

As Reported by the House Committee on Retirement and Aging

124th General Assembly

Regular Session

2001-2002

Sub. H. B. No. 158

**REPRESENTATIVES Schuring, Hollister, Ogg, Bocchieri, Barrett, Schneider,
Flowers, DeWine**

A BILL

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
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

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

decision is final. 52

(B) "Member" means any public employee, other than a public 53
employee excluded or exempted from membership in the retirement 54
system by section 145.03, 145.031, 145.032, 145.033, 145.034, 55
145.035, or 145.38 of the Revised Code. "Member" includes a PERS 56
retirant who becomes a member under division (C) of section 145.38 57
of the Revised Code. "Member" also includes a disability benefit 58
recipient. 59

(C) "Head of the department" means the elective or appointive 60
head of the several executive, judicial, and administrative 61
departments, institutions, boards, and commissions of the state 62
and local government as the same are created and defined by the 63
laws of this state or, in case of a charter government, by that 64
charter. 65

(D) "Employer" or "public employer" means the state or any 66
county, township, municipal corporation, park district, 67
conservancy district, sanitary district, health district, 68
metropolitan housing authority, state retirement board, Ohio 69
historical society, public library, county law library, union 70
cemetery, joint hospital, institutional commissary, state medical 71
college, state university, or board, bureau, commission, council, 72
committee, authority, or administrative body as the same are, 73
have been, created by action of the general assembly or by the 74
legislative authority of any of the units of local government 75
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
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.

84
85
86
87
88
89
90
91
92
93
94
95
96

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.

97
98
99
100
101
102
103

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:

104
105
106
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:

108
109
110
111

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.

112
113
114

Second, for each full one hundred dollars of annual salary 115
above one thousand dollars, the member's service credit for each 116
such calendar year shall be increased by two and one-half per 117
cent. 118

(2) When the member is paid on a per diem basis, the service 119
credit for any single year of the service shall be determined by 120
using the number of days of service for which the compensation was 121
received in any such year as a numerator and using two hundred 122
fifty days as a denominator. 123

(3) When the member is paid on an hourly basis, the service 124
credit for any single year of the service shall be determined by 125
using the number of hours of service for which the compensation 126
was received in any such year as a numerator and using two 127
thousand hours as a denominator. 128

(F) "Contributor" means any person who has an account in the 129
employees' savings fund created by section 145.23 of the Revised 130
Code. When used in the sections listed in division (B) of section 131
145.82 of the Revised Code, "contributor" includes any person 132
participating in a plan established under section 145.81 of the 133
Revised Code. 134

(G) "Beneficiary" or "beneficiaries" means the estate or a 135
person or persons who, as the result of the death of a member, 136
contributor, or retirant, qualify for or are receiving some right 137
or benefit under this chapter. 138

(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 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 period of twelve months.	179 180
(5) "Ohio service credit" means credit for service that was rendered to the state or any of its political subdivisions or any employer.	181 182 183
(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.	184 185 186
(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.	187 188 189 190 191
(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.	192 193 194 195 196 197 198 199 200 201
(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.	202 203 204 205 206
(3) For the purpose of calculating benefits payable to a member qualifying for service credit under division (Z) of this	207 208

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
reserve fund as provided in this chapter. All pensions shall be
paid in twelve equal monthly installments.

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

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

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

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

(c) Allowances paid by the employer for full maintenance,
consisting of housing, laundry, and meals, as certified to the
retirement board by the employer or the head of the department
that employs the contributor;

(d) Fees and commissions paid under section 507.09 of the
Revised Code;

(e) Payments that are made under a disability leave program

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
	280
(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
increased and the member is denied the additional salary by reason
of any constitutional provision prohibiting an increase in salary
during a term of office, the member may elect to have the amount
of the member's contributions calculated upon the basis of the
increased salary for the office. At the member's request, the
board shall compute the total additional amount the member would
have contributed, or the amount by which each of the member's
contributions would have increased, had the member received the
increased salary for the office the member holds. If the member
elects to have the amount by which the member's contribution would
have increased withheld from the member's salary, the member shall
notify the employer, and the employer shall make the withholding
and transmit it to the retirement system. A member who has not
elected to have that amount withheld may elect at any time to make
a payment to the retirement system equal to the additional amount
the member's contribution would have increased, plus interest on
that contribution, compounded annually at a rate established by
the board and computed from the date on which the last
contribution would have been withheld from the member's salary to
the date of payment. A member may make a payment for part of the
period for which the increased contribution was not withheld, in
which case the interest shall be computed from the date the last
contribution would have been withheld for the period for which the
payment is made. Upon the payment of the increased contributions
as provided in this division, the increased annual salary as
provided by law for the office for the period for which the member
paid increased contributions thereon shall be used in determining
the member's earnable salary for the purpose of computing the
member's final average salary.

(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, 394
means employment covered under this chapter or under a former 395
retirement plan operated, recognized, or endorsed by the employer 396
prior to coverage under this chapter or under a combination of the 397
coverage. 398

(AA) "Deputy sheriff" means any person who is commissioned 399
and employed as a full-time peace officer by the sheriff of any 400
county, and has been so employed since on or before December 31, 401
1965, and whose primary duties are to preserve the peace, to 402
protect life and property, and to enforce the laws of this state; 403
any person who is or has been commissioned and employed as a peace 404
officer by the sheriff of any county since January 1, 1966, and 405
who has received a certificate attesting to the person's 406
satisfactory completion of the peace officer training school as 407
required by section 109.77 of the Revised Code and whose primary 408
duties are to preserve the peace, protect life and property, and 409
enforce the laws of this state; or any person deputized by the 410
sheriff of any county and employed pursuant to section 2301.12 of 411
the Revised Code as a criminal bailiff or court constable who has 412
received a certificate attesting to the person's satisfactory 413
completion of the peace officer training school as required by 414
section 109.77 of the Revised Code and whose primary duties are to 415
preserve the peace, protect life and property, and enforce the 416
laws of this state. 417

(BB) "Township constable or police officer in a township 418
police department or district" means any person who is 419
commissioned and employed as a full-time peace officer pursuant to 420
Chapter 505. or 509. of the Revised Code, who has received a 421
certificate attesting to the person's satisfactory completion of 422
the peace officer training school as required by section 109.77 of 423
the Revised Code, and whose primary duties are to preserve the 424
peace, protect life and property, and enforce the laws of this 425

state. 426

(CC) "Drug agent" means any person who is either of the 427
following: 428

(1) Employed full-time as a narcotics agent by a county 429
narcotics agency created pursuant to section 307.15 of the Revised 430
Code and has received a certificate attesting to the satisfactory 431
completion of the peace officer training school as required by 432
section 109.77 of the Revised Code; 433

(2) Employed full-time as an undercover drug agent as defined 434
in section 109.79 of the Revised Code and is in compliance with 435
section 109.77 of the Revised Code. 436

(DD) "Department of public safety enforcement agent" means a 437
full-time employee of the department of public safety who is 438
designated under section 5502.14 of the Revised Code as an 439
enforcement agent and who is in compliance with section 109.77 of 440
the Revised Code. 441

(EE) "Natural resources law enforcement staff officer" means 442
a full-time employee of the department of natural resources who is 443
designated a natural resources law enforcement staff officer under 444
section 1501.013 of the Revised Code and is in compliance with 445
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 officer under section 1517.10 of the Revised Code and is in compliance with section 109.77 of the Revised Code. 456
457
458

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

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

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

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

(MM) "Municipal police officer" means a member of the 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. 475
476
477
478
479

(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. 480
481
482
483

(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 484
485
486

109.77 of the Revised Code.

487

(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.

488

489

490

491

492

(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.

493

494

495

496

497

~~(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.~~

498

499

500

501

502

503

504

505

506

(SS) "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.

507

508

509

510

(SS) "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.

511

512

513

514

515

516

517

(TT) Notwithstanding section 2901.01 of the Revised Code, 518
"PERS law enforcement officer" means a sheriff, deputy sheriff, 519
township constable or police officer in a township police 520
department or district, drug agent, department of public safety 521
enforcement agent, natural resources law enforcement staff 522
officer, park officer, forest officer, preserve officer, wildlife 523
officer, state watercraft officer, park district police officer, 524
conservancy district officer, Ohio veterans' home police officer, 525
special police officer for a mental health institution, special 526
police officer for an institution for the mentally retarded and 527
developmentally disabled, state university law enforcement 528
officer, ~~Hamilton county municipal court bailiff, or municipal~~ 529
~~police officer, regional transit authority police officer, or~~ 530
~~state highway patrol police officer.~~ 531

~~(TT)~~(UU) "Hamilton county municipal court bailiff" means a 532
person appointed by the clerk of courts of the Hamilton county 533
municipal court under division (A)(3) of section 1901.32 of the 534
Revised Code who is employed full-time as a bailiff or deputy 535
bailiff, who has received a certificate attesting to the person's 536
satisfactory completion of the peace officer training school as 537
required by division (D) of section 109.77 of the Revised Code, 538
and whose primary duties are to preserve the peace, to protect 539
life and property, and to enforce the laws of this state. 540

(VV) "Fiduciary" means a person who does any of the 541
following: 542

(1) Exercises any discretionary authority or control with 543
respect to the management of the system or with respect to the 544
management or disposition of its assets; 545

(2) Renders investment advice for a fee, direct or indirect, 546
with respect to money or property of the system; 547

(3) Has any discretionary authority or responsibility in the 548

administration of the system. 549

~~(UU)~~(WW) "Actuary" means an individual who satisfies all of 550
the following requirements: 551

(1) Is a member of the American academy of actuaries; 552

(2) Is an associate or fellow of the society of actuaries; 553

(3) Has a minimum of five years' experience in providing 554
actuarial services to public retirement plans. 555

Sec. 145.19. (A) Except as provided in division (D) of this 556
section, an individual who becomes a member of the public 557
employees retirement system on or after the date on which the 558
public employees retirement board establishes a plan under section 559
145.81 of the Revised Code shall make an election under this 560
section. Not later than one hundred eighty days after the date on 561
which employment begins, the individual shall elect to participate 562
either in the plan described in sections 145.201 to 145.79 of the 563
Revised Code or one of the plans established under section 145.81 564
of the Revised Code. If a form evidencing an election under this 565
section is not on file with the employer at the end of the 566
one-hundred-eighty-day period, the individual is deemed to have 567
elected to participate in the plan described in sections 145.201 568
to 145.79 of the Revised Code. 569

(B) An election under this section shall be made in writing 570
on a form provided by the retirement system and filed with the 571
employer's personnel officer. Not later than ten days after 572
receiving the form evidencing the election, the employer shall 573
transmit to the system a copy that includes a statement certifying 574
that it is a true and accurate copy of the original. 575

(C) An election under this section shall take effect on the 576
date employment began and is irrevocable on receipt by the 577
employer. 578

(D) An individual is ineligible to make an election under 579
this section if one of the following applies: 580

(1) At the time employment begins, the individual is already 581
a member or contributor participating in the plan described in 582
sections 145.201 to 145.79 of the Revised Code or a PERS retirant, 583
as defined in section 145.38 of the Revised Code. 584

(2) An election to participate in an alternative retirement 585
plan under section 3305.05 of the Revised Code is in effect for 586
employment covered by the system. 587

(3) The individual is a PERS law enforcement officer. 588

Sec. 145.191. (A) A member of the public employees retirement 589
system, other than a member who is a PERS law enforcement officer, 590
who, as of the last day of the month immediately preceding the 591
date on which the system establishes a plan under section 145.81 592
of the Revised Code, has less than five years of total service 593
credit is eligible to make an election under this section. 594

595
Not later than one hundred eighty days after the day the 596
board first establishes one or more plans under section 145.81 of 597
the Revised Code, an eligible member may elect to participate in a 598
plan established under that section. If an election is not made, a 599
member to whom this section applies is deemed to have elected to 600
continue participating in the plan described in sections 145.201 601
to 145.79 of the Revised Code. 602

(B) An election under this section shall be made in writing 603
on a form provided by the system and filed with the system. 604

(C) On receipt of an election under this section, the system 605
shall do both of the following: 606

(1) Credit to the account of the member in the defined 607
contribution fund the accumulated contributions standing to the 608

member's credit in the employees' savings fund; 609

(2) Cancel all service credit and eligibility for any 610
payment, benefit, or right under the plan described in sections 611
145.201 to 145.79 of the Revised Code. 612

(D) An election under this section shall be irrevocable on 613
receipt by the system. 614

Sec. 145.321. On and after October 1, 1957, all persons in 615
receipt of, or who are or become eligible to receive, a monthly 616
allowance, pension, or other benefit effective prior to June 29, 617
1955, which is payable or becomes payable pursuant to the 618
provisions of sections 145.33 to 145.36 and 145.46 of the Revised 619
Code, or an allowance payable at any time under an option elected 620
by a member and effective prior to that date, shall be paid an 621
increased allowance, pension, or benefit as follows: 622

(A) An amount determined by increasing the original 623
allowance, pension, or benefit by the following percentages as 624
determined by the calendar year in which the allowance, pension, 625
or benefit became effective: 626

Calendar Year	Per Cent	
Effective	of increase	
1938-39	100	629
1940	94	630
1941	89	631
1942	77	632
1943	70	633
1944	68	634
1945	66	635
1946	55	636
1947	35	637
1948	23	638
1949	25	639

1950	23	640
1951	8	641
1952	4	642
1953	3	643
1954	2	644
Prior to June 29, 1955	2	645

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

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

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

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

Revised Code, except that the increase shall not be less than 672
seventy-two dollars annually. 673

(F) Beginning November 1, 1965, the monthly benefit payable 674
under section 145.45 of the Revised Code shall be increased six 675
dollars for each survivor beneficiary receiving a benefit on 676
October 31, 1965 and for each successor to such benefit. 677

For the purposes of this section: (1) The total increase 678
payable per month on or after November 1, 1965 to a retirant or 679
beneficiary from one or more state systems shall not exceed the 680
ten dollar increase as provided in this division, and (2) in all 681
cases involving combined membership and service as provided for 682
under section 145.37 of the Revised Code, only those cases which 683
are being paid by the public employees retirement system shall be 684
calculated under the provisions of this section. 685

On or before August 1, 1982, and on or before the first day 686
of August in each year thereafter, the public employees retirement 687
board shall certify to the treasurer of state the amount required 688
to be paid in the preceding fiscal year under divisions (A) and 689
(B) of this section. Upon receipt of this certification, the 690
treasurer of state shall pay the amount certified. The amount 691
received by the public employees retirement board shall be 692
credited to the proper fund from which such additional payments 693
are paid. 694

Sec. 145.33. (A) Except as provided in division (B), or (C), 695
~~or (D)~~ of this section, a member with at least five years of total 696
service credit who has attained age sixty, or who has thirty years 697
of total Ohio service credit, may apply for age and service 698
retirement, which shall consist of: 699

(1) An annuity having a reserve equal to the amount of the 700
member's accumulated contributions at that time; 701

(2) A pension equal to the annuity provided by division 702
(A)(1) of this section; 703

(3) An additional pension, if the member can qualify for 704
prior service, equal to forty dollars multiplied by the number of 705
years, and fraction thereof, of such prior and military service 706
credit; 707

(4) A basic annual pension equal to one hundred eighty 708
dollars if the member has ten or more years of total service 709
credit as of October 1, 1956, except that the basic annual pension 710
shall not exceed the sum of the annual benefits provided by 711
divisions (A)(1), (2), and (3) of this section. 712

(5) When a member retires on age and service retirement, the 713
member's total annual single lifetime allowance, including the 714
allowances provided in divisions (A)(1), (2), (3), and (4) of this 715
section, shall be not less than a base amount adjusted in 716
accordance with division (A)(5) of this section and determined by 717
multiplying the member's total service credit by the greater of 718
the following: 719

(a) Eighty-six dollars; 720

(b) Two and two-tenths per cent of the member's final average 721
salary for each of the first thirty years of service plus two and 722
one-half per cent of the member's final average salary for each 723
subsequent year of service. 724

The allowance shall be adjusted by the factors of attained 725
age or years of service to provide the greater amount as 726
determined by the following schedule: 727

Attained	or	Years of Total Service Credit	Percentage of Base Amount	
Birthday				728
				729
58		25	75	731
59		26	80	732

60	27	85	733
61		88	734
	28	90	735
62		91	736
63		94	737
	29	95	738
64		97	739
65	30 or more	100	740

Members shall vest the right to a benefit in accordance with 741
 the following schedule, based on the member's attained age by 742
 September 1, 1976: 743

Attained	Percentage	
Birthday	of	
	Base Amount	
66	102	747
67	104	748
68	106	749
69	108	750
70 or more	110	751

(6) The total annual single lifetime allowance that a member 752
 shall receive under division (A)(5) of this section shall not 753
 exceed the lesser of one hundred per cent of the member's final 754
 average salary or the limit established by section 415 of the 755
 "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, 756
 as amended. 757

(B)(1) For the purposes of divisions (B) to ~~(F)~~(H) of this 758
 section, "total service credit as a PERS law enforcement officer" 759
~~includes~~ and "total service credit as a Hamilton county municipal 760
court bailiff" ~~include~~ credit for military service to the extent 761
 permitted by division (F)(2) of this section and credit for 762
 service as a police officer or state highway patrol trooper to the 763
 extent permitted by ~~division~~ divisions (F)(3) and (4) of this 764

section. 765

(2) A member who meets the conditions in division (B)(2)(a), 766
(b), ~~or (c), (d), or (e)~~ of this section may apply for an age and 767
service retirement benefit under this division: 768

~~(a) Except as provided in division (B)(2)(b) of this section,~~ 769
~~Unless the member has elected to contribute toward a benefit under~~ 770
~~division (B)(2)(b) of this section, the member has attained age~~ 771
~~forty-eight and has at least twenty-five years of total service~~ 772
~~credit as a PERS law enforcement officer and has attained age~~ 773
~~fifty-two whose primary duties were to preserve the peace, protect~~ 774
~~life and property, and enforce the laws in the member's~~ 775
~~jurisdiction;~~ 776

(b) ~~Has~~ The member has elected to contribute toward a benefit 777
under division (B)(2)(b) of this section, has attained age 778
fifty-two, and has at least twenty-five years of total service 779
credit as a law enforcement officer while serving as a sheriff, 780
deputy sheriff, or township constable or police officer in a 781
township police department or district and has attained age 782
forty-eight whose primary duties were to preserve the peace, 783
protect life and property, and enforce the laws in the member's 784
jurisdiction; 785

(c) The member has attained age fifty-two and has at least 786
twenty-five years of total service credit as a PERS law 787
enforcement officer, but the member's primary duties were other 788
than to preserve the peace, protect life and property, and enforce 789
the laws in the member's jurisdiction; 790

(d) The member has attained age fifty-two and has at least 791
twenty-five years of total service as a Hamilton county municipal 792
court bailiff; 793

~~(c)~~ (e) The member has at least fifteen years of total 794
service credit as a PERS law enforcement officer or a Hamilton 795

county municipal court bailiff and has attained age sixty-two. 796

(3) A benefit paid under division (B)(2) of this section 797
shall consist of an annual single lifetime allowance equal to the 798
sum of two and one-half per cent of the member's final average 799
salary multiplied by the first twenty-five years of the member's 800
total service plus two and one-tenth per cent of the member's 801
final average salary multiplied by the number of years of the 802
member's total service credit in excess of twenty-five years. 803

~~(C)~~(4) A member with at least fifteen years of total service 804
credit as a PERS law enforcement officer or a Hamilton county 805
municipal court bailiff who voluntarily resigns or is discharged 806
for any reason except death, dishonesty, cowardice, intemperate 807
habits, or conviction of a felony may apply for an age and service 808
retirement benefit, which shall consist of an annual single 809
lifetime allowance equal to one and one-half per cent of the 810
member's final average salary multiplied by the number of years of 811
the member's total service credit. The allowance shall commence on 812
the first day of the calendar month following the month in which 813
the application is filed with the public employees retirement 814
board on or after the attainment by the applicant of age 815
fifty-two. 816

~~(D)~~(C)(1) A member with at least twenty-five years of total 817
service credit ~~as a law enforcement officer other than as a law~~ 818
~~enforcement officer eligible for a benefit under division~~ 819
~~(B)(2)(b) of this section~~ who would be eligible to retire under 820
division (B)(2)(b), (c), or (d) of this section had the member 821
attained age fifty-two and who voluntarily resigns or is 822
discharged for any reason except death, dishonesty, cowardice, 823
intemperate habits, or conviction of a felony, on or after the 824
date of attaining forty-eight years of age, but before the date of 825
attaining fifty-two years of age, may elect to receive a reduced 826
benefit as determined by the following schedule: 827

Attained Age	Reduced Benefit	
48	75% of the benefit payable under division (B)(3) of this section	828 829 830
49	80% of the benefit payable under division (B)(3) of this section	831 832
50	86% of the benefit payable under division (B)(3) of this section	833 834
51	93% of the benefit payable under division (B)(3) of this section	835 836

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

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

(4) If a member who has resigned or been discharged has left on deposit the member's accumulated contributions in the 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 860
benefit under division (B)(2)(b) of this section. 861

A person who becomes a member on or after the effective date 862
of this amendment may, not later than ninety days after becoming a 863
member of the retirement system, make an election to contribute 864
under division (B)(2)(b) of this section. 865

(F)(1) A member with service credit as a PERS law enforcement 866
officer or a Hamilton county municipal court bailiff and other 867
service credit under this chapter may elect one of the following: 868

(a) To have all the member's service credit under this 870
chapter, including credit for service as a PERS law enforcement 871
officer or a Hamilton county municipal court bailiff, used in 872
calculating a retirement allowance under division (A) of this 873
section if the member qualifies for an allowance under that 874
division; 875

(b) If the member qualifies for an allowance under division 876
(B)(2)(a) or (c), (C), ~~or (D)~~ of this section, to have the 877
member's service credit as a PERS law enforcement officer or 878
Hamilton county municipal court bailiff used in calculating a 879
benefit under ~~that~~ the appropriate division and the member's 880
credit for all service other than PERS law enforcement service or 881
service as a Hamilton county municipal court bailiff under this 882
chapter used in calculating a benefit consisting of a single life 883
annuity having a reserve equal to the amount of the member's 884
accumulated contributions and an equal amount of the employer's 885
contributions; 886

~~(c) If the member qualifies for an allowance under division~~ 887
~~(B)(2)(b) of this section, to have the member's service credit as~~ 888
~~a law enforcement officer while serving as a sheriff, deputy~~ 889
~~sheriff, or township constable or police officer in a township~~ 890

~~police department or district used in calculating a benefit under
division (B)(2)(b) of this section and the member's credit for all
other service under this chapter used in calculating a benefit
consisting of a single life annuity having a reserve equal to the
amount of the member's accumulated contributions and an equal
amount of the employer's contributions.~~

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

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

(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 922
30, 1999, was a liquor control investigator, park officer, forest 923
officer, wildlife officer, state watercraft officer, park district 924
police officer, conservancy district officer, Ohio veterans' home 925
police officer, special police officer for a mental health 926
institution, special police officer for an institution for the 927
mentally retarded and developmentally disabled, or municipal 928
police officer on or after December 15, 1988; 929

(f) Any person who originally is employed as a state 930
university law enforcement officer on or after November 6, 1996; 931

~~(g) Any person who originally is employed as a Hamilton 932
county municipal court bailiff on or after November 6, 1996;~~ 933

~~(h) Any person who is originally employed as a state 934
university law enforcement officer by the university of Akron on 935
or after September 16, 1998;~~ 936

~~(i)(h) Any person who originally is employed as a preserve 937
officer on or after March 18, 1999;~~ 938

~~(j)(i) Any person who originally is employed as a natural 939
resources law enforcement staff officer on or after March 18, 940
1999;~~ 941

~~(k)(j) Any person who is originally employed as a department 942
of public safety enforcement agent on or after June 30, 1999.~~ 943

~~(G)(k) Any person who is originally appointed as a regional 944
transit authority police officer or state highway patrol police 945
officer on or after the effective date of this amendment. 946
947~~

(4) Only credit for a member's service as a Hamilton county 948
municipal court bailiff or service credit obtained as a PERS law 949
enforcement officer, police officer, or state highway patrol 950
trooper shall be used in computing the benefit of a member who 951

qualifies for a benefit under division (B)(2)(d) or (e) or (4) or 952
division (C) of this section for any person who originally is 953
employed as a Hamilton county municipal court bailiff on or after 954
November 6, 1996. 955

(G) Retirement allowances determined under this section shall 956
be paid as provided in section 145.46 of the Revised Code. 957

(H) For the purposes of this section, service prior to June 958
30, 1999, as a food stamp trafficking agent under former section 959
5502.14 of the Revised Code shall be considered service as a PERS 960
law enforcement officer. 961

Sec. 145.35. (A) As used in this section, "on-duty illness or 962
injury" means an illness or injury that occurred during or 963
resulted from performance of duties under the direct supervision 964
of a member's appointing authority. 965

(B) The public employees retirement system shall provide 966
disability coverage to each member who has at least five years of 967
total service credit and disability coverage for on-duty illness 968
or injury to each member who is a PERS law enforcement officer or 969
Hamilton county municipal court bailiff, regardless of length of 970
service. 971

Not later than October 16, 1992, the public employees 972
retirement board shall give each person who is a member on July 973
29, 1992, the opportunity to elect disability coverage either 974
under section 145.36 of the Revised Code or under section 145.361 975
of the Revised Code. The board shall mail notice of the election, 976
accompanied by an explanation of the coverage under each of the 977
Revised Code sections and a form on which the election is to be 978
made, to each member at the member's last known address. The board 979
shall also provide the explanation and form to any member on 980
request. 981

Regardless of whether the member actually receives notice of 982
the right to make an election, a member who fails to file a valid 983
election under this section shall be considered to have elected 984
disability coverage under section 145.36 of the Revised Code. To 985
be valid, an election must be made on the form provided by the 986
retirement board, signed by the member, and filed with the board 987
not later than one hundred eighty days after the date the notice 988
was mailed, or, in the case of a form provided at the request of a 989
member, a date specified by rule of the retirement board. Once 990
made, an election is irrevocable, but if the member ceases to be a 991
member of the retirement system, the election is void. If a person 992
who makes an election under this section also makes an election 993
under section 3307.62 or 3309.39 of the Revised Code, the election 994
made for the system that pays a disability benefit to that person 995
shall govern the benefit. 996

Disability coverage shall be provided under section 145.361 997
of the Revised Code for persons who become members after July 29, 998
1992, and for members who elect under this division to be covered 999
under section 145.361 of the Revised Code. 1000

The retirement board may adopt rules governing elections made 1001
under this division. 1002

(C) Application for a disability benefit may be made by a 1003
member, by a person acting in the member's behalf, or by the 1004
member's employer, provided the member has disability coverage 1005
under section 145.36 or 145.361 of the Revised Code and is not 1006
receiving a disability benefit under any other Ohio state or 1007
municipal retirement program. Application must be made within two 1008
years from the date the member's contributing service terminated, 1009
unless the retirement board determines that the member's medical 1010
records demonstrate conclusively that at the time the two-year 1011
period expired, the member was physically or mentally 1012
incapacitated for duty and unable to make an application. 1013

Application may not be made by or for any person receiving age and
service retirement benefits under section 145.33, 145.331, 145.34,
or 145.37 of the Revised Code or any person who, pursuant to
section 145.40 of the Revised Code, has been paid the accumulated
contributions standing to the credit of the person's individual
account in the employees' savings fund. The application shall be
made on a form provided by the retirement board.

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

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

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

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

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

(F) The public employees retirement board shall adopt rules
requiring a disability benefit recipient, as a condition of

continuing to receive a disability benefit, to agree in writing to
obtain any medical treatment recommended by the board's physician
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 1077
member's accumulated contributions, plus any applicable amount 1078
calculated under section 145.401 of the Revised Code, provided 1079
that all the following apply: 1080

(a) Three months have elapsed since the member's public 1081
service, other than service exempted from contribution pursuant to 1082
section 145.03 of the Revised Code, was terminated; 1083

(b) The member has not returned to public service, other than 1084
service exempted from contribution pursuant to section 145.03 of 1085
the Revised Code, during that three-month period; 1086

(c) The member is not a member of the school employees 1087
retirement system or the state teachers retirement system. 1088

The payment of such accumulated contributions shall cancel 1089
the total service credit of such member in the public employees 1090
retirement system. 1091

(2) ~~Notwithstanding (a) Except as provided in division~~ 1092
~~(A)(2)(b) of this section, notwithstanding division (A)(1) of this~~ 1093
~~section, division (B) of section 145.401 of the Revised Code, and~~ 1094
~~the definition of "accumulated contributions" in division (J) of~~ 1095
~~section 145.01 of the Revised Code, the accumulated contributions~~ 1096
~~paid to a member under this division for service as a sheriff,~~ 1097
~~deputy sheriff, or township constable or police officer in a~~ 1098
~~township police department or district PERS law enforcement~~ 1099
~~officer shall not include interest credited to the member's~~ 1100
~~account under section 145.471 or 145.472 of the Revised Code, nor~~ 1101
~~shall the member be paid any amount calculated under section~~ 1102
~~145.401 of the Revised Code.~~ 1103

(b) Division (A)(2) of this section does not apply if the 1104
member was contributing towards a benefit under division 1105
(B)(2)(b), (c), or (d) of section 145.33 of the Revised Code. 1106

(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 1138
division (B) of this section cancels the member's total service 1139
credit in the public employees retirement system. A member whose 1140
accumulated contributions are paid to a provider pursuant to 1141
division (B) of this section is forever barred from claiming or 1142
purchasing service credit under the public employees retirement 1143
system for the period of employment attributable to those 1144
contributions. 1145

Sec. 145.45. Except as provided in division (C)(1) of this 1146
section, in lieu of accepting the payment of the accumulated 1147
account of a member who dies before service retirement, a 1148
beneficiary, as determined in this section or section 145.43 of 1149
the Revised Code, may elect to forfeit the accumulated 1150
contributions and to substitute certain other benefits under 1151
division (A) or (B) of this section. 1152

(A) If a deceased member was eligible for a service 1153
retirement benefit as provided in section 145.33, 145.331, or 1154
145.34 of the Revised Code, a surviving spouse or other sole 1155
dependent beneficiary may elect to receive a monthly benefit 1156
computed as the joint-survivor benefit designated as "plan D" in 1157
section 145.46 of the Revised Code, which the member would have 1158
received had the member retired on the last day of the month of 1159
death and had the member at that time selected such joint-survivor 1160
plan. Payment shall begin with the month subsequent to the 1161
member's death, except that a surviving spouse who is less than 1162
sixty-five years old may defer receipt of such benefit. Upon 1163
receipt, the benefit shall be calculated based upon the spouse's 1164
age at the time of first payment, and shall accrue regular 1165
interest during the time of deferral. 1166

(B) If a deceased member had, except as provided in division 1167
(B)(7) of this section, at least one and one-half years of 1168

contributing service credit, with, except as provided in division 1169
(B)(7) of this section, at least one-quarter year of contributing 1170
service credit within the two and one-half years prior to the date 1171
of death, or was receiving at the time of death a disability 1172
benefit as provided in section 145.36, 145.361, or 145.37 of the 1173
Revised Code, qualified survivors who elect to receive monthly 1174
benefits shall receive the greater of the benefits provided in 1175
division (B)(1)(a) or (b) and (4) of this section as allocated in 1176
accordance with division (B)(5) of this section. 1177

(1)(a) Number 1178

of Qualified Or 1179

survivors Annual Benefit as a Per Monthly Benefit 1180

affecting Cent of Decedent's Final shall not be 1181

the benefit Average Salary less than 1182

1	25%	\$250	1183
---	-----	-------	------

2	40	400	1184
---	----	-----	------

3	50	500	1185
---	----	-----	------

4	55	500	1186
---	----	-----	------

5 or more	60	500	1187
-----------	----	-----	------

(b) Years of Annual Benefit as a Per Cent 1188

Service of Member's Final Average 1189

Salary 1190

20	29%	1191
----	-----	------

21	33	1192
----	----	------

22	37	1193
----	----	------

23	41	1194
----	----	------

24	45	1195
----	----	------

25	48	1196
----	----	------

26	51	1197
----	----	------

27	54	1198
----	----	------

28	57	1199
----	----	------

29 or more	60	1200
------------	----	------

(2) Benefits shall begin as qualified survivors meet 1201

eligibility requirements as follows:

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

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

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

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

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

(3) "Physically or mentally incompetent" as used in this section may be determined by a court of jurisdiction, or by a

1202

1203

1204

1205

1206

1207

1208

1209

1210

1211

1212

1213

1214

1215

1216

1217

1218

1219

1220

1221

1222

1223

1224

1225

1226

1227

1228

1229

1230

1231

1232

physician appointed by the retirement board. Incapability of 1233
making a living because of a physically or mentally disabling 1234
condition shall meet the qualifications of this division. 1235

(4) Benefits to a qualified survivor shall terminate upon 1236
ceasing to meet eligibility requirements as provided in this 1237
division, a first marriage, abandonment, adoption, or during 1238
active military service. Benefits to a deceased member's surviving 1239
spouse that were terminated under a former version of this section 1240
that required termination due to remarriage and were not resumed 1241
prior to September 16, 1998, shall resume on the first day of the 1242
month immediately following receipt by the board of an application 1243
on a form provided by the board. 1244

Upon the death of any subsequent spouse who was a member of 1245
the public employees retirement system, state teachers retirement 1246
system, or school employees retirement system, the surviving 1247
spouse of such member may elect to continue receiving benefits 1248
under this division, or to receive survivor's benefits, based upon 1249
the subsequent spouse's membership in one or more of the systems, 1250
for which such surviving spouse is eligible under this section or 1251
section 3307.66 or 3309.45 of the Revised Code. If the surviving 1252
spouse elects to continue receiving benefits under this division, 1253
such election shall not preclude the payment of benefits under 1254
this division to any other qualified survivor. 1255

Benefits shall begin or resume on the first day of the month 1256
following the attainment of eligibility and shall terminate on the 1257
first day of the month following loss of eligibility. 1258

(5)(a) If a benefit is payable under division (B)(1)(a) of 1259
this section, benefits to a qualified spouse shall be paid in the 1260
amount determined for the first qualifying survivor in division 1261
(B)(1)(a) of this section. All other qualifying survivors shall 1262
share equally in the benefit or remaining portion thereof. 1263

(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.

(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.

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

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

If, after determining the monthly benefits to be paid under division (B) of this section, the system receives notice that there is a qualified survivor who was not considered when the determination was made, the system shall, notwithstanding section 145.561 of the Revised Code, recalculate the monthly benefits with that qualified survivor included, even if the benefits to

qualified survivors already receiving benefits are reduced as a 1296
result. The benefits shall be calculated as if the qualified 1297
survivor who is the subject of the notice became eligible on the 1298
date the notice was received and shall be paid to qualified 1299
survivors effective on the first day of the first month following 1300
the system's receipt of the notice. 1301

If the retirement system did not receive notice that a 1302
deceased member has one or more qualified children prior to making 1303
payment under section 145.43 of the Revised Code to a beneficiary 1304
as determined by the retirement system, the payment is a full 1305
discharge and release of the system from any future claims under 1306
this section or section 145.43 of the Revised Code. 1307

(2) If benefits under division (C)(1) of this section to all 1308
persons, or to all persons other than a surviving spouse or other 1309
sole beneficiary, terminate, there are no children under the age 1310
of twenty-two years, and the surviving spouse or beneficiary 1311
qualifies for benefits under division (A) of this section, the 1312
surviving spouse or beneficiary may elect to receive benefits 1313
under division (A) of this section. The benefits shall be 1314
effective on the first day of the month immediately following the 1315
termination. 1316

(D) The final average salary used in the calculation of a 1317
benefit payable pursuant to division (A) or (B) of this section to 1318
a survivor or beneficiary of a disability benefit recipient shall 1319
be adjusted for each year between the disability benefit's 1320
effective date and the recipient's date of death by the lesser of 1321
three per cent or the actual average percentage increase in the 1322
consumer price index prepared by the United States bureau of labor 1323
statistics (U.S. city average for urban wage earners and clerical 1324
workers: "all items 1982-84=100"). 1325

(E) If the survivor benefits due and paid under this section 1326
are in a total amount less than the member's accumulated account 1327

that was transferred from the public employees' savings fund to 1328
the survivors' benefit fund, then the difference between the total 1329
amount of the benefits paid shall be paid to the beneficiary under 1330
section 145.43 of the Revised Code. 1331

Sec. 145.49. (A) Notwithstanding section 145.47 of the 1332
Revised Code, ~~the:~~ 1333

(1) The public employees ~~retirment~~ retirement system shall be 1334
authorized to calculate the employee contribution rates separately 1335
for those public employees contributing toward benefits under 1336
division (B), ~~(C), or (D)~~ (2)(b), (c), (d), or (e) of section 1337
145.33 of the Revised Code. 1338

(2) Each public employee contributing toward benefits under 1339
division (B) ~~(2)(b)~~ (a) of section 145.33 of the Revised Code shall 1340
contribute to the employees' savings fund ~~the sum of one ten~~ and 1341
one-tenth per cent of the employee's earnable salary ~~and the~~ 1342
~~employee contribution rate calculated for employees contributing~~ 1343
~~toward benefits under division (B)(2)(a) of section 145.33 of the~~ 1344
~~Revised Code, notwithstanding section 145.47 of the Revised Code.~~ 1345

(B) Notwithstanding section 145.48 of the Revised Code, the 1346
public employees retirement system shall be authorized to 1347
calculate the employer contribution rates separately for those 1348
public employees contributing toward benefits under division (B), ~~(C), or (D)~~ 1349
~~(2)(a)~~ of section 145.33 of the Revised Code or under 1350
division (B)(2)(b), (c), (d), or (e) of that section, except that 1351
the employer contribution rate shall not exceed eighteen and 1352
one-tenth per cent of the earnable salaries of those employees. 1353

Sec. 3309.312. (A) Not later than ninety days after September 1354
16, 1998, a member who, on September 16, 1998, is employed 1355
full-time pursuant to section 3345.04 of the Revised Code by the 1356
university of Akron as a state university law enforcement officer 1357

may elect to transfer to the public employees retirement system in 1358
accordance with this section. An election shall be made by giving 1359
notice to the school employees retirement system on a form 1360
provided by the school employees retirement board and shall be 1361
irrevocable. 1362

(B) When a member makes the election described in this 1363
section, the school employees retirement system shall notify the 1364
public employees retirement system. The school employees 1365
retirement system shall transfer all of the member's service 1366
credit to the public employees retirement system and shall certify 1367
to the public employees retirement system a copy of the member's 1368
records of service and contributions. For each year or portion of 1369
a year of credit, the school employees retirement system shall 1370
transfer to the public employees retirement system all of the 1371
following: 1372

(1) An amount equal to the accumulated contributions standing 1373
to the member's credit; 1374

(2) An amount equal to the total employer contributions paid 1375
on behalf of the member; 1376

(3) Any amount paid by the member or employer to the school 1377
employees retirement system for the purchase of service credit. 1378

At the request of the public employees retirement system, the 1379
employer of a member who makes an election under this section 1380
shall certify to the public employees retirement system the 1381
member's salary. 1382

(C) A member who elects to transfer to the public employees 1383
retirement system under this section shall make contributions and 1384
receive benefits in accordance with divisions (B) to ~~(G)~~(F) of 1385
section 145.33 of the Revised Code. 1386

(D) A member who fails to make an election in accordance with 1387

this section shall remain a member of the school employees 1388
retirement system. 1389

Section 2. That existing sections 145.01, 145.19, 145.191, 1390
145.321, 145.33, 145.35, 145.40, 145.45, 145.49, and 3309.312 of 1391
the Revised Code are hereby repealed. 1392

Section 3. As used in this section, "regional transit 1393
authority police officer" and "state highway patrol police 1394
officer" have the same meanings as in section 145.01 of the 1395
Revised Code, as amended by this act. 1396

Not later than ninety days after the effective date of this 1397
act, each regional transit authority police officer and state 1398
highway patrol police officer who is a member of the Public 1399
Employees Retirement System shall indicate to the system, on a 1400
form supplied by the system, a choice of whether to receive 1401
benefits under division (A) of section 145.33 of the Revised Code 1402
or under division (B) of that section. 1403

Section 4. Section 145.01 of the Revised Code is presented in 1405
this act as a composite of the section as amended by Am. Sub. H.B. 1406
628, Am. Sub. H.B. 640, and Am. Sub. S.B. 144 of the 123rd General 1407
Assembly. The General Assembly, applying the principle stated in 1408
division (B) of section 1.52 of the Revised Code that amendments 1409
are to be harmonized if reasonably capable of simultaneous 1410
operation, finds that the composite is the resulting version of 1411
the section in effect prior to the effective date of the section 1412
as presented in this act. 1413