

**As Passed by the House**

**124th General Assembly**

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**2001-2002**

**Am. Sub. H. B. No. 158**

**REPRESENTATIVES Hollister, Ogg, Boccieri, Barrett, Schneider, Flowers, DeWine, Rhine, Hagan, Schmidt, Hughes, Kearns, Willamowski, Latta, Webster, Beatty, Fedor, DePiero, Evans, Gilb, White, Carmichael, Niehaus, Sulzer, Key, Collier, Clancy, D. Miller, Oلمان, Woodard, Core, Peterson, Distel, Lendrum, Goodman, Young, Setzer, Britton, Reidelbach, Hartnett, Womer Benjamin, Grendell, Barnes, Flannery, Ford, Seitz, Coates, Redfern, Jones, Patton, Cates, Callender, S. Smith, Otterman, Oakar, Salerno, Metelsky, Aslanides, Fessler, Perry, G. Smith, Kilbane, Allen, Faber, Driehaus**

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**A B I L L**

To amend sections 145.01, 145.19, 145.191, 145.321, 1  
145.33, 145.35, 145.40, 145.45, 145.49, and 2  
3309.312 of the Revised Code to permit certain 3  
Public Employees Retirement System (PERS) members 4  
with at least 25 years of law enforcement service 5  
credit to retire with full benefits at age 48 and 6  
increase the employee contribution rate for those 7  
members, to include regional transit authority and 8  
highway patrol police officers as law enforcement 9  
officers for PERS purposes, and to make survivors 10  
of PERS law enforcement officers eligible for 11  
benefits regardless of the length of the officer's 12  
PERS membership. 13

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

**Section 1.** That sections 145.01, 145.19, 145.191, 145.321, 14

145.33, 145.35, 145.40, 145.45, 145.49, and 3309.312 of the 15  
Revised Code be amended to read as follows: 16

**Sec. 145.01.** As used in this chapter: 17

(A) "Public employee" means: 18

(1) Any person holding an office, not elective, under the 19  
state or any county, township, municipal corporation, park 20  
district, conservancy district, sanitary district, health 21  
district, metropolitan housing authority, state retirement board, 22  
Ohio historical society, public library, county law library, union 23  
cemetery, joint hospital, institutional commissary, state 24  
university, or board, bureau, commission, council, committee, 25  
authority, or administrative body as the same are, or have been, 26  
created by action of the general assembly or by the legislative 27  
authority of any of the units of local government named in 28  
division (A)(1) of this section, or employed and paid in whole or 29  
in part by the state or any of the authorities named in division 30  
(A)(1) of this section in any capacity not covered by section 31  
742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. 32

(2) A person who is a member of the public employees 33  
retirement system and who continues to perform the same or similar 34  
duties under the direction of a contractor who has contracted to 35  
take over what before the date of the contract was a publicly 36  
operated function. The governmental unit with which the contract 37  
has been made shall be deemed the employer for the purposes of 38  
administering this chapter. 39

(3) Any person who is an employee of a public employer, 40  
notwithstanding that the person's compensation for that employment 41  
is derived from funds of a person or entity other than the 42  
employer. Credit for such service shall be included as total 43  
service credit, provided that the employee makes the payments 44

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

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named in this division not covered by section 742.01, 3307.01, 76  
3309.01, or 5505.01 of the Revised Code. In addition, "employer" 77  
means the employer of any public employee. 78

(E) "Prior service" means all service as a public employee 79  
rendered before January 1, 1935, and all service as an employee of 80  
any employer who comes within the state teachers retirement system 81  
or of the school employees retirement system or of any other 82  
retirement system established under the laws of this state 83  
rendered prior to January 1, 1935, provided that if the employee 84  
claiming the service was employed in any capacity covered by that 85  
other system after that other system was established, credit for 86  
the service may be allowed by the public employees retirement 87  
system only when the employee has made payment, to be computed on 88  
the salary earned from the date of appointment to the date 89  
membership was established in the public employees retirement 90  
system, at the rate in effect at the time of payment, and the 91  
employer has made payment of the corresponding full liability as 92  
provided by section 145.44 of the Revised Code. "Prior service" 93  
also means all service credited for active duty with the armed 94  
forces of the United States as provided in section 145.30 of the 95  
Revised Code. 96

If an employee who has been granted prior service credit by 97  
the public employees retirement system for service rendered prior 98  
to January 1, 1935, as an employee of a board of education 99  
establishes, before retirement, one year or more of contributing 100  
service in the state teachers retirement system or school 101  
employees retirement system, then the prior service ceases to be 102  
the liability of this system. 103

If the board determines that a position of any member in any 104  
calendar year prior to January 1, 1935, was a part-time position, 105  
the board shall determine what fractional part of a year's credit 106  
shall be allowed by the following formula: 107

(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:

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.

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.

(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 139  
145.37 of the Revised Code, means all service credited to a member 140  
of the retirement system since last becoming a member, including 141  
restored service credit as provided by section 145.31 of the 142  
Revised Code; credit purchased under sections 145.293 and 145.299 143  
of the Revised Code; all the member's prior service credit; all 144  
the member's military service credit computed as provided in this 145  
chapter; all service credit established pursuant to section 146  
145.297 of the Revised Code; and any other service credited under 147  
this chapter. In addition, "total service credit" includes any 148  
period, not in excess of three years, during which a member was 149  
out of service and receiving benefits under Chapters 4121. and 150  
4123. of the Revised Code. For the exclusive purpose of satisfying 151  
the service credit requirement and of determining eligibility for 152  
benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, 153  
and 145.361 of the Revised Code, "five or more years of total 154  
service credit" means sixty or more calendar months of 155  
contributing service in this system. 156

(2) "One and one-half years of contributing service credit," 157  
as used in division (B) of section 145.45 of the Revised Code, 158  
also means eighteen or more calendar months of employment by a 159  
municipal corporation that formerly operated its own retirement 160  
plan for its employees or a part of its employees, provided that 161  
all employees of that municipal retirement plan who have eighteen 162  
or more months of such employment, upon establishing membership in 163  
the public employees retirement system, shall make a payment of 164  
the contributions they would have paid had they been members of 165  
this system for the eighteen months of employment preceding the 166  
date membership was established. When that payment has been made 167  
by all such employee members, a corresponding payment shall be 168  
paid into the employers' accumulation fund by that municipal 169  
corporation as the employer of the employees. 170

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

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

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

(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.

(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.

(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.

(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.

(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.

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

(M) "Annuity 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 annuity, or benefit in lieu of any annuity, granted to a retirant as provided in this chapter.

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

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

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

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



(O) "Age and service retirement" means retirement as provided 233  
in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of 234  
the Revised Code. 235

(P) "Pensions" means annual payments for life derived from 236  
contributions made by the employer that at the time of retirement 237  
are credited into the annuity and pension reserve fund from the 238  
employers' accumulation fund and paid from the annuity and pension 239  
reserve fund as provided in this chapter. All pensions shall be 240  
paid in twelve equal monthly installments. 241

(Q) "Retirement allowance" means the pension plus that 242  
portion of the benefit derived from contributions made by the 243  
member. 244

(R)(1) Except as otherwise provided in division (R) of this 245  
section, "earnable salary" means all salary, wages, and other 246  
earnings paid to a contributor by reason of employment in a 247  
position covered by the retirement system. The salary, wages, and 248  
other earnings shall be determined prior to determination of the 249  
amount required to be contributed to the employees' savings fund 250  
under section 145.47 of the Revised Code and without regard to 251  
whether any of the salary, wages, or other earnings are treated as 252  
deferred income for federal income tax purposes. "Earnable salary" 253  
includes the following: 254

(a) Payments made by the employer in lieu of salary, wages, 255  
or other earnings for sick leave, personal leave, or vacation used 256  
by the contributor; 257

(b) Payments made by the employer for the conversion of sick 258  
leave, personal leave, and vacation leave accrued, but not used if 259  
the payment is made during the year in which the leave is accrued, 260  
except that payments made pursuant to section 124.383 or 124.386 261  
of the Revised Code are not earnable salary; 262

(c) Allowances paid by the employer for full maintenance, 263

consisting of housing, laundry, and meals, as certified to the	264
retirement board by the employer or the head of the department	265
that employs the contributor;	266
(d) Fees and commissions paid under section 507.09 of the	267
Revised Code;	268
(e) Payments that are made under a disability leave program	269
sponsored by the employer and for which the employer is required	270
by section 145.296 of the Revised Code to make periodic employer	271
and employee contributions;	272
(f) Amounts included pursuant to divisions (K)(3) and (Y) of	273
this section.	274
(2) "Earnable salary" does not include any of the following:	275
(a) Fees and commissions, other than those paid under section	276
507.09 of the Revised Code, paid as sole compensation for personal	277
services and fees and commissions for special services over and	278
above services for which the contributor receives a salary;	279
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(b) Amounts paid by the employer to provide life insurance,	281
sickness, accident, endowment, health, medical, hospital, dental,	282
or surgical coverage, or other insurance for the contributor or	283
the contributor's family, or amounts paid by the employer to the	284
contributor in lieu of providing the insurance;	285
(c) Incidental benefits, including lodging, food, laundry,	286
parking, or services furnished by the employer, or use of the	287
employer's property or equipment, or amounts paid by the employer	288
to the contributor in lieu of providing the incidental benefits;	289
(d) Reimbursement for job-related expenses authorized by the	290
employer, including moving and travel expenses and expenses	291
related to professional development;	292
(e) Payments for accrued but unused sick leave, personal	293

leave, or vacation that are made at any time other than in the 294  
year in which the sick leave, personal leave, or vacation was 295  
accrued; 296

(f) Payments made to or on behalf of a contributor that are 297  
in excess of the annual compensation that may be taken into 298  
account by the retirement system under division (a)(17) of section 299  
401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 300  
U.S.C.A. 401(a)(17), as amended; 301

(g) Payments made under division (B) or (D) of section 302  
5923.05 of the Revised Code or Section 4 of Substitute Senate Bill 303  
No. 3 of the 119th general assembly; 304

(h) Anything of value received by the contributor that is 305  
based on or attributable to retirement or an agreement to retire, 306  
except that payments made on or before January 1, 1989, that are 307  
based on or attributable to an agreement to retire shall be 308  
included in earnable salary if both of the following apply: 309

(i) The payments are made in accordance with contract 310  
provisions that were in effect prior to January 1, 1986; 311

(ii) The employer pays the retirement system an amount 312  
specified by the retirement board equal to the additional 313  
liability resulting from the payments. 314

(3) The retirement board shall determine by rule whether any 315  
compensation not enumerated in division (R) of this section is 316  
earnable salary, and its decision shall be final. 317

(S) "Pension reserve" means the present value, computed upon 318  
the basis of the mortality and other tables adopted by the board, 319  
of all payments to be made on account of any retirement allowance 320  
or benefit in lieu of any retirement allowance, granted to a 321  
member or beneficiary under this chapter. 322

(T)(1) "Contributing service" means all service credited to a 323

member of the system since January 1, 1935, for which 324  
contributions are made as required by sections 145.47, 145.48, and 325  
145.483 of the Revised Code. In any year subsequent to 1934, 326  
credit for any service shall be allowed by the following formula: 327

(a) For each month for which the member's earnable salary is 328  
two hundred fifty dollars or more, allow one month's credit. 329

(b) For each month for which the member's earnable salary is 330  
less than two hundred fifty dollars, allow a fraction of a month's 331  
credit. The numerator of this fraction shall be the earnable 332  
salary during the month, and the denominator shall be two hundred 333  
fifty dollars, except that if the member's annual earnable salary 334  
is less than six hundred dollars, the member's credit shall not be 335  
reduced below twenty per cent of a year for a calendar year of 336  
employment during which the member worked each month. Division 337  
(T)(1)(b) of this section shall not reduce any credit earned 338  
before January 1, 1985. 339

(2) Notwithstanding division (T)(1) of this section, an 340  
elected official who prior to January 1, 1980, was granted a full 341  
year of credit for each year of service as an elected official 342  
shall be considered to have earned a full year of credit for each 343  
year of service regardless of whether the service was full-time or 344  
part-time. The public employees retirement board has no authority 345  
to reduce the credit. 346

(U) "State retirement board" means the public employees 347  
retirement board, the school employees retirement board, or the 348  
state teachers retirement board. 349

(V) "Retirant" means any former member who retires and is 350  
receiving a monthly allowance as provided in sections 145.32, 351  
145.33, 145.331, 145.34, and 145.46 of the Revised Code. 352

(W) "Employer contribution" means the amount paid by an 353  
employer as determined under section 145.48 of the Revised Code. 354

(X) "Public service terminates" means the last day for which 355  
a public employee is compensated for services performed for an 356  
employer or the date of the employee's death, whichever occurs 357  
first. 358

(Y) When a member has been elected or appointed to an office, 359  
the term of which is two or more years, for which an annual salary 360  
is established, and in the event that the salary of the office is 361  
increased and the member is denied the additional salary by reason 362  
of any constitutional provision prohibiting an increase in salary 363  
during a term of office, the member may elect to have the amount 364  
of the member's contributions calculated upon the basis of the 365  
increased salary for the office. At the member's request, the 366  
board shall compute the total additional amount the member would 367  
have contributed, or the amount by which each of the member's 368  
contributions would have increased, had the member received the 369  
increased salary for the office the member holds. If the member 370  
elects to have the amount by which the member's contribution would 371  
have increased withheld from the member's salary, the member shall 372  
notify the employer, and the employer shall make the withholding 373  
and transmit it to the retirement system. A member who has not 374  
elected to have that amount withheld may elect at any time to make 375  
a payment to the retirement system equal to the additional amount 376  
the member's contribution would have increased, plus interest on 377  
that contribution, compounded annually at a rate established by 378  
the board and computed from the date on which the last 379  
contribution would have been withheld from the member's salary to 380  
the date of payment. A member may make a payment for part of the 381  
period for which the increased contribution was not withheld, in 382  
which case the interest shall be computed from the date the last 383  
contribution would have been withheld for the period for which the 384  
payment is made. Upon the payment of the increased contributions 385  
as provided in this division, the increased annual salary as 386

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  
and employed as a full-time peace officer by the sheriff of any  
county, and has been so employed since on or before December 31,  
1965, and whose primary duties are to preserve the peace, to  
protect life and property, and to enforce the laws of this state;  
any person who is or has been commissioned and employed as a peace  
officer by the sheriff of any county since January 1, 1966, and  
who has received a certificate attesting to the person's  
satisfactory completion of the peace officer training school as  
required by section 109.77 of the Revised Code and whose primary  
duties are to preserve the peace, protect life and property, and  
enforce the laws of this state; or any person deputized by the  
sheriff of any county and employed pursuant to section 2301.12 of  
the Revised Code as a criminal bailiff or court constable who has  
received a certificate attesting to the person's satisfactory  
completion of the peace officer training school as required by  
section 109.77 of the Revised Code and whose primary duties are to  
preserve the peace, protect life and property, and enforce the  
laws of this state.

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(BB) "Township constable or police officer in a township

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police department or district" means any person who is  
commissioned and employed as a full-time peace officer pursuant to  
Chapter 505. or 509. of the Revised Code, who has received a  
certificate attesting to the person's satisfactory completion of  
the peace officer training school as required by section 109.77 of  
the Revised Code, and whose primary duties are to preserve the  
peace, protect life and property, and enforce the laws of this  
state.

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

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(1) Employed full-time as a narcotics agent by a county  
narcotics agency created pursuant to section 307.15 of the Revised  
Code and has received a certificate attesting to the satisfactory  
completion of the peace officer training school as required by  
section 109.77 of the Revised Code;

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

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

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

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

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with section 109.77 of the Revised Code. 450

(GG) "Forest officer" means a full-time employee of the 451  
department of natural resources who is designated a forest officer 452  
under section 1503.29 of the Revised Code and is in compliance 453  
with section 109.77 of the Revised Code. 454

(HH) "Preserve officer" means a full-time employee of the 455  
department of natural resources who is designated a preserve 456  
officer under section 1517.10 of the Revised Code and is in 457  
compliance with section 109.77 of the Revised Code. 458

(II) "Wildlife officer" means a full-time employee of the 459  
department of natural resources who is designated a wildlife 460  
officer under section 1531.13 of the Revised Code and is in 461  
compliance with section 109.77 of the Revised Code. 462

(JJ) "State watercraft officer" means a full-time employee of 463  
the department of natural resources who is designated a state 464  
watercraft officer under section 1547.521 of the Revised Code and 465  
is in compliance with section 109.77 of the Revised Code. 466

(KK) "Park district police officer" means a full-time 467  
employee of a park district who is designated pursuant to section 468  
511.232 or 1545.13 of the Revised Code and is in compliance with 469  
section 109.77 of the Revised Code. 470

(LL) "Conservancy district officer" means a full-time 471  
employee of a conservancy district who is designated pursuant to 472  
section 6101.75 of the Revised Code and is in compliance with 473  
section 109.77 of the Revised Code. 474

(MM) "Municipal police officer" means a member of the 475  
organized police department of a municipal corporation who is 476  
employed full-time, is in compliance with section 109.77 of the 477  
Revised Code, and is not a member of the Ohio police and fire 478  
pension fund. 479



(NN) "Ohio veterans' home police officer" means any person 480  
who is employed at the Ohio veterans' home as a police officer 481  
pursuant to section 5907.02 of the Revised Code and is in 482  
compliance with section 109.77 of the Revised Code. 483

(OO) "Special police officer for a mental health institution" 484  
means any person who is designated as such pursuant to section 485  
5119.14 of the Revised Code and is in compliance with section 486  
109.77 of the Revised Code. 487

(PP) "Special police officer for an institution for the 488  
mentally retarded and developmentally disabled" means any person 489  
who is designated as such pursuant to section 5123.13 of the 490  
Revised Code and is in compliance with section 109.77 of the 491  
Revised Code. 492

(QQ) "State university law enforcement officer" means any 493  
person who is employed full-time as a state university law 494  
enforcement officer pursuant to section 3345.04 of the Revised 495  
Code and who is in compliance with section 109.77 of the Revised 496  
Code. 497

~~(RR) "Hamilton county municipal court bailiff" means a person 498  
appointed by the clerk of courts of the Hamilton county municipal 499  
court under division (A)(3) of section 1901.32 of the Revised Code 500  
who is employed full-time as a bailiff or deputy bailiff, who has 501  
received a certificate attesting to the person's satisfactory 502  
completion of the peace officer training school as required by 503  
division (C) of section 109.77 of the Revised Code, and whose 504  
primary duties are to preserve the peace, to protect life and 505  
property, and to enforce the laws of this state. 506~~

(SS) "House sergeant at arms" means any person appointed by 507  
the speaker of the house of representatives under division (B)(1) 508  
of section 101.311 of the Revised Code who has arrest authority 509  
under division (E)(1) of that section. 510

~~(TT)~~(SS) "Assistant house sergeant at arms" means any person 511  
appointed by the house sergeant at arms under division (C)(1) of 512  
section 101.311 of the Revised Code. 513

~~(UU)~~(TT) "Regional transit authority police officer" means a 514  
person who is employed full-time as a regional transit authority 515  
police officer under division (Y) of section 306.35 of the Revised 516  
Code and is in compliance with section 109.77 of the Revised Code. 517

(UU) "State highway patrol police officer" means a special 518  
police officer employed full-time and designated by the 519  
superintendent of the state highway patrol pursuant to section 520  
5503.09 of the Revised Code or a person serving full-time as a 521  
special police officer pursuant to that section on a permanent 522  
basis on October 21, 1997, who is in compliance with section 523  
109.77 of the Revised Code. 524

(VV) Notwithstanding section 2901.01 of the Revised Code, 525  
"PERS law enforcement officer" means a sheriff, deputy sheriff, 526  
township constable or police officer in a township police 527  
department or district, drug agent, department of public safety 528  
enforcement agent, natural resources law enforcement staff 529  
officer, park officer, forest officer, preserve officer, wildlife 530  
officer, state watercraft officer, park district police officer, 531  
conservancy district officer, Ohio veterans' home police officer, 532  
special police officer for a mental health institution, special 533  
police officer for an institution for the mentally retarded and 534  
developmentally disabled, state university law enforcement 535  
officer, ~~Hamilton county municipal court bailiff, or~~ municipal 536  
police officer, house sergeant at arms, ~~or~~ assistant house 537  
sergeant at arms, regional transit authority police officer, or 538  
state highway patrol police officer. 539

~~(TT)~~(WW) "Hamilton county municipal court bailiff" means a 540  
person appointed by the clerk of courts of the Hamilton county 541  
municipal court under division (A)(3) of section 1901.32 of the 542

Revised Code who is employed full-time as a bailiff or deputy 543  
bailiff, who has received a certificate attesting to the person's 544  
satisfactory completion of the peace officer training school as 545  
required by division (D) of section 109.77 of the Revised Code, 546  
and whose primary duties are to preserve the peace, to protect 547  
life and property, and to enforce the laws of this state. 548

~~(VV)~~(XX) "Fiduciary" means a person who does any of the 549  
following: 550

(1) Exercises any discretionary authority or control with 551  
respect to the management of the system or with respect to the 552  
management or disposition of its assets; 553

(2) Renders investment advice for a fee, direct or indirect, 554  
with respect to money or property of the system; 555

(3) Has any discretionary authority or responsibility in the 556  
administration of the system. 557

~~(WW)~~(YY) "Actuary" means an individual who satisfies all of 558  
the following requirements: 559

(1) Is a member of the American academy of actuaries; 560

(2) Is an associate or fellow of the society of actuaries; 561

(3) Has a minimum of five years' experience in providing 562  
actuarial services to public retirement plans. 563

**Sec. 145.19.** (A) Except as provided in division (D) of this 564  
section, an individual who becomes a member of the public 565  
employees retirement system on or after the date on which the 566  
public employees retirement board establishes a plan under section 567  
145.81 of the Revised Code shall make an election under this 568  
section. Not later than one hundred eighty days after the date on 569  
which employment begins, the individual shall elect to participate 570  
either in the plan described in sections 145.201 to 145.79 of the 571  
Revised Code or one of the plans established under section 145.81 572

of the Revised Code. If a form evidencing an election under this 573  
section is not on file with the employer at the end of the 574  
one-hundred-eighty-day period, the individual is deemed to have 575  
elected to participate in the plan described in sections 145.201 576  
to 145.79 of the Revised Code. 577

(B) An election under this section shall be made in writing 578  
on a form provided by the retirement system and filed with the 579  
employer's personnel officer. Not later than ten days after 580  
receiving the form evidencing the election, the employer shall 581  
transmit to the system a copy that includes a statement certifying 582  
that it is a true and accurate copy of the original. 583

(C) An election under this section shall take effect on the 584  
date employment began and is irrevocable on receipt by the 585  
employer. 586

(D) An individual is ineligible to make an election under 587  
this section if one of the following applies: 588

(1) At the time employment begins, the individual is already 589  
a member or contributor participating in the plan described in 590  
sections 145.201 to 145.79 of the Revised Code or a PERS retirant, 591  
as defined in section 145.38 of the Revised Code. 592

(2) An election to participate in an alternative retirement 593  
plan under section 3305.05 of the Revised Code is in effect for 594  
employment covered by the system. 595

(3) The individual is a PERS law enforcement officer. 596

**Sec. 145.191.** (A) A member of the public employees retirement 597  
system, other than a member who is a PERS law enforcement officer, 598  
who, as of the last day of the month immediately preceding the 599  
date on which the system establishes a plan under section 145.81 600  
of the Revised Code, has less than five years of total service 601  
credit is eligible to make an election under this section. 602

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Not later than one hundred eighty days after the day the board first establishes one or more plans under section 145.81 of the Revised Code, an eligible member may elect to participate in a plan established under that section. If an election is not made, a member to whom this section applies is deemed to have elected to continue participating in the plan described in sections 145.201 to 145.79 of the Revised Code.

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(B) An election under this section shall be made in writing on a form provided by the system and filed with the system.

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(C) On receipt of an election under this section, the system shall do both of the following:

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(1) Credit to the account of the member in the defined contribution fund the accumulated contributions standing to the member's credit in the employees' savings fund;

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(2) Cancel all service credit and eligibility for any payment, benefit, or right under the plan described in sections 145.201 to 145.79 of the Revised Code.

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(D) An election under this section shall be irrevocable on receipt by the system.

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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:

Calendar Year	Per Cent	
Effective	of increase	
1938-39	100	633
1940	94	634
1941	89	635
1942	77	636
1943	70	637
1944	68	638
1945	66	639
1946	55	640
1947	35	641
1948	23	642
1949	25	643
1950	23	644
1951	8	645
1952	4	646
1953	3	647
1954	2	648
Prior to June 29, 1955	2	649

(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 665  
who retired on or before June 30, 1955 and is receiving age and 666  
service or disability benefits under sections 145.32, 145.33, 667  
145.34, and 145.36 of the Revised Code shall be increased by one 668  
hundred twenty dollars annually, notwithstanding the final average 669  
salary limitations in ~~division (F)~~ of section 145.33 and division 670  
(B) of section 145.36 of the Revised Code. 671

(E) Effective November 1, 1965, the allowances of each person 672  
who retired after June 30, 1955 and on or before October 31, 1965 673  
and is receiving age and service ~~of~~ or disability benefits under 674  
sections 145.32, 145.33, 145.34, and 145.36 of the Revised Code 675  
shall be increased by one hundred twenty dollars annually, which 676  
when added to the allowance in effect on October 31, 1965, shall 677  
not exceed the final average salary limitations found in ~~division~~ 678  
~~(F)~~ of section 145.33 and division (B) of section 145.36 of the 679  
Revised Code, except that the increase shall not be less than 680  
seventy-two dollars annually. 681

(F) Beginning November 1, 1965, the monthly benefit payable 682  
under section 145.45 of the Revised Code shall be increased six 683  
dollars for each survivor beneficiary receiving a benefit on 684  
October 31, 1965 and for each successor to such benefit. 685

For the purposes of this section: (1) The total increase 686  
payable per month on or after November 1, 1965 to a retirant or 687  
beneficiary from one or more state systems shall not exceed the 688  
ten dollar increase as provided in this division, and (2) in all 689  
cases involving combined membership and service as provided for 690  
under section 145.37 of the Revised Code, only those cases which 691  
are being paid by the public employees retirement system shall be 692  
calculated under the provisions of this section. 693

On or before August 1, 1982, and on or before the first day 694  
of August in each year thereafter, the public employees retirement 695  
board shall certify to the treasurer of state the amount required 696

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.

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**Sec. 145.33.** (A) Except as provided in division (B) ~~or~~ or (C) ~~or~~  
~~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:

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

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

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(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;

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

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

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the following:

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(a) Eighty-six dollars;

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

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

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Attained Birthday	or	Years of Total Service Credit	Percentage of Base Amount
58		25	75
59		26	80
60		27	85
61			88
		28	90
62			91
63			94
		29	95
64			97
65		30 or more	100

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

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Attained Birthday	Percentage of Base Amount
66	102
67	104
68	106
69	108

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70 or more

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

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

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

(a) ~~Except as provided in division (B)(2)(b) of this section, Unless the member has elected to contribute toward a benefit under division (B)(2)(b) of this section, the member has attained age forty-eight and has at least twenty-five years of total service credit as a PERS law enforcement officer and has attained age fifty-two whose primary duties were to preserve the peace, protect life and property, and enforce the laws in the member's jurisdiction;~~

(b) ~~Has~~ The member has elected to contribute toward a benefit under division (B)(2)(b) of this section, has attained age fifty-two, and has at least twenty-five years of total service credit as a law enforcement officer ~~while serving as a sheriff, deputy sheriff, or township constable or police officer in a township police department or district and has attained age~~

~~forty-eight~~ whose primary duties were to preserve the peace, 791  
protect life and property, and enforce the laws in the member's 792  
jurisdiction; 793

(c) The member has attained age fifty-two and has at least 794  
twenty-five years of total service credit as a PERS law 795  
enforcement officer, but the member's primary duties were other 796  
than to preserve the peace, protect life and property, and enforce 797  
the laws in the member's jurisdiction; 798

(d) The member has attained age fifty-two and has at least 799  
twenty-five years of total service as a Hamilton county municipal 800  
court bailiff; 801

~~(c) Has~~ (e) The member has at least fifteen years of total 802  
service credit as a PERS law enforcement officer or a Hamilton 803  
county municipal court bailiff and has attained age sixty-two. 804

(3) A benefit paid under division (B)(2) of this section 805  
shall consist of an annual single lifetime allowance equal to the 806  
sum of two and one-half per cent of the member's final average 807  
salary multiplied by the first twenty-five years of the member's 808  
total service plus two and one-tenth per cent of the member's 809  
final average salary multiplied by the number of years of the 810  
member's total service credit in excess of twenty-five years. 811

~~(c)~~(4) A member with at least fifteen years of total service 812  
credit as a PERS law enforcement officer or a Hamilton county 813  
municipal court bailiff who voluntarily resigns or is discharged 814  
for any reason except death, dishonesty, cowardice, intemperate 815  
habits, or conviction of a felony may apply for an age and service 816  
retirement benefit, which shall consist of an annual single 817  
lifetime allowance equal to one and one-half per cent of the 818  
member's final average salary multiplied by the number of years of 819  
the member's total service credit. The allowance shall commence on 820  
the first day of the calendar month following the month in which 821  
the application is filed with the public employees retirement 822

board on or after the attainment by the applicant of age 823  
fifty-two. 824

~~(D)(C)~~(1) A member with at least twenty-five years of total 825  
service credit ~~as a law enforcement officer other than as a law~~ 826  
~~enforcement officer eligible for a benefit under division~~ 827  
~~(B)(2)(b) of this section who would be eligible to retire under~~ 828  
division (B)(2)(b), (c), or (d) of this section had the member 829  
attained age fifty-two and who voluntarily resigns or is 830  
discharged for any reason except death, dishonesty, cowardice, 831  
intemperate habits, or conviction of a felony, on or after the 832  
date of attaining forty-eight years of age, but before the date of 833  
attaining fifty-two years of age, may elect to receive a reduced 834  
benefit as determined by the following schedule: 835

Attained Age	Reduced Benefit	
48	75% of the benefit payable under	837
	division (B)(3) of this section	838
49	80% of the benefit payable under	839
	division (B)(3) of this section	840
50	86% of the benefit payable under	841
	division (B)(3) of this section	842
51	93% of the benefit payable under	843
	division (B)(3) of this section	844

(2) If a member elects to receive a reduced benefit after 845  
attaining age forty-eight the reduced benefit is payable from the 846  
later of the date of the member's most recent birthday or the date 847  
the member becomes eligible to receive the reduced benefit. 848

(3) Once a member elects to receive a reduced benefit 849  
determined by the schedule in division ~~(D)(C)~~(1) of this section 850  
and has received a payment, the member may not reelect to change 851  
that election. 852

(4) If a member who has resigned or been discharged has left 853  
on deposit the member's accumulated contributions in the 854

employees' savings fund and has not elected to receive a reduced  
benefit determined by the schedule in division ~~(D)~~(C)(1) of this  
section, upon attaining fifty-two years of age, the member shall  
be entitled to receive a benefit computed and paid under division  
(B)(3) of this section.

~~(E)~~(D) A benefit paid under division (B), or (C), ~~or (D)~~ of  
this section shall not exceed the lesser of ninety per cent of the  
member's final average salary or the limit established by section  
415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26  
U.S.C.A. 415, as amended.

(E) Not later than one hundred eighty days after the  
effective date of this amendment, a member who on the effective  
date of this amendment is contributing toward a benefit under  
division (B) of this section may elect to contribute toward a  
benefit under division (B)(2)(b) of this section.

A person who becomes a member on or after the effective date  
of this amendment may, not later than ninety days after becoming a  
member of the retirement system, make an election to contribute  
under division (B)(2)(b) of this section.

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

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

(b) If the member qualifies for an allowance under division  
(B)~~(2)(a)~~ or ~~(c)~~, (C), ~~or (D)~~ of this section, to have the

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member's service credit as a PERS law enforcement officer or 886  
Hamilton county municipal court bailiff used in calculating a 887  
benefit under ~~that~~ the appropriate division and the member's 888  
credit for all service other than PERS law enforcement service or 889  
service as a Hamilton county municipal court bailiff under this 890  
chapter used in calculating a benefit consisting of a single life 891  
annuity having a reserve equal to the amount of the member's 892  
accumulated contributions and an equal amount of the employer's 893  
contributions; 894

~~(c) If the member qualifies for an allowance under division 895  
(B)(2)(b) of this section, to have the member's service credit as 896  
a law enforcement officer while serving as a sheriff, deputy 897  
sheriff, or township constable or police officer in a township 898  
police department or district used in calculating a benefit under 899  
division (B)(2)(b) of this section and the member's credit for all 900  
other service under this chapter used in calculating a benefit 901  
consisting of a single life annuity having a reserve equal to the 902  
amount of the member's accumulated contributions and an equal 903  
amount of the employer's contributions. 904~~

(2) Notwithstanding sections 145.01 and 145.30 of the Revised 905  
Code, no more than four years of military service credit granted 906  
under section 145.30 of the Revised Code and five years of 907  
military service credit purchased under section 145.301 or 145.302 908  
of the Revised Code shall be used in calculating service as a PERS 909  
law enforcement officer or Hamilton county municipal court bailiff 910  
or the total service credit of that person. 911

(3) Only credit for the member's service as a PERS law 912  
enforcement officer or service credit obtained as a police officer 913  
or state highway patrol trooper shall be used in computing the 914  
~~benefits~~ benefit of a member who qualifies for a benefit under 915  
division (B), ~~(C)(2)(a), (b), or (c), or (D)(4)~~ or division (C) of 916  
this section for the following: 917

- (a) Any person who originally is commissioned and employed as a deputy sheriff by the sheriff of any county, or who originally is elected sheriff, on or after January 1, 1975;
- (b) Any deputy sheriff who originally is employed as a criminal bailiff or court constable on or after April 16, 1993;
- (c) Any person who originally is appointed as a township constable or police officer in a township police department or district on or after January 1, 1981;
- (d) Any person who originally is employed as a county narcotics agent on or after September 26, 1984;
- (e) Any person who originally is employed as an undercover drug agent as defined in section 109.79 of the Revised Code, department of public safety enforcement agent who prior to June 30, 1999, was a liquor control investigator, park officer, forest officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, Ohio veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the mentally retarded and developmentally disabled, or municipal police officer on or after December 15, 1988;
- (f) Any person who originally is employed as a state university law enforcement officer on or after November 6, 1996;
- ~~(g) Any person who originally is employed as a Hamilton county municipal court bailiff on or after November 6, 1996;~~
- ~~(h)~~ Any person who is originally employed as a state university law enforcement officer by the university of Akron on or after September 16, 1998;
- ~~(i)~~(h) Any person who originally is employed as a preserve officer on or after March 18, 1999;
- ~~(j)~~(i) Any person who originally is employed as a natural

resources law enforcement staff officer on or after March 18, 948  
1999; 949

~~(k)~~(j) Any person who is originally employed as a department 950  
of public safety enforcement agent on or after June 30, 1999; 951

~~(l)~~(k) Any person who is originally employed as a house 952  
sergeant at arms or assistant house sergeant at arms on or after 953  
~~the effective date of this amendment~~ September 5, 2001; 954

(l) Any person who is originally appointed as a regional 956  
transit authority police officer or state highway patrol police 957  
officer on or after the effective date of this amendment. 958

(4) Only credit for a member's service as a Hamilton county 959  
municipal court bailiff or service credit obtained as a PERS law 960  
enforcement officer, police officer, or state highway patrol 961  
trooper shall be used in computing the benefit of a member who 962  
qualifies for a benefit under division (B)(2)(d) or (e) or (4) or 963  
division (C) of this section for any person who originally is 964  
employed as a Hamilton county municipal court bailiff on or after 965  
November 6, 1996. 966

(G) Retirement allowances determined under this section shall 967  
be paid as provided in section 145.46 of the Revised Code. 968

(H) For the purposes of this section, service prior to June 969  
30, 1999, as a food stamp trafficking agent under former section 970  
5502.14 of the Revised Code shall be considered service as a PERS 971  
law enforcement officer. 972

**Sec. 145.35.** (A) As used in this section, "on-duty illness or 973  
injury" means an illness or injury that occurred during or 974  
resulted from performance of duties under the direct supervision 975  
of a member's appointing authority. 976

(B) The public employees retirement system shall provide 977



disability coverage to each member who has at least five years of 978  
total service credit and disability coverage for on-duty illness 979  
or injury to each member who is a PERS law enforcement officer or 980  
Hamilton county municipal court bailiff, regardless of length of 981  
service. 982

Not later than October 16, 1992, the public employees 983  
retirement board shall give each person who is a member on July 984  
29, 1992, the opportunity to elect disability coverage either 985  
under section 145.36 of the Revised Code or under section 145.361 986  
of the Revised Code. The board shall mail notice of the election, 987  
accompanied by an explanation of the coverage under each of the 988  
Revised Code sections and a form on which the election is to be 989  
made, to each member at the member's last known address. The board 990  
shall also provide the explanation and form to any member on 991  
request. 992

Regardless of whether the member actually receives notice of 993  
the right to make an election, a member who fails to file a valid 994  
election under this section shall be considered to have elected 995  
disability coverage under section 145.36 of the Revised Code. To 996  
be valid, an election must be made on the form provided by the 997  
retirement board, signed by the member, and filed with the board 998  
not later than one hundred eighty days after the date the notice 999  
was mailed, or, in the case of a form provided at the request of a 1000  
member, a date specified by rule of the retirement board. Once 1001  
made, an election is irrevocable, but if the member ceases to be a 1002  
member of the retirement system, the election is void. If a person 1003  
who makes an election under this section also makes an election 1004  
under section 3307.62 or 3309.39 of the Revised Code, the election 1005  
made for the system that pays a disability benefit to that person 1006  
shall govern the benefit. 1007

Disability coverage shall be provided under section 145.361 1008  
of the Revised Code for persons who become members after July 29, 1009

1992, and for members who elect under this division to be covered 1010  
under section 145.361 of the Revised Code. 1011

The retirement board may adopt rules governing elections made 1012  
under this division. 1013

(C) Application for a disability benefit may be made by a 1014  
member, by a person acting in the member's behalf, or by the 1015  
member's employer, provided the member has disability coverage 1016  
under section 145.36 or 145.361 of the Revised Code and is not 1017  
receiving a disability benefit under any other Ohio state or 1018  
municipal retirement program. Application must be made within two 1019  
years from the date the member's contributing service terminated, 1020  
unless the retirement board determines that the member's medical 1021  
records demonstrate conclusively that at the time the two-year 1022  
period expired, the member was physically or mentally 1023  
incapacitated for duty and unable to make an application. 1024  
Application may not be made by or for any person receiving age and 1025  
service retirement benefits under section 145.33, 145.331, 145.34, 1026  
or 145.37 of the Revised Code or any person who, pursuant to 1027  
section 145.40 of the Revised Code, has been paid the accumulated 1028  
contributions standing to the credit of the person's individual 1029  
account in the employees' savings fund. The application shall be 1030  
made on a form provided by the retirement board. 1031

(D) The benefit payable to any member who is approved for a 1032  
disability benefit shall become effective on the first day of the 1033  
month immediately following the later of the following: 1034

(1) The last day for which compensation was paid; 1035

(2) The attainment of eligibility for a disability benefit. 1036

(E) Medical examination of a member who has applied for a 1037  
disability benefit shall be conducted by a competent disinterested 1038  
physician or physicians selected by the board to determine whether 1039  
the member is mentally or physically incapacitated for the 1040

performance of duty by a disabling condition either permanent or 1041  
presumed to be permanent. The disability must have occurred since 1042  
last becoming a member or have increased since last becoming a 1043  
member to such extent as to make the disability permanent or 1044  
presumed to be permanent. A disability is presumed to be permanent 1045  
if it is expected to last for a continuous period of not less than 1046  
twelve months following the filing of the application. 1047

If the physician or physicians determine that the member 1048  
qualifies for a disability benefit, the board concurs with the 1049  
determination, and the member agrees to medical treatment as 1050  
specified in division (F) of this section, the member shall 1051  
receive a disability benefit under section 145.36 or 145.361 of 1052  
the Revised Code. The action of the board shall be final. 1053

(F) The public employees retirement board shall adopt rules 1054  
requiring a disability benefit recipient, as a condition of 1055  
continuing to receive a disability benefit, to agree in writing to 1056  
obtain any medical treatment recommended by the board's physician 1057  
and submit medical reports regarding the treatment. If the board 1058  
determines that a disability benefit recipient is not obtaining 1059  
the medical treatment or the board does not receive a required 1060  
medical report, the disability benefit shall be suspended until 1061  
the treatment is obtained, the report is received by the board, or 1062  
the board's physician certifies that the treatment is no longer 1063  
helpful or advisable. Should the recipient's failure to obtain 1064  
treatment or submit a medical report continue for one year, the 1065  
recipient's right to the disability benefit shall be terminated as 1066  
of the effective date of the original suspension. 1067

(G) In the event an employer files an application for a 1068  
disability benefit as a result of a member having been separated 1069  
from service because the member is considered to be mentally or 1070  
physically incapacitated for the performance of the member's 1071  
present duty, and the physician or physicians selected by the 1072

board reports to the board that the member is physically and 1073  
mentally capable of performing service similar to that from which 1074  
the member was separated and the board concurs in the report, the 1075  
board shall so certify to the employer and the employer shall 1076  
restore the member to the member's previous position and salary or 1077  
to a similar position and salary. 1078

**Sec. 145.40.** (A)(1) Subject to the provisions of section 1079  
145.57 of the Revised Code and except as provided in division (B) 1080  
of this section, if a member elects to become exempt from 1081  
contribution to the public employees retirement system pursuant to 1082  
section 145.03 of the Revised Code or ceases to be a public 1083  
employee for any cause other than death, retirement, receipt of a 1084  
disability benefit, or current employment in a position in which 1085  
the member has elected to participate in an alternative retirement 1086  
plan under section 3305.05 of the Revised Code, upon application 1087  
the public employees retirement board shall pay the member the 1088  
member's accumulated contributions, plus any applicable amount 1089  
calculated under section 145.401 of the Revised Code, provided 1090  
that all the following apply: 1091

(a) Three months have elapsed since the member's public 1092  
service, other than service exempted from contribution pursuant to 1093  
section 145.03 of the Revised Code, was terminated; 1094

(b) The member has not returned to public service, other than 1095  
service exempted from contribution pursuant to section 145.03 of 1096  
the Revised Code, during that three-month period; 1097

(c) The member is not a member of the school employees 1098  
retirement system or the state teachers retirement system. 1099

The payment of such accumulated contributions shall cancel 1100  
the total service credit of such member in the public employees 1101  
retirement system. 1102

(2) ~~Notwithstanding (a) Except as provided in division (A)(2)(b) of this section, notwithstanding~~ division (A)(1) of this section, division (B) of section 145.401 of the Revised Code, and the definition of "accumulated contributions" in division (J) of section 145.01 of the Revised Code, the accumulated contributions paid to a member under this division for service as a ~~sheriff, deputy sheriff, or township constable or police officer in a township police department or district~~ PERS law enforcement officer shall not include interest credited to the member's account under section 145.471 or 145.472 of the Revised Code, nor shall the member be paid any amount calculated under section 145.401 of the Revised Code.

(b) Division (A)(2) of this section does not apply if the member was contributing towards a benefit under division (B)(2)(b), (c), or (d) of section 145.33 of the Revised Code.

(3) A member described in division (A)(1) of this section who is married at the time of application for payment and is eligible for age and service retirement under section 145.32, 145.33, 145.331, or 145.34 of the Revised Code shall submit with the application a written statement by the member's spouse attesting that the spouse consents to the payment of the member's accumulated contributions. Consent shall be valid only if it is signed and witnessed by a notary public.

The board may waive the requirement of consent if the spouse is incapacitated or cannot be located, or for any other reason specified by the board. Consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.

(B) This division applies to any member who is employed in a position in which the member has made an election under section 3305.05 of the Revised Code and due to the election ceases to be a public employee for purposes of that position.

Subject to section 145.57 of the Revised Code, the public employees retirement system shall do the following:

(1) On receipt of a certified copy of a form evidencing an election under section 3305.05 of the Revised Code, pay to the appropriate provider, in accordance with section 3305.051 of the Revised Code, the amount described in section 3305.051 of the Revised Code;

(2) If a member has accumulated contributions, in addition to those subject to division (B)(1) of this section, standing to the credit of the member's individual account and is not otherwise employed in a position in which the member is considered a public employee for the purposes of that position, pay, to the provider the member selected pursuant to section 3305.05 of the Revised Code, the member's accumulated contributions. The payment shall be made on the member's application.

(C) Payment of a member's accumulated contributions under division (B) of this section cancels the member's total service credit in the public employees retirement system. A member whose accumulated contributions are paid to a provider pursuant to division (B) of this section is forever barred from claiming or purchasing service credit under the public employees retirement system for the period of employment attributable to those contributions.

**Sec. 145.45.** Except as provided in division (C)(1) of this section, in lieu of accepting the payment of the accumulated account of a member who dies before service retirement, a beneficiary, as determined in this section or section 145.43 of the Revised Code, may elect to forfeit the accumulated contributions and to substitute certain other benefits under division (A) or (B) of this section.

(A) If a deceased member was eligible for a service

retirement benefit as provided in section 145.33, 145.331, or 1165  
145.34 of the Revised Code, a surviving spouse or other sole 1166  
dependent beneficiary may elect to receive a monthly benefit 1167  
computed as the joint-survivor benefit designated as "plan D" in 1168  
section 145.46 of the Revised Code, which the member would have 1169  
received had the member retired on the last day of the month of 1170  
death and had the member at that time selected such joint-survivor 1171  
plan. Payment shall begin with the month subsequent to the 1172  
member's death, except that a surviving spouse who is less than 1173  
sixty-five years old may defer receipt of such benefit. Upon 1174  
receipt, the benefit shall be calculated based upon the spouse's 1175  
age at the time of first payment, and shall accrue regular 1176  
interest during the time of deferral. 1177

(B) If a deceased member had, except as provided in division 1178  
(B)(7) of this section, at least one and one-half years of 1179  
contributing service credit, with, except as provided in division 1180  
(B)(7) of this section, at least one-quarter year of contributing 1181  
service credit within the two and one-half years prior to the date 1182  
of death, or was receiving at the time of death a disability 1183  
benefit as provided in section 145.36, 145.361, or 145.37 of the 1184  
Revised Code, qualified survivors who elect to receive monthly 1185  
benefits shall receive the greater of the benefits provided in 1186  
division (B)(1)(a) or (b) and (4) of this section as allocated in 1187  
accordance with division (B)(5) of this section. 1188

(1)(a) Number		Or	
of Qualified	Annual Benefit as a Per	Monthly Benefit	
survivors	Cent of Decedent's Final	shall not be	
affecting	Average Salary	less than	
the benefit			
1	25%	\$250	1194
2	40	400	1195
3	50	500	1196

4	55	500	1197
5 or more	60	500	1198
(b) Years of	Annual Benefit as a Per Cent		1199
Service	of Member's Final Average		1200
	Salary		1201
20	29%		1202
21	33		1203
22	37		1204
23	41		1205
24	45		1206
25	48		1207
26	51		1208
27	54		1209
28	57		1210
29 or more	60		1211

(2) Benefits shall begin as qualified survivors meet 1212  
eligibility requirements as follows: 1213

(a) A qualified spouse is the surviving spouse of the 1214  
deceased member, who is age sixty-two, or regardless of age if the 1215  
deceased member had ten or more years of Ohio service credit, or 1216  
regardless of age if caring for a qualified child, or regardless 1217  
of age if adjudged physically or mentally incompetent. A spouse of 1218  
a member who died prior to August 27, 1970, whose eligibility was 1219  
determined at the member's death, and who is physically or 1220  
mentally incompetent on or after August 20, 1976, shall be paid 1221  
the monthly benefit which that person would otherwise receive when 1222  
qualified by age. 1223

(b) A qualified child is any child of the deceased member who 1224  
has never been married and to whom one of the following applies: 1225  
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(i) Is under age eighteen, or under age twenty-two if the 1227  
child is attending an institution of learning or training pursuant 1228



to a program designed to complete in each school year the 1229  
equivalent of at least two-thirds of the full-time curriculum 1230  
requirements of such institution and as further determined by 1231  
board policy; 1232

(ii) Regardless of age, is adjudged physically or mentally 1233  
incompetent at the time of the member's death. 1234

(c) A qualified parent is a dependent parent aged sixty-five 1235  
or older or regardless of age if physically or mentally 1236  
incompetent, a dependent parent whose eligibility was determined 1237  
by the member's death prior to August 20, 1976, and who is 1238  
physically or mentally incompetent on or after August 20, 1976, 1239  
shall be paid the monthly benefit for which that person would 1240  
otherwise qualify. 1241

(3) "Physically or mentally incompetent" as used in this 1242  
section may be determined by a court of jurisdiction, or by a 1243  
physician appointed by the retirement board. Incapability of 1244  
making a living because of a physically or mentally disabling 1245  
condition shall meet the qualifications of this division. 1246

(4) Benefits to a qualified survivor shall terminate upon 1247  
ceasing to meet eligibility requirements as provided in this 1248  
division, a first marriage, abandonment, adoption, or during 1249  
active military service. Benefits to a deceased member's surviving 1250  
spouse that were terminated under a former version of this section 1251  
that required termination due to remarriage and were not resumed 1252  
prior to September 16, 1998, shall resume on the first day of the 1253  
month immediately following receipt by the board of an application 1254  
on a form provided by the board. 1255

Upon the death of any subsequent spouse who was a member of 1256  
the public employees retirement system, state teachers retirement 1257  
system, or school employees retirement system, the surviving 1258  
spouse of such member may elect to continue receiving benefits 1259

under this division, or to receive survivor's benefits, based upon  
the subsequent spouse's membership in one or more of the systems,  
for which such surviving spouse is eligible under this section or  
section 3307.66 or 3309.45 of the Revised Code. If the surviving  
spouse elects to continue receiving benefits under this division,  
such election shall not preclude the payment of benefits under  
this division to any other qualified survivor.

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Benefits shall begin or resume on the first day of the month  
following the attainment of eligibility and shall terminate on the  
first day of the month following loss of eligibility.

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(5)(a) If a benefit is payable under division (B)(1)(a) of  
this section, benefits to a qualified spouse shall be paid in the  
amount determined for the first qualifying survivor in division  
(B)(1)(a) of this section. All other qualifying survivors shall  
share equally in the benefit or remaining portion thereof.

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(b) All qualifying survivors shall share equally in a benefit  
payable under division (B)(1)(b) of this section, except that if  
there is a surviving spouse, the surviving spouse shall receive  
not less than the amount determined for the first qualifying  
survivor in division (B)(1)(a) of this section.

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(6) The beneficiary of a member who is also a member of the  
state teachers retirement system or of the school employees  
retirement system, must forfeit the member's accumulated  
contributions in those systems and in the public employees  
retirement system, if the beneficiary takes a survivor benefit.  
Such benefit shall be exclusively governed by section 145.37 of  
the Revised Code.

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(7) The restriction that the deceased member have had at  
least one and one-half years of contributing service credit, with  
at least one-quarter year of contributing service within the two  
and one-half years prior to the date of death, does not apply if

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the deceased member was contributing toward benefits under 1291  
division (B) or (C) of section 145.33 of the Revised Code at the 1292  
time of death. 1293

(C)(1) Regardless of whether the member is survived by a 1294  
spouse or designated beneficiary, if the public employees 1295  
retirement system receives notice that a deceased member described 1296  
in division (A) or (B) of this section has one or more qualified 1297  
children, all persons who are qualified survivors under division 1298  
(B) of this section shall receive monthly benefits as provided in 1299  
division (B) of this section. 1300

If, after determining the monthly benefits to be paid under 1301  
division (B) of this section, the system receives notice that 1302  
there is a qualified survivor who was not considered when the 1303  
determination was made, the system shall, notwithstanding section 1304  
145.561 of the Revised Code, recalculate the monthly benefits with 1305  
that qualified survivor included, even if the benefits to 1306  
qualified survivors already receiving benefits are reduced as a 1307  
result. The benefits shall be calculated as if the qualified 1308  
survivor who is the subject of the notice became eligible on the 1309  
date the notice was received and shall be paid to qualified 1310  
survivors effective on the first day of the first month following 1311  
the system's receipt of the notice. 1312

If the retirement system did not receive notice that a 1313  
deceased member has one or more qualified children prior to making 1314  
payment under section 145.43 of the Revised Code to a beneficiary 1315  
as determined by the retirement system, the payment is a full 1316  
discharge and release of the system from any future claims under 1317  
this section or section 145.43 of the Revised Code. 1318

(2) If benefits under division (C)(1) of this section to all 1319  
persons, or to all persons other than a surviving spouse or other 1320  
sole beneficiary, terminate, there are no children under the age 1321  
of twenty-two years, and the surviving spouse or beneficiary 1322

qualifies for benefits under division (A) of this section, the  
surviving spouse or beneficiary may elect to receive benefits  
under division (A) of this section. The benefits shall be  
effective on the first day of the month immediately following the  
termination.

(D) The final average salary used in the calculation of a  
benefit payable pursuant to division (A) or (B) of this section to  
a survivor or beneficiary of a disability benefit recipient shall  
be adjusted for each year between the disability benefit's  
effective date and the recipient's date of death by the lesser of  
three per cent or the actual average percentage increase in the  
consumer price index prepared by the United States bureau of labor  
statistics (U.S. city average for urban wage earners and clerical  
workers: "all items 1982-84=100").

(E) If the survivor benefits due and paid under this section  
are in a total amount less than the member's accumulated account  
that was transferred from the public employees' savings fund to  
the survivors' benefit fund, then the difference between the total  
amount of the benefits paid shall be paid to the beneficiary under  
section 145.43 of the Revised Code.

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

(1) The public employees ~~retirment~~ 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)~~ (2)(b), (c), (d), or (e) of section  
145.33 of the Revised Code.

(2) Each public employee contributing toward benefits under  
division (B) ~~(2)(b)~~ (a) of section 145.33 of the Revised Code shall  
contribute to the employees' savings fund ~~the sum of one ten~~ and  
one-tenth per cent of the employee's earnable salary ~~and the~~

~~employee contribution rate calculated for employees contributing 1354  
toward benefits under division (B)(2)(a) of section 145.33 of the 1355  
Revised Code, notwithstanding section 145.47 of the Revised Code. 1356~~

(B) Notwithstanding section 145.48 of the Revised Code, the 1357  
public employees retirement system shall be authorized to 1358  
calculate the employer contribution rates separately for those 1359  
public employees contributing toward benefits under division (B)~~7~~ 1360  
~~(C), or (D)(2)(a)~~ of section 145.33 of the Revised Code or under 1361  
division (B)(2)(b), (c), (d), or (e) of that section, except that 1362  
the employer contribution rate shall not exceed eighteen and 1363  
one-tenth per cent of the earnable salaries of those employees. 1364

**Sec. 3309.312.** (A) Not later than ninety days after September 1365  
16, 1998, a member who, on September 16, 1998, is employed 1366  
full-time pursuant to section 3345.04 of the Revised Code by the 1367  
university of Akron as a state university law enforcement officer 1368  
may elect to transfer to the public employees retirement system in 1369  
accordance with this section. An election shall be made by giving 1370  
notice to the school employees retirement system on a form 1371  
provided by the school employees retirement board and shall be 1372  
irrevocable. 1373

(B) When a member makes the election described in this 1374  
section, the school employees retirement system shall notify the 1375  
public employees retirement system. The school employees 1376  
retirement system shall transfer all of the member's service 1377  
credit to the public employees retirement system and shall certify 1378  
to the public employees retirement system a copy of the member's 1379  
records of service and contributions. For each year or portion of 1380  
a year of credit, the school employees retirement system shall 1381  
transfer to the public employees retirement system all of the 1382  
following: 1383

(1) An amount equal to the accumulated contributions standing 1384

to the member's credit; 1385

(2) An amount equal to the total employer contributions paid 1386  
on behalf of the member; 1387

(3) Any amount paid by the member or employer to the school 1388  
employees retirement system for the purchase of service credit. 1389

At the request of the public employees retirement system, the 1390  
employer of a member who makes an election under this section 1391  
shall certify to the public employees retirement system the 1392  
member's salary. 1393

(C) A member who elects to transfer to the public employees 1394  
retirement system under this section shall make contributions and 1395  
receive benefits in accordance with divisions (B) to ~~(G)~~(F) of 1396  
section 145.33 of the Revised Code. 1397

(D) A member who fails to make an election in accordance with 1398  
this section shall remain a member of the school employees 1399  
retirement system. 1400

**Section 2.** That existing sections 145.01, 145.19, 145.191, 1401  
145.321, 145.33, 145.35, 145.40, 145.45, 145.49, and 3309.312 of 1402  
the Revised Code are hereby repealed. 1403

**Section 3.** As used in this section, "regional transit 1404  
authority police officer" and "state highway patrol police 1405  
officer" have the same meanings as in section 145.01 of the 1406  
Revised Code, as amended by this act. 1407

Not later than ninety days after the effective date of this 1408  
act, each regional transit authority police officer and state 1409  
highway patrol police officer who is a member of the Public 1410  
Employees Retirement System shall indicate to the system, on a 1411  
form supplied by the system, a choice of whether to receive 1412  
benefits under division (A) of section 145.33 of the Revised Code 1413

or under division (B) of that section.

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