

**As Passed by the Senate
CORRECTED VERSION**

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

Sub. H. B. No. 158

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SENATORS Amstutz, Austria, Spada, Mead, Fingerhut, Blessing, DiDonato,
Espy, Randy Gardner, Harris, Herington, Jacobson, McLin, Oelslager**

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

Sec. 145.01. As used in this chapter:

(A) "Public employee" means:

(1) Any person holding an office, not elective, under 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 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

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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.

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(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
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:

(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 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 the service credit requirement and of determining eligibility for benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, and 145.361 of the Revised Code, "five or more years of total service credit" means sixty or more calendar months of contributing service in this system.

(2) "One and one-half years of contributing service credit," as used in division (B) of section 145.45 of the Revised Code, also means eighteen or more calendar months of employment by a municipal corporation that formerly operated its own retirement plan for its employees or a part of its employees, provided that all employees of that municipal retirement plan who have eighteen or more months of such employment, upon establishing membership in the public employees retirement system, shall make a payment of the contributions they would have paid had they been members of this system for the eighteen months of employment preceding the

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 171
retirement system or the school employees retirement system, or 172
both, except in cases of retirement on a combined basis pursuant 173
to section 145.37 of the Revised Code or as provided in section 174
145.383 of the Revised Code, service credit for any period shall 175
be credited on the basis of the ratio that contributions to the 176
public employees retirement system bear to total contributions in 177
all state retirement systems. 178

(4) Not more than one year of credit may be given for any 179
period of twelve months. 180

(5) "Ohio service credit" means credit for service that was 181
rendered to the state or any of its political subdivisions or any 182
employer. 183

(I) "Regular interest" means interest at any rates for the 184
respective funds and accounts as the public employees retirement 185
board may determine from time to time. 186

(J) "Accumulated contributions" means the sum of all amounts 187
credited to a contributor's individual account in the employees' 188
savings fund together with any interest credited to the 189
contributor's account under section 145.471 or 145.472 of the 190
Revised Code. 191

(K)(1) "Final average salary" means the quotient obtained by 192
dividing by three the sum of the three full calendar years of 193
contributing service in which the member's earnable salary was 194
highest, except that if the member has a partial year of 195
contributing service in the year the member's employment 196
terminates and the member's earnable salary for the partial year 197

is higher than for any comparable period in the three years, the 198
member's earnable salary for the partial year shall be substituted 199
for the member's earnable salary for the comparable period during 200
the three years in which the member's earnable salary was lowest. 201

(2) If a member has less than three years of contributing 202
service, the member's final average salary shall be the member's 203
total earnable salary divided by the total number of years, 204
including any fraction of a year, of the member's contributing 205
service. 206

(3) For the purpose of calculating benefits payable to a 207
member qualifying for service credit under division (Z) of this 208
section, "final average salary" means the total earnable salary on 209
which contributions were made divided by the total number of years 210
during which contributions were made, including any fraction of a 211
year. If contributions were made for less than twelve months, 212
"final average salary" means the member's total earnable salary. 213

(L) "Annuity" means payments for life derived from 214
contributions made by a contributor and paid from the annuity and 215
pension reserve fund as provided in this chapter. All annuities 216
shall be paid in twelve equal monthly installments. 217

(M) "Annuity reserve" means the present value, computed upon 218
the basis of the mortality and other tables adopted by the board, 219
of all payments to be made on account of any annuity, or benefit 220
in lieu of any annuity, granted to a retirant as provided in this 221
chapter. 222

(N)(1) "Disability retirement" means retirement as provided 223
in section 145.36 of the Revised Code. 224

(2) "Disability allowance" means an allowance paid on account 225
of disability under section 145.361 of the Revised Code. 226

(3) "Disability benefit" means a benefit paid as disability 227
retirement under section 145.36 of the Revised Code, as a 228

disability allowance under section 145.361 of the Revised Code, or 229
as a disability benefit under section 145.37 of the Revised Code. 230

(4) "Disability benefit recipient" means a member who is 231
receiving a disability benefit. 232

(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 employer, including moving and travel expenses and expenses related to professional development;	290 291 292
(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;	293 294 295 296
(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;	297 298 299 300 301
(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;	302 303 304
(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:	305 306 307 308 309
(i) The payments are made in accordance with contract provisions that were in effect prior to January 1, 1986;	310 311
(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability resulting from the payments.	312 313 314
(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.	315 316 317
(S) "Pension reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board,	318 319

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
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
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

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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
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

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section 109.77 of the Revised Code. 446

(FF) "Park officer" means a full-time employee of the 447
department of natural resources who is designated a park officer 448
under section 1541.10 of the Revised Code and is in compliance 449
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
employed full-time, is in compliance with section 109.77 of the
Revised Code, and is not a member of the Ohio police and fire
pension fund.

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

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

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

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

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

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

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

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

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

(VV) Notwithstanding section 2901.01 of the Revised Code, "law enforcement officer" means a sheriff, deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, park officer, forest officer, preserve 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, state university law enforcement officer, ~~Hamilton county municipal court bailiff~~, municipal police officer, house sergeant at arms, ~~or~~ assistant house sergeant at arms, regional transit authority police officer, or state highway

patrol police officer. 539

~~(VV)~~(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 basic training 545
described in division (D)(1) of section 109.77 of the Revised 546
Code, and whose primary duties are to preserve the peace, to 547
protect life and property, and to enforce the laws of this state. 548

(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 604
board first establishes one or more plans under section 145.81 of 605
the Revised Code, an eligible member may elect to participate in a 606
plan established under that section. If an election is not made, a 607
member to whom this section applies is deemed to have elected to 608
continue participating in the plan described in sections 145.201 609
to 145.79 of the Revised Code. 610

(B) An election under this section shall be made in writing 611
on a form provided by the system and filed with the system. 612

(C) On receipt of an election under this section, the system 613
shall do both of the following: 614

(1) Credit to the account of the member in the defined 615
contribution fund the accumulated contributions standing to the 616
member's credit in the employees' savings fund; 617

(2) Cancel all service credit and eligibility for any 618
payment, benefit, or right under the plan described in sections 619
145.201 to 145.79 of the Revised Code. 620

(D) An election under this section shall be irrevocable on 621
receipt by the system. 622

Sec. 145.321. On and after October 1, 1957, all persons in 623
receipt of, or who are or become eligible to receive, a monthly 624
allowance, pension, or other benefit effective prior to June 29, 625
1955, which is payable or becomes payable pursuant to the 626
provisions of sections 145.33 to 145.36 and 145.46 of the Revised 627

Code, or an allowance payable at any time under an option elected 628
by a member and effective prior to that date, shall be paid an 629
increased allowance, pension, or benefit as follows: 630

(A) An amount determined by increasing the original 631
allowance, pension, or benefit by the following percentages as 632
determined by the calendar year in which the allowance, pension, 633
or benefit became effective: 634

Calendar Year	Per Cent	
Effective	of Increase	
1938-39	100	637
1940	94	638
1941	89	639
1942	77	640
1943	70	641
1944	68	642
1945	66	643
1946	55	644
1947	35	645
1948	23	646
1949	25	647
1950	23	648
1951	8	649
1952	4	650
1953	3	651
1954	2	652
Prior to June 29, 1955	2	653

(B) If the amount of any allowance, pension, or other benefit 654
is increased by division (A) of this section to an amount less 655
than one hundred ten per cent of the present amount payable 656
immediately prior to October 1, 1957, the present amount shall be 657
increased by ten per cent. 658

(C) On and after August 1, 1959 the monthly allowance, 659

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.

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(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 (A)(6)~~ of section 145.33 and
division (B) of section 145.36 of the Revised Code.

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(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 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~~
~~(A)(6)~~ 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.

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(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.

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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

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are being paid by the public employees retirement system shall be
calculated under the provisions of this section.

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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
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

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one-half per cent of the member's final average salary for each 722
subsequent year of service. 723

The allowance shall be adjusted by the factors of attained 724
age or years of service to provide the greater amount as 725
determined by the following schedule: 726

Attained	or	Years of Total Service	Percentage of	
Birthdays		Credit	Base Amount	
58		25	75	730
59		26	80	731
60		27	85	732
61			88	733
		28	90	734
62			91	735
63			94	736
		29	95	737
64			97	738
65		30 or more	100	739

Members shall vest the right to a benefit in accordance with 740
the following schedule, based on the member's attained age by 741
September 1, 1976: 742

Attained	Percentage	
Birthdays	of	
	Base Amount	
66	102	746
67	104	747
68	106	748
69	108	749
70 or more	110	750

(6) The total annual single lifetime allowance that a member 751
shall receive under division (A)(5) of this section shall not 752
exceed the lesser of one hundred per cent of the member's final 753

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),~~ or (d) 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,~~
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 attained age fifty-two, and has at
least twenty-five years of total service credit as a PERS 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, but the
member's primary duties were other than to preserve the peace,
protect life and property, and enforce the laws in the member's
jurisdiction;

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

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~~(c) Has~~ (d) The member has attained age sixty-two and has at 785
least fifteen years of total service credit as ~~a~~ either of the 786
following: 787

(i) A PERS law enforcement officer and has attained age 788
sixty-two; 789

(ii) A Hamilton county municipal court bailiff. 790

(3) A benefit paid under division (B)(2) of this section 791
shall consist of an annual single lifetime allowance equal to the 792
sum of two and one-half per cent of the member's final average 793
salary multiplied by the first twenty-five years of the member's 794
total service plus two and one-tenth per cent of the member's 795
final average salary multiplied by the number of years of the 796
member's total service credit in excess of twenty-five years. 797

~~(C)(4)~~ (4) A member with at least fifteen years of total service 798
credit as a PERS law enforcement officer or Hamilton county 799
municipal court bailiff who voluntarily resigns or is discharged 800
for any reason except death, dishonesty, cowardice, intemperate 801
habits, or conviction of a felony may apply for an age and service 802
retirement benefit, which shall consist of an annual single 803
lifetime allowance equal to one and one-half per cent of the 804
member's final average salary multiplied by the number of years of 805
the member's total service credit. The allowance shall commence on 806
the first day of the calendar month following the month in which 807
the application is filed with the public employees retirement 808
board on or after the attainment by the applicant of age 809
fifty-two. 810

~~(D)(C)(1)~~ (1) A member with at least twenty-five years of total 811
service credit ~~as a law enforcement officer other than as a law~~ 812
~~enforcement officer eligible for a benefit under division~~ 813
~~(B)(2)(b) of this section~~ who would be eligible to retire under 814
division (B)(2)(b) or (c) of this section had the member attained 815

age fifty-two and who voluntarily resigns or is discharged for any 816
reason except death, dishonesty, cowardice, intemperate habits, or 817
conviction of a felony, on or after the date of attaining 818
forty-eight years of age, but before the date of attaining 819
fifty-two years of age, may elect to receive a reduced benefit as 820
determined by the following schedule: 821

Attained Age	Reduced Benefit	
48	75% of the benefit payable under	822
	division (B)(3) of this section	823
49	80% of the benefit payable under	824
	division (B)(3) of this section	825
50	86% of the benefit payable under	826
	division (B)(3) of this section	827
51	93% of the benefit payable under	828
	division (B)(3) of this section	829

(2) If a member elects to receive a reduced benefit after 831
attaining age forty-eight the reduced benefit is payable from the 832
later of the date of the member's most recent birthday or the date 833
the member becomes eligible to receive the reduced benefit. 834

(3) Once a member elects to receive a reduced benefit 835
determined by the schedule in division ~~(D)~~(C)(1) of this section 836
and has received a payment, the member may not reelect to change 837
that election. 838

(4) If a member who has resigned or been discharged has left 839
on deposit the member's accumulated contributions in the 840
employees' savings fund and has not elected to receive a reduced 841
benefit determined by the schedule in division ~~(D)~~(C)(1) of this 842
section, upon attaining fifty-two years of age, the member shall 843
be entitled to receive a benefit computed and paid under division 844
(B)(3) of this section. 845

~~(E)~~(D) A benefit paid under division (B), or (C), ~~or (D)~~ of 846
this section shall not exceed the lesser of ninety per cent of the 847

member's final average salary or the limit established by section 848
415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 849
U.S.C.A. 415, as amended. 850

~~(F)~~(E)(1) A member with service credit as a PERS law 851
enforcement officer or a Hamilton county municipal court bailiff 852
and other service credit under this chapter may elect one of the 853
following: 854

(a) To have all the member's service credit under this 855
chapter, including credit for service as a PERS law enforcement 856
officer or Hamilton county municipal court bailiff, used in 857
calculating a retirement allowance under division (A) of this 858
section if the member qualifies for an allowance under that 859
division; 860

(b) If the member qualifies for an allowance under division 861
(B)~~(2)(a)~~ or ~~(c)~~, (C), ~~or (D)~~ of this section, to have the 862
member's service credit as a PERS law enforcement officer or 863
Hamilton county municipal court bailiff used in calculating a 864
benefit under ~~that the appropriate~~ division and the member's 865
credit for all service other than PERS law enforcement service or 866
service as a Hamilton county municipal court bailiff under this 867
chapter used in calculating a benefit consisting of a single life 868
annuity having a reserve equal to the amount of the member's 869
accumulated contributions and an equal amount of the employer's 870
contributions; 871

~~(c) If the member qualifies for an allowance under division 872
(B)(2)(b) of this section, to have the member's service credit as 873
a law enforcement officer while serving as a sheriff, deputy 874
sheriff, or township constable or police officer in a township 875
police department or district used in calculating a benefit under 876
division (B)(2)(b) of this section and the member's credit for all 877
other service under this chapter used in calculating a benefit 878
consisting of a single life annuity having a reserve equal to the 879~~

~~amount of the member's accumulated contributions and an equal~~ 880
~~amount of the employer's contributions.~~ 881

(2) Notwithstanding sections 145.01 and 145.30 of the Revised 882
Code, no more than four years of military service credit granted 883
under section 145.30 of the Revised Code and five years of 884
military service credit purchased under section 145.301 or 145.302 885
of the Revised Code shall be used in calculating service as a PERS 886
law enforcement officer or Hamilton county municipal court bailiff 887
or the total service credit of that person. 888

(3) Only credit for the member's service as a PERS law 889
enforcement officer or service credit obtained as a police officer 890
or state highway patrol trooper shall be used in computing the 891
~~benefits~~ benefit of a member who qualifies for a benefit under 892
division (B), ~~(C)~~, (2)(a), (b), or (d)(ii) or ~~(D)(4)~~ or division 893
(C) of this section for the following: 894

(a) Any person who originally is commissioned and employed as 895
a deputy sheriff by the sheriff of any county, or who originally 896
is elected sheriff, on or after January 1, 1975; 897

(b) Any deputy sheriff who originally is employed as a 898
criminal bailiff or court constable on or after April 16, 1993; 899

(c) Any person who originally is appointed as a township 900
constable or police officer in a township police department or 901
district on or after January 1, 1981; 902

(d) Any person who originally is employed as a county 903
narcotics agent on or after September 26, 1984; 904

(e) Any person who originally is employed as an undercover 905
drug agent as defined in section 109.79 of the Revised Code, 906
department of public safety enforcement agent who prior to June 907
30, 1999, was a liquor control investigator, park officer, forest 908
officer, wildlife officer, state watercraft officer, park district 909
police officer, conservancy district officer, Ohio veterans' home 910

police officer, special police officer for a mental health 911
institution, special police officer for an institution for the 912
mentally retarded and developmentally disabled, or municipal 913
police officer on or after December 15, 1988; 914

(f) Any person who originally is employed as a state 915
university law enforcement officer on or after November 6, 1996; 916

~~(g) Any person who originally is employed as a Hamilton 917
county municipal court bailiff on or after November 6, 1996;~~ 918

~~(h) Any person who is originally employed as a state 919
university law enforcement officer by the university of Akron on 920
or after September 16, 1998;~~ 921

~~(i)(h) Any person who originally is employed as a preserve 922
officer on or after March 18, 1999;~~ 923

~~(j)(i) Any person who originally is employed as a natural 924
resources law enforcement staff officer on or after March 18, 925
1999;~~ 926

~~(k)(j) Any person who is originally employed as a department 927
of public safety enforcement agent on or after June 30, 1999;~~ 928

~~(l)(k) Any person who is originally employed as a house 929
sergeant at arms or assistant house sergeant at arms on or after 930
the effective date of this amendment September 5, 2001;~~ 931

(1) Any person who is originally appointed as a regional 932
transit authority police officer or state highway patrol police 933
officer on or after the effective date of this amendment. 934

(4) Only credit for a member's service as a Hamilton county 935
municipal court bailiff or service credit obtained as a PERS law 936
enforcement officer, police officer, or state highway patrol 937
trooper shall be used in computing the benefit of a member who 938
qualifies for a benefit under division (B)(2)(c) or (d)(ii) or (4) 939
or division (C) of this section for any person who originally is 940

employed as a Hamilton county municipal court bailiff on or after 941
November 6, 1996. 942

(G) Retirement allowances determined under this section shall 943
be paid as provided in section 145.46 of the Revised Code. 944

(H) For the purposes of this section, service prior to June 945
30, 1999, as a food stamp trafficking agent under former section 946
5502.14 of the Revised Code shall be considered service as a law 947
enforcement officer. 948

Sec. 145.35. (A) As used in this section, "on-duty illness or 949
injury" means an illness or injury that occurred during or 950
resulted from performance of duties under the direct supervision 951
of a member's appointing authority. 952

(B) The public employees retirement system shall provide 953
disability coverage to each member who has at least five years of 954
total service credit and disability coverage for on-duty illness 955
or injury to each member who is a PERS law enforcement officer or 956
Hamilton county municipal court bailiff, regardless of length of 957
service. 958

Not later than October 16, 1992, the public employees 959
retirement board shall give each person who is a member on July 960
29, 1992, the opportunity to elect disability coverage either 961
under section 145.36 of the Revised Code or under section 145.361 962
of the Revised Code. The board shall mail notice of the election, 963
accompanied by an explanation of the coverage under each of the 964
Revised Code sections and a form on which the election is to be 965
made, to each member at the member's last known address. The board 966
shall also provide the explanation and form to any member on 967
request. 968

Regardless of whether the member actually receives notice of 969
the right to make an election, a member who fails to file a valid 970

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

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

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

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

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or 145.37 of the Revised Code or any person who, pursuant to 1003
section 145.40 of the Revised Code, has been paid the accumulated 1004
contributions standing to the credit of the person's individual 1005
account in the employees' savings fund. The application shall be 1006
made on a form provided by the retirement board. 1007

(D) The benefit payable to any member who is approved for a 1008
disability benefit shall become effective on the first day of the 1009
month immediately following the later of the following: 1010

(1) The last day for which compensation was paid; 1011

(2) The attainment of eligibility for a disability benefit. 1012

(E) Medical examination of a member who has applied for a 1013
disability benefit shall be conducted by a competent disinterested 1014
physician or physicians selected by the board to determine whether 1015
the member is mentally or physically incapacitated for the 1016
performance of duty by a disabling condition either permanent or 1017
presumed to be permanent. The disability must have occurred since 1018
last becoming a member or have increased since last becoming a 1019
member to such extent as to make the disability permanent or 1020
presumed to be permanent. A disability is presumed to be permanent 1021
if it is expected to last for a continuous period of not less than 1022
twelve months following the filing of the application. 1023

If the physician or physicians determine that the member 1024
qualifies for a disability benefit, the board concurs with the 1025
determination, and the member agrees to medical treatment as 1026
specified in division (F) of this section, the member shall 1027
receive a disability benefit under section 145.36 or 145.361 of 1028
the Revised Code. The action of the board shall be final. 1029

(F) The public employees retirement board shall adopt rules 1030
requiring a disability benefit recipient, as a condition of 1031
continuing to receive a disability benefit, to agree in writing to 1032
obtain any medical treatment recommended by the board's physician 1033

and submit medical reports regarding the treatment. If the board
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.

(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.

Sec. 145.40. (A)(1) Subject to the provisions of section
145.57 of the Revised Code and except as provided in division (B)
of this section, if a member elects to become exempt from
contribution to the public employees retirement system pursuant to
section 145.03 of the Revised Code or ceases to be a public
employee for any cause other than death, retirement, receipt of a
disability benefit, or current employment in a position in which
the member has elected to participate in an alternative retirement
plan under section 3305.05 of the Revised Code, upon application
the public employees retirement board shall pay the member the
member's accumulated contributions, plus any applicable amount

calculated under section 145.401 of the Revised Code, provided 1066
that all the following apply: 1067

(a) Three months have elapsed since the member's public 1068
service, other than service exempted from contribution pursuant to 1069
section 145.03 of the Revised Code, was terminated; 1070

(b) The member has not returned to public service, other than 1071
service exempted from contribution pursuant to section 145.03 of 1072
the Revised Code, during that three-month period; 1073

(c) The member is not a member of the school employees 1074
retirement system or the state teachers retirement system. 1075

The payment of such accumulated contributions shall cancel 1076
the total service credit of such member in the public employees 1077
retirement system. 1078

~~(2) Notwithstanding division (A)(1) of this section, division 1079
(B) of section 145.401 of the Revised Code, and the definition of 1080
"accumulated contributions" in division (J) of section 145.01 of 1081
the Revised Code, the accumulated contributions paid to a member 1082
under this division for service as a sheriff, deputy sheriff, or 1083
township constable or police officer in a township police 1084
department or district shall not include interest credited to the 1085
member's account under section 145.471 or 145.472 of the Revised 1086
Code, nor shall the member be paid any amount calculated under 1087
section 145.401 of the Revised Code. 1088~~

~~(3) A member described in division (A)(1) of this section who 1089
is married at the time of application for payment and is eligible 1090
for age and service retirement under section 145.32, 145.33, 1091
145.331, or 145.34 of the Revised Code shall submit with the 1092
application a written statement by the member's spouse attesting 1093
that the spouse consents to the payment of the member's 1094
accumulated contributions. Consent shall be valid only if it is 1095
signed and witnessed by a notary public. 1096~~

The board may waive the requirement of consent if the spouse 1097
is incapacitated or cannot be located, or for any other reason 1098
specified by the board. Consent or waiver is effective only with 1099
regard to the spouse who is the subject of the consent or waiver. 1100

(B) This division applies to any member who is employed in a 1101
position in which the member has made an election under section 1102
3305.05 of the Revised Code and due to the election ceases to be a 1103
public employee for purposes of that position. 1104

Subject to section 145.57 of the Revised Code, the public 1105
employees retirement system shall do the following: 1106

(1) On receipt of a certified copy of a form evidencing an 1107
election under section 3305.05 of the Revised Code, pay to the 1108
appropriate provider, in accordance with section 3305.051 of the 1109
Revised Code, the amount described in section 3305.051 of the 1110
Revised Code; 1111

(2) If a member has accumulated contributions, in addition to 1112
those subject to division (B)(1) of this section, standing to the 1113
credit of the member's individual account and is not otherwise 1114
employed in a position in which the member is considered a public 1115
employee for the purposes of that position, pay, to the provider 1116
the member selected pursuant to section 3305.05 of the Revised 1117
Code, the member's accumulated contributions. The payment shall be 1118
made on the member's application. 1119

(C) Payment of a member's accumulated contributions under 1120
division (B) of this section cancels the member's total service 1121
credit in the public employees retirement system. A member whose 1122
accumulated contributions are paid to a provider pursuant to 1123
division (B) of this section is forever barred from claiming or 1124
purchasing service credit under the public employees retirement 1125
system for the period of employment attributable to those 1126
contributions. 1127

Sec. 145.45. Except as provided in division (C)(1) of this 1128
section, in lieu of accepting the payment of the accumulated 1129
account of a member who dies before service retirement, a 1130
beneficiary, as determined in this section or section 145.43 of 1131
the Revised Code, may elect to forfeit the accumulated 1132
contributions and to substitute certain other benefits under 1133
division (A) or (B) of this section. 1134

(A) If a deceased member was eligible for a service 1135
retirement benefit as provided in section 145.33, 145.331, or 1136
145.34 of the Revised Code, a surviving spouse or other sole 1137
dependent beneficiary may elect to receive a monthly benefit 1138
computed as the joint-survivor benefit designated as "plan D" in 1139
section 145.46 of the Revised Code, which the member would have 1140
received had the member retired on the last day of the month of 1141
death and had the member at that time selected such joint-survivor 1142
plan. Payment shall begin with the month subsequent to the 1143
member's death, except that a surviving spouse who is less than 1144
sixty-five years old may defer receipt of such benefit. Upon 1145
receipt, the benefit shall be calculated based upon the spouse's 1146
age at the time of first payment, and shall accrue regular 1147
interest during the time of deferral. 1148

(B) If a deceased member had, except as provided in division 1149
(B)(7) of this section, at least one and one-half years of 1150
contributing service credit, with, except as provided in division 1151
(B)(7) of this section, at least one-quarter year of contributing 1152
service credit within the two and one-half years prior to the date 1153
of death, or was receiving at the time of death a disability 1154
benefit as provided in section 145.36, 145.361, or 145.37 of the 1155
Revised Code, qualified survivors who elect to receive monthly 1156
benefits shall receive the greater of the benefits provided in 1157
division (B)(1)(a) or (b) and (4) of this section as allocated in 1158
accordance with division (B)(5) of this section. 1159

(1)(a) Number			1160
of Qualified		Or	1161
survivors	Annual Benefit as a Per	Monthly Benefit	1162
affecting	Cent of Decedent's Final	shall not be	1163
the benefit	Average Salary	less than	1164
1	25%	\$250	1165
2	40	400	1166
3	50	500	1167
4	55	500	1168
5 or more	60	500	1169
(b) Years of	Annual Benefit as a Per Cent		1170
Service	of Member's Final Average		1171
	Salary		1172
20	29%		1173
21	33		1174
22	37		1175
23	41		1176
24	45		1177
25	48		1178
26	51		1179
27	54		1180
28	57		1181
29 or more	60		1182
(2) Benefits shall begin as qualified survivors meet			1183
eligibility requirements as follows:			1184
(a) A qualified spouse is the surviving spouse of the			1185
deceased member, who is age sixty-two, or regardless of age if the			1186
deceased member had ten or more years of Ohio service credit, or			1187
regardless of age if caring for a qualified child, or regardless			1188
of age if adjudged physically or mentally incompetent. A spouse of			1189
a member who died prior to August 27, 1970, whose eligibility was			1190
determined at the member's death, and who is physically or			1191

mentally incompetent on or after August 20, 1976, shall be paid 1192
the monthly benefit which that person would otherwise receive when 1193
qualified by age. 1194

(b) A qualified child is any child of the deceased member who 1195
has never been married and to whom one of the following applies: 1196
1197

(i) Is under age eighteen, or under age twenty-two if the 1198
child is attending an institution of learning or training pursuant 1199
to a program designed to complete in each school year the 1200
equivalent of at least two-thirds of the full-time curriculum 1201
requirements of such institution and as further determined by 1202
board policy; 1203

(ii) Regardless of age, is adjudged physically or mentally 1204
incompetent at the time of the member's death. 1205

(c) A qualified parent is a dependent parent aged sixty-five 1206
or older or regardless of age if physically or mentally 1207
incompetent, a dependent parent whose eligibility was determined 1208
by the member's death prior to August 20, 1976, and who is 1209
physically or mentally incompetent on or after August 20, 1976, 1210
shall be paid the monthly benefit for which that person would 1211
otherwise qualify. 1212

(3) "Physically or mentally incompetent" as used in this 1213
section may be determined by a court of jurisdiction, or by a 1214
physician appointed by the retirement board. Incapability of 1215
making a living because of a physically or mentally disabling 1216
condition shall meet the qualifications of this division. 1217

(4) Benefits to a qualified survivor shall terminate upon 1218
ceasing to meet eligibility requirements as provided in this 1219
division, a first marriage, abandonment, adoption, or during 1220
active military service. Benefits to a deceased member's surviving 1221
spouse that were terminated under a former version of this section 1222

that required termination due to remarriage and were not resumed 1223
prior to September 16, 1998, shall resume on the first day of the 1224
month immediately following receipt by the board of an application 1225
on a form provided by the board. 1226

Upon the death of any subsequent spouse who was a member of 1227
the public employees retirement system, state teachers retirement 1228
system, or school employees retirement system, the surviving 1229
spouse of such member may elect to continue receiving benefits 1230
under this division, or to receive survivor's benefits, based upon 1231
the subsequent spouse's membership in one or more of the systems, 1232
for which such surviving spouse is eligible under this section or 1233
section 3307.66 or 3309.45 of the Revised Code. If the surviving 1234
spouse elects to continue receiving benefits under this division, 1235
such election shall not preclude the payment of benefits under 1236
this division to any other qualified survivor. 1237

Benefits shall begin or resume on the first day of the month 1238
following the attainment of eligibility and shall terminate on the 1239
first day of the month following loss of eligibility. 1240

(5)(a) If a benefit is payable under division (B)(1)(a) of 1241
this section, benefits to a qualified spouse shall be paid in the 1242
amount determined for the first qualifying survivor in division 1243
(B)(1)(a) of this section. All other qualifying survivors shall 1244
share equally in the benefit or remaining portion thereof. 1245

(b) All qualifying survivors shall share equally in a benefit 1246
payable under division (B)(1)(b) of this section, except that if 1247
there is a surviving spouse, the surviving spouse shall receive 1248
not less than the amount determined for the first qualifying 1249
survivor in division (B)(1)(a) of this section. 1250

(6) The beneficiary of a member who is also a member of the 1251
state teachers retirement system or of the school employees 1252
retirement system, must forfeit the member's accumulated 1253

contributions in those systems and in the public employees 1254
retirement system, if the beneficiary takes a survivor benefit. 1255
Such benefit shall be exclusively governed by section 145.37 of 1256
the Revised Code. 1257

(7) The restriction that the deceased member have at least 1258
one and one-half years of contributing service credit, with at 1259
least one-quarter year of contributing service within the two and 1260
one-half years prior to the date of death, does not apply if the 1261
deceased member was contributing toward benefits under division 1262
(B) or (C) of section 145.33 of the Revised Code at the time of 1263
death. 1264

(C)(1) Regardless of whether the member is survived by a 1265
spouse or designated beneficiary, if the public employees 1266
retirement system receives notice that a deceased member described 1267
in division (A) or (B) of this section has one or more qualified 1268
children, all persons who are qualified survivors under division 1269
(B) of this section shall receive monthly benefits as provided in 1270
division (B) of this section. 1271

If, after determining the monthly benefits to be paid under 1272
division (B) of this section, the system receives notice that 1273
there is a qualified survivor who was not considered when the 1274
determination was made, the system shall, notwithstanding section 1275
145.561 of the Revised Code, recalculate the monthly benefits with 1276
that qualified survivor included, even if the benefits to 1277
qualified survivors already receiving benefits are reduced as a 1278
result. The benefits shall be calculated as if the qualified 1279
survivor who is the subject of the notice became eligible on the 1280
date the notice was received and shall be paid to qualified 1281
survivors effective on the first day of the first month following 1282
the system's receipt of the notice. 1283

If the retirement system did not receive notice that a 1284
deceased member has one or more qualified children prior to making 1285

payment under section 145.43 of the Revised Code to a beneficiary 1286
as determined by the retirement system, the payment is a full 1287
discharge and release of the system from any future claims under 1288
this section or section 145.43 of the Revised Code. 1289

(2) If benefits under division (C)(1) of this section to all 1290
persons, or to all persons other than a surviving spouse or other 1291
sole beneficiary, terminate, there are no children under the age 1292
of twenty-two years, and the surviving spouse or beneficiary 1293
qualifies for benefits under division (A) of this section, the 1294
surviving spouse or beneficiary may elect to receive benefits 1295
under division (A) of this section. The benefits shall be 1296
effective on the first day of the month immediately following the 1297
termination. 1298

(D) The final average salary used in the calculation of a 1299
benefit payable pursuant to division (A) or (B) of this section to 1300
a survivor or beneficiary of a disability benefit recipient shall 1301
be adjusted for each year between the disability benefit's 1302
effective date and the recipient's date of death by the lesser of 1303
three per cent or the actual average percentage increase in the 1304
consumer price index prepared by the United States bureau of labor 1305
statistics (U.S. city average for urban wage earners and clerical 1306
workers: "all items 1982-84=100"). 1307

(E) If the survivor benefits due and paid under this section 1308
are in a total amount less than the member's accumulated account 1309
that was transferred from the public employees' savings fund to 1310
the survivors' benefit fund, then the difference between the total 1311
amount of the benefits paid shall be paid to the beneficiary under 1312
section 145.43 of the Revised Code. 1313

Sec. 145.49. (A) Notwithstanding section 145.47 of the 1314
Revised Code, ~~the:~~ 1315

(1) The public employees ~~retirement~~ retirement system shall be 1316

authorized to calculate the employee contribution rates separately 1317
for those public employees contributing toward benefits under 1318
division (B), ~~(C), or (D)~~ (2)(b), (c), or (d) of section 145.33 of 1319
the Revised Code. 1320

(2) Each public employee contributing toward benefits under 1321
division (B)(2)~~(b)~~(a) of section 145.33 of the Revised Code shall 1322
contribute to the employees' savings fund ~~the sum of one ten~~ and 1323
one-tenth per cent of the employee's earnable salary ~~and the~~ 1324
~~employee contribution rate calculated for employees contributing~~ 1325
~~toward benefits under division (B)(2)(a) of section 145.33 of the~~ 1326
~~Revised Code, notwithstanding section 145.47 of the Revised Code.~~ 1327

(B) Notwithstanding section 145.48 of the Revised Code, the 1328
public employees retirement system shall be authorized to 1329
calculate the employer contribution rates separately for those 1330
public employees contributing toward benefits under division (B), ~~(C), or (D)~~ (2)(a) of section 145.33 of the Revised Code or under 1331
division (B)(2)(b), (c), or (d) of that section, except that the 1332
employer contribution rate shall not exceed eighteen and one-tenth 1333
per cent of the earnable salaries of those employees. 1334
1335

Sec. 3309.312. (A) Not later than ninety days after September 1336
16, 1998, a member who, on September 16, 1998, is employed 1337
~~full-time~~ full time pursuant to section 3345.04 of the Revised 1338
Code by the university of Akron as a state university law 1339
enforcement officer may elect to transfer to the public employees 1340
retirement system in accordance with this section. An election 1341
shall be made by giving notice to the school employees retirement 1342
system on a form provided by the school employees retirement board 1343
and shall be irrevocable. 1344

(B) When a member makes the election described in this 1345
section, the school employees retirement system shall notify the 1346
public employees retirement system. The school employees 1347

retirement system shall transfer all of the member's service 1348
credit to the public employees retirement system and shall certify 1349
to the public employees retirement system a copy of the member's 1350
records of service and contributions. For each year or portion of 1351
a year of credit, the school employees retirement system shall 1352
transfer to the public employees retirement system all of the 1353
following: 1354

(1) An amount equal to the accumulated contributions standing 1355
to the member's credit; 1356

(2) An amount equal to the total employer contributions paid 1357
on behalf of the member; 1358

(3) Any amount paid by the member or employer to the school 1359
employees retirement system for the purchase of service credit. 1360

At the request of the public employees retirement system, the 1361
employer of a member who makes an election under this section 1362
shall certify to the public employees retirement system the 1363
member's salary. 1364

(C) A member who elects to transfer to the public employees 1365
retirement system under this section shall make contributions and 1366
receive benefits in accordance with divisions (B) to ~~(G)~~(F) of 1367
section 145.33 of the Revised Code. 1368

(D) A member who fails to make an election in accordance with 1369
this section shall remain a member of the school employees 1370
retirement system. 1371

Section 2. That existing sections 145.01, 145.19, 145.191, 1372
145.321, 145.33, 145.35, 145.40, 145.45, 145.49, and 3309.312 of 1373
the Revised Code are hereby repealed. 1374

Section 3. As used in this section, "regional transit 1375
authority police officer" and "state highway patrol police 1376

officer" have the same meanings as in section 145.01 of the Revised Code, as amended by this act.

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