

As Introduced

**124th General Assembly
Regular Session
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H. B. No. 84

REPRESENTATIVE Schmidt

A B I L L

To amend section 145.38 of the Revised Code and to 1
repeal Section 6 of Am. Sub. S.B. 144 of the 123rd 2
General Assembly, as subsequently amended, to 3
prohibit an elected official from receiving a 4
Public Employees Retirement System pension while 5
earning a salary for the same public office and to 6
declare an emergency. 7

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

Section 1. That section 145.38 of the Revised Code be amended 8
to read as follows: 9

Sec. 145.38. (A) As used in this section and section 145.384 10
of the Revised Code: 11

(1) "PERS retirant" means a former member of the public 12
employees retirement system who is receiving one of the following: 13

(a) Age and service retirement benefits under section 145.32, 14
145.33, 145.331, 145.34, or 145.46 of the Revised Code; 15

(b) Age and service retirement benefits paid by the public 16
employees retirement system under section 145.37 of the Revised 17
Code; 18

(c) Any benefit paid by the system under a plan established 19

under section 145.81 of the Revised Code. 20

(2) "Other system retirant" means both of the following: 21

(a) A member or former member of the Ohio police and fire 22
pension fund, state teachers retirement system, school employees 23
retirement system, state highway patrol retirement system, or 24
Cincinnati retirement system who is receiving age and service or 25
commuted age and service retirement benefits or a disability 26
benefit from a system of which the person is a member or former 27
member; 28

(b) A member or former member of the public employees 29
retirement system who is receiving age and service retirement 30
benefits or a disability benefit under section 145.37 of the 31
Revised Code paid by the school employees retirement system or the 32
state teachers retirement system. 33

(B)(1) Subject to this section, a PERS retirant or other 34
system retirant may be employed by a public employer. If so 35
employed, the PERS retirant or other system retirant shall 36
contribute to the public employees retirement system in accordance 37
with section 145.47 of the Revised Code, and the employer shall 38
make contributions in accordance with section 145.48 of the 39
Revised Code. 40

(2) A public employer that employs a PERS retirant or other 41
system retirant, or enters into a contract for services as an 42
independent contractor with a PERS retirant shall notify the 43
retirement board of the employment or contract not later than the 44
end of the month in which the employment or contract commences. 45
Any overpayment of benefits to a PERS retirant by the retirement 46
system resulting from delay or failure of the employer to give the 47
notice shall be repaid to the retirement system by the employer. 48

(3) On receipt of notice from a public employer that a person 49
who is an other system retirant has been employed, the retirement 50

system shall notify the retirement system of which the other
system retirant was a member of such employment.

(4)(a) A PERS retirant who has received a retirement
allowance for less than two months when employment subject to this
section commences shall forfeit the retirement allowance for any
month the PERS retirant is employed prior to the expiration of the
two-month period. Service and contributions for that period shall
not be included in calculation of any benefits payable to the PERS
retirant and those contributions shall be refunded on the
retirant's death or termination of the employment.

(b) An other system retirant who has received a retirement
allowance or disability benefit for less than two months when
employment subject to this section commences shall forfeit the
retirement allowance or disability benefit for any month the other
system retirant is employed prior to the expiration of the
two-month period. Service and contributions for that period shall
not be included in the calculation of any benefits payable to the
other system retirant and those contributions shall be refunded on
the retirant's death or termination of the employment.

(c) Contributions made on compensation earned after the
expiration of the two-month period shall be used in the
calculation of the benefit or payment due under section 145.384 of
the Revised Code.

(5) On receipt of notice from the Ohio police and fire
pension fund, school employees retirement system, or state
teachers retirement system of the re-employment of a PERS
retirant, the public employees retirement system shall not pay, or
if paid, shall recover, the amount to be forfeited by the PERS
retirant in accordance with section 742.26, 3307.35, or 3309.341
of the Revised Code.

(6) A PERS retirant who enters into a contract to provide

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services as an independent contractor to the employer by which the
retirant was employed at the time of retirement or, less than two
months after the retirement allowance commences, begins providing
services as an independent contractor pursuant to a contract with
another public employer, shall forfeit the pension portion of the
retirement benefit for the period beginning the first day of the
month following the month in which the services begin and ending
on the first day of the month following the month in which the
services end. The annuity portion of the retirement allowance
shall be suspended on the day services under the contract begin
and shall accumulate to the credit of the retirant to be paid in a
single payment after services provided under the contract
terminate. A PERS retirant subject to division (B)(6) of this
section shall not contribute to the retirement system and shall
not become a member of the system.

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(7) As used in this division, "employment" includes service
for which a PERS retirant or other system retirant, the retirant's
employer, or both, have waived any earnable salary for the
service.

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(C)(1) This division applies to both of the following:

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(a) A PERS retirant who, prior to September 14, 2000, made an
election under was subject to division (C)(1)(b) of this section
as that division existed immediately prior to September 14, 2000,
and a PERS retirant who elects under Section 6 of Am. Sub. S.B.
No. 144 of the 123rd General Assembly has not elected pursuant to
Am. Sub. S.B. 144 of the 123rd general assembly to cease to be
subject to this section that division;

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(b) A PERS retirant to whom both of the following apply:

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(i) The retirant held elective office in this state, or in
any municipal corporation, county, or other subdivision of this
state at the time of retirement under this chapter.

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(ii) The retirant was elected or appointed to the same office 113
for the remainder of the term or the term immediately following 114
the term during which the retirement occurred. 115

(2) A PERS retirant who is subject to this division is a 116
member of the public employees retirement system with all the 117
rights, privileges, and obligations of membership, except that the 118
membership does not include survivor benefits provided pursuant to 119
section 145.45 of the Revised Code or, beginning on the ninetieth 120
day after September 14, 2000, any amount calculated under section 121
145.401 of the Revised Code. The pension portion of the PERS 122
retirant's retirement allowance shall be forfeited until the first 123
day of the first month following termination of the employment. 124
The annuity portion of the retirement allowance shall accumulate 125
to the credit of the PERS retirant to be paid in a single payment 126
after termination of the employment. The retirement allowance 127
shall resume on the first day of the first month following 128
termination of the employment. On termination of the employment, 129
the PERS retirant shall elect to receive either a refund of the 130
retirant's contributions to the retirement system during the 131
period of employment subject to this section or a supplemental 132
retirement allowance based on the retirant's contributions and 133
service credit for that period of employment. 134

(D)(1) Except as provided in division (C) of this section, a 135
PERS retirant or other system retirant subject to this section is 136
not a member of the public employees retirement system, and, 137
except as specified in this section does not have any of the 138
rights, privileges, or obligations of membership. Except as 139
specified in division (D)(2) of this section, the retirant is not 140
eligible to receive health, medical, hospital, or surgical 141
benefits under section 145.58 of the Revised Code for employment 142
subject to this section. 143

(2) A PERS retirant subject to this section shall receive 144

primary health, medical, hospital, or surgical insurance coverage 145
from the retirant's employer, if the employer provides coverage to 146
other employees performing comparable work. Neither the employer 147
nor the PERS retirant may waive the employer's coverage, except 148
that the PERS retirant may waive the employer's coverage if the 149
retirant has coverage comparable to that provided by the employer 150
from a source other than the employer or the public employees 151
retirement system. If a claim is made, the employer's coverage 152
shall be the primary coverage and shall pay first. The benefits 153
provided under section 145.58 of the Revised Code shall pay only 154
those medical expenses not paid through the employer's coverage or 155
coverage the PERS retirant receives through a source other than 156
the retirement system. 157

(E) If the disability benefit of an other system retirant 158
employed under this section is terminated, the retirant shall 159
become a member of the public employees retirement system, 160
effective on the first day of the month next following the 161
termination with all the rights, privileges, and obligations of 162
membership. If such person, after the termination of the 163
disability benefit, earns two years of service credit under this 164
system or under the Ohio police and fire pension fund, state 165
teachers retirement system, school employees retirement system, or 166
state highway patrol retirement system, the person's prior 167
contributions as an other system retirant under this section shall 168
be included in the person's total service credit as a public 169
employees retirement system member, and the person shall forfeit 170
all rights and benefits of this section. Not more than one year of 171
credit may be given for any period of twelve months. 172

(F) This section does not affect the receipt of benefits by 173
or eligibility for benefits of any person who on August 20, 1976, 174
was receiving a disability benefit or service retirement pension 175
or allowance from a state or municipal retirement system in Ohio 176

and was a member of any other state or municipal retirement system 177
of this state. 178

(G) The public employees retirement board may adopt rules to 179
carry out this section. 180

Section 2. That existing section 145.38 of the Revised Code 181
is hereby repealed. 182

Section 3. That Section 6 of Am. Sub. S.B. 144 of the 123rd 183
General Assembly, as amended by Sub. H.B. 535 of the 123rd General 184
Assembly, is hereby repealed. 185

The intent of the repeal by this act of Section 6 of Am. Sub. 186
S.B. 144 of the 123rd General Assembly, as amended, is to 187
eliminate the authority to make the election described in that 188
section. The repeal does not affect any election made pursuant to 189
that section prior to the effective date of this act. 190

Section 4. This act is hereby declared to be an emergency 191
measure necessary for the immediate preservation of the public 192
peace, health, and safety. The reason for such necessity is that 193
this act must take effect prior to April 1, 2001, to prevent 194
certain provisions of Sub. H.B. 535 of the 123rd General Assembly 195
from taking effect and to prevent certain elected officials from 196
collecting at the same time both a public pension and compensation 197
for service in the same office. Therefore, this act shall go into 198
immediate effect. 199