

(2) Information about the liver or kidney donor and bone marrow donor leave granted under section 124.139 of the Revised Code.

(J) To enter into agreements with universities and colleges for in-service training of ~~personnel~~ officers and employees in the civil service and to assist appointing authorities in recruiting qualified applicants;

(K) To appoint examiners, inspectors, clerks, and other assistants necessary in the exercise of the powers and performance of the duties and functions which the director is by law authorized and required to exercise and perform, and to prescribe the duties of all of those employees;

(L) To maintain a journal, which shall be open to public inspection, in which the director shall keep a record of the director's final decision pertaining to the classification or reclassification of positions in the ~~state~~ classified civil service of the state and assignment or reassignment of employees in the ~~state~~ classified civil service of the state to specific position

classifications;

(M) To delegate any of the powers, functions, or duties granted or assigned to the director under this chapter to any other state agency of this state as the director considers necessary;

(N) To delegate any of the powers, functions, or duties granted or assigned to the director under this chapter to any political subdivision with the concurrence of the legislative authority of the political subdivision.

Sec. 124.07. (A) The director of administrative services shall appoint examiners, inspectors, clerks, and other assistants as necessary to carry out sections 124.01 to 124.64 of the Revised Code. The director may designate persons in or out of the ~~official~~ service of the state to serve as examiners or assistants under the director's direction. An examiner or assistant shall receive the compensation for each day actually and necessarily spent in the discharge of duties as an examiner or assistant that the director determines; provided that, if the examiner or assistant is in the ~~official~~ service of the state or any political subdivision of the state, it shall be a part of the examiner's or assistant's official duties to render those services in connection with an examination without extra compensation.

(B) Each state agency ~~and each state-supported college or university~~ shall pay the cost of the services and facilities furnished to it by the department of administrative services that are necessary to provide and maintain payroll services as prescribed in section 125.21 of the Revised Code and state merit standards as prescribed in sections 124.01 to 124.64 of the Revised Code for the agency ~~or state-supported college or university~~. If a state-supported college or university or a municipal corporation chooses to use the services and facilities furnished by the department that are necessary to provide and maintain the services and standards so prescribed, the state-supported college or university or municipal corporation shall pay the cost of the services and facilities that the department furnishes to it. The charges against a state agency, a state-supported college or university, or a municipal corporation shall be computed on a reasonable cost basis in accordance with procedures prescribed by the director of budget and management. Any moneys the department receives from a state agency, a state-supported college or university, or a municipal corporation under this division that are in excess of the amount necessary to pay the cost of furnishing the department's services and facilities during any fiscal year shall be either refunded to or credited for the ensuing fiscal year to the state agency, the state-supported college or university, or the municipal corporation.

(C) The director of administrative services may enter into an agreement

with any municipal corporation or other political subdivision to furnish services and facilities of the department in the administration of a merit program or other functions related to human resources. The agreement shall provide that the department shall be reimbursed for the reasonable costs of those services and facilities as determined by the director.

(D) All moneys received by the department as reimbursement for payroll ~~and~~ merit program, or other human resources services performed and facilities furnished under this section shall be paid into the state treasury to the credit of the human resources services fund, which is hereby created.

(E) In counties of the state in which are located cities having municipal civil service commissions, the director of administrative services may designate the municipal civil service commission of the largest city within the county as the director's agent for the purpose of carrying out the provisions of sections 124.01 to 124.64 of the Revised Code, within the county, that the director designates. Each municipal civil service commission designated as an agent of the director shall render to the director, at the end of each month, an itemized statement of the cost incurred by the commission for work done as the agent of the director, and the director, after approving that statement, shall pay the total amount of it to the treasurer of the municipal corporation in the same manner as other expenses of the department of administrative services.

(F) The director of administrative services and the examiners, inspectors, clerks, and assistants referred to in this section shall receive, in addition to their salaries, reimbursement for necessary traveling and other expenses incurred in the actual discharge of their official duties. The director may also incur the necessary expenses for stationery, printing, and other supplies incident to the business of the department.

Sec. 124.09. The director of administrative services shall do all of the following:

(A) Prescribe, amend, and enforce administrative rules for the purpose of carrying out the functions, powers, and duties vested in and imposed upon the director by this chapter. Except in the case of rules adopted pursuant to section 124.14 of the Revised Code, the prescription, amendment, and enforcement of rules under this division are subject to approval, disapproval, or modification by the state personnel board of review.

(B) Keep records of the director's proceedings and records of all applications for examinations and all examinations conducted by the director. All of those records, except examinations, proficiency assessments, and recommendations of former employers, shall be open to public

inspection under reasonable regulations; provided the governor, or any person designated by the governor, may, for the purpose of investigation, have free access to all of those records, whenever the governor has reason to believe that this chapter, or the administrative rules of the director prescribed under this chapter, are being violated.

(C) Prepare, continue, and keep in the office of the department of administrative services a complete roster of all persons in the classified civil service of the state who are paid directly by warrant of the director of budget and management. This roster shall be open to public inspection at all reasonable hours. It shall show in reference to each of those persons, the person's name, address, date of appointment to or employment in the classified civil service of the state, and salary or compensation, the title of the place or office that the person holds, the nature of the duties of that place or office, and, in case of the person's removal or resignation, the date of the termination of that service.

(D) Approve the establishment of all new positions in the civil service of the state and the reestablishment of abolished positions;

(E) Require the abolishment of any position in the civil service of the state that is not filled after a period of twelve months unless it is determined that the position is seasonal in nature or that the vacancy is otherwise justified;

(F) Make investigations concerning all matters touching the enforcement and effect of this chapter and the administrative rules of the director of administrative services prescribed under this chapter. In the course of those investigations, the director or the director's deputy may administer oaths and affirmations and take testimony relative to any matter which the director has authority to investigate.

(G) Have the power to subpoena and require the attendance and testimony of witnesses and the production of books, papers, public records, and other documentary evidence pertinent to the investigations, inquiries, or hearings on any matter which the director has authority to investigate, inquire into, or hear, and to examine them in relation to any matter which the director has authority to investigate, inquire into, or hear. Fees shall be allowed to witnesses and, on their certificate, duly audited, shall be paid by the treasurer of state or, in the case of municipal or civil service township civil service commissions, by the county treasurer, for attendance and traveling, as is provided in section 2335.06 of the Revised Code for witnesses in courts of record. All officers in the civil service of the state or any of the political subdivisions of the state and their deputies, clerks, and employees shall attend and testify when summoned to do so by the director

or the state personnel board of review. Depositions of witnesses may be taken by the director or the board, or any member of the board, in the manner prescribed by law for like depositions in civil actions in the courts of common pleas. In case any person, in disobedience to any subpoena issued by the director or the board, or any member of the board, or the chief examiner, fails or refuses to attend and testify to any matter regarding which the person may be lawfully interrogated, or produce any documentary evidence pertinent to any investigation, inquiry, or hearing, the court of common pleas of any county, or any judge of the court of common pleas of any county, where the disobedience, failure, or refusal occurs, upon application of the director or the board, or any member of the board, or a municipal or civil service township civil service commission, or any commissioner of such a commission, or their chief examiner, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court.

(H) Make a report to the governor, on or before the first day of January of each year, showing the director's actions, the rules and all exceptions to the rules in force, and any recommendations for the more effectual accomplishment of the purposes of this chapter. The director shall also furnish any special reports to the governor whenever the governor requests them. The reports shall be printed for public distribution under the same regulations as are the reports of other state officers, boards, or commissions.

Sec. 124.11. The civil service of the state and the several counties, cities, civil service townships, city health districts, general health districts, and city school districts of the state shall be divided into the unclassified service and the classified service.

(A) The unclassified service shall comprise the following positions, which shall not be included in the classified service, and which shall be exempt from all examinations required by this chapter:

(1) All officers elected by popular vote or persons appointed to fill vacancies in those offices;

(2) All election officers as defined in section 3501.01 of the Revised Code;

(3)(a) The members of all boards and commissions, and heads of principal departments, boards, and commissions appointed by the governor or by and with the governor's consent; ~~and the~~

(b) The heads of all departments appointed by a board of county commissioners;

(c) The members of all boards and commissions and all heads of

departments appointed by the mayor, or, if there is no mayor, such other similar chief appointing authority of any city or city school district. ~~Except;~~

Except as otherwise provided in division (A)(17) or (C) of this section, this chapter does not exempt the chiefs of police departments and chiefs of fire departments of cities or civil service townships from the competitive classified service.

(4) The members of county or district licensing boards or commissions and boards of revision, and not more than five deputy county auditors;

(5) All officers and employees elected or appointed by either or both branches of the general assembly, and employees of the city legislative authority engaged in legislative duties;

(6) All commissioned, warrant, and noncommissioned officers and enlisted persons in the Ohio organized militia, including military appointees in the adjutant general's department;

(7)(a) All presidents, business managers, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, instructors, teachers, and such employees as are engaged in educational or research duties connected with the public school system, colleges, and universities, as determined by the governing body of the public school system, colleges, and universities;

(b) The library staff of any library in the state supported wholly or in part at public expense.

(8) Four clerical and administrative support employees for each of the elective state officers, four clerical and administrative support employees for each board of county commissioners and one such employee for each county commissioner, and ~~three~~ four clerical and administrative support employees for other elective officers and each of the principal appointive executive officers, boards, or commissions, except for civil service commissions, that are authorized to appoint such clerical and administrative support employees;

(9) The deputies and assistants of state agencies authorized to act for and on behalf of the agency, or holding a fiduciary or administrative relation to that agency and those persons employed by and directly responsible to elected county officials or a county administrator and holding a fiduciary or administrative relationship to such elected county officials or county administrator, and the employees of such county officials whose fitness would be impracticable to determine by competitive examination, provided that division (A)(9) of this section shall not affect those persons in county employment in the classified service as of September 19, 1961. Nothing in division (A)(9) of this section applies to any position in a county department

of job and family services created pursuant to Chapter 329. of the Revised Code.

(10) Bailiffs, constables, official stenographers, and commissioners of courts of record, deputies of clerks of the courts of common pleas who supervise; or who handle public moneys or secured documents, and such officers and employees of courts of record and such deputies of clerks of the courts of common pleas as the director of administrative services finds it impracticable to determine their fitness by competitive examination;

(11) Assistants to the attorney general, special counsel appointed or employed by the attorney general, assistants to county prosecuting attorneys, and assistants to city directors of law;

(12) Such teachers and employees in the agricultural experiment stations; such students in normal schools, colleges, and universities of the state who are employed by the state or a political subdivision of the state in student or intern classifications; and such unskilled labor positions as the director of administrative services or any municipal civil service commission may find it impracticable to include in the competitive classified service; provided such exemptions shall be by order of the commission or the director, duly entered on the record of the commission or the director with the reasons for each such exemption;

(13) Any physician or dentist who is a full-time employee of the department of mental health ~~or~~, the department of mental retardation and developmental disabilities, ~~or~~ of an institution under the jurisdiction of either department; and physicians who are in residency programs at the institutions;

(14) Up to twenty positions at each institution under the jurisdiction of the department of mental health or the department of mental retardation and developmental disabilities that the department director determines to be primarily administrative or managerial; and up to fifteen positions in any division of either department, excluding administrative assistants to the director and division chiefs, which are within the immediate staff of a division chief and which the director determines to be primarily and distinctively administrative and managerial;

(15) Noncitizens of the United States employed by the state, or its counties or cities, as physicians or nurses who are duly licensed to practice their respective professions under the laws of this state, or medical assistants, in mental or chronic disease hospitals, or institutions;

(16) Employees of the governor's office;

(17) Fire chiefs and chiefs of police in civil service townships appointed by boards of township trustees under section 505.38 or 505.49 of the

Revised Code;

(18) Executive directors, deputy directors, and program directors employed by boards of alcohol, drug addiction, and mental health services under Chapter 340. of the Revised Code, and secretaries of the executive directors, deputy directors, and program directors;

(19) Superintendents, and management employees as defined in section 5126.20 of the Revised Code, of county boards of mental retardation and developmental disabilities;

(20) Physicians, nurses, and other employees of a county hospital who are appointed pursuant to sections 339.03 and 339.06 of the Revised Code;

(21) The executive director of the state medical board, who is appointed pursuant to division (B) of section 4731.05 of the Revised Code;

(22) County directors of job and family services as provided in section 329.02 of the Revised Code and administrators appointed under section 329.021 of the Revised Code;

(23) A director of economic development who is hired pursuant to division (A) of section 307.07 of the Revised Code;

(24) Chiefs of construction and compliance, of operations and maintenance, and of licensing and certification in the division of industrial compliance in the department of commerce;

(25) The executive director of a county transit system appointed under division (A) of section 306.04 of the Revised Code;

(26) Up to five positions at each of the administrative departments listed in section 121.02 of the Revised Code and at the department of taxation, department of the adjutant general, department of education, Ohio board of regents, bureau of workers' compensation, industrial commission, state lottery commission, and public utilities commission of Ohio that the head of that administrative department or of that other state agency determines to be involved in policy development and implementation. The head of the administrative department or other state agency shall set the compensation for employees in these positions at a rate that is not less than the minimum compensation specified in pay range 41 but not more than the maximum compensation specified in pay range 44 of salary schedule E-2 in section 124.152 of the Revised Code. The authority to establish positions in the unclassified service under division (A)(26) of this section is in addition to and does not limit any other authority that an administrative department or state agency has under the Revised Code to establish positions, appoint employees, or set compensation.

(27) Employees of the department of agriculture employed under section 901.09 of the Revised Code;

(28) For cities, counties, civil service townships, city health districts, general health districts, and city school districts, the deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals or holding a fiduciary relation to their principals;

(29) Employees who receive ~~external interim~~, intermittent, or temporary appointments under division (B) of section 124.30 of the Revised Code;

(30) Employees appointed to administrative staff positions for which an appointing authority is given specific statutory authority to set compensation;

(31) Employees appointed to highway patrol cadet or highway patrol cadet candidate classifications;

(32) Employees placed in the unclassified service by another section of the Revised Code.

(B) The classified service shall comprise all persons in the employ of the state and the several counties, cities, city health districts, general health districts, and city school districts of the state, not specifically included in the unclassified service. Upon the creation by the board of trustees of a civil service township civil service commission, the classified service shall also comprise, except as otherwise provided in division (A)(17) or (C) of this section, all persons in the employ of a civil service township police or fire department having ten or more full-time paid employees. The classified service consists of two classes, which shall be designated as the competitive class and the unskilled labor class.

(1) The competitive class shall include all positions and employments in the state and the counties, cities, city health districts, general health districts, and city school districts of the state, and, upon the creation by the board of trustees of a civil service township of a township civil service commission, all positions in a civil service township police or fire department having ten or more full-time paid employees, for which it is practicable to determine the merit and fitness of applicants by competitive examinations. Appointments shall be made to, or employment shall be given in, all positions in the competitive class that are not filled by promotion, reinstatement, transfer, or reduction, as provided in this chapter, and the rules of the director of administrative services, by appointment from those certified to the appointing officer in accordance with this chapter.

(2) The unskilled labor class shall include ordinary unskilled laborers. Vacancies in the labor class for positions in service of the state shall be filled by appointment from lists of applicants registered by the director ~~or a commission, as applicable.~~ Vacancies in the labor class for all other positions shall be filled by appointment from lists of applicants registered by

a commission. The director or the commission, as applicable, by rule, shall require an applicant for registration in the labor class to furnish evidence or take tests as the director or commission considers proper with respect to age, residence, physical condition, ability to labor, honesty, sobriety, industry, capacity, and experience in the work or employment for which application is made. Laborers who fulfill the requirements shall be placed on the eligible list for the kind of labor or employment sought, and preference shall be given in employment in accordance with the rating received from that evidence or in those tests. Upon the request of an appointing officer, stating the kind of labor needed, the pay and probable length of employment, and the number to be employed, the director or commission, as applicable, shall certify from the highest on the list double the number to be employed; from this number, the appointing officer shall appoint the number actually needed for the particular work. If more than one applicant receives the same rating, priority in time of application shall determine the order in which their names shall be certified for appointment.

(C) A municipal or civil service township civil service commission may place volunteer firefighters who are paid on a fee-for-service basis in either the classified or the unclassified civil service.

(D) This division does not apply to persons in the unclassified service who have the right to resume positions in the classified service under sections 4121.121, 5119.071, 5120.07, 5120.38, 5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the Revised Code.

An appointing authority whose employees are paid directly by warrant of the director of budget and management may appoint a person who holds a certified position in the classified service within the appointing authority's agency to a position in the unclassified service within that agency. A person appointed pursuant to this division to a position in the unclassified service shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment to the position in the unclassified service, regardless of the number of positions the person held in the unclassified service. An employee's right to resume a position in the classified service may only be exercised when an appointing authority demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the unclassified service. An employee forfeits the right to resume a position in the classified service when the employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of this chapter or the rules of the director of

administrative services, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. An employee also forfeits the right to resume a position in the classified service upon transfer to a different agency.

Reinstatement to a position in the classified service shall be to a position substantially equal to that position in the classified service held previously, as certified by the director of administrative services. If the position the person previously held in the classified service has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the appointing authority's agency that the director of administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment to the position in the unclassified service. When a person is reinstated to a position in the classified service as provided in this division, the person is entitled to all rights, status, and benefits accruing to the position in the classified service during the person's time of service in the position in the unclassified service.

Sec. 124.12. (A) Within ninety days after an appointing authority appoints an employee to an unclassified position in the service of the state, the appointing authority shall notify the department of administrative services of that appointment.

(B) On the date an appointing authority appoints an employee to an unclassified position in the state service, the appointing authority shall provide the employee with written information describing the nature of employment in the unclassified civil service. Within thirty days after the date an appointing authority appoints an employee to an unclassified position in the state service, the appointing authority shall provide the employee with written information describing the duties of that position. Failure of the appointing authority to provide the written information described in this division to the employee does not confer any additional rights upon the employee in any appellate body with jurisdiction over an appeal of the employee.

(C) The department shall develop and provide each appointing authority in the state service with a general written description of the nature of employment in the unclassified civil service that shall be provided to employees under division (B) of this section.

Sec. 124.133. The director of administrative services may establish, by rule adopted under Chapter 119. of the Revised Code, an experimental

program to be implemented on a limited basis only which grants to employees in the service of the state vacation leave, sick leave, disability leave, personal leave, life insurance, or medical insurance benefits that differ from these benefits as granted by sections 124.13, 124.134, 124.382, 124.385, 124.386, 124.81, and 124.82 of the Revised Code. However, this program shall not reduce the number of hours of vacation leave, sick leave, or personal leave which an employee has accrued as of the effective date of the rule.

Sec. 124.134. (A) Each full-time permanent state employee paid in accordance with section 124.152 of the Revised Code and those employees listed in divisions (B)(2) and (4) of section 124.14 of the Revised Code, after service of one year, shall have earned and will be due upon the attainment of the first year of employment, and annually thereafter, eighty hours of vacation leave with full pay. One year of service shall be computed on the basis of twenty-six biweekly pay periods. A full-time permanent state employee with five or more years of service shall have earned and is entitled to one hundred twenty hours of vacation leave with full pay. A full-time permanent state employee with ten or more years of service shall have earned and is entitled to one hundred sixty hours of vacation leave with full pay. A full-time permanent state employee with fifteen or more years of service shall have earned and is entitled to one hundred eighty hours of vacation leave with full pay. A full-time permanent state employee with twenty or more years of service shall have earned and is entitled to two hundred hours of vacation leave with full pay. A full-time permanent state employee with twenty-five or more years of service shall have earned and is entitled to two hundred forty hours of vacation leave with full pay. Such vacation leave shall accrue to the employee at the rate of three and one-tenth hours each biweekly period for those entitled to eighty hours per year; four and six-tenths hours each biweekly period for those entitled to one hundred twenty hours per year; six and two-tenths hours each biweekly period for those entitled to one hundred sixty hours per year; six and nine-tenths hours each biweekly period for those entitled to one hundred eighty hours per year; seven and seven-tenths hours each biweekly period for those entitled to two hundred hours per year; and nine and two-tenths hours each biweekly period for those entitled to two hundred forty hours per year.

The amount of an employee's service shall be determined in accordance with the standard specified in section 9.44 of the Revised Code. Credit for prior service, including an increased vacation accrual rate and longevity supplement, shall take effect during the first pay period that begins immediately following the date the director of administrative services

approves granting credit for that prior service. No employee, other than an employee who submits proof of prior service within ninety days after the date of the employee's hiring, shall receive any amount of vacation leave for the period prior to the date of the director's approval of the grant of credit for prior service.

Part-time permanent employees who are paid in accordance with section 124.152 of the Revised Code and full-time permanent employees subject to this section who are in active pay status for less than eighty hours in a pay period shall earn vacation leave on a prorated basis. The ratio between the hours worked and the vacation hours earned by these classes of employees shall be the same as the ratio between the hours worked and the vacation hours earned by a full-time permanent employee with the same amount of service as provided for in this section.

Vacation leave is not available for use until it appears on the employee's earning statement and the compensation described in the earning statement is available to the employee.

(B) Employees granted leave under this section shall forfeit their right to take or to be paid for any vacation leave to their credit which is in excess of the accrual for three years. ~~Such~~ Any excess leave shall be eliminated from the employees' leave balance. If an employee's vacation leave credit is at, or will reach in the immediately following pay period, the maximum of the accrual for three years and the employee has been denied the use of vacation leave during the immediately preceding twelve months, the employee, at the employee's request, shall be paid in a pay period for the vacation leave the employee was denied, up to the maximum amount the employee would be entitled to be paid for in any pay period. An employee is not entitled to receive payment for vacation leave denied in any pay period in which the employee's vacation leave credit is not at, or will not reach in the immediately following pay period, the maximum of accrual for three years. Any vacation leave for which an employee receives payment shall be deducted from the employee's vacation leave balance. ~~Such payment~~ Payment shall not be made for any leave accrued in the same calendar year in which the payment is made.

(C) Upon separation from state service, an employee granted leave under this section is entitled to compensation at the employee's current rate of pay for all unused vacation leave accrued under this section or section 124.13 of the Revised Code to the employee's credit. In case of transfer of an employee from one state agency to another, the employee shall retain the accrued and unused vacation leave. In case of the death of an employee, ~~such~~ the unused vacation leave shall be paid in accordance with section

2113.04 of the Revised Code, or to the employee's estate. An employee serving in a temporary work level ~~or an interim appointment~~ who is eligible to receive compensation under this division shall be compensated at the base rate of pay of the employee's normal classification.

Sec. 124.14. (A)(1) The director of administrative services shall establish, and may modify or ~~repeal~~ rescind, by rule, a job classification plan for all positions, offices, and employments the salaries of which are paid in whole or in part by the state. The director shall group jobs within a classification so that the positions are similar enough in duties and responsibilities to be described by the same title, to have the same pay assigned with equity, and to have the same qualifications for selection applied. The director shall, by rule, assign a classification title to each classification within the classification plan. However, the director shall consider in establishing classifications, including classifications with parenthetical titles, and assigning pay ranges such factors as duties performed only on one shift, special skills in short supply in the labor market, recruitment problems, separation rates, comparative salary rates, the amount of training required, and other conditions affecting employment. The director shall describe the duties and responsibilities of the class ~~and~~, establish the qualifications for being employed in ~~that~~ each position in the class, and ~~shall~~ file with the secretary of state a copy of specifications for all of the classifications. The director shall file new, additional, or revised specifications with the secretary of state before ~~being~~ they are used.

The director shall, by rule, assign each classification, either on a statewide basis or in particular counties or state institutions, to a pay range established under section 124.15 or section 124.152 of the Revised Code. The director may assign a classification to a pay range on a temporary basis for a period of ~~time designated in the rule~~ six months. The director may establish, by rule adopted under Chapter 119. of the Revised Code, experimental classification plans for some or all employees paid directly by warrant of the director of budget and management. The rule shall include specifications for each classification within the plan and shall specifically address compensation ranges, and methods for advancing within the ranges, for the classifications, which may be assigned to pay ranges other than the pay ranges established under section 124.15 or 124.152 of the Revised Code.

(2) The director of administrative services may reassign to a proper classification those positions that have been assigned to an improper classification. If the compensation of an employee in such a reassigned position exceeds the maximum rate of pay for the employee's new

classification, the employee shall be placed in pay step X and shall not receive an increase in compensation until the maximum rate of pay for that classification exceeds the employee's compensation.

(3) The director may reassign an exempt employee, as defined in section 124.152 of the Revised Code, to a bargaining unit classification if the director determines that the bargaining unit classification is the proper classification for that employee. Notwithstanding Chapter 4117. of the Revised Code or instruments and contracts negotiated under it, ~~such~~ these placements are at the director's discretion.

(4) The director shall, by rule, assign related classifications, which form a career progression, to a classification series. The director shall, by rule, assign each classification in the classification plan a five-digit number, the first four digits of which shall denote the classification series to which the classification is assigned. When a career progression encompasses more than ten classifications, the director shall, by rule, identify the additional classifications belonging to a classification series. ~~Such~~ The additional classifications shall be part of the classification series, notwithstanding the fact that the first four digits of the number assigned to the additional classifications do not correspond to the first four digits of the numbers assigned to other classifications in the classification series.

(5) The director ~~shall adopt, in accordance with~~ rules in accordance with adopted under Chapter 119. of the Revised Code ~~for the establishment of,~~ shall establish, and may modify or rescind, a classification plan for county agencies that elect not to use the services and facilities of a county personnel department. The rules shall include a methodology for the establishment of titles unique to county agencies, the use of state classification titles and classification specifications for common positions, the criteria for a county to meet in establishing its own classification plan, and the establishment of what constitutes a classification series for county agencies.

(B) Division (A) of this section and sections 124.15 and 124.152 of the Revised Code do not apply to the following persons, positions, offices, and employments:

(1) Elected officials;

(2) Legislative employees, employees of the legislative service commission, employees in the office of the governor, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, and employees of the supreme court;

(3) Employees of a county children services board that establishes compensation rates under section 5153.12 of the Revised Code;

(4) Any position for which the authority to determine compensation is given by law to another individual or entity;

(5) Employees of the bureau of workers' compensation whose compensation the administrator of workers' compensation establishes under division (B) of section 4121.121 of the Revised Code.

(C) The director may employ a consulting agency to aid and assist the director in carrying out this section.

(D)(1) When the director proposes to modify a classification or the assignment of classes to appropriate pay ranges, the director shall send written notice of the proposed rule to the appointing authorities of the affected employees thirty days before ~~the~~ a hearing on the proposed rule. The appointing authorities shall notify the affected employees regarding the proposed rule. The director also shall ~~also~~ send ~~such~~ those appointing authorities notice of any final rule ~~which~~ that is adopted within ten days after adoption.

(2) When the director proposes to reclassify any employee so that the employee is adversely affected, the director shall give to the employee affected and to the employee's appointing authority a written notice setting forth the proposed new classification, pay range, and salary. Upon the request of any classified employee who is not serving in a probationary period, the director shall perform a job audit to review the classification of the employee's position to determine whether the position is properly classified. The director shall give to the employee affected and to the employee's appointing authority a written notice of the director's determination whether or not to reclassify the position or to reassign the employee to another classification. An employee or appointing authority desiring a hearing shall file a written request for the hearing with the state personnel board of review within thirty days after receiving the notice. The board shall set the matter for a hearing and notify the employee and appointing authority of the time and place of the hearing. The employee, the appointing authority, or any authorized representative of the employee who wishes to submit facts for the consideration of the board shall be afforded reasonable opportunity to do so. After the hearing, the board shall consider anew the reclassification and may order the reclassification of the employee and require the director to assign the employee to such appropriate classification as the facts and evidence warrant. As provided in division (A)(1) of section 124.03 of the Revised Code, the board may determine the most appropriate classification for the position of any employee coming before the board, with or without a job audit. The board shall disallow any reclassification or reassignment classification of any employee when it finds

that changes have been made in the duties and responsibilities of any particular employee for political, religious, or other unjust reasons.

(E)(1) Employees of each county department of job and family services shall be paid a salary or wage established by the board of county commissioners. The provisions of section 124.18 of the Revised Code concerning the standard work week apply to employees of county departments of job and family services. A board of county commissioners may do either of the following:

(a) Notwithstanding any other section of the Revised Code, supplement the sick leave, vacation leave, personal leave, and other benefits of any employee of the county department of job and family services of that county, if the employee is eligible for the supplement under a written policy providing for the supplement;

(b) Notwithstanding any other section of the Revised Code, establish alternative schedules of sick leave, vacation leave, personal leave, or other benefits for employees not inconsistent with the provisions of a collective bargaining agreement covering the affected employees.

(2) ~~The provisions of division~~ Division (E)(1) of this section ~~do~~ does not apply to employees for whom the state employment relations board establishes appropriate bargaining units pursuant to section 4117.06 of the Revised Code, except in either of the following situations:

(a) The employees for whom the state employment relations board establishes appropriate bargaining units elect no representative in a board-conducted representation election.

(b) After the state employment relations board establishes appropriate bargaining units for such employees, all employee organizations withdraw from a representation election.

(F) ~~With respect to officers and employees of state-supported colleges and universities and except for the powers and duties of the state personnel board of review set forth in section 124.03 of the Revised Code, the powers, duties, and functions of the department of administrative services and of the director of administrative services specified in this chapter are hereby vested in and assigned to the boards of trustees of those colleges and universities, or those officers to whom the boards of trustees have delegated these powers, duties, and functions, subject to a periodic audit and review by the director. In exercising the powers, duties, and functions of the director, the boards of trustees or the officers to whom these powers, duties, and functions were delegated need not establish a job classification plan for unclassified employees and may proceed under section 111.15 of the Revised Code when exercising the director's rule-making authority. The~~

~~adoption, amendment, rescission, and enforcement of rules under this division is not subject to approval, disapproval, or modification by the state personnel board of review. Nothing in this division shall be construed to limit the right of any classified employee who possesses the right of appeal to the state personnel board of review to continue to possess that right of appeal.~~

~~Upon the director's determination or finding of the misuse by the board of trustees of or a designated officer of a state supported college or university of the authority granted under this division, the director shall order and direct the personnel functions of that state supported college or university until sections 124.01 to 124.64 of the Revised Code have been fully complied with (1) Notwithstanding any contrary provision of sections 124.01 to 124.64 of the Revised Code, the board of trustees of each state university or college, as defined in section 3345.12 of the Revised Code, shall carry out all matters of governance involving the officers and employees of the university or college, including, but not limited to, the powers, duties, and functions of the department of administrative services and the director of administrative services specified in this chapter. Officers and employees of a state university or college shall have the right of appeal to the state personnel board of review as provided in this chapter.~~

~~(2) Each board of trustees shall adopt rules under section 111.15 of the Revised Code to carry out the matters of governance described in division (F)(1) of this section. Until the board of trustees adopts those rules, a state university or college shall continue to operate pursuant to the applicable rules adopted by the director of administrative services under this chapter.~~

(G)(1) Each board of county commissioners may, by a resolution adopted by a majority of its members, establish a county personnel department to exercise the powers, duties, and functions specified in division (G) of this section. As used in division (G) of this section, "county personnel department" means a county personnel department established by a board of county commissioners under division (G)(1) of this section.

(2)(a) Each board of county commissioners ~~may~~, by a resolution adopted by a majority of its members, may designate the county personnel department of the county to exercise the powers, duties, and functions of the department of administrative services and the director of administrative services specified in sections 124.01 to 124.64 and Chapter 325. of the Revised Code, except for the powers and duties of the state personnel board of review, which powers and duties shall not be construed as having been modified or diminished in any manner by division (G)(2) of this section, with respect to the employees for whom the board of county commissioners

is the appointing authority or co-appointing authority. ~~Upon certification~~
The board of county commissioners shall deliver a certified copy of the resolution to the director of administrative services not later than ten working days after the resolution is adopted, and the director shall inform the board in a writing sent by certified mail of the date of receipt of the copy of the resolution.

~~(b) Upon the director's receipt of a the copy of the resolution by the board to the director, these, the powers, duties, and functions are referred to in division (G)(2)(a) of this section that may be exercised shall be vested in and assigned to the county personnel department with respect to the employees for whom the board of county commissioners is the appointing authority or co-appointing authority. The certification to the director shall be provided not later than one hundred twenty days before the first day of July of an odd-numbered year, and, following the certification, the powers, duties, and functions specified in sections 124.01 to 124.64 and Chapter 325. of the Revised Code shall be vested in and assigned to the county personnel department on that first day of July. Nothing~~

(c) Nothing in division (G)(2) of this section shall be construed to limit the right of any employee who possesses the right of appeal to the state personnel board of review to continue to possess that right of appeal.

(d) Any board of county commissioners that has established a county personnel department may contract with the department of administrative services, another political subdivision, or an appropriate public or private entity to provide competitive testing services or other appropriate services.

(3) After the county personnel department of a county has assumed the powers, duties, and functions of the department of administrative services and the director of administrative services as described in division (G)(2) of this section, any elected official, board, agency, or other appointing authority of that county ~~may~~, upon written notification to the director, may elect to use the services and facilities of the county personnel department. Upon the acceptance by the director of ~~such~~ that written notification, the county personnel department shall exercise the powers, duties, and functions of the department of administrative services and the director as described in division (G)(2) of this section with respect to the employees of that elected official, board, agency, or other appointing authority. ~~The notification to the director shall be provided not later than one hundred twenty days before the first day of July of an odd-numbered year, and, following the notification, the powers, duties, and functions specified in sections 124.01 to 124.64 and Chapter 325. of the Revised Code with respect to the employees of that elected official, board, agency, or other appointing authority shall be vested~~

~~in and assigned to the county personnel department on that first day of July. The director shall inform the elected official, board, agency, or other appointing authority in a writing sent by certified mail of the date of acceptance of that written notification.~~ Except for those employees under the jurisdiction of the county personnel department, the director shall continue to exercise these powers, duties, and functions with respect to employees of the county.

(4) ~~Each~~ When at least two years have passed since the creation of a county personnel department, a board of county commissioners that has established a county personnel department may, by a resolution adopted by a majority of its members, may disband the county personnel department and return to the department of administrative services for the administration of sections 124.01 to 124.64 and Chapter 325. of the Revised Code. The board ~~shall, not later than one hundred twenty days before the first day of July of an odd-numbered year, send the director a certified copy of the resolution disbanding the county personnel department. All~~ shall deliver a certified copy of the resolution to the director of administrative services not later than ten working days after the resolution is adopted, and the director shall inform the board in a writing sent by certified mail of the date of receipt of the copy of the resolution. Upon the director's receipt of the copy of the resolution, all powers, duties, and functions previously vested in and assigned to the county personnel department shall return to the director ~~on that first day of July.~~

(5) ~~Any~~ When at least two years have passed since electing to use the services and facilities of a county personnel department, an elected official, board, agency, or appointing authority of a county may return to the department of administrative services for the administration of sections 124.01 to 124.64 and Chapter 325. of the Revised Code. The elected official, board, agency, or appointing authority shall, ~~not later than one hundred twenty days before the first day of July of an odd-numbered year, send the director of administrative services a certified copy of the resolution that states its decision. All~~ to return to the department of administrative services' jurisdiction, and the director shall inform the elected official, board, agency, or appointing authority in a writing sent by certified mail of the date of receipt of the copy of the resolution. Upon the director's receipt of the copy of the resolution, all powers, duties, and functions previously vested in and assigned to the county personnel department with respect to the employees of that elected official, board, agency, or appointing authority shall return to the director ~~on that first day of July.~~

(6) The director of administrative services, by rule adopted in

accordance with Chapter 119. of the Revised Code, shall prescribe criteria and procedures for granting to each county personnel department the powers, duties, and functions of the department of administrative services and the director as described in division (G)(2) of this section with respect to the employees of an elected official, board, agency, or other appointing authority or co-appointing authority. The rules shall cover the following criteria and procedures:

(a) The notification to the department of administrative services that an elected official, board, agency, or other appointing authority of a county has elected to use the services and facilities of the county personnel department;

(b) A requirement that each county personnel department, in carrying out its duties, adhere to merit system principles with regard to employees of county departments of job and family services, child support enforcement agencies, and public child welfare agencies so that there is no threatened loss of federal funding for these agencies, and a requirement that the county be financially liable to the state for any loss of federal funds due to the action or inaction of the county personnel department. The costs associated with audits conducted to monitor compliance with division (G)(6)(b) of this section shall be borne equally by the department of administrative services and the county.

(c) The termination of services and facilities rendered by the department of administrative services, to include rate adjustments, time periods for termination, and other related matters;

(d) Authorization for the director of administrative services to conduct periodic audits and reviews of county personnel departments to guarantee the uniform application of this granting of the director's powers, duties, and functions. The costs of the audits and reviews shall be borne equally by the department of administrative services and the county for which the services ~~were~~ are performed.

(e) The dissemination of audit findings under division (G)~~(5)~~(6)(d) of this section, any appeals process relating to adverse findings by the department, and the methods whereby the county personnel program will revert to the authority of the director of administrative services due to misuse or nonuniform application of the authority granted to the county under division (G)(2) or (3) of this section.

(H) The director of administrative services shall establish the rate and method of compensation for all employees who are paid directly by warrant of the director of budget and management and who are serving in positions ~~which~~ that the director of administrative services has determined impracticable to include in the state job classification plan. This division

does not apply to elected officials, legislative employees, employees of the legislative service commission, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, employees of the courts, employees of the bureau of workers' compensation whose compensation the administrator of workers' compensation establishes under division (B) of section 4121.121 of the Revised Code, or employees of an appointing authority authorized by law to fix the compensation of those employees.

(I) The director shall set the rate of compensation for all intermittent, ~~interim~~, seasonal, temporary, emergency, and casual employees in the service of the state who are not considered public employees under section 4117.01 of the Revised Code. ~~Such~~ Those employees are not entitled to receive employee benefits. This rate of compensation shall be equitable in terms of the rate of employees serving in the same or similar classifications. This division does not apply to elected officials, legislative employees, employees of the legislative service commission, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, employees of the courts, employees of the bureau of workers' compensation whose compensation the administrator establishes under division (B) of section 4121.121 of the Revised Code, or employees of an appointing authority authorized by law to fix the compensation of those employees.

Sec. 124.141. The director of administrative services may establish, by rule adopted under Chapter 119. of the Revised Code, an appointment incentive program that allows an appointing authority to pay to an officer or employee described in division (A)(30) of section 124.11, division (B)(2) of section 124.14, or division (B) of section 126.32 of the Revised Code a salary and benefits package that differs from the salary and benefits otherwise provided by law for that officer or employee, provided that the appointment incentive program established by the director cannot include authority for an appointing authority to provide health care benefits to a covered officer or employee that are different from health care benefits otherwise provided by law for that officer or employee.

Sec. 124.15. (A) Board and commission members appointed prior to July 1, 1991, shall be paid a salary or wage in accordance with the following schedules of rates:

Schedule B

Pay Ranges and Step Values

Range		Step 1	Step 2	Step 3	Step 4
23	Hourly	5.72	5.91	6.10	6.31
	Annually	11897.60	12292.80	12688.00	13124.80
		Step 5	Step 6		
	Hourly	6.52	6.75		
	Annually	13561.60	14040.00		
24	Hourly	6.00	6.20	6.41	6.63
	Annually	12480.00	12896.00	13332.80	13790.40
		Step 5	Step 6		
	Hourly	6.87	7.10		
	Annually	14289.60	14768.00		
25	Hourly	6.31	6.52	6.75	6.99
	Annually	13124.80	13561.60	14040.00	14539.20
		Step 5	Step 6		
	Hourly	7.23	7.41		
	Annually	15038.40	15412.80		
26	Hourly	6.63	6.87	7.10	7.32
	Annually	13790.40	14289.60	14768.00	15225.60
		Step 5	Step 6		
	Hourly	7.53	7.77		
	Annually	15662.40	16161.60		
27	Hourly	6.99	7.23	7.41	7.64
	Annually	14534.20	15038.40	15412.80	15891.20
		Step 5	Step 6	Step 7	
	Hourly	7.88	8.15	8.46	
	Annually	16390.40	16952.00	17596.80	
28	Hourly	7.41	7.64	7.88	8.15
	Annually	15412.80	15891.20	16390.40	16952.00
		Step 5	Step 6	Step 7	
	Hourly	8.46	8.79	9.15	
	Annually	17596.80	18283.20	19032.00	
29	Hourly	7.88	8.15	8.46	8.79
	Annually	16390.40	16952.00	17596.80	18283.20
		Step 5	Step 6	Step 7	

	Hourly	9.15	9.58	10.01	
	Annually	19032.00	19926.40	20820.80	
		Step 1	Step 2	Step 3	Step 4
30	Hourly	8.46	8.79	9.15	9.58
	Annually	17596.80	18283.20	19032.00	19926.40
		Step 5	Step 6	Step 7	
	Hourly	10.01	10.46	10.99	
	Annually	20820.80	21756.80	22859.20	
		Step 1	Step 2	Step 3	Step 4
31	Hourly	9.15	9.58	10.01	10.46
	Annually	19032.00	19962.40	20820.80	21756.80
		Step 5	Step 6	Step 7	
	Hourly	10.99	11.52	12.09	
	Annually	22859.20	23961.60	25147.20	
		Step 1	Step 2	Step 3	Step 4
32	Hourly	10.01	10.46	10.99	11.52
	Annually	20820.80	21756.80	22859.20	23961.60
		Step 5	Step 6	Step 7	Step 8
	Hourly	12.09	12.68	13.29	13.94
	Annually	25147.20	26374.40	27643.20	28995.20
		Step 1	Step 2	Step 3	Step 4
33	Hourly	10.99	11.52	12.09	12.68
	Annually	22859.20	23961.60	25147.20	26374.40
		Step 5	Step 6	Step 7	Step 8
	Hourly	13.29	13.94	14.63	15.35
	Annually	27643.20	28995.20	30430.40	31928.00
		Step 1	Step 2	Step 3	Step 4
34	Hourly	12.09	12.68	13.29	13.94
	Annually	25147.20	26374.40	27643.20	28995.20
		Step 5	Step 6	Step 7	Step 8
	Hourly	14.63	15.35	16.11	16.91
	Annually	30430.40	31928.00	33508.80	35172.80
		Step 1	Step 2	Step 3	Step 4
35	Hourly	13.29	13.94	14.63	15.35
	Annually	27643.20	28995.20	30430.40	31928.00
		Step 5	Step 6	Step 7	Step 8
	Hourly	16.11	16.91	17.73	18.62
	Annually	33508.80	35172.80	36878.40	38729.60
		Step 1	Step 2	Step 3	Step 4
36	Hourly	14.63	15.35	16.11	16.91

Annually	30430.40	31928.00	33508.80	35172.80
	Step 5	Step 6	Step 7	Step 8
Hourly	17.73	18.62	19.54	20.51
Annually	36878.40	38729.60	40643.20	42660.80

Schedule C

Range	Pay Range and Values	
	Minimum	Maximum
41 Hourly	10.44	15.72
Annually	21715.20	32697.60
42 Hourly	11.51	17.35
Annually	23940.80	36088.00
43 Hourly	12.68	19.12
Annually	26374.40	39769.60
44 Hourly	13.99	20.87
Annually	29099.20	43409.60
45 Hourly	15.44	22.80
Annually	32115.20	47424.00
46 Hourly	17.01	24.90
Annually	35380.80	51792.00
47 Hourly	18.75	27.18
Annually	39000.00	56534.40
48 Hourly	20.67	29.69
Annually	42993.60	61755.20
49 Hourly	22.80	32.06
Annually	47424.00	66684.80

(B) The pay schedule of all employees shall be on a biweekly basis, with amounts computed on an hourly basis.

(C) Part-time employees shall be compensated on an hourly basis for time worked, at the rates shown in division (A) of this section or in section 124.152 of the Revised Code.

(D) The salary and wage rates in division (A) of this section or in section 124.152 of the Revised Code represent base rates of compensation and may be augmented by the provisions of section 124.181 of the Revised Code. In those cases where lodging, meals, laundry, or other personal services are furnished an employee in the service of the state, the actual costs or fair market value of the personal services shall be paid by the employee in such amounts and manner as determined by the director of administrative services and approved by the director of budget and management, and those personal services shall not be considered as a part of the employee's compensation. An appointing authority that appoints

employees in the service of the state, with the approval of the director of administrative services and the director of budget and management, may establish payments to employees for uniforms, tools, equipment, and other requirements of the department and payments for the maintenance of them.

The director of administrative services may review collective bargaining agreements entered into under Chapter 4117. of the Revised Code that cover ~~state~~ employees in the service of the state and determine whether certain benefits or payments provided to ~~state~~ the employees covered by those agreements should also be provided to employees in the service of the state who are exempt from collective bargaining coverage and are paid in accordance with section 124.152 of the Revised Code or are listed in division (B)(2) or (4) of section 124.14 of the Revised Code. On completing the review, the director of administrative services, with the approval of the director of budget and management, may provide to some or all of these employees any payment or benefit, except for salary, contained in such a collective bargaining agreement even if it is similar to a payment or benefit already provided by law to some or all of these employees. Any payment or benefit so provided shall not exceed the highest level for that payment or benefit specified in such a collective bargaining agreement. The director of administrative services shall not provide, and the director of budget and management shall not approve, any payment or benefit to such an employee under this division unless the payment or benefit is provided pursuant to a collective bargaining agreement to a state employee who is in a position with similar duties as, is supervised by, or is employed by the same appointing authority as, the employee to whom the benefit or payment is to be provided.

As used in this division, "payment or benefit already provided by law" includes, but is not limited to, bereavement, personal, vacation, administrative, and sick leave, disability benefits, holiday pay, and pay supplements provided under the Revised Code, but does not include wages or salary.

(E) New employees paid in accordance with schedule B of division (A) of this section or schedule E-1 of section 124.152 of the Revised Code shall be employed at the minimum rate established for the range unless otherwise provided. Employees with qualifications that are beyond the minimum normally required for the position and that are determined by the director to be exceptional may be employed in, or may be transferred or promoted to, a position at an advanced step of the range. Further, in time of a serious labor market condition when it is relatively impossible to recruit employees at the minimum rate for a particular classification, the entrance rate may be set at

an advanced step in the range by the director of administrative services. This rate may be limited to geographical regions of the state. Appointments made to an advanced step under the provision regarding exceptional qualifications shall not affect the step assignment of employees already serving. However, anytime the hiring rate of an entire classification is advanced to a higher step, all incumbents of that classification being paid at a step lower than that being used for hiring, shall be advanced beginning at the start of the first pay period thereafter to the new hiring rate, and any time accrued at the lower step will be used to calculate advancement to a succeeding step. If the hiring rate of a classification is increased for only a geographical region of the state, only incumbents who work in that geographical region shall be advanced to a higher step. When an employee in the unclassified service changes from one state position to another or is appointed to a position in the classified service, or if an employee in the classified service is appointed to a position in the unclassified service, the employee's salary or wage in the new position shall be determined in the same manner as if the employee were an employee in the classified service. When an employee in the unclassified service who is not eligible for step increases is appointed to a classification in the classified service under which step increases are provided, future step increases shall be based on the date on which the employee last received a pay increase. If the employee has not received an increase during the previous year, the date of the appointment to the classified service shall be used to determine the employee's annual step advancement eligibility date. In reassigning any employee to a classification resulting in a pay range increase or to a new pay range as a result of a promotion, an increase pay range adjustment, or other classification change resulting in a pay range increase, the director shall assign such employee to the step in the new pay range that will provide an increase of approximately four per cent if the new pay range can accommodate the increase. When an employee is being assigned to a classification or new pay range as the result of a class plan change, if the employee has completed a probationary period, the employee shall be placed in a step no lower than step two of the new pay range. If the employee has not completed a probationary period, the employee may be placed in step one of the new pay range. Such new salary or wage shall become effective on such date as the director determines.

(F) If employment conditions and the urgency of the work require such action, the director of administrative services may, upon the application of a department head, authorize payment at any rate established within the range for the class of work, for work of a casual or intermittent nature or on a project basis. Payment at such rates shall not be made to the same individual

for more than three calendar months in any one calendar year. Any such action shall be subject to the approval of the director of budget and management as to the availability of funds. This section and sections 124.14 and 124.152 of the Revised Code do not repeal any authority of any department or public official to contract with or fix the compensation of professional persons who may be employed temporarily for work of a casual nature or for work on a project basis.

(G)(1) Except as provided in division (G)(2) of this section, each state employee paid in accordance with schedule B of this section or schedule E-1 of section 124.152 of the Revised Code shall be eligible for advancement to succeeding steps in the range for the employee's class or grade according to the schedule established in this division. Beginning on the first day of the pay period within which the employee completes the prescribed probationary period in the employee's classification with the state, each employee shall receive an automatic salary adjustment equivalent to the next higher step within the pay range for the employee's class or grade.

Each employee paid in accordance with schedule E-1 of section 124.152 of the Revised Code shall be eligible to advance to the next higher step until the employee reaches the top step in the range for the employee's class or grade, if the employee has maintained satisfactory performance in accordance with criteria established by the employee's appointing authority. Those step advancements shall not occur more frequently than once in any twelve-month period.

When an employee is promoted or reassigned to a higher pay range, the employee's step indicator shall return to "0" or be adjusted to account for a probationary period, as appropriate. Step advancement shall not be affected by demotion. A promoted employee shall advance to the next higher step of the pay range on the first day of the pay period in which the required probationary period is completed. Step advancement shall become effective at the beginning of the pay period within which the employee attains the necessary length of service. Time spent on authorized leave of absence shall be counted for this purpose.

If determined to be in the best interest of the state service, the director of administrative services may, either statewide or in selected agencies, adjust the dates on which annual step advancements are received by employees paid in accordance with schedule E-1 of section 124.152 of the Revised Code.

(2)(a)(i) Except as provided in division (G)(2)(a)(ii) of this section, there shall be a moratorium on step advancements under division (G)(1) of this section from the pay period beginning June 29, 2003, through the pay

period ending June 25, 2005. Step advancements shall resume with the pay period beginning June 26, 2005. Upon the resumption of step advancements, there shall be no retroactive step advancements for the period the moratorium was in effect. The moratorium shall not affect an employee's performance evaluation schedule.

(ii) During the moratorium under division (G)(2)(a)(i) of this section, an employee who is hired or promoted and serves a probationary period in the employee's new position shall advance to the next step in the employee's pay range upon successful completion of the employee's probationary period. Thereafter, the employee is subject to the moratorium.

(b) The moratorium under division (G)(2)(a)(i) of this section shall apply to the employees of the secretary of state, the auditor of state, the treasurer of state, and the attorney general, who are subject to this section unless the secretary of state, the auditor of state, the treasurer of state, or the attorney general decides to exempt the office's employees from the moratorium and so notifies the director of administrative services in writing on or before July 1, 2003.

(H) Employees in appointive managerial or professional positions paid in accordance with schedule C of this section or schedule E-2 of section 124.152 of the Revised Code may be appointed at any rate within the appropriate pay range. This rate of pay may be adjusted higher or lower within the respective pay range at any time the appointing authority so desires as long as the adjustment is based on the employee's ability to successfully administer those duties assigned to the employee. Salary adjustments shall not be made more frequently than once in any six-month period under this provision to incumbents holding the same position and classification.

(I) When an employee is assigned to duty outside this state, the employee may be compensated, upon request of the department head and with the approval of the director of administrative services, at a rate not to exceed fifty per cent in excess of the employee's current base rate for the period of time spent on that duty.

(J) Unless compensation for members of a board or commission is otherwise specifically provided by law, the director of administrative services shall establish the rate and method of payment for members of boards and commissions pursuant to the pay schedules listed in section 124.152 of the Revised Code.

(K) Regular full-time employees in positions assigned to classes within the instruction and education administration series under the rules of the director of administrative services, except certificated employees on the

instructional staff of the state school for the blind or the state school for the deaf, whose positions are scheduled to work on the basis of an academic year rather than a full calendar year, shall be paid according to the pay range assigned by such rules but only during those pay periods included in the academic year of the school where the employee is located.

(1) Part-time or substitute teachers or those whose period of employment is other than the full academic year shall be compensated for the actual time worked at the rate established by this section.

(2) Employees governed by this division are exempt from sections 124.13 and 124.19 of the Revised Code.

(3) Length of service for the purpose of determining eligibility for step advancements as provided by division (G) of this section and for the purpose of determining eligibility for longevity pay supplements as provided by division (E) of section 124.181 of the Revised Code shall be computed on the basis of one full year of service for the completion of each academic year.

(L) The superintendent of the state school for the deaf and the superintendent of the state school for the blind shall, subject to the approval of the superintendent of public instruction, carry out both of the following:

(1) Annually, between the first day of April and the last day of June, establish for the ensuing fiscal year a schedule of hourly rates for the compensation of each certificated employee on the instructional staff of that superintendent's respective school constructed as follows:

(a) Determine for each level of training, experience, and other professional qualification for which an hourly rate is set forth in the current schedule, the per cent that rate is of the rate set forth in such schedule for a teacher with a bachelor's degree and no experience. If there is more than one such rate for such a teacher, the lowest rate shall be used to make the computation.

(b) Determine which six city, local, and exempted village school districts with territory in Franklin county have in effect on, or have adopted by, the first day of April for the school year that begins on the ensuing first day of July, teacher salary schedules with the highest minimum salaries for a teacher with a bachelor's degree and no experience;

(c) Divide the sum of such six highest minimum salaries by ten thousand five hundred sixty;

(d) Multiply each per cent determined in division (L)(1)(a) of this section by the quotient obtained in division (L)(1)(c) of this section;

(e) One hundred five per cent of each product thus obtained shall be the hourly rate for the corresponding level of training, experience, or other

professional qualification in the schedule for the ensuing fiscal year.

(2) Annually, assign each certificated employee on the instructional staff of the superintendent's respective school to an hourly rate on the schedule that is commensurate with the employee's training, experience, and other professional qualifications.

If an employee is employed on the basis of an academic year, the employee's annual salary shall be calculated by multiplying the employee's assigned hourly rate times one thousand seven hundred sixty. If an employee is not employed on the basis of an academic year, the employee's annual salary shall be calculated in accordance with the following formula:

(a) Multiply the number of days the employee is required to work pursuant to the employee's contract by eight;

(b) Multiply the product of division (L)(2)(a) of this section by the employee's assigned hourly rate.

Each employee shall be paid an annual salary in biweekly installments. The amount of each installment shall be calculated by dividing the employee's annual salary by the number of biweekly installments to be paid during the year.

Sections 124.13 and 124.19 of the Revised Code do not apply to an employee who is paid under this division.

As used in this division, "academic year" means the number of days in each school year that the schools are required to be open for instruction with pupils in attendance. Upon completing an academic year, an employee paid under this division shall be deemed to have completed one year of service. An employee paid under this division is eligible to receive a pay supplement under division (L)(1), (2), or (3) of section 124.181 of the Revised Code for which the employee qualifies, but is not eligible to receive a pay supplement under division (L)(4) or (5) of that section. An employee paid under this division is eligible to receive a pay supplement under division (L)(6) of section 124.181 of the Revised Code for which the employee qualifies, except that the supplement is not limited to a maximum of five per cent of the employee's regular base salary in a calendar year.

(M) Division (A) of this section does not apply to "exempt employees," as defined in section 124.152 of the Revised Code, who are paid under that section.

Notwithstanding any other provisions of this chapter, when an employee transfers between bargaining units or transfers out of or into a bargaining unit, the director of administrative services shall establish the employee's compensation and adjust the maximum leave accrual schedule as the director deems equitable.

Sec. 124.20. The director of administrative services, with the approval of the state personnel board of review, shall adopt rules:

~~(A) For the classification of officers, positions, and employments, in the civil service of the state and the several counties thereof;~~

~~(B) For appointment, promotions, transfers, layoffs, suspensions, reductions, reinstatements, and removals ~~therein~~ in and examinations and registrations for offices and positions in the civil service of the state. ~~Except as otherwise provided in this division, appointing~~ Appointing authorities with officers or employees in the civil service of the state shall submit personnel action information to the department of administrative services as the director requires. ~~County boards of mental retardation and developmental disabilities shall be required to submit personnel action forms to the department of administrative services only when an employee is hired by a board, when a disciplinary action appealable pursuant to this chapter is taken by a board, or when the board terminates the employment of an employee for any reason. Any submittals required by this section shall be made to the county personnel department with jurisdiction in the matter, if one has been established.~~~~

~~(C)~~(B) For maintaining and keeping records of the efficiency of officers and employees in the civil service of the state in accordance with sections 124.01 to 124.64 of the Revised Code.

Due notice of the contents of ~~such~~ those rules and of all changes ~~therein~~ shall be given to appointing authorities affected by ~~such~~ those rules, and ~~such~~ those rules also shall ~~also~~ be printed available for public distribution.

Sec. 124.22. ~~No rules or regulations shall be made setting up~~ Rules establishing educational requirements as a condition of taking a civil service examination ~~except in~~ shall only be adopted with respect to ~~professional and other~~ positions for which ~~such~~ educational requirements are expressly imposed by ~~statute~~ a section of the Revised Code or federal requirements ~~and to the extent of the requirements so imposed, except for such positions where education and training are necessary to the performance of a specific job or professional pursuit or for which the director determines that the educational requirements are job-related.~~ An applicant for a civil service examination must be a United States citizen or have legally declared ~~his~~ the intention of becoming a United States citizen.

Sec. 124.23. (A) All applicants for positions and places in the classified service shall be subject to examination, except for applicants for positions as professional or certified service and paraprofessional employees of county boards of mental retardation and developmental disabilities, who shall be hired in the manner provided in section 124.241 of the Revised Code.

(B) Any examination administered under this section shall be public, and be open to all citizens of the United States and those persons who have legally declared their intentions of becoming United States citizens, within certain limitations to be determined by the director of administrative services; as to citizenship, age, experience, education, health, habit, and moral character; ~~provided any soldier, sailor, marine, coast guarder, member of the auxiliary corps as established by congress, member of the army nurse corps or navy nurse corps, or red cross nurse who has served in the army, navy, or hospital service of the United States, and such other military service as is designated by congress, including World War I, World War II, or during the period beginning May 1, 1949, and lasting so long as the armed forces of the United States are engaged in armed conflict or occupation duty, or the selective service or similar conscriptive acts are in effect in the United States, whichever is the later date.~~ Any person who has completed service in the uniformed services, who has been honorably discharged therefrom from the uniformed services or transferred to the reserve with evidence of satisfactory service, and who is a resident of Ohio, this state may file with the director of administrative services a certificate of service or honorable discharge, whereupon and, upon this filing, the person shall receive additional credit of twenty per cent of the person's total grade given in the regular examination in which the person receives a passing grade. Such

As used in this division, "service in the uniformed services" and "uniformed services" have the same meanings as in the "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4303.

(C) An examination may include an evaluation of such factors as education, training, capacity, knowledge, manual dexterity, and physical or psychological fitness. ~~Examinations~~ An examination shall consist of one or more tests in any combination. Tests may be written, oral, physical, demonstration of skill, or an evaluation of training and experiences and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the position for which appointment is sought. ~~Where~~ Tests may include structured interviews, assessment centers, work simulations, examinations of knowledge, skills, and abilities, and any other acceptable testing methods. If minimum or maximum requirements are established for any examination, they shall be specified in the examination announcement.

(D) The director of administrative services shall have control of all examinations, except as otherwise provided in sections 124.01 to 124.64 of

the Revised Code. No questions in any examination shall relate to political or religious opinions or affiliations. No credit for seniority, efficiency, or any other reason shall be added to an applicant's examination grade unless the applicant achieves at least the minimum passing grade on the examination without counting ~~such~~ that extra credit.

(E) Except as otherwise provided in sections 124.01 to 124.64 of the Revised Code, the director of administrative services shall give reasonable notice of the time, place, and general scope of every competitive examination for appointment to a position in the civil service. The director ~~of administrative services~~ shall send written, printed, or electronic notices of every examination ~~of~~ to be conducted in the state classified service to each agency of the type the director of job and family services specifies and, in the case of a county in which no such agency is located, to the clerk of the court of common pleas of that county and to the clerk of each city ~~of~~ located within that county. ~~Such~~ Those notices, ~~promptly upon receipt,~~ shall be posted in conspicuous public places in the designated agencies ~~and~~ or the courthouse, and city hall of the cities, of the counties in which no ~~such~~ designated agency is located. ~~Such notices shall be posted for at least two weeks preceding any examination involved, and~~ in a conspicuous place in the office of the director of administrative services for at least two weeks ~~before~~ preceding any examination involved. In case of examinations limited by the director ~~of administrative services~~ to a district, county, city, or department, the director ~~of administrative services~~ shall provide by rule for adequate publicity of ~~such examinations~~ an examination in the district, county, city, or department within which competition is permitted.

Sec. 124.26. (A) ~~Except as provided in divisions (B) and (C) of this section, from~~ From the returns of the examinations, the director of administrative services shall prepare an eligible list of the persons whose general average standing upon examinations for ~~such~~ the grade or class is not less than the minimum fixed by the rules of the director, and who are otherwise eligible; ~~and such.~~ Those persons shall take rank upon the eligible list as candidates in the order of their relative excellence as determined by the examination without reference to priority of the time of examination. ~~In the event~~ If two or more applicants receive the same mark in an open competitive examination, priority in the time of filing the application with the director shall determine the order in which their names shall be placed on the eligible list; ~~provided, except~~ that applicants eligible for veteran's preference under section 124.23 of the Revised Code shall receive priority in rank on the eligible list over nonveterans on the list with a rating equal to that of the veteran. Ties among veterans shall be decided by priority of filing

the application. ~~In the event of~~ If two or more applicants ~~receiving~~ receive the same mark on a promotional examination, seniority shall determine the order in which their names shall be placed on the eligible list. The term of eligibility of each list shall be fixed by the director at not less than one ~~nor~~ or more than two years. ~~When~~

When an eligible list is reduced to ten names or less, a new list may be prepared. The director may consolidate two or more eligible lists of the same kind by the rearranging of eligibles named ~~therein~~ in the lists, according to their grades.

~~(B) A person serving as a provisional employee who passes an examination, given for the department in which he is employed, for the class or grade in which the person holds the position shall be appointed as a certified employee in the position before the director of administrative services prepares an eligible list.~~

Sec. 124.27. (A) The head of a department, office, or institution, in which a position in the classified service is to be filled, shall notify the director of administrative services of the fact, and the director shall, except as otherwise provided in this section and sections 124.30 and 124.31 of the Revised Code, certify to the appointing authority the names and addresses of the ten candidates standing highest on the eligible list for the class or grade to which the position belongs; ~~provided, except~~ that the director may certify less than ten names if ten names are not available. When less than ten names are certified to an appointing authority, appointment from that list shall not be mandatory. When a position in the classified service in the department of mental health or the department of mental retardation and developmental disabilities is to be filled, the director of administrative services shall make such certification to the appointing authority within seven working days of the date the eligible list is requested.

(B) The appointing authority shall notify the director of ~~such a~~ such a position in the classified service to be filled, and the appointing authority shall fill ~~such~~ the vacant position by appointment of one of the ten persons certified by the director. If more than one position is to be filled, the director ~~of administrative services~~ may certify a group of names from the eligible list, and the appointing authority shall appoint in the following manner: ~~Beginning~~ beginning at the top of the list, each time a selection is made, it must be from one of the first ten candidates remaining on the list who is willing to accept consideration for the position. If an eligible list becomes exhausted, and until a new list can be created, or when no eligible list for ~~such a~~ such a position exists, names may be certified from eligible lists most appropriate for the group or class in which the position to be filled is

classified. A person who is certified from an eligible list more than three times to the same appointing authority for the same or similar positions; may be omitted from future certification to ~~such that~~ appointing authority, provided that certification for a temporary appointment shall not be counted as one of ~~such those~~ certifications. Every ~~soldier, sailor, marine, coast guarder, member of the auxiliary corps as established by congress, member of the army nurse corps, or navy nurse corps, or red cross nurse who has served in the army, navy, or hospital service of the United States, and such other military service as is designated by congress in the war with Spain, including the Philippine insurrection and the Chinese relief expedition, or from April 21, 1898, to July 4, 1902, World War I, World War II, or during the period beginning May 1, 1949, and lasting so long as the armed forces of the United States are engaged in armed conflict or occupation duty, or the selective service or similar conscriptive acts are in effect in the United States, whichever is the later date, who has been honorably discharged or separated under honorable conditions therefrom,~~ person who qualifies for veteran's preference under section 124.23 of the Revised Code, who is a resident of this state, and whose name is on the eligible list for a position; shall be entitled to preference in original appointments to any such competitive position in the civil service of the state and ~~the its~~ its civil divisions ~~thereof,~~ over all other persons eligible for ~~such those~~ appointments and standing on the relevant eligible list ~~therefor,~~ with a rating equal to that of ~~each such the person qualifying for veteran's preference.~~ Appointments to all positions in the classified service, that are not filled by promotion, transfer, or reduction, as provided in sections 124.01 to 124.64 of the Revised Code and the rules of the director prescribed under those sections, shall be made only from those persons whose names are certified to the appointing authority, and no employment, except as provided in those sections, shall be otherwise given in the classified service of this state or any political subdivision of the state.

(C) All original and promotional appointments, including ~~provisional~~ appointments made pursuant to section 124.30 of the Revised Code, shall be for a probationary period, not less than sixty days nor more than one year, to be fixed by the rules of the director, except as provided in section 124.231 of the Revised Code, ~~or and~~ except for original appointments to a police department as a police officer; or to a fire department as a firefighter which shall be for a probationary period of one year, ~~and no.~~ No appointment or promotion is final until the appointee has satisfactorily served the probationary period. ~~Service as a provisional employee in the same or similar class shall be included in the probationary period.~~ If the service of

the probationary employee is unsatisfactory, the employee may be removed or reduced at any time during the probationary period. If the appointing ~~authority's decision is~~ authority decides to remove ~~the appointee a~~ probationary employee in the service of the state, the appointing ~~authority's~~ authority shall ~~indicate~~ communicate to the ~~director~~ director the reason for that decision. A probationary employee duly removed or reduced in position for unsatisfactory service does not have the right to appeal the removal or reduction under section 124.34 of the Revised Code.

Sec. 124.271. Any employee in the classified service of the state or any county, city, city health district, general health district, or city school district who is appointed ~~provisionally to fill a vacancy and who~~ position under section 124.30 of the Revised Code, and either demonstrates merit and fitness for the position by successfully completing the probationary period for the position or remains in provisional status in the same classification or classification series ~~position~~ position for a period of ~~two years~~ six months of continuous service, ~~during which period no competitive examination is held,~~ becomes whichever period is longer, shall become a permanent appointee in the classified service at the conclusion of ~~such two-year~~ that period.

Sec. 124.30. (A) Positions in the classified service may be filled without competition as follows:

(1) Whenever there are urgent reasons for filling a vacancy in any position in the classified service and the director of administrative services is unable to certify to the appointing authority, upon ~~requisition by the latter~~ its request, a list of persons eligible for appointment to ~~such~~ the position after a competitive examination, the appointing authority may ~~nominate a person to the director for~~ fill the position by noncompetitive examination; and ~~if such nominee is certified by the director as qualified after such noncompetitive examination, the nominee may be appointed provisionally to fill such vacancy until a selection and appointment can be made after competitive examination; but such provisional appointment shall continue in force only until a regular appointment can be made from eligible lists prepared by the director and such eligible lists shall be prepared within six months, provided that an examination for the position must be held within the six-month period from the date of such provisional appointment. In the case of provisional appointees in county departments of job and family services and in the department of job and family services and department of health, if the salary is paid in whole or in part from federal funds, such eligible lists shall be prepared within six months, provided that an examination for the position must be held within the six-month period from the date of such provisional appointment. In case of an emergency, an~~

A temporary appointment may be made without regard to the rules of sections 124.01 to 124.64 of the Revised Code, but in no case to. Except as otherwise provided in this division, the temporary appointment may not continue longer than ~~thirty~~ one hundred twenty days, and in no case shall successive temporary appointments be made. ~~Interim or~~ A temporary appointment longer than one hundred twenty days may be made if necessary by reason of sickness, disability, or other approved leave of absence of regular officers or employees ~~shall, in which case it may~~ continue only during ~~such~~ the period of sickness, disability, or other approved leave of absence, subject to ~~the~~ rules to be provided for by of the director.

(2) In case of a vacancy in a position in the classified service where peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character are required, and upon satisfactory evidence that for specified reasons competition in ~~such~~ this special case is impracticable and that the position can best be filled by a selection of some designated person of high and recognized attainments in ~~such~~ those qualities, the director may suspend the provisions of sections 124.01 to 124.64 of the Revised Code, ~~requiring that require~~ competition in ~~such~~ this special case, but no suspension shall be general in its application, ~~and all.~~ All such cases of suspension shall be reported in the annual report of the director with the reasons for ~~the~~ each suspension. The director shall suspend the provisions when the director of job and family services provides the ~~director~~ certification under section 5101.051 of the Revised Code that a position with the department of job and family services can best be filled if the provisions are suspended.

(3) ~~Where the services to be rendered by an appointee are for a temporary period, not to exceed six months, and the need of such service is important and urgent, the appointing authority may select for such temporary service any person on the proper list of those eligible for permanent appointment. Successive temporary appointments to the same position shall not be made under this division.~~ The acceptance or refusal by an eligible person of a temporary appointment shall not affect the person's standing on the ~~register~~ eligible list for permanent ~~employment; appointment,~~ nor shall the period of temporary service be counted as a part of the probationary service in case of subsequent appointment to a permanent position.

(B) Persons who receive ~~external interim,~~ temporary; or intermittent appointments are in the unclassified civil service and serve at the pleasure of their appointing authority. ~~Interim appointments shall be made only to fill a~~

~~vacancy that results from an employee's temporary absence, but shall not be made to fill a vacancy that results because an employee receives an interim appointment.~~

Sec. 124.31. (A) Vacancies in positions in the classified service shall be filled insofar as practicable by promotions. The director of administrative services shall provide in the director's rules for keeping a record of efficiency for each employee in the classified civil service of the state, and for making promotions in the classified civil service of the state on the basis of merit, to be ascertained ~~as far~~ insofar as practicable by promotional examinations, by conduct and capacity in office, and by seniority in service; ~~and. The director shall provide that vacancies in positions in the classified civil service of the state shall be filled by promotion in all cases where, in the judgment of the director, it is for the best interest of the service. The director's rules shall authorize each appointing authority of a county to develop and administer in a manner it devises, an evaluation system for the employees it appoints.~~

(B) All examinations for promotions shall be competitive and may be conducted in the same manner as examinations described in section 124.23 of the Revised Code. In promotional examinations, seniority in service shall be added to the examination grade, but no credit for seniority or any other reason shall be added to an examination grade unless the applicant achieves at least the minimum passing score on the examination without counting ~~such that~~ extra credit. Credit for seniority shall equal, for the first four years of service, one per cent of the total grade attainable in the promotion examination, and, for each of the fifth through fourteenth years of service, six-tenths per cent of the total grade attainable.

In all cases where vacancies are to be filled by promotion, the director shall certify to the appointing authority ~~only~~ the names of the three persons having the highest rating on the eligible list. The method of examination for promotions, the manner of giving notice ~~thereof~~ of the examination, and the rules governing ~~the same~~ it shall be in general the same as those provided for original examinations, except as otherwise provided in sections 124.01 to 124.64 of the Revised Code.

Sec. 124.32. (A) ~~With the consent of the director of administrative services, a~~ A person holding an office or position in the classified service may be transferred to a similar position in another office, department, or institution having the same pay and similar duties; ~~but no transfer shall be made from as follows:~~

(1) From an office or position in one class to an office or position in another class, ~~nor shall a person be transferred to;~~

(2) To an office or position for original entrance to which there is required by sections 124.01 to 124.64 of the Revised Code, or the rules adopted pursuant to ~~such~~ those sections, an examination involving essential tests or qualifications or carrying a salary different from or higher than those required for original entrance to an office or position held by ~~such~~ the person proposed to be transferred.

No person in the classified civil service of the state may be transferred without the consent of the director of administrative services.

(B) Any person holding an office or position ~~under~~ in the classified service who has been separated from the service without delinquency or misconduct on the person's part may, ~~with the consent of the director,~~ be reinstated within one year from the date of ~~such~~ that separation to a vacancy in the same ~~or similar~~ office or in a similar position in the same department; ~~provided, except that a person in the classified service of the state only may be reinstated with the consent of the director of administrative services. But,~~ if ~~such~~ that separation is due to injury or physical or psychiatric disability, ~~such~~ the person shall be reinstated ~~to~~ in the same office held or in a similar position to that held at the time of separation, within thirty days after written application for reinstatement ~~and after passing, if the person passes a physical or~~ or psychiatric examination made by a licensed physician, a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife showing that the person has recovered from ~~such the injury or physical or psychiatric disability, provided further that~~ such if the application for reinstatement ~~be is~~ filed within ~~three~~ two years from the date of separation, and ~~further provided that such~~ if the application ~~shall is~~ is not ~~be~~ filed after the date of service eligibility retirement. The physician, physician assistant, clinical nurse specialist, certified nurse practitioner, or certified nurse-midwife shall be designated by the appointing authority and shall complete any written documentation of the physical or psychiatric examination.

Sec. 124.321. (A) Whenever it becomes necessary for an appointing authority to reduce its work force, the appointing authority shall lay off employees or abolish their positions in accordance with sections 124.321 to 124.327 of the Revised Code and the rules of the director of administrative services.

(B)(1) Employees may be laid off as a result of a lack of funds within an appointing authority. For appointing authorities that employ persons whose salary or wage is paid by warrant of the director of budget and management, the director of budget and management shall be responsible for determining, consistent with the rules adopted under division (B)(3) of this section,

whether a lack of funds exists. For appointing authorities that employ persons whose salary or wage is paid other than by warrant of the director of budget and management, the appointing authority itself shall determine whether a lack of funds exists and shall file a statement of rationale and supporting documentation with the director of administrative services prior to sending the layoff notice.

(2) As used in this division, a "lack of funds" means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations. This section does not require any transfer of money between funds in order to offset a deficiency or projected deficiency of ~~federal~~ funding for ~~a program~~ programs funded by the federal government, special revenue accounts, or proprietary accounts. Whenever a program receives funding through a grant or similar mechanism, a lack of funds shall be presumed for the positions assigned to and the employees who work under the grant or similar mechanism if, for any reason, the funding is reduced or withdrawn.

(3) The director of budget and management shall adopt rules, under Chapter 119. of the Revised Code, for agencies whose employees are paid by warrant of the director of budget and management, for determining whether a lack of funds exists.

(C)(1) Employees may be laid off as a result of lack of work within an appointing authority. For appointing authorities whose employees are paid by warrant of the director of budget and management, the director of administrative services shall determine, consistent with the rules adopted under division (F) of this section, whether a lack of work exists. All other appointing authorities shall themselves determine whether a lack of work exists and shall file a statement of rationale and supporting documentation with the director of administrative services prior to sending the layoff notice.

(2) As used in this division, a "lack of work" means an appointing authority has a current or projected ~~temporary~~ decrease in ~~the workload; expected to last less than one year,~~ that requires a reduction of current or projected staffing levels in its organization or structure. The determination of a lack of work shall indicate the current or projected ~~temporary~~ decrease in ~~the workload of an appointing authority~~ and whether the current or projected staffing levels of the appointing authority will be excessive.

(D)(1) Employees may be laid off as a result of abolishment of positions. As used in this division, "abolishment" means the deletion of a position or positions from the organization or structure of an appointing authority.

For purposes of this division, an appointing authority may abolish positions for any one or any combination of the following reasons: as a result of a reorganization for the efficient operation of the appointing authority, for reasons of economy, or for lack of work.

(2)(a) Reasons of economy permitting an appointing authority to abolish a position and to lay off the holder of that position under this division shall be determined at the time the appointing authority proposes to abolish the position. The reasons of economy shall be based on the appointing authority's estimated amount of savings with respect to salary, benefits, and other matters associated with the abolishment of the position, except that the reasons of economy associated with the position's abolishment instead may be based on the appointing authority's estimated amount of savings with respect to salary and benefits only, if:

(i) Either the appointing authority's operating appropriation has been reduced by an executive or legislative action, or the appointing authority has a current or projected deficiency in funding to maintain current or projected levels of staffing and operations; and

(ii) ~~It~~ In the case of a position in the service of the state, it files a notice of the position's abolishment with the director of administrative services within one year of the occurrence of the applicable circumstance described in division (D)(2)(a)(i) of this section.

(b) The following principles apply when a circumstance described in division (D)(2)(a)(i) of this section would serve to authorize an appointing authority to abolish a position and to lay off the holder of the position under this division based on the appointing authority's estimated amount of savings with respect to salary and benefits only:

(i) The position's abolishment shall be done in good faith and not as a subterfuge for discipline.

(ii) If a circumstance affects a specific program only, the appointing authority only may abolish a position within that program.

(iii) If a circumstance does not affect a specific program only, the appointing authority may identify a position that it considers appropriate for abolishment based on the reasons of economy.

(3) Each appointing authority shall determine itself whether any position should be abolished ~~and~~. An appointing authority abolishing any position in the service of the state shall file a statement of rationale and supporting documentation with the director of administrative services prior to sending the notice of abolishment.

If an abolishment results in a reduction of the work force, the appointing authority shall follow the procedures for laying off employees, subject to the

following modifications:

(a) The employee whose position has been abolished shall have the right to fill an available vacancy within the employee's classification.

(b) If the employee whose position has been abolished has more retention points than any other employee serving in the same classification, the employee with the fewest retention points shall be displaced.

(c) If the employee whose position has been abolished has the fewest retention points in the classification, the employee shall have the right to fill an available vacancy in a lower classification in the classification series.

(d) If the employee whose position has been abolished has the fewest retention points in the classification, the employee shall displace the employee with the fewest retention points in the next or successively lower classification in the classification series.

(E) Notwithstanding any contrary provision of the displacement procedure described in section 124.324 of the Revised Code for employees to displace other employees during a layoff, the director of administrative services or a county appointing authority may establish a paper lay-off process under which employees who are to be laid off or displaced may be required, before the date of their paper layoff, to preselect their options for displacing other employees.

(F) The director of administrative services shall adopt rules under Chapter 119. of the Revised Code for the determination of lack of work within an appointing authority, for the abolishment of positions by an appointing authority, and for the implementation of this section.

Sec. 124.322. Whenever a reduction in the work force is necessary, the appointing authority of an agency shall decide in which classification or classifications the layoff or layoffs will occur and the number of employees to be laid off within each affected classification. The director of administrative services shall ~~promulgate~~ adopt rules, under Chapter 119. of the Revised Code, establishing a method for determining layoff procedures and an order of layoff of, and the displacement and recall of, laid-off state and county employees. ~~The~~

The order of layoff in those rules shall be based in part on length of service and; may include efficiency in service, appointment type, or ~~such~~ similar other factors the director considers appropriate. If the director establishes relative efficiency as a criterion to be used in determining order of layoff for state and county employees, credit for efficiency may be other than ten per cent of total retention points.

Sec. 124.323. ~~(A)~~ Employees shall be laid off in the order set forth in this section within the primary appointment categories of part-time

~~probationary, part-time permanent, seasonal, and full-time probationary, and other appointment categories as established by the director of administrative services full-time permanent. Whenever~~

~~(B) Whenever a reduction in force is necessary within each of the primary appointment categories, first seasonal part-time probationary, then part-time permanent, and then full-time probationary, and then full-time permanent employees shall be laid off in the following order:~~

~~(1) Employees serving provisionally who have not completed their probationary period after appointment;~~

~~(2) Employees serving provisionally who have satisfactorily completed their probationary period after appointment;~~

~~(3) Employees appointed from certified eligible lists or who are certified and who have not completed their probationary period after appointment;~~

~~(4) Employees appointed from certified eligible lists or who are certified and who have successfully completed their probationary period after appointment.~~

Sec. 124.324. (A) A laid-off employee has the right to displace the employee with the fewest retention points ~~in the classification from which the employee was laid off or in a lower or equivalent classification,~~ in the following order:

(1) Within the classification from which the employee was laid off;

(2) Within the classification series from which the employee was laid off;

~~(3) Within a classification that has the same or similar duties as the classification from which the employee was laid off, in accordance with the list published by the director of administrative services under division (B)(2) of section 124.311 of the Revised Code;~~

(4) Within the classification the employee held immediately prior to holding the classification from which the employee was laid off-

~~Divisions (A)(3) and (4) of this section shall not apply to employees of cities, city health districts, and counties, except for employees of county departments of job and family services.~~

~~A laid-off employee in the classified service has the right to displace an employee with the fewest retention points in the classification that the laid-off employee held immediately prior to holding the classification from which the employee was laid off, if the laid-off employee was certified in the former classification. If a position in that classification does not exist, the employee may displace employees in the classification that the employee next previously held, and so on, subject to the same provisions. The, except that the employee may not displace employees in a~~

classification if the employee does not meet the minimum qualifications of the classification or if the employee last held the classification more than ~~five~~ three years prior to the date on which the employee was laid off, ~~except that failure to meet minimum qualifications shall not prevent the employee from displacing employees in the classification that the employee next previously held within that five-year period.~~

If, after exercising displacement rights, an employee is subject to further layoff action, the employee's displacement rights shall be in accordance with the classification from which the employee was first laid off.

The director of administrative services shall verify the calculation of the retention points of all employees in an affected classification in accordance with section 124.325 of the Revised Code.

(B) Following the order of layoff, an employee laid off in the classified civil service shall displace another employee within the same appointing authority or independent institution and layoff jurisdiction in the following manner:

(1) Each laid-off employee possessing more retention points shall displace the employee with the fewest retention points in the next lower classification or successively lower classification in the same classification series, ~~except that a laid-off provisional employee shall not have the right to displace a certified employee.~~

(2) Any employee displaced by an employee possessing more retention points shall displace the employee with the fewest retention points in the next lower classification or successively lower classification in the same classification series, ~~except that a displaced provisional employee shall not displace a certified employee.~~ This process shall continue, if necessary, until the employee with the fewest retention points in the lowest classification of the classification series of the same appointing authority or independent institution has been reached and, if necessary, laid off.

(C) Employees shall notify the appointing authority of their intention to exercise their displacement rights, within five days after receiving notice of layoff. This division does not apply if the director of administrative services has established a paper lay-off process pursuant to division (E) of section 124.321 of the Revised Code that includes a different notification requirement for employees exercising their displacement rights under that process.

(D) No employee shall displace an employee for whose position or classification there ~~exists special~~ are certain position-specific minimum qualifications, as established by ~~a position description, by classification specifications~~ the appointing authority and reviewed for validity by the

department of administrative services, or as established by bona fide occupational qualification, unless the employee desiring to displace another employee possesses the requisite position-specific minimum qualifications for the position or classification.

(E) If an employee exercising displacement rights must displace an employee in another county within the same layoff district, the displacement shall not be construed to be a transfer.

(F) The director of administrative services shall adopt rules under Chapter 119. of the Revised Code for the implementation of this section.

Sec. 124.325. (A) Retention points to reflect the length of continuous service and efficiency in service for all employees affected by a layoff shall be verified by the director of administrative services.

(B) An employee's length of continuous service will be carried from one layoff jurisdiction to another so long as no break in service occurs between ~~such~~ transfers or appointments.

~~(C) Retention points for efficiency in service shall be determined by averaging the employee's latest two annual performance evaluations. An employee with less than two years of service will have the latest performance evaluation used. Any employees with less than one year of service will have their final probationary evaluation used.~~

~~(D) Should (C) If~~ two or more employees have an identical number of retention points, employees having the shortest period of continuous service shall be laid off first.

~~(E)(D)~~(1) As used in this division, "affected employee" means a city employee who becomes a county employee, or a county employee who becomes a city employee, as the result of any of the following:

- (a) The merger of a city and a county office;
- (b) The merger of city and county functions or duties;
- (c) The transfer of functions or duties between a city and county.

(2) For purposes of this section, the new employer of any affected employee shall treat the employee's prior service with ~~such~~ a former employer as if it had been served with the new employer.

~~(F)(E)~~ The director of administrative services shall ~~promulgate~~ adopt rules; in accordance with Chapter 119. of the Revised Code; to establish a system for the assignment of retention points for each employee in a classification affected by a layoff and for determining, in those instances where employees have identical retention points, which employee shall be laid off first.

Sec. 124.326. (A) The order of layoff and displacement shall apply within layoff jurisdictions. Each of the layoff jurisdictions, as defined in this

section, is autonomous, and layoff, displacement, reinstatement, and reemployment procedures shall apply only within the jurisdiction affected by the layoff.

(B) The layoff jurisdictions are as follows:

(1) District layoff jurisdiction: the order of layoff shall be followed on a district-wide basis within each state agency, board, commission, or independent institution. The director of administrative services shall establish layoff districts for state agencies, boards, and commissions.

(2) County jurisdiction: within county agencies, the order of layoff shall be followed within each county appointing authority.

(3) University and college jurisdiction: each state-supported college and university is a separate, indivisible layoff jurisdiction throughout which the order of layoff shall be followed, except that a branch campus outside the layoff district of its main campus shall be considered a separate layoff jurisdiction. For purposes of division (B)(3) of this section, the Ohio agriculture research and development center shall be considered a branch campus of the Ohio state university.

The layoff jurisdiction described in division (B)(3) of this section shall not apply to employees who:

(a) Are laid off for a temporary period of up to one hundred ten consecutive days; or

(b) Have specialized skills, knowledge, or training necessary for the performance of their job.

A state-supported college or university may adopt rules pursuant to Chapter 119. of the Revised Code to provide for the layoff of employees who are not subject to the lay-off jurisdiction described in division (B)(3) of this section but instead are subject to the lay-off jurisdiction described in division (B)(1) of this section.

(C) As used in this section, "independent institution" means an institution under the control of a managing officer or board of trustees with the power to appoint or remove employees as provided by statute.

Sec. 124.327. (A) Employees who have been laid off or have, by virtue of exercising their displacement rights, been displaced to a lower classification in their classification series, shall be placed on appropriate layoff lists. Those employees with the most retention points within each category of order of layoff, as established in section 124.323 of the Revised Code, shall be placed at the top of the layoff list to be followed by employees ranked in descending total retention order. Laid-off employees shall be placed on layoff lists for each classification in the classification series equal to or lower than the classification in which the employee was

employed at the time of layoff.

(B) An employee who is laid off retains reinstatement rights in the agency from which the employee was laid off. Reinstatement rights continue for one year from the date of layoff. During this one-year period, in any layoff jurisdiction in which an appointing authority has an employee on a layoff list, the appointing authority shall not hire or promote anyone into a position within that classification until all laid-off persons on a layoff list for that classification who are qualified to perform the duties of the position are reinstated or decline the position when it is offered.

For an exempt employee, as defined in section 124.152 of the Revised Code, who has reinstatement rights into a bargaining unit classification, the exempt employee's recall jurisdiction shall be the counties in which the exempt employee indicates willingness to accept reinstatement as determined by the applicable collective bargaining agreement.

(C) Each laid-off or displaced employee, in addition to reinstatement rights within the employee's appointing authority, ~~shall have~~ has the right to reemployment with any other agencies within the layoff jurisdiction state agency, board, commission, or independent institution described in division (B)(1) of section 124.326 of the Revised Code, if the employee is qualified to perform the duties of the position meets all applicable position-specific minimum qualifications developed by the other agency, board, commission, or independent institution and reviewed for validity by the department of administrative services or, in the absence of position-specific minimum qualifications so developed and reviewed, meets the qualifications described in the applicable classification, but only in the same classification from which the employee was initially laid off or displaced. Layoff lists for each appointing authority must be exhausted before ~~jurisdictional other jurisdiction~~ reemployment layoff lists are used.

(D) Any employee accepting or declining reinstatement to the same classification and same appointment type from which the employee was laid off or displaced shall be removed from the appointing authority's layoff list.

(E) Any employee accepting or declining reemployment to the same classification and the same appointment type from which the employee was laid off or displaced shall be removed from the ~~jurisdictional~~ layoff list for the jurisdiction in which the employee accepted or declined that reemployment as determined under division (C) of this section.

(F) An employee who does not exercise the option to displace under section 124.324 of the Revised Code shall only be entitled to reinstatement or reemployment in the classification from which the employee was displaced or laid off.

(G) ~~An~~ Except as otherwise provided in this division, an employee who declines reinstatement to a classification lower in the classification series than the classification from which the employee was laid off or displaced, ~~shall~~ thereafter is only ~~be~~ entitled to reinstatement to a classification higher, up to and including the classification from which the employee was laid off or displaced, in the classification series than the classification that was declined. This division does not apply when an employee, who was a full-time employee at the time of layoff or displacement, declines reinstatement in a part-time position.

(H) Any employee reinstated or reemployed under this section shall not serve a probationary period upon reinstatement or reemployment, except that an employee laid off during an original or promotional probationary period shall begin a new probationary period.

(I) For the purposes of this section, employees whose salary or wage is not paid directly by warrant of the director of budget and management shall be placed on layoff lists of their appointing authority only.

Sec. 124.33. An employee holding a position in the classified service ~~of the state~~ may be temporarily transferred from ~~his~~ the employee's original position to a similar position; for a period not to exceed thirty days, or for a longer period not to exceed ninety days if agreed to by the employee and employer.

No employee shall be temporarily transferred more than once during any six-month period without the approval of the director of administrative services, ~~who, if the employee is in the service of the state, or otherwise~~ without the approval of a commission. The director, by rule, shall set guidelines in his rules and regulations concerning procedures to be followed by all appointing authorities when making a temporary transfer and list those classifications where the nature of the employment is such that systematic changes in the location of an employee's work assignments are necessary for the efficient operation of an office, department, or institution.

If the director or a commission approves a second temporary transfer within any six-month period and the employee objects to the transfer because ~~he~~ the employee does not hold a position listed in the director's rules ~~and regulations~~ as one requiring systematic changes in the employee's work assignment or because it is not necessary for the efficient operation of the office, department, or institution, the employee may appeal ~~such that~~ transfer to the state personnel board of review. If the board finds that the position held by the employee is not by its nature subject to systematic changes or that a temporary transfer is not necessary for the efficient operation of the office, department, or institution, it shall not approve the

transfer. If the board finds that the temporary transfer is necessary for the efficient operation of the office, department, or institution or that the position is by its nature subject to systematic changes, it shall approve the transfer.

Any employee who is temporarily transferred from ~~his~~ the employee's original position to a similar position in excess of twenty miles from ~~his~~ the employee's place of residence shall be reimbursed, by the appointing authority requesting the transfer, for all actual and necessary expenses incurred during ~~such~~ the temporary transfer.

An appointing authority ~~may~~, with the approval of the director of administrative services, if the employee is in the service of the state, or otherwise with the approval of a commission, may permanently transfer an employee in the classified civil service ~~of the state~~ from ~~his~~ the employee's original position to a similar position in another office, department, or institution. For purposes of this section, a "permanent transfer is" means any transfer in excess of thirty days unless the employee and the employer agree to a longer period not to exceed ninety days. The appointing authority requesting the permanent transfer shall notify the employee and the director or commission in writing of the request to transfer. If the director or commission determines that the transfer is not necessary for the efficient operation of the office, department, or institution, ~~he~~ the director or commission shall not approve the transfer and shall notify the appointing authority and the employee in writing that transfer is not approved. If ~~he~~ the director or commission finds that the transfer is necessary for the efficient operation of the office, department, or institution, ~~he~~ the director or commission shall notify the appointing authority and the employee ~~involved in the request for transfer~~, in writing, that the transfer is approved, including in ~~such~~ that notification a statement whether the transfer will require a permanent change of residence for the employee.

If the employee consents to the transfer and is in agreement with the ~~director's~~ statement concerning a permanent change of residence, the appointing authority of the office, department, or institution receiving the employee shall reimburse ~~such~~ the employee for ~~his~~ actual and necessary travel and living expenses or, if the move requires a permanent change of residence, ~~his~~ actual and necessary expenses of moving to ~~his~~ the new location and provide a per diem allowance not to exceed thirty days for living expenses until ~~his~~ the employee's residence can be moved to the new location.

If the employee does not wish to be transferred or ~~he~~ feels that the ~~director's~~ decision regarding the need for a permanent change of residence

has been unfair, ~~he may~~ the employee, within ten days after receipt of ~~such~~ the notice, may appeal the transfer to the state personnel board of review, but, pending determination of ~~such~~ the appeal, the employee shall not refuse ~~such~~ the transfer.

In such an appeal, the appointing authority of the office, department, or institution receiving the employee shall be required to show that the permanent transfer is necessary for the efficient operation of the office, department, or institution. If the state personnel board of review finds that the transfer is necessary for the efficient operation of the office, department, or institution; and if the employee is transferred, the appointing authority of the office, department, or institution receiving the employee shall reimburse ~~such~~ the employee for the actual and necessary expenses of moving to ~~his~~ the new location and shall pay the employee a per diem allowance not to exceed thirty days for living expenses until ~~his~~ the employee's residence can be moved to the new location.

If the state personnel board of review finds that the transfer is not necessary for the efficient operation of the office, department, or institution; and if the employee has moved to the new location pending ~~his~~ the appeal, the appointing authority of the receiving office, department, or institution shall pay the actual and necessary expenses of the employee of moving to the new location and actual and necessary expenses for returning the employee to ~~his~~ the employee's previous location.

Sec. 124.34. (A) The tenure of every officer or employee in the classified service of the state and the counties, civil service townships, cities, city health districts, general health districts, and city school districts of the state, holding a position under this chapter, shall be during good behavior and efficient service. No ~~such~~ officer or employee shall be reduced in pay or position, fined, suspended, or removed, or have the officer's or employee's longevity reduced or eliminated, except as provided in section 124.32 of the Revised Code, and for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy or work rule of the officer's or employee's appointing authority, violation of this chapter or the rules of the director of administrative services or the commission, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. ~~An~~ The denial of a one-time pay supplement or a bonus to an officer or employee is not a reduction in pay for purposes of this section.

An appointing authority may require an employee who is suspended to report to work to serve the suspension. An employee serving a suspension in

this manner shall continue to be compensated at the employee's regular rate of pay for hours worked. ~~Such~~ The disciplinary action shall be recorded in the employee's personnel file in the same manner as other disciplinary actions and has the same effect as a suspension without pay for the purpose of recording disciplinary actions.

A finding by the appropriate ethics commission, based upon a preponderance of the evidence, that the facts alleged in a complaint under section 102.06 of the Revised Code constitute a violation of Chapter 102., section 2921.42, or section 2921.43 of the Revised Code may constitute grounds for dismissal. Failure to file a statement or falsely filing a statement required by section 102.02 of the Revised Code may also constitute grounds for dismissal. The tenure of an employee in the career professional service of the department of transportation is subject to section 5501.20 of the Revised Code.

Conviction of a felony is a separate basis for reducing in pay or position, suspending, or removing an officer or employee, even if the officer or employee has already been reduced in pay or position, suspended, or removed for the same conduct that is the basis of the felony. An officer or employee may not appeal to the state personnel board of review or the commission any disciplinary action taken by an appointing authority as a result of the officer's or employee's conviction of a felony. If an officer or employee removed under this section is reinstated as a result of an appeal of the removal, any conviction of a felony that occurs during the pendency of the appeal is a basis for further disciplinary action under this section upon the officer's or employee's reinstatement.

A person convicted of a felony immediately forfeits the person's status as a classified employee in any public employment on and after the date of the conviction for the felony. If an officer or employee is removed under this section as a result of being convicted of a felony or is subsequently convicted of a felony that involves the same conduct that was the basis for the removal, the officer or employee is barred from receiving any compensation after the removal notwithstanding any modification or disaffirmance of the removal, unless the conviction for the felony is subsequently reversed or annulled.

Any person removed for conviction of a felony is entitled to a cash payment for any accrued but unused sick, personal, and vacation leave as authorized by law. If subsequently reemployed in the public sector, ~~such~~ the person shall qualify for and accrue these forms of leave in the manner specified by law for a newly appointed employee and shall not be credited with prior public service for the purpose of receiving these forms of leave.

As used in this division, "felony" means any of the following:

(1) A felony that is an offense of violence as defined in section 2901.01 of the Revised Code;

(2) A felony that is a felony drug abuse offense as defined in section 2925.01 of the Revised Code;

(3) A felony under the laws of this or any other state or the United States that is a crime of moral turpitude;

(4) A felony involving dishonesty, fraud, or theft;

(5) A felony that is a violation of section 2921.05, 2921.32, or 2921.42 of the Revised Code.

(B) In case of a reduction, a suspension of forty or more work hours in the case of an employee exempt from the payment of overtime compensation, a suspension of more than three working days twenty-four or more work hours in the case of an employee required to be paid overtime compensation, a fine of forty or more hours' pay in the case of an employee exempt from the payment of overtime compensation, a fine in excess of three days' twenty-four or more hours' pay in the case of an employee required to be paid overtime compensation, or removal, except for the reduction or removal of a probationary employee, the appointing authority shall serve the employee with a copy of the order of reduction, fine, suspension, or removal, which order shall state the reasons for the action. The order shall be filed with the director of administrative services and state personnel board of review, or the commission, as may be appropriate.

Within ten days following the date on which the order is served or, in the case of an employee in the career professional service of the department of transportation, within ten days following the filing of a removal order, the employee, except as otherwise provided in this section, may file an appeal of the order in writing with the state personnel board of review or the commission. For purposes of this section, the date on which an order is served is the date of hand delivery of the order or the date of delivery of the order by certified United States mail, whichever occurs first. If ~~such~~ an appeal is filed, the board or commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, the appeal within thirty days from and after its filing with the board or commission, ~~and it.~~ The board, commission, or trial board may affirm, disaffirm, or modify the judgment of the appointing authority. However, in an appeal of a removal order based upon a violation of a last chance agreement, the board, commission, or trial board may only determine if the employee violated the agreement and thus affirm or disaffirm the judgment of the appointing authority.

In cases of removal or reduction in pay for disciplinary reasons, either the appointing authority or the officer or employee may appeal from the decision of the state personnel board of review or the commission, and any such appeal shall be to the court of common pleas of the county in which the employee resides in accordance with the procedure appointing authority is located, or to the court of common pleas of Franklin county, as provided by section 119.12 of the Revised Code.

(C) In the case of the suspension for any period of time, or a fine, demotion, or removal, of a chief of police or a chief of a fire department, or any member of the police or fire department of a city or civil service township, who is in the classified civil service, the appointing authority shall furnish ~~such the~~ chief or member of a department with a copy of the order of suspension, fine, demotion, or removal, which order shall state the reasons for the action. The order shall be filed with the municipal or civil service township civil service commission. Within ten days following the filing of the order, ~~such the~~ chief or member of a department may file an appeal, in writing, with the ~~municipal or civil service township civil service~~ commission. If ~~such~~ an appeal is filed, the commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, the appeal within thirty days from and after its filing with the commission, and it may affirm, disaffirm, or modify the judgment of the appointing authority. An appeal on questions of law and fact may be had from the decision of the ~~municipal or civil service township civil service~~ commission to the court of common pleas in the county in which ~~such the~~ city or civil service township is situated. ~~Such~~ The appeal shall be taken within thirty days from the finding of the commission.

(D) A violation of division (A)(7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this section.

(E) As used in this section, "last chance agreement" means an agreement signed by both an appointing authority and an officer or employee of the appointing authority that describes the type of behavior or circumstances that, if it occurs, will automatically lead to removal of the officer or employee without the right of appeal to the state personnel board of review or the appropriate commission.

Sec. 124.341. (A) If ~~a state~~ an employee in the classified or unclassified civil service becomes aware in the course of ~~his~~ employment of a violation of state or federal statutes, rules, or regulations or the misuse of public resources, and the employee's supervisor or appointing authority has authority to correct the violation or misuse, the employee may file a written

report identifying the violation or misuse with ~~his~~ the supervisor or appointing authority.

If the employee reasonably believes that a violation or misuse of public resources is a criminal offense, the employee, in addition to or instead of filing a written report with the supervisor or appointing authority, may report it to a prosecuting attorney, director of law, village solicitor, or similar chief legal officer of a municipal corporation, to a peace officer, as defined in section 2935.01 of the Revised Code, or, if the violation or misuse of public resources is within the jurisdiction of the inspector general, to the inspector general in accordance with section 121.46 of the Revised Code. In addition to that report, if the employee reasonably believes the violation or misuse is also a violation of Chapter 102., section 2921.42, or section 2921.43 of the Revised Code, the employee may report it to the appropriate ethics commission.

(B) Except as otherwise provided in division (C) of this section, no ~~state~~ officer or ~~state~~ employee in the classified or unclassified civil service shall take any disciplinary action against ~~a state~~ an employee in the classified or unclassified civil service for making any report authorized by division (A) of this section, including, without limitation, doing any of the following:

- (1) Removing or suspending the employee from employment;
- (2) Withholding from the employee salary increases or employee benefits to which the employee is otherwise entitled;
- (3) Transferring or reassigning the employee;
- (4) Denying the employee promotion that otherwise would have been received;
- (5) Reducing the employee in pay or position.

(C) ~~A state~~ An employee in the classified or unclassified civil service shall make a reasonable effort to determine the accuracy of any information reported under division (A) of this section. The employee is subject to disciplinary action, including suspension or removal, as determined by the employee's appointing authority, for purposely, knowingly, or recklessly reporting false information under division (A) of this section.

(D) If an appointing authority takes any disciplinary or retaliatory action against a classified or unclassified employee as a result of the employee's having filed a report under division (A) of this section, the employee's sole and exclusive remedy, notwithstanding any other provision of law, is to file an appeal with the state personnel board of review within thirty days after receiving actual notice of the appointing authority's action. If the employee files such an appeal, the board shall immediately notify the employee's appointing authority and shall hear the appeal. The board may affirm or

disaffirm the action of the appointing authority or may issue any other order as is appropriate. The order of the board is appealable in accordance with ~~the provisions of~~ Chapter 119. of the Revised Code.

(E) As used in this section:

(1) "Purposely," "knowingly," and "recklessly" have the same meanings as in section 2901.22 of the Revised Code;

(2) "Appropriate ethics commission" has the same meaning as in section 102.01 of the Revised Code.

(3) "Inspector general" means the inspector general appointed under section 121.48 of the Revised Code.

Sec. 124.38. Each of the following shall be entitled for each completed eighty hours of service to sick leave of four and six-tenths hours with pay:

(A) Employees in the various offices of the county, municipal, and civil service township service, other than superintendents and management employees, as defined in section 5126.20 of the Revised Code, of county boards of mental retardation and developmental disabilities;

(B) Employees of any state college or university;

(C) Employees of any board of education for whom sick leave is not provided by section 3319.141 of the Revised Code.

Employees may use sick leave, upon approval of the responsible administrative officer of the employing unit, for absence due to personal illness, pregnancy, injury, exposure to contagious disease that could be communicated to other employees, and illness, injury, or death in the employee's immediate family. Unused sick leave shall be cumulative without limit. When sick leave is used, it shall be deducted from the employee's credit on the basis of one hour for every one hour of absence from previously scheduled work.

The previously accumulated sick leave of an employee who has been separated from the public service shall be placed to the employee's credit upon the employee's re-employment in the public service, provided that ~~such~~ the re-employment takes place within ten years of the date on which the employee was last terminated from public service. This ten-year period shall be tolled for any period during which the employee holds elective public office, whether by election or by appointment.

An employee who transfers from one public agency to another shall be credited with the unused balance of the employee's accumulated sick leave up to the maximum of the sick leave accumulation permitted in the public agency to which the employee transfers.

The appointing authorities of the various offices of the county service may permit all or any part of a person's accrued but unused sick leave

acquired during service with any regional council of government established in accordance with Chapter 167. of the Revised Code to be credited to the employee upon a transfer as if the employee were transferring from one public agency to another under this section.

The appointing authority of each employing unit shall require an employee to furnish a satisfactory written, signed statement to justify the use of sick leave. If medical attention is required, a certificate stating the nature of the illness from a licensed physician shall be required to justify the use of sick leave. Falsification of either a written, signed statement or a physician's certificate shall be grounds for disciplinary action, including dismissal.

This section does not interfere with existing unused sick leave credit in any agency of government where attendance records are maintained and credit has been given employees for unused sick leave.

Notwithstanding this section or any other section of the Revised Code, any appointing authority of a county office, department, commission, board, or body may, upon notification to the board of county commissioners, establish alternative schedules of sick leave for employees of the appointing authority for whom the state employment relations board has not established an appropriate bargaining unit pursuant to section 4117.06 of the Revised Code, ~~provided that~~ as long as the alternative schedules are not inconsistent with the provisions of a at least one collective bargaining agreement covering other employees of that appointing authority, if such a collective bargaining agreement exists. If no such collective bargaining agreement exists, an appointing authority may, upon notification to the board of county commissioners, establish an alternative schedule of sick leave for its employees that does not diminish the sick leave benefits granted by this section.

Sec. 124.383. (A) The director of administrative services shall allow a full-time or part-time employee who is credited with sick leave pursuant to division (B) of section 124.382 of the Revised Code to elect one of the following options with respect to sick leave credit remaining at the end of the year:

(1) Carry forward the balance;

(2) Receive a cash benefit as established by the director ~~of administrative services~~. An employee serving in a temporary work level ~~or holding an interim appointment~~ who elects to convert unused sick leave credit to cash shall do so at the base rate of pay of the employee's normal classification.

(3) Carry forward a portion of the balance and receive a cash benefit for the remainder. The cash benefit shall be calculated in the manner specified

in division (A)(2) of this section.

(B) The director of administrative services shall establish procedures to allow employees to indicate the option that will be selected. Included within the procedures shall be the final date by which notification is to be made to the director concerning the option selected. Failure to comply with the date will result in the automatic carry forward of unused balances.

(C) Cash benefits shall be paid in the first pay the employee receives in December.

(D) Balances carried forward are excluded from further cash benefits provided under this section.

(E) An employee who separates during the year shall not be eligible for cash benefits provided under this section.

Sec. 124.384. (A) Except as otherwise provided in this section, employees whose salaries or wages are paid by warrant of the director of budget and management and who have accumulated sick leave under section 124.38 or 124.382 of the Revised Code shall be paid for a percentage of their accumulated balances, upon separation for any reason, including death but excluding retirement, at their last base rate of pay at the rate of one hour of pay for every two hours of accumulated balances. An employee who retires in accordance with any retirement plan offered by the state shall be paid upon retirement for each hour of the employee's accumulated sick leave balance at a rate of fifty-five per cent of the employee's last base rate of pay.

An employee serving in a temporary work level ~~or an interim appointment~~ who elects to convert unused sick leave to cash shall do so at the base rate of pay of the employee's normal classification. If an employee dies, the employee's unused sick leave shall be paid in accordance with section 2113.04 of the Revised Code or to the employee's estate.

In order to be eligible for the payment authorized by this section, an employee shall have at least one year of state service and shall request all or a portion of ~~such that~~ payment no later than three years after separation from state service. No person is eligible to receive all or a portion of the payment authorized by this section at any time later than three years after the person's separation from state service.

(B) Except as otherwise provided in this division, a person initially employed on or after July 5, 1987, by a state agency in which the employees' salaries or wages are paid directly by warrant of the director of budget and management shall receive payment under this section only for sick leave accumulated while employed by state agencies in which the employees' salaries or wages are paid directly by warrant of the director of budget and management. A person initially employed on or after July 5,

1987, by the state department of education as an unclassified employee shall receive payment under this section only for sick leave accumulated while employed by state agencies in which the employees' salaries or wages are paid directly by warrant of the director of budget and management and for sick leave placed to the employee's credit under division (E)(2) of section 124.382 of the Revised Code.

(C) For employees paid in accordance with section 124.152 of the Revised Code and those employees listed in divisions (B)(2) and (4) of section 124.14 of the Revised Code, the director of administrative services, with the approval of the director of budget and management, may establish a plan for early payment of accrued sick leave and vacation leave.

Sec. 124.385. (A) An employee is eligible for disability leave benefits under this section if the employee has completed one year of continuous state service immediately prior to the date of the disability and if any of the following applies:

(1) The employee is a full-time permanent employee and is eligible for sick leave credit pursuant to division (B) of section 124.382 of the Revised Code.

(2) The employee is a part-time permanent employee who has worked at least fifteen hundred hours within the twelve-month period immediately preceding the date of disability and is eligible for sick leave credit under division (B) of section 124.382 of the Revised Code.

(3) The employee is a full-time permanent or part-time permanent employee, is on disability leave or leave of absence for medical reasons, and would be eligible for sick leave credit pursuant to division (B) of section 124.382 of the Revised Code except that the employee is in no pay status due to the employee's medical condition.

(B) The director of administrative services, by rule adopted in accordance with Chapter 119. of the Revised Code, shall establish a disability leave program. The rule shall include, but shall not be limited to, the following:

(1) Procedures to be followed for determining disability;

(2) Provisions for the allowance of disability leave due to illness or injury;

(3) Provisions for the continuation of service credit for employees granted disability leave, including service credit towards retirement, as provided by the applicable statute;

(4) The establishment of a minimum level of benefit and of a waiting period before benefits begin;

(5) Provisions setting a maximum length of benefit and requiring that

employees eligible to apply for disability retirement shall do so prior to completing the first six months of their period of disability. The director's rules shall indicate those employees required to apply for disability retirement. If an employee is approved to receive disability retirement, the employee shall receive the retirement benefit and a supplement payment that equals a percentage of the employee's base rate of pay and that, when added to the retirement benefit, equals no more than the percentage of pay received by employees after the first six months of disability. ~~Such~~ This supplemental payment shall not be considered earnable salary, compensation, or salary, and is not subject to contributions, under Chapter 145., 742., 3307., 3309., or 5505. of the Revised Code.

(6) Provisions that allow employees to utilize available sick leave, personal leave, or vacation leave balances to supplement the benefits payable under this section. ~~Such~~ The balances used to supplement the benefits, plus any amount contributed by the state as provided in division (D) of this section, shall be paid at the employee's base rate of pay in an amount sufficient to give employees up to one hundred per cent of pay for time on disability.

(7) Procedures for appealing denial of payment of a claim, including the following:

(a) A maximum of thirty days to file an appeal by the employee;

(b) A maximum of fifteen days for the parties to select a third-party opinion pursuant to division (F) of this section, unless an extension is agreed to by the parties;

(c) A maximum of thirty days for the third party to render an opinion.

(8) Provisions for approving leave of absence for medical reasons where an employee is in no pay status because the employee has used all the employee's sick leave, personal leave, vacation leave, and compensatory time;

(9) Provisions for precluding the payment of benefits if the injury for which the benefits are sought is covered by a workers' compensation plan;

(10) Provisions for precluding the payment of benefits in order to ensure that benefits are provided in a consistent manner.

(C) Except as provided in division (B)(6) of this section, time off for an employee granted disability leave is not chargeable to any other leave granted by other sections of the Revised Code.

(D) While an employee is on an approved disability leave, the employer's and employee's share of health, life, and other insurance benefits shall be paid by the state, and the retirement contribution shall be paid as follows:

(1) The employer's share shall be paid by the state.

(2) For the first three months, the employee's share shall be paid by the employee.

(3) After the first three months, the employee's share shall be paid by the state.

(E) The approval for disability leave shall be made by the director, upon recommendation by the appointing authority. The director may delegate to any appointing authority the authority to approve disability benefits for a standard recovery period.

(F) If a request for disability leave is denied based on a medical determination, the director shall obtain a medical opinion from a third party. The decision of the third party is binding.

(G) The rule adopted by the director under division (B) of this section shall not deny disability leave benefits for an illness or injury to an employee who is a veteran of the United States armed forces because the employee contracted the illness or received the injury in the course of or as a result of military service and the illness or injury is or may be covered by a compensation plan administered by the United States department of veterans affairs.

Sec. 124.386. (A) Each full-time permanent employee paid in accordance with section 124.152 of the Revised Code and those full-time permanent employees listed in divisions (B)(2) and (4) of section 124.14 of the Revised Code shall be credited with thirty-two hours of personal leave each year. Each part-time permanent employee paid in accordance with section 124.152 of the Revised Code and those part-time permanent employees listed in divisions (B)(2) and (4) of section 124.14 of the Revised Code shall receive a pro-rated personal leave credit as determined by rule of the director of administrative services. ~~Such~~ The credit shall be made to each eligible employee in the first pay the employee receives in December. Employees, upon giving reasonable notice to the responsible administrative officer of the appointing authority, may use personal leave for absence due to mandatory court appearances, legal or business matters, family emergencies, unusual family obligations, medical appointments, weddings, religious holidays not listed in section 124.19 of the Revised Code, or any other matter of a personal nature. Personal leave may not be used on a holiday when an employee is scheduled to work.

Personal leave is not available for use until it appears on the employee's earning statement and the compensation described in the earning statement is available to the employee.

(B) When personal leave is used, it shall be deducted from the unused

balance of the employee's personal leave on the basis of absence in such increments of an hour as the director of administrative services determines. Compensation for ~~such~~ personal leave shall be equal to the employee's base rate of pay.

(C) A newly appointed full-time permanent employee or a nonfull-time employee who receives a full-time permanent appointment shall be credited with personal leave of thirty-two hours, less one and two-tenths hours for each pay period that has elapsed following the first paycheck the employee receives in December, until the first day of the pay period during which the appointment was effective.

(D) The director of administrative services shall allow employees to elect one of the following options with respect to the unused balance of personal leave:

(1) Carry forward the balance. The maximum credit that shall be available to an employee at any one time is forty hours.

(2) Convert the balance to accumulated sick leave, to be used in the manner provided by section 124.382 of the Revised Code;

(3) Receive a cash benefit. The cash benefit shall equal one hour of the employee's base rate of pay for every hour of unused credit that is converted. An employee serving in a temporary work level ~~or an interim appointment~~ who elects to convert unused personal leave to cash shall do so at the base rate of pay of the employee's normal classification. Such cash benefit shall not be subject to contributions to any of the retirement systems, either by the employee or the employer.

(E) A full-time permanent employee who separates from state service or becomes ineligible to be credited with leave under this section shall receive a reduction of personal leave credit of one and two-tenths hours for each pay period that remains beginning with the first pay period following the date of separation or the effective date of the employee's ineligibility until the pay period preceding the next base pay period. After calculation of the reduction of an employee's personal leave credit, the employee is entitled to compensation for any remaining personal leave credit at the employee's current base rate of pay. If the reduction results in a number of hours less than zero, the cash equivalent value of such number of hours shall be deducted from any compensation that remains payable to the employee, or from the cash conversion value of any vacation or sick leave that remains credited to the employee. An employee serving in a temporary work level ~~or an interim appointment~~ who is eligible to receive compensation under this section shall be compensated at the base rate of pay of the employee's normal classification.

(F) An employee who transfers from one public agency to another public agency in which the employee is eligible for the credit provided under this section shall be credited with the unused balance of personal leave.

(G) The director of administrative services shall establish procedures to uniformly administer this section. No personal leave may be granted to a state employee upon or after retirement or termination of employment.

Sec. 124.388. (A) An appointing authority may, in its discretion, place an employee on administrative leave with pay. ~~Such~~ Administrative leave with pay is to be used only in circumstances where the health or safety of an employee or of any person or property entrusted to the employee's care could be adversely affected. Compensation for administrative leave with pay shall be equal to the employee's base rate of pay. The length of ~~such~~ administrative leave with pay is solely at the discretion of the appointing authority, ~~except that the length of the leave but~~ shall not exceed the length of the situation for which the leave was granted. An appointing authority may also grant administrative leave with pay of two days or less for employees who are moved in accordance with section 124.33 of the Revised Code.

(B) An appointing authority may, in its discretion, place an employee on administrative leave without pay for a period not to exceed two months, if the employee has been charged with a violation of law that is punishable as a felony. If the employee subsequently does not plead guilty to or is not found guilty of a felony with which the employee is charged or any other felony, the appointing authority shall pay the employee at the employee's base rate of pay, plus interest, for the period the employee was on the unpaid administrative leave.

Sec. 124.40. (A) The mayor or other chief appointing authority of each city in the state shall appoint three persons, one for a term of two years, one for a term of four years, and one for a term of six years, who shall constitute the municipal civil service commission of ~~such that~~ city and of the city school district and city health district in which ~~such that~~ city is located. Each alternate year thereafter the mayor or other chief appointing authority shall appoint one person, as successor of the member whose term expires, to serve six years. A vacancy shall be filled by the mayor or other chief appointing authority ~~of a city~~ for the unexpired term. At the time of any appointment, not more than two commissioners shall be adherents of the same political party. ~~Such~~

The municipal civil service commission shall prescribe, amend, and enforce rules not inconsistent with this chapter for the classification of

positions in the civil service of ~~such the~~ city and city school district, and all the positions in the city health district; for examinations for and resignations ~~therefor~~ from those positions; for appointments, promotions, removals, transfers, layoffs, suspensions, reductions, and reinstatements ~~therein~~ with respect to those positions; and for standardizing those positions and maintaining efficiency ~~therein~~ in them. The commission's rules shall authorize each appointing authority of a city, city school district, or city health district to develop and administer in a manner it devises an evaluation system for the employees it appoints. The ~~municipal civil service~~ commission shall exercise all other powers and perform all other duties with respect to the civil service of ~~such the~~ city, city school district, and city health district, as prescribed in this chapter and conferred upon the director of administrative services and the state personnel board of review with respect to the civil service of the state; and all authority granted to the director and the board with respect to the service under their jurisdiction shall, except as otherwise provided by this chapter, be held to ~~grant the same authority be granted~~ to the ~~municipal civil service~~ commission with respect to the service under its jurisdiction. The procedure applicable to reductions, suspensions, and removals, as provided for in section 124.34 of the Revised Code, shall govern the civil service of cities. ~~The~~

The expense and salaries of a municipal civil service commission shall be determined by the legislative authority of the city and a sufficient sum of money shall be appropriated each year to carry out this chapter in the city.

All persons who are employed by a city school district, city health district, or city health department when a municipal civil service commission having jurisdiction over them is appointed, or when they become subject to civil service by extension of civil service to include new classifications of employees, shall continue to hold their positions until removed in accordance with the civil service laws.

If the appointing authority of any ~~such~~ city fails to appoint a civil service commission or commissioner, as provided by law, within sixty days after ~~he~~ the appointing authority has the power to so appoint, or after a vacancy exists, the state personnel board of review shall make the appointment, and ~~such the~~ appointee shall hold office until the expiration of the term of the appointing authority of ~~such the~~ city. If any ~~such~~ municipal civil service commission fails to prepare and submit ~~such~~ rules ~~and or~~ regulations in ~~pursuance of~~ accordance with this chapter, the board shall forthwith make ~~such those~~ rules or regulations. This chapter ~~of the Revised Code,~~ shall in all ~~other~~ respects, except as provided in this section, be in full force in ~~such~~ cities with a civil service commission.

Each municipal civil service commission shall make reports from time to time, as the board requires, of the manner in which the law and the rules and regulations ~~thereunder~~ under it have been and are being administered, and the results of their administration, in ~~such~~ the city, city school district, and city health district. A copy of the annual report of each ~~such~~ municipal civil service commission shall be filed in the office of the board as a public record.

Whenever the board has reason to believe that a municipal civil service commission is violating or is failing to perform the duties imposed upon it by law, or that any member of ~~such~~ a municipal civil service commission is willfully or through culpable negligence violating the law or failing to perform ~~his~~ official duties as a member of the commission, it shall institute an investigation, and if, in the judgment of the board, it finds any such violation or failure to perform the duties imposed by law, it shall make a report of ~~such~~ the violation or failure in writing to the chief executive authority of ~~such~~ the city, which report shall be a public record.

Upon the receipt of ~~the~~ a report from the board, charging a the municipal civil service ~~commissioner~~ commission with violating or failing to perform the duties imposed upon it by law, or charging any member of the commission with willfully or through culpable negligence violating the law ~~by failure or failing~~ to perform ~~his~~ official duties as a member of the ~~municipal civil service~~ commission, along with the evidence on which the report is based, the chief executive ~~officer~~ authority of the city shall forthwith remove the municipal civil service commissioner or commissioners. In all cases of removal of a municipal civil service commissioner by the chief executive authority of any ~~such~~ city, an appeal may be had to the court of common pleas, in the county in which the city is situated, to determine the sufficiency of the cause of removal. The appeal shall be taken within ten days from the decision of the chief executive authority ~~of the city~~. ~~Should~~ If the court ~~disaffirm~~ disaffirms the judgment of the chief executive authority, the commissioner shall be reinstated to ~~his~~ the commissioner's former position ~~in~~ on the ~~municipal civil service~~ commission. ~~The~~

The chief executive authority of ~~such~~ a city with a municipal civil service commission may remove at any time ~~remove~~ any ~~municipal civil service~~ commissioner for inefficiency, neglect of duty, or malfeasance in office, having first given to the commissioner a copy of the charges ~~against him~~ and an opportunity to be publicly heard in person or by counsel in ~~his~~ his own defense.

The mayor has the exclusive right to suspend the chief of the police

department or the chief of the fire department for incompetence, gross neglect of duty, gross immorality, habitual drunkenness, failure to obey orders given ~~him~~ by the proper authority, or ~~for~~ any other reasonable and just cause. If either the chief of police or the chief of the fire department is so suspended, the mayor forthwith shall certify ~~such~~ that fact, together with the cause of the suspension, to the municipal civil service commission; ~~which within.~~ Within five days from the date of receipt of the notice, the commission shall proceed to hear ~~such~~ the charges and render judgment ~~thereon, which on them.~~ The judgment may affirm, disaffirm, or modify the judgment of the ~~appointing officer~~ mayor, and an appeal may be had from the decision of the commission to the court of common pleas as provided in section 124.34 of the Revised Code to determine the sufficiency of the cause of removal.

(B) The board of trustees of a township ~~with that has~~ a population of ten thousand or more persons residing within the township and outside any municipal corporation and ~~which that~~ has a police or fire department of ten or more full-time paid employees may appoint three persons ~~who shall to~~ constitute the township civil service commission. Of the initial appointments made to the commission, one shall be for a term ending two years after the date of initial appointment, one shall be for a term ending four years after that date, and one shall be for a term ending six years after that date. Thereafter, terms of office shall be for six years, each term ending on the same day of the same month as did the term which it succeeds. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he~~ the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of ~~such that~~ term. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ a successor takes office, or until a period of sixty days has elapsed, whichever occurs first. At the time of any appointment, not more than two commissioners shall be adherents of the same political party.

The board of township trustees shall determine the compensation and expenses to be paid to the members of the township civil service commission. The powers and duties conferred on municipal civil service commissions and the supervisory authority of the state personnel board of review under division (A) of this section shall be applicable to the civil service commission of a civil service township. ~~The~~

The board of township trustees has the exclusive right to suspend the chief of the police or fire department of the township in the same manner as

provided in division (A) of this section for municipal chiefs.

The jurisdiction of the ~~civil service~~ township civil service commission is limited to employees of the township fire or police department and then only if the department has ten or more full-time paid employees, and it does not extend to any other township employees.

Sec. 124.44. No positions above the rank of ~~patrolman~~ patrol officer in the police department shall be filled by original appointment. Vacancies in positions above the rank of ~~patrolman~~ patrol officer in a police department shall be filled by promotion from among persons holding positions in a rank lower than the position to be filled. No position above the rank of ~~patrolman~~ patrol officer in a police department shall be filled by any person unless ~~he~~ the person has first passed a competitive promotional examination. Promotion shall be by successive ranks ~~so far~~ insofar as practicable, and no person in a police department shall be promoted to a position in a higher rank who has not served at least twelve months in the next lower rank. ~~No~~ A municipal civil service commission may require a period of service of longer than twelve months for promotion to the rank immediately above the rank of patrol officer.

No competitive promotional examination shall be held unless there are at least two persons eligible to compete. Whenever a municipal or civil service township civil service commission determines that there are less than two persons holding positions in the rank next lower than the position to be filled, who are eligible and willing to compete, ~~such~~ the commission shall allow the persons holding positions in the then next lower rank who are eligible, to compete with the persons holding positions in the rank lower than the position to be filled. ~~At~~

An increase in the salary or other compensation of anyone holding a position in a police department, beyond that fixed for the rank in which ~~such~~ that position is classified, shall be deemed a promotion, except as provided in section 124.491 of the Revised Code. ~~Whenever~~

If a vacancy occurs in ~~the~~ a position above the rank of ~~patrolman~~ patrol officer in a police department, and there is no eligible list for such rank, the municipal or civil service township civil service commission shall, within sixty days of ~~such~~ that vacancy, hold a competitive promotional examination. After ~~such~~ the examination has been held and an eligible list established, the commission shall forthwith certify to the appointing officer the name of the person on the list receiving the highest rating. Upon ~~such~~ the certification, the appointing officer shall appoint the person so certified within thirty days from the date of ~~such~~ the certification. If there is a list, the commission shall, ~~where~~ when there is a vacancy, immediately certify the

name of the person on the list having the highest rating, and the appointing authority shall appoint ~~such that~~ that person within thirty days from the date of ~~such the~~ the certification.

No credit for seniority, efficiency, or any other reason shall be added to an applicant's examination grade unless the applicant achieves at least the minimum passing grade on the examination without counting ~~such that~~ extra credit.

Sec. 124.45. Vacancies in positions above the rank of regular ~~fireman~~ fire fighter in a fire department shall be filled by competitive promotional examinations, and promotions shall be by successive ranks as provided in this section and sections 124.46 to 124.49 of the Revised Code. Positions in which ~~such those~~ those vacancies occur shall be called promoted ranks.

When a vacancy occurs in the promoted rank immediately above the rank of regular ~~fireman~~ fire fighter, no person shall be eligible to take the examination unless ~~he the person~~ the person has served ~~twenty-four~~ forty-eight months, not including the person's probationary period, in the rank of regular ~~firemen~~ fire fighter, provided that, in those cases ~~where when~~ when there are less than two persons in the rank of regular ~~firemen~~ fire fighter who have served ~~twenty-four~~ forty-eight months ~~therein~~, not including the person's probationary period, in that rank and who are willing to take the examination, ~~the twenty-four month~~ this service requirement does not apply.

When a vacancy occurs in a promoted rank, other than the promoted rank immediately above the rank of regular ~~fireman~~ fire fighter, no person shall be eligible to take the examination unless ~~he the person~~ the person has served twelve months in the rank from which the promotion is to be made, provided that, in those cases ~~where when~~ when there are less than two persons in ~~such that~~ that next lower rank who have served twelve months ~~therein in that~~ in that rank and who are willing to take the examination, ~~the twelve months~~ twelve-month service requirement shall not apply. If the nonapplication of the ~~twelve-month~~ twelve-month service requirement to persons in the next lower rank does not produce two persons eligible and willing to compete, ~~then~~ the same method shall be followed by going to successively lower ranks until two or more persons are eligible and willing to compete in an examination for the vacancy. ~~In the event~~ If this process of searching successively lower ranks reaches the rank of regular ~~fireman~~ fire fighter, the ~~twenty-four~~ forty-eight-month service requirement applies, provided that, in those cases ~~where such when that~~ when that application still fails to produce two persons who are eligible and willing to compete, ~~said twenty-four~~ the forty-eight-month service requirement does not apply. ~~In the event~~ If two persons are unwilling to compete for ~~such the~~ the examination, ~~then~~ the one person who is willing to

compete shall be appointed to fill the vacancy after passing a qualifying examination.

Promotional examinations for positions within a fire department shall relate to those matters ~~which~~ that test the ability of the person examined to discharge the particular duties of the position sought, ~~and shall be in writing, provided~~ include a written testing component, ~~and~~ in examinations for positions requiring the operation of machines or equipment, may include practical demonstration tests of the operation of ~~such~~ those machines or equipment ~~may be as~~ a part of the examination.

Those persons who compete in a promotional examination in accordance with the rules of the civil service commission shall have added to their grade credit for seniority. Credit for seniority shall be given as follows: one point shall be added for each of the first four years of service, and six-tenths of a point shall be added for each year for the next ten years of service. In computing the credit for seniority, half of the credit ~~above set out~~ specified in this paragraph shall be given for a half year of service. Credit for seniority shall be based only on service in the municipal or civil service township fire department and the service provided for in the next succeeding paragraph.

When service in a municipal or civil service township fire department is interrupted by service in the armed forces of the United States, seniority credit shall be granted in promotional examinations for the time so served. No additional credit for military service shall be allowed in promotional examinations.

Credit for efficiency may be given as an added credit ~~and~~, shall be ten per cent of the member's efficiency rating for the last year, and shall be based on the record of efficiency maintained in the fire department in the manner established by the civil service commission, provided the efficiency shall be graded by three ranking officers of the fire department familiar with the work of the member. In those cases ~~where~~ when three such officers do not exist, the ranking officers or officer familiar with the work of the member shall grade the efficiency.

No credit for seniority, efficiency, or any other reason shall be added to an applicant's grade unless the applicant achieves at least the minimum passing grade on the examination without counting ~~such~~ that extra credit.

~~After a promotional examination has been held and prior to the grading of such examination papers, each participant in said promotional examination shall have a period of five days, exclusive of Saturdays, Sundays, and holidays, to inspect the questions, the rating keys or answers to the examination and to file any protest he may deem advisable. These~~

~~protests shall be in writing and shall remain anonymous to the commission. All protests with respect to rating keys or answers shall be determined by the commission within a period of not more than five days, exclusive of Saturdays, Sundays, and holidays, and its decision shall be final. If the commission finds an error in the rating key or answer, it shall publish a revised rating key within five days of its finding of such error or errors. The revised rating key or answer shall then be available to participants for a period of five days, exclusive of Saturdays, Sundays, and holidays, subsequent to such determination of error or errors.~~

After the grading of ~~such~~ examination papers, any participant in the examination who ~~deems his~~ considers the participant's examination papers to have been erroneously graded, shall have the right to appeal to the commission, and ~~said the~~ the appeal ~~or appeals~~ shall be heard by the commission.

The public notice of a holding of a promotional examination for a position or positions in a fire department shall, unless waived by all persons eligible to participate, be published not less than thirty days prior to the examination and shall contain a description of the source material from which the examination questions are prepared. ~~Such~~ The source material shall be readily accessible to the examinee. Failure to comply with this requirement shall make void the pursuant examination. This paragraph does not prohibit the use of questions having answers based on experience in the fire service within the fire department in which the promotional examination is being given.

Sec. 124.46. The names of the examinees who have passed the examination shall be placed on the eligible list in accordance with their grades; ~~the one.~~ The examinee receiving the highest grade shall be placed first on the list. ~~In the event~~ If two or more examinees receive the same grade, seniority in the fire department service shall determine the order of their names. The person having the highest position on the list shall be appointed in the case of a vacancy. Eligible lists established as provided in this section shall continue for two years. ~~In the event~~ If a vacancy occurs prior to the expiration of the two-year period, the list shall continue for the purpose of filling ~~such the~~ the vacancy until the vacancy has been filled.

~~Where~~ If an eligible list exists and a vacancy occurs ~~which that~~ that may be filled from ~~such eligible that~~ that list, the vacancy shall be filled within a period of not more than ten days from the date of ~~such the~~ the vacancy.

Sec. 124.48. Whenever a vacancy occurs in a promoted rank in a fire department and no eligible list for ~~such that~~ that rank exists, the appointing authority shall certify the fact to the civil service commission, ~~and the.~~ The

civil service commission ~~shall~~, within sixty days of ~~such the~~ vacancy, shall conduct a competitive promotional examination. After ~~such the~~ examination has been held, an eligible list shall be established ~~within twenty days of the final date, of the revised rating key or answer inspection date,~~ and the civil service commission shall certify to the appointing authority the name of the person on the list receiving the highest grade. Upon ~~such the~~ certification, the appointing authority shall appoint the person so certified within ten days.

When an eligible list ~~is in existence~~ exists and a vacancy occurs in a position for which the list was established, the appointing authority shall certify the fact to the civil service commission. The person standing highest on ~~such the~~ list shall be certified to the appointing authority, and ~~such that~~ person shall be appointed within ten days.

Sec. 302.202. If established under ~~Chapter 302. of the Revised Code~~ this chapter, the department of personnel shall make and promulgate personnel rules ~~which that~~, when adopted by the board of county commissioners after public hearing, shall be the sole basis for determining the provisions and procedures of the county personnel system.

Notwithstanding the provisions of Chapter 124. of the Revised Code, personnel rules adopted by the board of county commissioners pursuant to this section, may provide for, but need not be limited to, the following:

(A) Classification of all county positions, which classification shall be based on the duties, authority, and responsibility of each position;

(B) A pay plan for all county positions, which pay plan may include ~~such~~ fringe benefits as may be determined by the board of county commissioners, in addition to salary;

(C) Certification of payrolls as to compliance with the pay plan and the personnel rules;

(D) The method of holding competitive tests for determining the merit and fitness of candidates for appointment and promotion;

(E) The establishment, maintenance, and certification of eligible lists for filling vacancies;

(F) The order and manner in which lay-offs may be effected;

(G) The procedure for suspension and removal of employees, which procedure shall include provisions for appeals from orders of suspension or removal or other disciplinary action;

(H) The hours of work, the attendance regulations, and the provisions for sick and vacation leave;

(I) ~~The procedure for provisional appointments;~~

(J) Other practices and procedures necessary to the administration of the county personnel system.

Sec. 325.19. (A)(1) The granting of vacation leave under division (A)(1) of this section is subject to divisions (A)(2) and (3) of this section. Each full-time employee in the several offices and departments of the county service, including full-time hourly rate employees, after service of one year with the county or any political subdivision of the state, shall have earned and will be due upon the attainment of the first year of employment, and annually thereafter, eighty hours of vacation leave with full pay. One year of service shall be computed on the basis of twenty-six biweekly pay periods. A full-time county employee with eight or more years of service with the county or any political subdivision of the state shall have earned and is entitled to one hundred twenty hours of vacation leave with full pay. A full-time county employee with fifteen or more years of service with the county or any political subdivision of the state shall have earned and is entitled to one hundred sixty hours of vacation leave with full pay. A full-time county employee with twenty-five years of service with the county or any political subdivision of the state shall have earned and is entitled to two hundred hours of vacation leave with full pay. Such vacation leave shall accrue to the employee at the rate of three and one-tenth hours each biweekly period for those entitled to eighty hours per year; four and six-tenths hours each biweekly period for those entitled to one hundred twenty hours per year; six and two-tenths hours each biweekly period for those entitled to one hundred sixty hours per year; and seven and seven-tenths hours each biweekly period for those entitled to two hundred hours per year.

The appointing authorities of the offices and departments of the county service may permit all or any part of a person's prior service with any regional council of government established in accordance with Chapter 167. of the Revised Code to be considered service with the county or a political subdivision of the state for the purpose of determining years of service under this division.

(2) Full-time employees granted vacation leave under division (A)(1) of this section who render any standard of service other than forty hours per week as described in division (J) of this section and who are in active pay status in a biweekly pay period, shall accrue a number of hours of vacation leave during each such pay period that bears the same ratio to the number of hours specified in division (A)(1) of this section as their number of hours which are accepted as full-time in active pay status, excluding overtime hours, bears to eighty hours.

(3) Full-time employees granted vacation leave under division (A)(1) of this section who are in active pay status in a biweekly pay period for less

than eighty hours or the number of hours of service otherwise accepted as full-time by their employing office or department shall accrue a number of hours of vacation leave during that pay period that bears the same ratio to the number of hours specified in division (A)(1) of this section as their number of hours in active pay status, excluding overtime hours, bears to eighty or the number of hours of service accepted as full-time, whichever is applicable.

(B) A board of county commissioners, by resolution, may grant vacation leave with full pay to part-time county employees. A part-time county employee shall be eligible for vacation leave with full pay upon the attainment of the first year of employment, and annually thereafter. The ratio between the hours worked and the vacation hours awarded to a part-time employee shall be the same as the ratio between the hours worked and the vacation hours earned by a full-time employee as provided for in this section.

(C) Days specified as holidays in section 124.19 of the Revised Code shall not be charged to an employee's vacation leave. Vacation leave shall be taken by the employee during the year in which it accrued and prior to the next recurrence of the anniversary date of the employee's employment, provided that the appointing authority may, in special and meritorious cases, permit such employee to accumulate and carry over the employee's vacation leave to the following year. No vacation leave shall be carried over for more than three years. An employee is entitled to compensation, at the employee's current rate of pay, for the prorated portion of any earned but unused vacation leave for the current year to the employee's credit at time of separation, and in addition shall be compensated for any unused vacation leave accrued to the employee's credit, with the permission of the appointing authority, for the three years immediately preceding the last anniversary date of employment.

(D)(1) In addition to vacation leave, a full-time county employee is entitled to eight hours of holiday pay for New Year's day, Martin Luther King day, Washington-Lincoln day, Memorial day, Independence day, Labor day, Columbus day, Veterans' day, Thanksgiving day, and Christmas day, of each year. Except as provided in division (D)(2) of this section, holidays shall occur on the days specified in section 1.14 of the Revised Code. If any of those holidays fall on Saturday, the Friday immediately preceding shall be observed as the holiday. If any of those holidays fall on Sunday, the Monday immediately succeeding shall be observed as the holiday. If an employee's work schedule is other than Monday through Friday, the employee is entitled to holiday pay for holidays observed on the

employee's day off regardless of the day of the week on which they are observed.

(2)(a) When a classified employee of a county board of mental retardation and developmental disabilities works at a site maintained by a government entity other than the board, such as a public school, the board may adjust the employee's holiday schedule to conform to the schedule adopted by the government entity. Under an adjusted holiday schedule, an employee shall receive the number of hours of holiday pay granted under division (D)(1) of this section.

(b) Pursuant to division (H)(6) of section 339.06 of the Revised Code, a county hospital may observe Martin Luther King day, Washington-Lincoln day, Columbus day, and Veterans' day on days other than those specified in section 1.14 of the Revised Code.

(E) In the case of the death of a county employee, the unused vacation leave and unpaid overtime to the credit of ~~any such~~ the employee shall be paid in accordance with section 2113.04 of the Revised Code, or to the employee's estate.

(F) Notwithstanding this section or any other section of the Revised Code, any appointing authority of a county office, department, commission, board, or body may, upon notification to the board of county commissioners, establish alternative schedules of vacation leave and holidays for employees of the appointing authority for whom the state employment relations board has not established an appropriate bargaining unit pursuant to section 4117.06 of the Revised Code, ~~provided that~~ as long as the alternative schedules are not inconsistent with the provisions of a at least one collective bargaining agreement covering other employees of that appointing authority, if such an agreement exists. If no such collective bargaining agreement exists, an appointing authority, upon notification to the board of county commissioners, may establish an alternative schedule of vacation leave and holidays for its employees that does not diminish the vacation leave and holiday benefits granted by this section.

(G) The employees of a county children services board that establishes vacation benefits under section 5153.12 of the Revised Code are exempt from division (A) of this section.

(H) The provisions of this section do not apply to superintendents and management employees of county boards of mental retardation and developmental disabilities.

(I) Division (A) of this section does not apply to an employee of a county board of mental retardation and developmental disabilities who works at, or provides transportation services to pupils of, a special education

program provided by the county board pursuant to division (A)(4) of section 5126.05 of the Revised Code, if the employee's employment is based on a school year and the employee is not subject to a contract with the county board that provides for division (A) of this section to apply to the employee.

(J) As used in this section:

(1) "Full-time employee" means an employee whose regular hours of service for a county total forty hours per week, or who renders any other standard of service accepted as full-time by an office, department, or agency of county service.

(2) "Part-time employee" means an employee whose regular hours of service for a county total less than forty hours per week, or who renders any other standard of service accepted as part-time by an office, department, or agency of county service, and whose hours of county service total at least five hundred twenty hours annually.

(3) "Management employee" has the same meaning as in section 5126.20 of the Revised Code.

Sec. 329.02. Under the control and direction of the board of county commissioners, the county director of job and family services shall have full charge of the county department of job and family services. The director shall prepare the annual budget estimate of the department and submit it to the board of county commissioners. Before submitting the budget estimate to the board of county commissioners, the director shall consider the recommendations of the county family services planning committee relative to ~~such that~~ such that estimate. The director, with the approval of the board of county commissioners, shall appoint all necessary assistants and superintendents of institutions under the jurisdiction of the department, and all other employees of the department, ~~excepting~~ except that the superintendent of each such institution shall appoint all employees ~~therein~~ in it and only the board of county commissioners may appoint administrators under section 329.021 of the Revised Code. Except for administrators appointed under section 329.021 of the Revised Code and up to five other administrative positions, the assistants and other employees of the department shall be in the classified civil service, and may not be placed in or removed to the unclassified service. If no eligible list is available, ~~provisional~~ a probationary appointment shall be made until ~~such an~~ an eligible list is available.

Each director appointed on or after ~~the effective date of this amendment~~ October 5, 1987, shall be in the unclassified civil service and serve at the pleasure of the board of county commissioners. If a person holding a classified position in the department is appointed as director on or after ~~the~~

~~effective that date of this amendment~~ and is later removed by the board, except for a reason listed in section 124.34 of the Revised Code, the person so removed has the right to resume the position the person held in the classified service immediately prior to being appointed as director, or if that position no longer exists or has become an unclassified position, the person shall be appointed to a position in the classified service that the board, with the approval of the director of administrative services, determines is equivalent to the position the person held immediately prior to being appointed as director.

The board ~~of county commissioners~~, except as provided in this chapter, may provide by resolution for the coordination of the operations of the department and those of any county institution whose board or managing officer is appointed by the board of county commissioners.

The board of county commissioners may enter into a written contract with a county director of job and family services specifying terms and conditions of the director's employment. The period of the contract shall not exceed three years. In addition to any review specified in ~~such a~~ the contract, the contract shall be subject to review and renegotiation for a period of thirty days, from the sixtieth to the ninetieth days after the beginning of the term of any newly elected commissioner. Such a contract shall in no way abridge the right of the board to terminate the employment of the director as an unclassified employee at will, but may specify terms and conditions of any such termination.

Sec. 329.021. ~~(A) The board of county commissioners serving a county with a population of more than one million people may, in addition to the county director of job and family services, appoint not more than five administrators to oversee services provided by the county department of job and family services. The, subject to the following limitations:~~

(1) If the county has a population of five hundred thousand or more, the board may appoint up to five administrators.

(2) If the county has a population of two hundred and fifty thousand or more, but less than five hundred thousand, the board may appoint up to four administrators.

(3) If the county has a population of one hundred thousand or more, but less than two hundred and fifty thousand, the board may appoint up to three administrators.

(4) If the county has a population of forty thousand or more, but less than one hundred thousand, the board may appoint up to two administrators.

(5) If the county has a population of less than forty thousand, the board may appoint one administrator.

(B) The administrators appointed by the board of county commissioners under this section shall be in the unclassified civil service and serve at the pleasure of the board of county commissioners. However, no administrator position that is filled by a person serving in the classified service on the effective date of this amendment shall be placed in the unclassified civil service until that person vacates the position.

(C) The board of county commissioners may appoint a person who holds a certified position in the classified service within the county department of job and family services to the position of administrator. A person appointed to the position of administrator pursuant to this division and later removed by the board retains the right to resume the position in the classified service held by that person immediately prior to being appointed to the position of administrator, except that a person first appointed to a classified position in the department on or after the effective date of this amendment shall retain the right to resume the position in the classified service for only six months after being appointed to the position of administrator. An employee forfeits the right to resume a position in the classified service when the employee is removed from the position of administrator due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of any policy or work rule of the board or department, violation of Chapter 124. of the Revised Code or the rules of the director of administrative services, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. If the position the person previously held in the classified service no longer exists or has been placed in the unclassified service, the person shall be appointed to a position in the classified service of the department that is equivalent to the classified position the person previously held, as determined by the board with the approval of the director of administrative services.

(D) As used in this section, "administrator" means assistant director, fiscal officer or director, personnel officer or director, social services administrator, income maintenance administrator, child support administrator in a combined agency, children services administrator in a combined agency, and workforce development administrator in a combined agency.

Sec. 1513.03. The chief of the division of mineral resources management shall designate certain employees of the division as mineral resources inspectors for the purpose of enforcing the coal mining laws and the surface mining laws. ~~Such~~ Those inspectors may enter upon and inspect

any coal or surface mining operation at any time, and, upon entering the permit area ~~the, an~~ an inspector shall notify the operator and shall furnish proper identification. After the final maps have been approved, the inspector shall notify the nearest mine office of the operator and advise of the inspection. ~~They~~ Inspectors may serve and execute warrants and other processes of law issued in the enforcement of this chapter and Chapter 1514. of the Revised Code and the rules adopted ~~thereunder~~ under them.

~~Such~~ The inspectors, while in the normal, lawful, and peaceful pursuit of their duties, may enter upon, cross over, and remain upon privately owned lands for such purposes, and shall not be subject to arrest for trespass while so engaged or for such cause thereafter.

Before a person, other than a person who was an inspector of coal or surface mining operations or oil and gas operations on July 1, 1999, is eligible for appointment as a mineral resources inspector, the person shall pass an examination prepared and administered by the department of administrative services and shall serve ~~in a provisional status~~ for a probationary period of six months to the satisfaction of the chief. The chief may hire ~~provisionally~~, pending the administration of a civil service examination and establishment of a civil service eligibility list. ~~A person serving in a provisional status has,~~ a person as a mineral resources inspector, who shall have the same authority as a permanently appointed an inspector hired from an eligible list. This section does not affect the status of any person employed as an inspector of coal or surface mining operations or oil and gas operations prior to July 1, 1999, ~~if the person is a certified employee in the classified service of the state.~~

Sec. 1513.34. The chief of the division of mineral resources management shall provide education and training for all mineral resources inspectors, district supervisors, and enforcement personnel. ~~The chief shall provide adequate training and education as necessary for all persons appointed as mineral resources inspectors during their provisional status.~~ The chief shall provide, on a regular basis as funding allows, continuing education and training as necessary for all mineral resources inspectors, district supervisors, and enforcement personnel.

Sec. 4111.03. (A) An employer shall pay an employee for overtime at a wage rate of one and one-half times the employee's wage rate for hours worked in excess of forty hours in one workweek, in the manner and methods provided in and subject to the exemptions of section 7 and section 13 of the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as amended.

Any employee employed in agriculture shall not be covered by the

overtime provision of this section.

~~(B) For the purposes of this section, the number of hours worked by a county employee in any one workweek shall be deemed to include, in addition to hours actually worked, all periods in an active pay status.~~

~~(C)~~ If a county employee elects to take compensatory time off in lieu of overtime pay, for any overtime worked, ~~such~~ compensatory time may be granted by the employee's administrative superior, on a time and one-half basis, at a time mutually convenient to the employee and the administrative superior within one hundred eighty days after the overtime is worked.

~~(D)~~(C) A county appointing authority with the exception of the county department of job and family services may, by rule or resolution as is appropriate, indicate the authority's intention not to be bound by division (B) ~~or (C)~~ of this section, and to adopt a different policy for the calculation and payment of overtime than that is embodied in those divisions established by that division. Upon adoption, the alternative overtime policy prevails. Prior to the adoption of an alternative overtime policy, ~~the~~ a county appointing authority with the exception of the county department of job and family services shall give a written notice of the alternative policy to each employee at least ten days prior to ~~the~~ its effective date ~~of the policy~~.

Sec. 4112.01. (A) As used in this chapter:

(1) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and other organized groups of persons. "Person" also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesperson, appraiser, agent, employee, lending institution, and the state and all political subdivisions, authorities, agencies, boards, and commissions of the state.

(2) "Employer" includes the state, any political subdivision of the state, any person employing four or more persons within the state, and any person acting directly or indirectly in the interest of an employer.

(3) "Employee" means an individual employed by any employer but does not include any individual employed in the domestic service of any person.

(4) "Labor organization" includes any organization that exists, in whole or in part, for the purpose of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or other mutual aid or protection in relation to employment.

(5) "Employment agency" includes any person regularly undertaking, with or without compensation, to procure opportunities to work or to procure, recruit, refer, or place employees.

(6) "Commission" means the Ohio civil rights commission created by section 4112.03 of the Revised Code.

(7) "Discriminate" includes segregate or separate.

(8) "Unlawful discriminatory practice" means any act prohibited by section 4112.02, 4112.021, or 4112.022 of the Revised Code.

(9) "Place of public accommodation" means any inn, restaurant, eating house, barbershop, public conveyance by air, land, or water, theater, store, other place for the sale of merchandise, or any other place of public accommodation or amusement of which the accommodations, advantages, facilities, or privileges are available to the public.

(10) "Housing accommodations" includes any building or structure, or portion of a building or structure, that is used or occupied or is intended, arranged, or designed to be used or occupied as the home residence, dwelling, dwelling unit, or sleeping place of one or more individuals, groups, or families whether or not living independently of each other; and any vacant land offered for sale or lease. "Housing accommodations" also includes any housing accommodations held or offered for sale or rent by a real estate broker, salesperson, or agent, by any other person pursuant to authorization of the owner, by the owner, or by the owner's legal representative.

(11) "Restrictive covenant" means any specification limiting the transfer, rental, lease, or other use of any housing accommodations because of race, color, religion, sex, familial status, national origin, disability, or ancestry, or any limitation based upon affiliation with or approval by any person, directly or indirectly, employing race, color, religion, sex, familial status, national origin, disability, or ancestry as a condition of affiliation or approval.

(12) "Burial lot" means any lot for the burial of deceased persons within any public burial ground or cemetery, including, but not limited to, cemeteries owned and operated by municipal corporations, townships, or companies or associations incorporated for cemetery purposes.

(13) "Disability" means a physical or mental impairment that substantially limits one or more major life activities, including the functions of caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; a record of a physical or mental impairment; or being regarded as having a physical or mental impairment.

(14) Except as otherwise provided in section 4112.021 of the Revised Code, "age" means at least forty years old.

(15) "Familial status" means either of the following:

(a) One or more individuals who are under eighteen years of age and

who are domiciled with a parent or guardian having legal custody of the individual or domiciled, with the written permission of the parent or guardian having legal custody, with a designee of the parent or guardian;

(b) Any person who is pregnant or in the process of securing legal custody of any individual who is under eighteen years of age.

(16)(a) Except as provided in division (A)(16)(b) of this section, "physical or mental impairment" includes any of the following:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine;

(ii) Any mental or psychological disorder, including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) Diseases and conditions, including, but not limited to, orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction, and alcoholism.

(b) "Physical or mental impairment" does not include any of the following:

(i) Homosexuality and bisexuality;

(ii) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(iii) Compulsive gambling, kleptomania, or pyromania;

(iv) Psychoactive substance use disorders resulting from the current illegal use of a controlled substance or the current use of alcoholic beverages.

(17) "Dwelling unit" means a single unit of residence for a family of one or more persons.

(18) "Common use areas" means rooms, spaces, or elements inside or outside a building that are made available for the use of residents of the building or their guests, and includes, but is not limited to, hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas, and passageways among and between buildings.

(19) "Public use areas" means interior or exterior rooms or spaces of a privately or publicly owned building that are made available to the general public.

(20) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(21) "Disabled tenant" means a tenant or prospective tenant who is a person with a disability.

(B) For the purposes of divisions (A) to (F) of section 4112.02 of the Revised Code, the terms "because of sex" and "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, any illness arising out of and occurring during the course of a pregnancy, childbirth, or related medical conditions. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in division (B) of section 4111.17 of the Revised Code shall be interpreted to permit otherwise. This division shall not be construed to require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term or except where medical complications have arisen from the abortion, provided that nothing in this division precludes an employer from providing abortion benefits or otherwise affects bargaining agreements in regard to abortion.

Sec. 5107.52. (A) There is hereby established, as a work activity under Ohio works first, the subsidized employment program, under which private and government employers receive payments from appropriations to the department of job and family services for a portion of the costs of salaries, wages, and benefits ~~such~~ those employers pay to or on behalf of employees who are participants of the subsidized employment program at the time of employment.

(B) The director of job and family services may redetermine rates of payments to employers under this section annually.

(C) A state agency or political subdivision may create or fill vacant full-time and part-time positions, including classified and unclassified positions for those positions that are included in the civil service under Chapter 124. of the Revised Code, for or with participants of the subsidized employment program. The director shall specify in rules adopted under section 5107.05 of the Revised Code the maximum amount of time the department will subsidize the positions. After the subsidy expires, the agency or subdivision may hire the participant for an unclassified position or as a ~~provisional~~ an employee in the classified civil service, ~~if the position is in the classified civil service, and the participant shall become certified in the same manner as other provisional employees.~~ The director of

administrative services may adopt rules in accordance with Chapter 119. of the Revised Code governing this division.

(D) Participants of the subsidized employment program for whom payments are made under this section:

(1) Shall be considered regular employees of the employer, entitled to the same employment benefits and opportunities for advancement and affiliation with employee organizations that are available to other regular employees of the employer, and the employer shall pay premiums to the bureau of workers' compensation on account of employees for whom payments are made;

(2) Shall be paid at the same rate as other employees doing similar work for the employer.

(E) An agreement for employment of a subsidized employment program participant by a private employer shall require that the participant be given preference for any unsubsidized full-time position with the employer that becomes available after the participant completes any probationary or training period specified in the agreement.

Sec. 5119.09. The director of mental health shall prepare, and may amend from time to time, specifications descriptive of the duties, responsibilities, requirements, and desirable qualifications of physician specialists in the department of mental health. The director shall prepare, and may amend from time to time, classifications for ~~such~~ those physician specialists, and ~~such physician specialists~~ they shall receive a salary fixed pursuant to section 124.15 or 124.152 of the Revised Code.

The director may employ and classify physicians in the department as physician specialists, within the classifications and pay ranges fixed pursuant to section 124.15 or 124.152 of the Revised Code. Any physician employed in the department, whether previously classified pursuant to section 124.15 or 124.152 of the Revised Code or otherwise employed in the department, may be classified or reclassified as a physician specialist, pursuant to this section, upon order of the director; provided, that, each such physician shall be qualified as required by this section and meet the specifications for the classification to which ~~he~~ the physician is assigned. Any physician classified and designated a physician specialist under authority of this section may be assigned to a different physician specialist classification upon order of the director; the director shall certify each such reclassification, and the department of administrative services shall be governed by ~~such~~ the certification; provided that, nothing in this section shall alter the powers and duties of ~~such department as defined in the state personnel board of review under~~ division (A)(1) of section 124.03 of the

Revised Code.

Each physician classified and designated as a physician specialist in the department, under authority of this section, shall be a reputable physician; and a graduate of an accredited medical college, who has had special training and experience in the treatment of mental illness or other condition found in patients in the department.

Sec. 5155.03. The board of county commissioners or operator shall appoint a superintendent, who may be authorized to use the title "administrator," who may reside on the premises of the county home or ~~other~~ another building contiguous to the county home, and who shall receive the compensation the board or operator determines. The superintendent or administrator and any administrative assistant shall each be allowed actual necessary expenses incurred in the discharge of official duties. The superintendent or administrator shall perform the duties that the board or operator imposes and shall be governed in all respects by the board's or operator's rules. The superintendent or administrator shall be in the unclassified civil service.

The board or operator may, by resolution, provide for the appointment by the superintendent or administrator of an assistant superintendent or administrator, who shall perform the duties at the county home prescribed by the superintendent or administrator. The board or operator shall not appoint one of its own board members superintendent or administrator, nor shall any commissioner or trustee be eligible to any other office in the county home, or receive any compensation as physician or otherwise, directly or indirectly, wherein the appointing power is vested in the board of county commissioners or board of county hospital trustees, as applicable.

Sec. 5703.17. (A) In making an investigation as to any company, firm, corporation, person, association, partnership, or public utility subject to the laws ~~which~~ that the tax commissioner is required to administer, the commissioner may appoint by an order in writing an agent, a tax auditor agent, or a tax auditor agent manager, whose duties shall be prescribed in ~~such~~ the order.

In the discharge of such an agent's duties, the agent shall have every power of an inquisitorial nature granted by law to the commissioner; and the same powers as a notary public as to the taking of depositions; ~~and all.~~ All powers given by law to a notary public relative to depositions are hereby given to such an agent.

(B) No person shall be appointed as a tax auditor agent or a tax auditor agent manager, unless that person meets one of the following requirements:

- (1) The person holds from an accredited college or university a

baccalaureate or higher degree in accounting, business, business administration, public administration, ~~or~~ management, or other business-related field that is acceptable to the tax commissioner, a doctoral degree in law, a bachelor of laws degree, or a master of laws degree in taxation.

(2) The person possesses a current certified public accountant, certified managerial accountant, or certified internal auditor certificate; a professional tax designation issued by the institute for professionals in taxation or the international association of assessing officers; or a designation as an enrolled agent of the Internal Revenue Service.

(3) The person has accounting, auditing, or taxation experience ~~that is acceptable to the department of taxation~~ as defined in the classification specifications for the positions of tax auditor agent or tax auditor agent manager established by the director of administrative services pursuant to division (A)(1) of section 124.14 of the Revised Code.

(4) The person has experience as a tax commissioner agent, tax auditor agent, or supervisor of tax agents that is acceptable to the department of taxation.

SECTION 2. That existing sections 9.84, 119.12, 124.01, 124.03, 124.04, 124.07, 124.09, 124.11, 124.133, 124.134, 124.14, 124.15, 124.20, 124.22, 124.23, 124.26, 124.27, 124.271, 124.30, 124.31, 124.32, 124.321, 124.322, 124.323, 124.324, 124.325, 124.326, 124.327, 124.33, 124.34, 124.341, 124.38, 124.383, 124.384, 124.385, 124.386, 124.388, 124.40, 124.44, 124.45, 124.46, 124.48, 302.202, 325.19, 329.02, 329.021, 1513.03, 1513.34, 4111.03, 4112.01, 5107.52, 5119.09, 5155.03, and 5703.17 and section 124.311 of the Revised Code are hereby repealed.

SECTION 3. In addition to its recommendations that are included in this act, the Civil Service Review Commission that was created by Amended Senate Bill No. 210 of the 123rd General Assembly recommends, with necessary changes made by the General Assembly to reflect subsequent legislative enactments, all of the following:

(A) The Department of Administrative Services, in conjunction with all appropriate stakeholder groups, shall study the compensation and classification system that applies to employees paid by warrant of the Director of Budget and Management and county employees in order to determine how the system could be simplified. The Department shall report to the General Assembly on the results of its study not later than six months

after the effective date of this act and at appropriate intervals thereafter.

(B) An ad hoc committee shall be formed to review, study, and encourage greater awareness of the use of alternate dispute resolution procedures, such as mediation, in appeals to the State Personnel Board of Review and to municipal and civil service township civil service commissions. The committee shall consist of representatives of labor organizations, counties, cities, the State Personnel Board of Review, the State Employment Relations Board, the Office of Collective Bargaining of the Department of Administrative Services, the Ohio Commission on Dispute Resolution and Conflict Management, the American Arbitration Association, and the Federal Mediation and Conciliation Service. Professors on the faculty of Ohio law schools, a professional arbitrator with experience in public sector disputes, and a plaintiff's lawyer with experience in civil service disputes also should be members of the committee. The committee shall report its findings and recommendations to the General Assembly within six months after the effective date of this act.

SECTION 4. The Executive Director of the Inter-University Council shall coordinate the organization of a committee consisting of the president, or the president's representative, of each state-supported college or university. Ninety days after the effective date of this act, the committee, in consultation with the Department of Administrative Services, shall develop guidelines and standards that are to be used by the boards of trustees of these colleges and universities in adopting the rules concerning the matters of governance of the officers and employees of the college or university as required by division (F) of section 124.14 of the Revised Code. The guidelines shall address, at a minimum, all of the following:

- (A) Classification plans;
- (B) Compensation plans;
- (C) Recruitment, selection, and appointment processes;
- (D) Performance, discipline, and termination processes;
- (E) Layoff and reduction-in-workforce processes;
- (F) Paid leave, holiday leave, and benefit programs;
- (G) Appeals processes.

The guidelines also shall require the colleges and universities to adopt changes in a controlled and incremental manner.

SECTION 5. Nothing in this act abrogates, annuls, or modifies, or may be construed as abrogating, annulling, or modifying, any collective bargaining

agreement between a public employer and an exclusive representative that was entered into before the effective date of this act.

SECTION 6. Section 124.26 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 117 and Am. Sub. S.B. 99 of the 121st General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

SECTION 7. Sections 1, 2, 3, 4, 5, and 6 of this act shall take effect on July 1, 2007.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 187

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____