

As Introduced

**124th General Assembly
Regular Session
2001-2002**

H. B. No. 158

REPRESENTATIVE Schuring

A B I L L

To amend sections 145.01, 145.321, 145.33, 145.35, 1
145.49, and 3309.312 of the Revised Code to permit 2
Public Employees Retirement System (PERS) members 3
with at least 25 years of law enforcement service 4
credit to retire with full benefits at age 48, to 5
include transit and highway patrol police officers 6
as law enforcement officers for PERS purposes, and 7
to increase the employee contribution rate for law 8
enforcement service credit. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 145.01, 145.321, 145.33, 145.35, 10
145.49, and 3309.312 of the Revised Code be amended to read as 11
follows: 12

Sec. 145.01. As used in this chapter: 13

(A) "Public employee" means: 14

(1) Any person holding an office, not elective, under the 15
state or any county, township, municipal corporation, park 16
district, conservancy district, sanitary district, health 17
district, metropolitan housing authority, state retirement board, 18
Ohio historical society, public library, county law library, union 19
cemetery, joint hospital, institutional commissary, state 20

university, or board, bureau, commission, council, committee,
authority, or administrative body as the same are, or have been,
created by action of the general assembly or by the legislative
authority of any of the units of local government named in
division (A)(1) of this section, or employed and paid in whole or
in part by the state or any of the authorities named in division
(A)(1) of this section in any capacity not covered by section
742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code.

(2) A person who is a member of the public employees
retirement system and who continues to perform the same or similar
duties under the direction of a contractor who has contracted to
take over what before the date of the contract was a publicly
operated function. The governmental unit with which the contract
has been made shall be deemed the employer for the purposes of
administering this chapter.

(3) Any person who is an employee of a public employer,
notwithstanding that the person's compensation for that employment
is derived from funds of a person or entity other than the
employer. Credit for such service shall be included as total
service credit, provided that the employee makes the payments
required by this chapter, and the employer makes the payments
required by sections 145.48 and 145.51 of the Revised Code.

(4) A person who elects in accordance with section 145.015 of
the Revised Code to remain a contributing member of the public
employees retirement system.

In all cases of doubt, the public employees retirement board
shall determine whether any person is a public employee, and its
decision is final.

(B) "Member" means any public employee, other than a public
employee excluded or exempted from membership in the retirement
system by section 145.03, 145.031, 145.032, 145.033, 145.034,

145.035, or 145.38 of the Revised Code. "Member" includes a PERS
retirant who becomes a member under division (C) of section 145.38
of the Revised Code. "Member" also includes a disability benefit
recipient.

(C) "Head of the department" means the elective or appointive
head of the several executive, judicial, and administrative
departments, institutions, boards, and commissions of the state
and local government as the same are created and defined by the
laws of this state or, in case of a charter government, by that
charter.

(D) "Employer" or "public employer" means the state or any
county, township, municipal corporation, park district,
conservancy district, sanitary district, health district,
metropolitan housing authority, state retirement board, Ohio
historical society, public library, county law library, union
cemetery, joint hospital, institutional commissary, state medical
college, state university, or board, bureau, commission, council,
committee, authority, or administrative body as the same are, or
have been, created by action of the general assembly or by the
legislative authority of any of the units of local government
named in this division not covered by section 742.01, 3307.01,
3309.01, or 5505.01 of the Revised Code. In addition, "employer"
means the employer of any public employee.

(E) "Prior service" means all service as a public employee
rendered before January 1, 1935, and all service as an employee of
any employer who comes within the state teachers retirement system
or of the school employees retirement system or of any other
retirement system established under the laws of this state
rendered prior to January 1, 1935, provided that if the employee
claiming the service was employed in any capacity covered by that
other system after that other system was established, credit for
the service may be allowed by the public employees retirement

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system only when the employee has made payment, to be computed on
the salary earned from the date of appointment to the date
membership was established in the public employees retirement
system, at the rate in effect at the time of payment, and the
employer has made payment of the corresponding full liability as
provided by section 145.44 of the Revised Code. "Prior service"
also means all service credited for active duty with the armed
forces of the United States as provided in section 145.30 of the
Revised Code.

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If an employee who has been granted prior service credit by
the public employees retirement system for service rendered prior
to January 1, 1935, as an employee of a board of education
establishes, before retirement, one year or more of contributing
service in the state teachers retirement system or school
employees retirement system, then the prior service ceases to be
the liability of this system.

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If the board determines that a position of any member in any
calendar year prior to January 1, 1935, was a part-time position,
the board shall determine what fractional part of a year's credit
shall be allowed by the following formula:

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(1) When the member has been either elected or appointed to
an office the term of which was two or more years and for which an
annual salary is established, the fractional part of the year's
credit shall be computed as follows:

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First, when the member's annual salary is one thousand
dollars or less, the service credit for each such calendar year
shall be forty per cent of a year.

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Second, for each full one hundred dollars of annual salary
above one thousand dollars, the member's service credit for each
such calendar year shall be increased by two and one-half per
cent.

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(2) When the member is paid on a per diem basis, the service credit for any single year of the service shall be determined by using the number of days of service for which the compensation was received in any such year as a numerator and using two hundred fifty days as a denominator.

(3) When the member is paid on an hourly basis, the service credit for any single year of the service shall be determined by using the number of hours of service for which the compensation was received in any such year as a numerator and using two thousand hours as a denominator.

(F) "Contributor" means any person who has an account in the employees' savings fund created by section 145.23 of the Revised Code. When used in the sections listed in division (B) of section 145.82 of the Revised Code, "contributor" includes any person participating in a plan established under section 145.81 of the Revised Code.

(G) "Beneficiary" or "beneficiaries" means the estate or a person or persons who, as the result of the death of a member, contributor, or retirant, qualify for or are receiving some right or benefit under this chapter.

(H)(1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including restored service credit as provided by section 145.31 of the Revised Code; credit purchased under sections 145.293 and 145.299 of the Revised Code; all the member's prior service credit; all the member's military service credit computed as provided in this chapter; all service credit established pursuant to section 145.297 of the Revised Code; and any other service credited under this chapter. In addition, "total service credit" includes any period, not in excess of three years, during which a member was out of service and receiving benefits under Chapters 4121. and

4123. of the Revised Code. For the exclusive purpose of satisfying 147
the service credit requirement and of determining eligibility for 148
benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, 149
and 145.361 of the Revised Code, "five or more years of total 150
service credit" means sixty or more calendar months of 151
contributing service in this system. 152

(2) "One and one-half years of contributing service credit," 153
as used in division (B) of section 145.45 of the Revised Code, 154
also means eighteen or more calendar months of employment by a 155
municipal corporation that formerly operated its own retirement 156
plan for its employees or a part of its employees, provided that 157
all employees of that municipal retirement plan who have eighteen 158
or more months of such employment, upon establishing membership in 159
the public employees retirement system, shall make a payment of 160
the contributions they would have paid had they been members of 161
this system for the eighteen months of employment preceding the 162
date membership was established. When that payment has been made 163
by all such employee members, a corresponding payment shall be 164
paid into the employers' accumulation fund by that municipal 165
corporation as the employer of the employees. 166

(3) Where a member also is a member of the state teachers 167
retirement system or the school employees retirement system, or 168
both, except in cases of retirement on a combined basis pursuant 169
to section 145.37 of the Revised Code or as provided in section 170
145.383 of the Revised Code, service credit for any period shall 171
be credited on the basis of the ratio that contributions to the 172
public employees retirement system bear to total contributions in 173
all state retirement systems. 174

(4) Not more than one year of credit may be given for any 175
period of twelve months. 176

(5) "Ohio service credit" means credit for service that was 177
rendered to the state or any of its political subdivisions or any 178

employer.

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(I) "Regular interest" means interest at any rates for the
respective funds and accounts as the public employees retirement
board may determine from time to time.

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(J) "Accumulated contributions" means the sum of all amounts
credited to a contributor's individual account in the employees'
savings fund together with any interest credited to the
contributor's account under section 145.471 or 145.472 of the
Revised Code.

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(K)(1) "Final average salary" means the quotient obtained by
dividing by three the sum of the three full calendar years of
contributing service in which the member's earnable salary was
highest, except that if the member has a partial year of
contributing service in the year the member's employment
terminates and the member's earnable salary for the partial year
is higher than for any comparable period in the three years, the
member's earnable salary for the partial year shall be substituted
for the member's earnable salary for the comparable period during
the three years in which the member's earnable salary was lowest.

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(2) If a member has less than three years of contributing
service, the member's final average salary shall be the member's
total earnable salary divided by the total number of years,
including any fraction of a year, of the member's contributing
service.

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(3) For the purpose of calculating benefits payable to a
member qualifying for service credit under division (Z) of this
section, "final average salary" means the total earnable salary on
which contributions were made divided by the total number of years
during which contributions were made, including any fraction of a
year. If contributions were made for less than twelve months,
"final average salary" means the member's total earnable salary.

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(L) "Annuity" means payments for life derived from 210
contributions made by a contributor and paid from the annuity and 211
pension reserve fund as provided in this chapter. All annuities 212
shall be paid in twelve equal monthly installments. 213

(M) "Annuity reserve" means the present value, computed upon 214
the basis of the mortality and other tables adopted by the board, 215
of all payments to be made on account of any annuity, or benefit 216
in lieu of any annuity, granted to a retirant as provided in this 217
chapter. 218

(N)(1) "Disability retirement" means retirement as provided 219
in section 145.36 of the Revised Code. 220

(2) "Disability allowance" means an allowance paid on account 221
of disability under section 145.361 of the Revised Code. 222

(3) "Disability benefit" means a benefit paid as disability 223
retirement under section 145.36 of the Revised Code, as a 224
disability allowance under section 145.361 of the Revised Code, or 225
as a disability benefit under section 145.37 of the Revised Code. 226

(4) "Disability benefit recipient" means a member who is 227
receiving a disability benefit. 228

(O) "Age and service retirement" means retirement as provided 229
in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of 230
the Revised Code. 231

(P) "Pensions" means annual payments for life derived from 232
contributions made by the employer that at the time of retirement 233
are credited into the annuity and pension reserve fund from the 234
employers' accumulation fund and paid from the annuity and pension 235
reserve fund as provided in this chapter. All pensions shall be 236
paid in twelve equal monthly installments. 237

(Q) "Retirement allowance" means the pension plus that 238
portion of the benefit derived from contributions made by the 239

member.	240
(R)(1) Except as otherwise provided in division (R) of this section, "earnable salary" means all salary, wages, and other earnings paid to a contributor by reason of employment in a position covered by the retirement system. The salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the employees' savings fund under section 145.47 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes. "Earnable salary" includes the following:	241 242 243 244 245 246 247 248 249 250
(a) Payments made by the employer in lieu of salary, wages, or other earnings for sick leave, personal leave, or vacation used by the contributor;	251 252 253
(b) Payments made by the employer for the conversion of sick leave, personal leave, and vacation leave accrued, but not used if the payment is made during the year in which the leave is accrued, except that payments made pursuant to section 124.383 or 124.386 of the Revised Code are not earnable salary;	254 255 256 257 258
(c) Allowances paid by the employer for full maintenance, consisting of housing, laundry, and meals, as certified to the retirement board by the employer or the head of the department that employs the contributor;	259 260 261 262
(d) Fees and commissions paid under section 507.09 of the Revised Code;	263 264
(e) Payments that are made under a disability leave program sponsored by the employer and for which the employer is required by section 145.296 of the Revised Code to make periodic employer and employee contributions;	265 266 267 268
(f) Amounts included pursuant to divisions (K)(3) and (Y) of this section.	269 270

(2) "Earnable salary" does not include any of the following:	271
(a) Fees and commissions, other than those paid under section 507.09 of the Revised Code, paid as sole compensation for personal services and fees and commissions for special services over and above services for which the contributor receives a salary;	272 273 274 275 276
(b) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance;	277 278 279 280 281
(c) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, or use of the employer's property or equipment, or amounts paid by the employer to the contributor in lieu of providing the incidental benefits;	282 283 284 285
(d) Reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;	286 287 288
(e) Payments for accrued but unused sick leave, personal leave, or vacation that are made at any time other than in the year in which the sick leave, personal leave, or vacation was accrued;	289 290 291 292
(f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended;	293 294 295 296 297
(g) Payments made under division (B) or (D) of section 5923.05 of the Revised Code or Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly;	298 299 300

(h) Anything of value received by the contributor that is based on or attributable to retirement or an agreement to retire, except that payments made on or before January 1, 1989, that are based on or attributable to an agreement to retire shall be included in earnable salary if both of the following apply:

(i) The payments are made in accordance with contract provisions that were in effect prior to January 1, 1986;

(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability resulting from the payments.

(3) The retirement board shall determine by rule whether any compensation not enumerated in division (R) of this section is earnable salary, and its decision shall be final.

(S) "Pension reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments to be made on account of any retirement allowance or benefit in lieu of any retirement allowance, granted to a member or beneficiary under this chapter.

(T)(1) "Contributing service" means all service credited to a member of the system since January 1, 1935, for which contributions are made as required by sections 145.47, 145.48, and 145.483 of the Revised Code. In any year subsequent to 1934, credit for any service shall be allowed by the following formula:

(a) For each month for which the member's earnable salary is two hundred fifty dollars or more, allow one month's credit.

(b) For each month for which the member's earnable salary is less than two hundred fifty dollars, allow a fraction of a month's credit. The numerator of this fraction shall be the earnable salary during the month, and the denominator shall be two hundred fifty dollars, except that if the member's annual earnable salary is less than six hundred dollars, the member's credit shall not be

reduced below twenty per cent of a year for a calendar year of 332
employment during which the member worked each month. Division 333
(T)(1)(b) of this section shall not reduce any credit earned 334
before January 1, 1985. 335

(2) Notwithstanding division (T)(1) of this section, an 336
elected official who prior to January 1, 1980, was granted a full 337
year of credit for each year of service as an elected official 338
shall be considered to have earned a full year of credit for each 339
year of service regardless of whether the service was ~~full-time~~ 340
full time or ~~part-time~~ part time. The public employees retirement 341
board has no authority to reduce the credit. 342

(U) "State retirement board" means the public employees 343
retirement board, the school employees retirement board, or the 344
state teachers retirement board. 345

(V) "Retirant" means any former member who retires and is 346
receiving a monthly allowance as provided in sections 145.32, 347
145.33, 145.331, 145.34, and 145.46 of the Revised Code. 348

(W) "Employer contribution" means the amount paid by an 349
employer as determined under section 145.48 of the Revised Code. 350

(X) "Public service terminates" means the last day for which 351
a public employee is compensated for services performed for an 352
employer or the date of the employee's death, whichever occurs 353
first. 354

(Y) When a member has been elected or appointed to an office, 355
the term of which is two or more years, for which an annual salary 356
is established, and in the event that the salary of the office is 357
increased and the member is denied the additional salary by reason 358
of any constitutional provision prohibiting an increase in salary 359
during a term of office, the member may elect to have the amount 360
of the member's contributions calculated upon the basis of the 361
increased salary for the office. At the member's request, the 362

board shall compute the total additional amount the member would
have contributed, or the amount by which each of the member's
contributions would have increased, had the member received the
increased salary for the office the member holds. If the member
elects to have the amount by which the member's contribution would
have increased withheld from the member's salary, the member shall
notify the employer, and the employer shall make the withholding
and transmit it to the retirement system. A member who has not
elected to have that amount withheld may elect at any time to make
a payment to the retirement system equal to the additional amount
the member's contribution would have increased, plus interest on
that contribution, compounded annually at a rate established by
the board and computed from the date on which the last
contribution would have been withheld from the member's salary to
the date of payment. A member may make a payment for part of the
period for which the increased contribution was not withheld, in
which case the interest shall be computed from the date the last
contribution would have been withheld for the period for which the
payment is made. Upon the payment of the increased contributions
as provided in this division, the increased annual salary as
provided by law for the office for the period for which the member
paid increased contributions thereon shall be used in determining
the member's earnable salary for the purpose of computing the
member's final average salary.

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(Z) "Five years of service credit," for the exclusive purpose
of satisfying the service credit requirements and of determining
eligibility for benefits under section 145.33 of the Revised Code,
means employment covered under this chapter or under a former
retirement plan operated, recognized, or endorsed by the employer
prior to coverage under this chapter or under a combination of the
coverage.

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(AA) "Deputy sheriff" means any person who is commissioned 395
and employed as a full-time peace officer by the sheriff of any 396
county, and has been so employed since on or before December 31, 397
1965, and whose primary duties are to preserve the peace, to 398
protect life and property, and to enforce the laws of this state; 399
any person who is or has been commissioned and employed as a peace 400
officer by the sheriff of any county since January 1, 1966, and 401
who has received a certificate attesting to the person's 402
satisfactory completion of the peace officer training school as 403
required by section 109.77 of the Revised Code and whose primary 404
duties are to preserve the peace, protect life and property, and 405
enforce the laws of this state; or any person deputized by the 406
sheriff of any county and employed pursuant to section 2301.12 of 407
the Revised Code as a criminal bailiff or court constable who has 408
received a certificate attesting to the person's satisfactory 409
completion of the peace officer training school as required by 410
section 109.77 of the Revised Code and whose primary duties are to 411
preserve the peace, protect life and property, and enforce the 412
laws of this state. 413

(BB) "Township constable or police officer in a township 414
police department or district" means any person who is 415
commissioned and employed as a full-time peace officer pursuant to 416
Chapter 505. or 509. of the Revised Code, who has received a 417
certificate attesting to the person's satisfactory completion of 418
the peace officer training school as required by section 109.77 of 419
the Revised Code, and whose primary duties are to preserve the 420
peace, protect life and property, and enforce the laws of this 421
state. 422

(CC) "Drug agent" means any person who is either of the 423
following: 424

(1) Employed ~~full-time~~ full time as a narcotics agent by a 425
county narcotics agency created pursuant to section 307.15 of the 426

Revised Code and has received a certificate attesting to the 427
satisfactory completion of the peace officer training school as 428
required by section 109.77 of the Revised Code; 429

(2) Employed ~~full-time~~ full time as an undercover drug agent 430
as defined in section 109.79 of the Revised Code and is in 431
compliance with section 109.77 of the Revised Code. 432

(DD) "Department of public safety enforcement agent" means a 433
full-time employee of the department of public safety who is 434
designated under section 5502.14 of the Revised Code as an 435
enforcement agent and who is in compliance with section 109.77 of 436
the Revised Code. 437

(EE) "Natural resources law enforcement staff officer" means 438
a full-time employee of the department of natural resources who is 439
designated a natural resources law enforcement staff officer under 440
section 1501.013 of the Revised Code and is in compliance with 441
section 109.77 of the Revised Code. 442

(FF) "Park officer" means a full-time employee of the 443
department of natural resources who is designated a park officer 444
under section 1541.10 of the Revised Code and is in compliance 445
with section 109.77 of the Revised Code. 446

(GG) "Forest officer" means a full-time employee of the 447
department of natural resources who is designated a forest officer 448
under section 1503.29 of the Revised Code and is in compliance 449
with section 109.77 of the Revised Code. 450

(HH) "Preserve officer" means a full-time employee of the 451
department of natural resources who is designated a preserve 452
officer under section 1517.10 of the Revised Code and is in 453
compliance with section 109.77 of the Revised Code. 454

(II) "Wildlife officer" means a full-time employee of the 455
department of natural resources who is designated a wildlife 456
officer under section 1531.13 of the Revised Code and is in 457

compliance with section 109.77 of the Revised Code. 458

(JJ) "State watercraft officer" means a full-time employee of 459
the department of natural resources who is designated a state 460
watercraft officer under section 1547.521 of the Revised Code and 461
is in compliance with section 109.77 of the Revised Code. 462

(KK) "Park district police officer" means a full-time 463
employee of a park district who is designated pursuant to section 464
511.232 or 1545.13 of the Revised Code and is in compliance with 465
section 109.77 of the Revised Code. 466

(LL) "Conservancy district officer" means a full-time 467
employee of a conservancy district who is designated pursuant to 468
section 6101.75 of the Revised Code and is in compliance with 469
section 109.77 of the Revised Code. 470

(MM) "Municipal police officer" means a member of the 471
organized police department of a municipal corporation who is 472
employed ~~full-time~~ full time, is in compliance with section 109.77 473
of the Revised Code, and is not a member of the Ohio police and 474
fire pension fund. 475

(NN) "Ohio veterans' home police officer" means any person 476
who is employed at the Ohio veterans' home as a police officer 477
pursuant to section 5907.02 of the Revised Code and is in 478
compliance with section 109.77 of the Revised Code. 479

(OO) "Special police officer for a mental health institution" 480
means any person who is designated as such pursuant to section 481
5119.14 of the Revised Code and is in compliance with section 482
109.77 of the Revised Code. 483

(PP) "Special police officer for an institution for the 484
mentally retarded and developmentally disabled" means any person 485
who is designated as such pursuant to section 5123.13 of the 486
Revised Code and is in compliance with section 109.77 of the 487
Revised Code. 488

(QQ) "State university law enforcement officer" means any 489
person who is employed ~~full-time~~ full time as a state university 490
law enforcement officer pursuant to section 3345.04 of the Revised 491
Code and who is in compliance with section 109.77 of the Revised 492
Code. 493

~~(RR) "Hamilton county municipal court bailiff" means a person 494
appointed by the clerk of courts of the Hamilton county municipal 495
court under division (A)(3) of section 1901.32 of the Revised Code 496
who is employed full time as a bailiff or deputy bailiff, who has 497
received a certificate attesting to the person's satisfactory 498
completion of the peace officer training school as required by 499
division (C) of section 109.77 of the Revised Code, and whose 500
primary duties are to preserve the peace, to protect life and 501
property, and to enforce the laws of this state. 502~~

~~(SS) "Regional transit authority police officer" means a 503
person who is employed full time as a regional transit authority 504
police officer under division (Y) of section 306.35 of the Revised 505
Code and is in compliance with section 109.77 of the Revised Code. 506~~

~~(SS) "State highway patrol police officer" means a special 507
police officer employed full time and designated by the 508
superintendent of the state highway patrol pursuant to section 509
5503.09 of the Revised Code or a person serving full time as a 510
special police officer pursuant to that section on a permanent 511
basis on October 21, 1997, who is in compliance with section 512
109.77 of the Revised Code. 513~~

~~(TT) Notwithstanding section 2901.01 of the Revised Code, 514
"PERS law enforcement officer" means a sheriff, deputy sheriff, 515
township constable or police officer in a township police 516
department or district, drug agent, department of public safety 517
enforcement agent, natural resources law enforcement staff 518
officer, park officer, forest officer, preserve officer, wildlife 519
officer, state watercraft officer, park district police officer, 520~~

conservancy district officer, Ohio veterans' home police officer, 521
special police officer for a mental health institution, special 522
police officer for an institution for the mentally retarded and 523
developmentally disabled, state university law enforcement 524
officer, ~~Hamilton county municipal court bailiff, or municipal~~ 525
~~police officer, regional transit authority police officer, or~~ 526
~~state highway patrol police officer.~~ 527

~~(TT)~~(UU) "Hamilton county municipal court bailiff" means a 528
person appointed by the clerk of courts of the Hamilton county 529
municipal court under division (A)(3) of section 1901.32 of the 530
Revised Code who is employed full time as a bailiff or deputy 531
bailiff, who has received a certificate attesting to the person's 532
satisfactory completion of the peace officer training school as 533
required by division (C) of section 109.77 of the Revised Code, 534
and whose primary duties are to preserve the peace, to protect 535
life and property, and to enforce the laws of this state. 536

(VV) "Fiduciary" means a person who does any of the 537
following: 538

(1) Exercises any discretionary authority or control with 539
respect to the management of the system or with respect to the 540
management or disposition of its assets; 541

(2) Renders investment advice for a fee, direct or indirect, 542
with respect to money or property of the system; 543

(3) Has any discretionary authority or responsibility in the 544
administration of the system. 545

~~(UU)~~(WW) "Actuary" means an individual who satisfies all of 546
the following requirements: 547

(1) Is a member of the American academy of actuaries; 548

(2) Is an associate or fellow of the society of actuaries; 549

(3) Has a minimum of five years' experience in providing 550

actuarial services to public retirement plans.

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Sec. 145.321. On and after October 1, 1957, all persons in receipt of, or who are or become eligible to receive, a monthly allowance, pension, or other benefit effective prior to June 29, 1955, which is payable or becomes payable pursuant to the provisions of sections 145.33 to 145.36 and 145.46 of the Revised Code, or an allowance payable at any time under an option elected by a member and effective prior to that date, shall be paid an increased allowance, pension, or benefit as follows:

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(A) An amount determined by increasing the original allowance, pension, or benefit by the following percentages as determined by the calendar year in which the allowance, pension, or benefit became effective:

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Calendar Year	Per Cent	
Effective	of increase	
1938-39	100	564
1940	94	565
1941	89	566
1942	77	567
1943	70	568
1944	68	569
1945	66	570
1946	55	571
1947	35	572
1948	23	573
1949	25	574
1950	23	575
1951	8	576
1952	4	577
1953	3	578
1954	2	579
Prior to June 29, 1955	2	580 581 582

(B) If the amount of any allowance, pension, or other benefit is increased by division (A) of this section to an amount less than one hundred ten per cent of the present amount payable immediately prior to October 1, 1957, the present amount shall be increased by ten per cent.

(C) On and after August 1, 1959 the monthly allowance, pension, or other benefit effective prior to June 29, 1955, (exclusive of any amount receivable monthly by reason of a voluntary deposit made for additional annuity), together with the supplemental allowance payable pursuant to divisions (A) and (B) of this section, shall be increased by twelve per cent.

(D) Effective November 1, 1965, the allowances of each person who retired on or before June 30, 1955 and is receiving age and service or disability benefits under sections 145.32, 145.33, 145.34, and 145.36 of the Revised Code shall be increased by one hundred twenty dollars annually, notwithstanding the final average salary limitations in ~~division (F)~~ of section 145.33 and division (B) of section 145.36 of the Revised Code.

(E) Effective November 1, 1965, the allowances of each person who retired after June 30, 1955 and on or before October 31, 1965 and is receiving age and service ~~of~~ or disability benefits under sections 145.32, 145.33, 145.34, and 145.36 of the Revised Code shall be increased by one hundred twenty dollars annually, which when added to the allowance in effect on October 31, 1965, shall not exceed the final average salary limitations found in ~~division (F)~~ of section 145.33 and division (B) of section 145.36 of the Revised Code, except that the increase shall not be less than seventy-two dollars annually.

(F) Beginning November 1, 1965, the monthly benefit payable under section 145.45 of the Revised Code shall be increased six dollars for each survivor beneficiary receiving a benefit on October 31, 1965 and for each successor to such benefit.

For the purposes of this section: (1) The total increase payable per month on or after November 1, 1965 to a retirant or beneficiary from one or more state systems shall not exceed the ten dollar increase as provided in this division, and (2) in all cases involving combined membership and service as provided for under section 145.37 of the Revised Code, only those cases which are being paid by the public employees retirement system shall be calculated under the provisions of this section.

On or before August 1, 1982, and on or before the first day of August in each year thereafter, the public employees retirement board shall certify to the treasurer of state the amount required to be paid in the preceding fiscal year under divisions (A) and (B) of this section. Upon receipt of this certification, the treasurer of state shall pay the amount certified. The amount received by the public employees retirement board shall be credited to the proper fund from which such additional payments are paid.

Sec. 145.33. (A) Except as provided in division (B), (C), or (D) of this section, a member with at least five years of total service credit who has attained age sixty, or who has thirty years of total Ohio service credit, may apply for age and service retirement, which shall consist of:

(1) An annuity having a reserve equal to the amount of the member's accumulated contributions at that time;

(2) A pension equal to the annuity provided by division (A)(1) of this section;

(3) An additional pension, if the member can qualify for prior service, equal to forty dollars multiplied by the number of years, and fraction thereof, of such prior and military service credit;

(4) A basic annual pension equal to one hundred eighty 645
dollars if the member has ten or more years of total service 646
credit as of October 1, 1956, except that the basic annual pension 647
shall not exceed the sum of the annual benefits provided by 648
divisions (A)(1), (2), and (3) of this section. 649

(5) When a member retires on age and service retirement, the 650
member's total annual single lifetime allowance, including the 651
allowances provided in divisions (A)(1), (2), (3), and (4) of this 652
section, shall be not less than a base amount adjusted in 653
accordance with division (A)(5) of this section and determined by 654
multiplying the member's total service credit by the greater of 655
the following: 656

(a) Eighty-six dollars; 657

(b) Two and two-tenths per cent of the member's final average 658
salary for each of the first thirty years of service plus two and 659
one-half per cent of the member's final average salary for each 660
subsequent year of service. 661

The allowance shall be adjusted by the factors of attained 662
age or years of service to provide the greater amount as 663
determined by the following schedule: 664

Attained	or	Years of Total Service	Percentage of	
Birthdays		Credit	Base Amount	
58		25	75	668
59		26	80	669
60		27	85	670
61			88	671
		28	90	672
62			91	673
63			94	674
		29	95	675
64			97	676

65 30 or more 100 677

Members shall vest the right to a benefit in accordance with 678
the following schedule, based on the member's attained age by 679
September 1, 1976: 680

Attained Birthday	Percentage of Base Amount	
66	102	684
67	104	685
68	106	686
69	108	687
70 or more	110	688

(6) The total annual single lifetime allowance that a member 689
shall receive under division (A)(5) of this section shall not 690
exceed the lesser of one hundred per cent of the member's final 691
average salary or the limit established by section 415 of the 692
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, 693
as amended. 694

(B)(1) For the purposes of divisions (B) to ~~(F)~~(G) of this 695
section, "total service credit as a PERS law enforcement officer" 696
~~includes and "total service credit as a Hamilton county municipal~~ 697
~~court bailiff" include~~ credit for military service to the extent 698
permitted by division ~~(F)~~(E)(2) of this section and credit for 699
service as a police officer or state highway patrol trooper to the 700
extent permitted by ~~division (F)~~ divisions (E)(3) and (4) of this 701
section. 702

(2) A member who meets the conditions in division (B)(2)(a), 703
(b), or (c) of this section may apply for an age and service 704
retirement benefit under this division: 705

(a) ~~Except as provided in division (B)(2)(b) of this section,~~ 706
~~has~~ Has at least twenty-five years of total service credit as a 707
PERS law enforcement officer and has attained age ~~fifty-two~~ 708

forty-eight; 709

(b) Has at least twenty-five years of total service credit as 710
~~a law enforcement officer while serving as a sheriff, deputy~~ 711
~~sheriff, or township constable or police officer in a township~~ 712
~~police department or district~~ Hamilton county municipal court 713
bailiff and has attained age ~~forty-eight~~ fifty-two; 714

(c) Has at least fifteen years of total service credit as a 715
PERS law enforcement officer or a Hamilton county municipal court 716
bailiff and has attained age sixty-two. 717

(3) A benefit paid under division (B)(2) of this section 718
shall consist of an annual single lifetime allowance equal to the 719
sum of two and one-half per cent of the member's final average 720
salary multiplied by the first twenty-five years of the member's 721
total service plus two and one-tenth per cent of the member's 722
final average salary multiplied by the number of years of the 723
member's total service credit in excess of twenty-five years. 724

~~(C)~~(4) A member with at least fifteen years of total service 725
credit as a PERS law enforcement officer or a Hamilton county 726
municipal court bailiff who voluntarily resigns or is discharged 727
for any reason except death, dishonesty, cowardice, intemperate 728
habits, or conviction of a felony may apply for an age and service 729
retirement benefit, which shall consist of an annual single 730
lifetime allowance equal to one and one-half per cent of the 731
member's final average salary multiplied by the number of years of 732
the member's total service credit. The allowance shall commence on 733
the first day of the calendar month following the month in which 734
the application is filed with the public employees retirement 735
board on or after the attainment by the applicant of age 736
fifty-two. 737

~~(D)~~(C)(1) A member with at least twenty-five years of total 738
service credit as a ~~law enforcement officer other than as a law~~ 739
~~enforcement officer eligible for a benefit under division~~ 740

~~(B)(2)(b)~~ of this section Hamilton county municipal court bailiff 741
who voluntarily resigns or is discharged for any reason except 742
death, dishonesty, cowardice, intemperate habits, or conviction of 743
a felony, on or after the date of attaining forty-eight years of 744
age, but before the date of attaining fifty-two years of age, may 745
elect to receive a reduced benefit as determined by the following 746
schedule: 747

Attained Age	Reduced Benefit	
48	75% of the benefit payable under	748
	division (B)(3) of this section	749
49	80% of the benefit payable under	750
	division (B)(3) of this section	751
50	86% of the benefit payable under	752
	division (B)(3) of this section	753
51	93% of the benefit payable under	754
	division (B)(3) of this section	755

(2) If a member elects to receive a reduced benefit after 757
attaining age forty-eight the reduced benefit is payable from the 758
later of the date of the member's most recent birthday or the date 759
the member becomes eligible to receive the reduced benefit. 760

(3) Once a member elects to receive a reduced benefit 761
determined by the schedule in division ~~(D)~~(C)(1) of this section 762
and has received a payment, the member may not reelect to change 763
that election. 764

(4) If a member who has resigned or been discharged has left 765
on deposit the member's accumulated contributions in the 766
employees' savings fund and has not elected to receive a reduced 767
benefit determined by the schedule in division ~~(D)~~(C)(1) of this 768
section, upon attaining fifty-two years of age, the member shall 769
be entitled to receive a benefit computed and paid under division 770
(B)(3) of this section. 771

~~(E)~~(D) A benefit paid under division (B), or (C), ~~or (D)~~ of 772

this section shall not exceed the lesser of ninety per cent of the 773
member's final average salary or the limit established by section 774
415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 775
U.S.C.A. 415, as amended. 776

~~(F)~~(E)(1) A member with service credit as a PERS law 777
enforcement officer or a Hamilton county municipal court bailiff 778
and other service credit under this chapter may elect one of the 779
following: 780

(a) To have all the member's service credit under this 781
chapter, including credit for service as a PERS law enforcement 782
officer or a Hamilton county municipal court bailiff, used in 783
calculating a retirement allowance under division (A) of this 784
section if the member qualifies for an allowance under that 785
division; 786

(b) If the member qualifies for an allowance under division 787
(B)~~(2)(a)~~ or ~~(c)~~, (C), ~~or (D)~~ of this section, to have the 788
member's service credit as a PERS law enforcement officer or 789
Hamilton county municipal court bailiff used in calculating a 790
benefit under ~~that~~ the appropriate division and the member's 791
credit for all service other than PERS law enforcement service or 792
service as a Hamilton county municipal court bailiff under this 793
chapter used in calculating a benefit consisting of a single life 794
annuity having a reserve equal to the amount of the member's 795
accumulated contributions and an equal amount of the employer's 796
contributions; 797

~~(c) If the member qualifies for an allowance under division 798
(B)(2)(b) of this section, to have the member's service credit as 799
a law enforcement officer while serving as a sheriff, deputy 800
sheriff, or township constable or police officer in a township 801
police department or district used in calculating a benefit under 802
division (B)(2)(b) of this section and the member's credit for all 803
other service under this chapter used in calculating a benefit 804~~

~~consisting of a single life annuity having a reserve equal to the~~ 805
~~amount of the member's accumulated contributions and an equal~~ 806
~~amount of the employer's contributions.~~ 807

(2) Notwithstanding sections 145.01 and 145.30 of the Revised 808
Code, no more than four years of military service credit granted 809
under section 145.30 of the Revised Code and five years of 810
military service credit purchased under section 145.301 or 145.302 811
of the Revised Code shall be used in calculating service as a PERS 812
law enforcement officer or Hamilton county municipal court bailiff 813
or the total service credit of that person. 814

(3) Only credit for the member's service as a PERS law 815
enforcement officer or service credit obtained as a police officer 816
or state highway patrol trooper shall be used in computing the 817
~~benefits~~ benefit of a member who qualifies for a benefit under 818
division (B), ~~(C)(2)(a) or (c), or (D)(4)~~ of this section for the 819
following: 820

(a) Any person who originally is commissioned and employed as 821
a deputy sheriff by the sheriff of any county, or who originally 822
is elected sheriff, on or after January 1, 1975; 823

(b) Any deputy sheriff who originally is employed as a 824
criminal bailiff or court constable on or after April 16, 1993; 825

(c) Any person who originally is appointed as a township 826
constable or police officer in a township police department or 827
district on or after January 1, 1981; 828

(d) Any person who originally is employed as a county 829
narcotics agent on or after September 26, 1984; 830

(e) Any person who originally is employed as an undercover 831
drug agent as defined in section 109.79 of the Revised Code, 832
department of public safety enforcement agent who prior to June 833
30, 1999, was a liquor control investigator, park officer, forest 834
officer, wildlife officer, state watercraft officer, park district 835

police officer, conservancy district officer, Ohio veterans' home 836
police officer, special police officer for a mental health 837
institution, special police officer for an institution for the 838
mentally retarded and developmentally disabled, or municipal 839
police officer on or after December 15, 1988; 840

(f) Any person who originally is employed as a state 841
university law enforcement officer on or after November 6, 1996; 842

~~(g) Any person who originally is employed as a Hamilton 843
county municipal court bailiff on or after November 6, 1996;~~ 844

~~(h) Any person who is originally employed as a state 845
university law enforcement officer by the university of Akron on 846
or after September 16, 1998;~~ 847

~~(i)~~(h) Any person who originally is employed as a preserve 848
officer on or after March 18, 1999; 849

~~(j)~~(i) Any person who originally is employed as a natural 850
resources law enforcement staff officer on or after March 18, 851
1999; 852

~~(k)~~(j) Any person who is originally employed as a department 853
of public safety enforcement agent on or after June 30, 1999. 854

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~~(G)~~(k) Any person who is originally appointed as a regional 856
transit authority police officer or state highway patrol police 857
officer on or after the effective date of this amendment. 858

(4) Only credit for a member's service as a Hamilton county 859
municipal court bailiff or service credit obtained as a PERS law 860
enforcement officer, police officer, or state highway patrol 861
trooper shall be used in computing the benefit of a member who 862
qualifies for a benefit under division (B)(2)(b) or (c) or (4) of 863
this section for any person who originally is employed as a 864
Hamilton county municipal court bailiff on or after November 6, 865

1996. 866

(F) Retirement allowances determined under this section shall 867
be paid as provided in section 145.46 of the Revised Code. 868

~~(H)~~(G) For the purposes of this section, service prior to 869
June 30, 1999, as a food stamp trafficking agent under former 870
section 5502.14 of the Revised Code shall be considered service as 871
a PERS law enforcement officer. 872

Sec. 145.35. (A) As used in this section, "on-duty illness or 873
injury" means an illness or injury that occurred during or 874
resulted from performance of duties under the direct supervision 875
of a member's appointing authority. 876

(B) The public employees retirement system shall provide 877
disability coverage to each member who has at least five years of 878
total service credit and disability coverage for on-duty illness 879
or injury to each member who is a PERS law enforcement officer or 880
Hamilton county municipal court bailiff, regardless of length of 881
service. 882

Not later than October 16, 1992, the public employees 883
retirement board shall give each person who is a member on July 884
29, 1992, the opportunity to elect disability coverage either 885
under section 145.36 of the Revised Code or under section 145.361 886
of the Revised Code. The board shall mail notice of the election, 887
accompanied by an explanation of the coverage under each of the 888
Revised Code sections and a form on which the election is to be 889
made, to each member at the member's last known address. The board 890
shall also provide the explanation and form to any member on 891
request. 892

Regardless of whether the member actually receives notice of 893
the right to make an election, a member who fails to file a valid 894
election under this section shall be considered to have elected 895

disability coverage under section 145.36 of the Revised Code. To 896
be valid, an election must be made on the form provided by the 897
retirement board, signed by the member, and filed with the board 898
not later than one hundred eighty days after the date the notice 899
was mailed, or, in the case of a form provided at the request of a 900
member, a date specified by rule of the retirement board. Once 901
made, an election is irrevocable, but if the member ceases to be a 902
member of the retirement system, the election is void. If a person 903
who makes an election under this section also makes an election 904
under section 3307.62 or 3309.39 of the Revised Code, the election 905
made for the system that pays a disability benefit to that person 906
shall govern the benefit. 907

Disability coverage shall be provided under section 145.361 908
of the Revised Code for persons who become members after July 29, 909
1992, and for members who elect under this division to be covered 910
under section 145.361 of the Revised Code. 911

The retirement board may adopt rules governing elections made 912
under this division. 913

(C) Application for a disability benefit may be made by a 914
member, by a person acting in the member's behalf, or by the 915
member's employer, provided the member has disability coverage 916
under section 145.36 or 145.361 of the Revised Code and is not 917
receiving a disability benefit under any other Ohio state or 918
municipal retirement program. Application must be made within two 919
years from the date the member's contributing service terminated, 920
unless the retirement board determines that the member's medical 921
records demonstrate conclusively that at the time the two-year 922
period expired, the member was physically or mentally 923
incapacitated for duty and unable to make an application. 924
Application may not be made by or for any person receiving age and 925
service retirement benefits under section 145.33, 145.331, 145.34, 926
or 145.37 of the Revised Code or any person who, pursuant to 927

section 145.40 of the Revised Code, has been paid the accumulated 928
contributions standing to the credit of the person's individual 929
account in the employees' savings fund. The application shall be 930
made on a form provided by the retirement board. 931

(D) The benefit payable to any member who is approved for a 932
disability benefit shall become effective on the first day of the 933
month immediately following the later of the following: 934

(1) The last day for which compensation was paid; 935

(2) The attainment of eligibility for a disability benefit. 936

(E) Medical examination of a member who has applied for a 937
disability benefit shall be conducted by a competent disinterested 938
physician or physicians selected by the board to determine whether 939
the member is mentally or physically incapacitated for the 940
performance of duty by a disabling condition either permanent or 941
presumed to be permanent. The disability must have occurred since 942
last becoming a member or have increased since last becoming a 943
member to such extent as to make the disability permanent or 944
presumed to be permanent. A disability is presumed to be permanent 945
if it is expected to last for a continuous period of not less than 946
twelve months following the filing of the application. 947

If the physician or physicians determine that the member 948
qualifies for a disability benefit, the board concurs with the 949
determination, and the member agrees to medical treatment as 950
specified in division (F) of this section, the member shall 951
receive a disability benefit under section 145.36 or 145.361 of 952
the Revised Code. The action of the board shall be final. 953

(F) The public employees retirement board shall adopt rules 954
requiring a disability benefit recipient, as a condition of 955
continuing to receive a disability benefit, to agree in writing to 956
obtain any medical treatment recommended by the board's physician 957
and submit medical reports regarding the treatment. If the board 958

determines that a disability benefit recipient is not obtaining the medical treatment or the board does not receive a required medical report, the disability benefit shall be suspended until the treatment is obtained, the report is received by the board, or the board's physician certifies that the treatment is no longer helpful or advisable. Should the recipient's failure to obtain treatment or submit a medical report continue for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

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(G) In the event an employer files an application for a disability benefit as a result of a member having been separated from service because the member is considered to be mentally or physically incapacitated for the performance of the member's present duty, and the physician or physicians selected by the board reports to the board that the member is physically and mentally capable of performing service similar to that from which the member was separated and the board concurs in the report, the board shall so certify to the employer and the employer shall restore the member to the member's previous position and salary or to a similar position and salary.

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Sec. 145.49. (A) Notwithstanding section 145.47 of the Revised Code, ~~the:~~

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(1) The public employees retirement retirement system shall be authorized to calculate the employee contribution rates separately for those public employees contributing toward benefits under division (B), (C), or (D) of section 145.33 of the Revised Code. to the retirement system for services as a Hamilton county municipal court bailiff.

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(2) Each public employee contributing toward benefits under division (B)(2)(b) of section 145.33 of the Revised Code to the public employees retirement system as a PERS law enforcement

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~~officer shall contribute to the employees' savings fund the sum of 990
one ten and one-tenth per cent of the employee's earnable salary 991
and the employee contribution rate calculated for employees 992
contributing toward benefits under division (B)(2)(a) of section 993
145.33 of the Revised Code, notwithstanding section 145.47 of the 994
Revised Code. 995~~

(B) Notwithstanding section 145.48 of the Revised Code, the 996
public employees retirement system shall be authorized to 997
calculate the employer contribution rates separately for those 998
public employees contributing toward benefits under division (B), 999
(C), or (D) of section 145.33 of the Revised Code to the 1000
retirement system for service as a PERS law enforcement officer or 1001
a Hamilton county municipal court bailiff, except that the 1002
employer contribution rate shall not exceed eighteen and one-tenth 1003
per cent of the earnable salaries of those employees. 1004

Sec. 3309.312. (A) Not later than ninety days after September 1005
16, 1998, a member who, on September 16, 1998, is employed 1006
~~full-time~~ full time pursuant to section 3345.04 of the Revised 1007
Code by the university of Akron as a state university law 1008
enforcement officer may elect to transfer to the public employees 1009
retirement system in accordance with this section. An election 1010
shall be made by giving notice to the school employees retirement 1011
system on a form provided by the school employees retirement board 1012
and shall be irrevocable. 1013

(B) When a member makes the election described in this 1014
section, the school employees retirement system shall notify the 1015
public employees retirement system. The school employees 1016
retirement system shall transfer all of the member's service 1017
credit to the public employees retirement system and shall certify 1018
to the public employees retirement system a copy of the member's 1019
records of service and contributions. For each year or portion of 1020
a year of credit, the school employees retirement system shall 1021

transfer to the public employees retirement system all of the 1022
following: 1023

(1) An amount equal to the accumulated contributions standing 1024
to the member's credit; 1025

(2) An amount equal to the total employer contributions paid 1026
on behalf of the member; 1027

(3) Any amount paid by the member or employer to the school 1028
employees retirement system for the purchase of service credit. 1029

At the request of the public employees retirement system, the 1030
employer of a member who makes an election under this section 1031
shall certify to the public employees retirement system the 1032
member's salary. 1033

(C) A member who elects to transfer to the public employees 1034
retirement system under this section shall make contributions and 1035
receive benefits in accordance with divisions (B) to ~~(G)~~(F) of 1036
section 145.33 of the Revised Code. 1037

(D) A member who fails to make an election in accordance with 1038
this section shall remain a member of the school employees 1039
retirement system. 1040

Section 2. That existing sections 145.01, 145.321, 145.33, 1041
145.35, 145.49, and 3309.312 of the Revised Code are hereby 1042
repealed. 1043

Section 3. As used in this section, "regional transit 1044
authority police officer" and "state highway patrol police 1045
officer" have the same meaning as in section 145.01 of the Revised 1046
Code, as amended by this act. 1047

Not later than ninety days after the effective date of this 1048
act, each regional transit authority police officer and state 1049
highway patrol police officer who is a member of the Public 1050

Employees Retirement System shall indicate to the system, on a 1051
form supplied by the retirement system, a choice of whether to 1052
receive benefits under division (A) of section 143.33 of the 1053
Revised Code or under division (B) of that section. 1054

Section 4. Section 145.01 of the Revised Code is presented in 1056
this act as a composite of the section as amended by Am. Sub. H.B. 1057
628, Am. Sub. H.B. 640, and Am. Sub. S.B. 144 of the 123rd General 1058
Assembly. The General Assembly, applying the principle stated in 1059
division (B) of section 1.52 of the Revised Code that amendments 1060
are to be harmonized if reasonably capable of simultaneous 1061
operation, finds that the composite is the resulting version of 1062
the section in effect prior to the effective date of the section 1063
as presented in this act. 1064