

As Passed by the Senate

124th General Assembly

Regular Session

2001-2002

Am. Sub. H. B. No. 84

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A B I L L

To amend sections 145.38 and 3305.08 of the Revised 1
Code and to repeal Section 6 of Am. Sub. S.B. 144 2
of the 123rd General Assembly, as subsequently 3
amended, to prohibit an elected official from 4
receiving a Public Employees Retirement System 5
pension while earning a salary for the same public 6
office, to subject employee contributions to a 7
higher education alternative retirement plan to 8
certain local taxes, and to declare an emergency. 9

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

Section 1. That sections 145.38 and 3305.08 of the Revised 10
Code be amended to read as follows: 11

Sec. 145.38. (A) As used in this section and section 145.384 12
of the Revised Code: 13

(1) "PERS retirant" means a former member of the public 14
employees retirement system who is receiving one of the following: 15

(a) Age and service retirement benefits under section 145.32, 16
145.33, 145.331, 145.34, or 145.46 of the Revised Code; 17

(b) Age and service retirement benefits paid by the public 18
employees retirement system under section 145.37 of the Revised 19
Code; 20

(c) Any benefit paid by the system under a plan established 21
under section 145.81 of the Revised Code. 22

(2) "Other system retirant" means both of the following: 23

(a) A member or former member of the Ohio police and fire 24
pension fund, state teachers retirement system, school employees 25
retirement system, state highway patrol retirement system, or 26
Cincinnati retirement system who is receiving age and service or 27
commuted age and service retirement benefits or a disability 28
benefit from a system of which the person is a member or former 29
member; 30

(b) A member or former member of the public employees 31
retirement system who is receiving age and service retirement 32
benefits or a disability benefit under section 145.37 of the 33
Revised Code paid by the school employees retirement system or the 34
state teachers retirement system. 35

(B)(1) Subject to this section, a PERS retirant or other 36
system retirant may be employed by a public employer. If so 37
employed, the PERS retirant or other system retirant shall 38
contribute to the public employees retirement system in accordance 39
with section 145.47 of the Revised Code, and the employer shall 40
make contributions in accordance with section 145.48 of the 41

Revised Code.

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

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(3) On receipt of notice from a public employer that a person who is an other system retirant has been employed, the retirement system shall notify the retirement system of which the other system retirant was a member of such employment.

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(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.

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(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.

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(c) Contributions made on compensation earned after the

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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.

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(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.

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(6) A PERS retirant who enters into a contract to provide
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) Except as provided in division (C)(3) of this section,
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;

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

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

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

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

service credit for that period of employment. 137

(3) This division does not apply to any of the following: 138

(a) A PERS retirant elected to office who, at the time of the 139
election for the retirant's current term, was not retired but, not 140
less than ninety days prior to the election for the term, filed a 141
written declaration of intent to retire before the end of the term 142
with the board of elections of the county in which petitions for 143
nomination or election to the office were filed; 144

(b) A PERS retirant elected to office who, at the time of the 145
election for the retirant's current term, was a retirant and had 146
been retired for not less than ninety days; 147

(c) A PERS retirant appointed to office who, at the time of 148
appointment to the retirant's current term, notified the person or 149
entity making the appointment that the retirant was already 150
retired or intended to retire before the end of the term. 151

(D)(1) Except as provided in division (C) of this section, a 152
PERS retirant or other system retirant subject to this section is 153
not a member of the public employees retirement system, and, 154
except as specified in this section does not have any of the 155
rights, privileges, or obligations of membership. Except as 156
specified in division (D)(2) of this section, the retirant is not 157
eligible to receive health, medical, hospital, or surgical 158
benefits under section 145.58 of the Revised Code for employment 159
subject to this section. 160

(2) A PERS retirant subject to this section shall receive 161
primary health, medical, hospital, or surgical insurance coverage 162
from the retirant's employer, if the employer provides coverage to 163
other employees performing comparable work. Neither the employer 164
nor the PERS retirant may waive the employer's coverage, except 165
that the PERS retirant may waive the employer's coverage if the 166
retirant has coverage comparable to that provided by the employer 167

from a source other than the employer or the public employees 168
retirement system. If a claim is made, the employer's coverage 169
shall be the primary coverage and shall pay first. The benefits 170
provided under section 145.58 of the Revised Code shall pay only 171
those medical expenses not paid through the employer's coverage or 172
coverage the PERS retirant receives through a source other than 173
the retirement system. 174

(E) If the disability benefit of an other system retirant 175
employed under this section is terminated, the retirant shall 176
become a member of the public employees retirement system, 177
effective on the first day of the month next following the 178
termination with all the rights, privileges, and obligations of 179
membership. If such person, after the termination of the 180
disability benefit, earns two years of service credit under this 181
system or under the Ohio police and fire pension fund, state 182
teachers retirement system, school employees retirement system, or 183
state highway patrol retirement system, the person's prior 184
contributions as an other system retirant under this section shall 185
be included in the person's total service credit as a public 186
employees retirement system member, and the person shall forfeit 187
all rights and benefits of this section. Not more than one year of 188
credit may be given for any period of twelve months. 189

(F) This section does not affect the receipt of benefits by 190
or eligibility for benefits of any person who on August 20, 1976, 191
was receiving a disability benefit or service retirement pension 192
or allowance from a state or municipal retirement system in Ohio 193
and was a member of any other state or municipal retirement system 194
of this state. 195

(G) The public employees retirement board may adopt rules to 196
carry out this section. 197

Sec. 3305.08. Any payment, benefit, or other right accruing 198

to any electing employee under a contract entered into for 199
purposes of an alternative retirement plan, ~~any contributions to a~~ 200
~~provider pursuant to section 3305.06 of the Revised Code,~~ and all 201
moneys, investments, and income of those contracts are exempt from 202
any state tax, except the tax imposed by section 5747.02 of the 203
Revised Code, are exempt from any county, municipal, or other 204
local tax, except taxes imposed pursuant to section 5748.02 or 205
5748.08 of the Revised Code, and except as provided in sections 206
3105.171, 3105.65, ~~3111.23, 3113.21,~~ 3115.32, 3119.80, 3119.81, 207
3121.02, 3121.03, 3123.06, and 3305.09 of the Revised Code, shall 208
not be subject to execution, garnishment, attachment, the 209
operation of bankruptcy or the insolvency law, or other process of 210
law, and shall be unassignable except as specifically provided in 211
this section and sections 3105.171, 3105.65, 3119.80, 3119.81, 212
3121.02, 3121.03, ~~and~~ 3115.32, and 3123.06 of the Revised Code 213
or in any contract the electing employee has entered into for 214
purposes of an alternative retirement plan. 215

Section 2. That existing sections 145.38 and 3305.08 of the 216
Revised Code are hereby repealed. 217

Section 3. That Section 6 of Am. Sub. S.B. 144 of the 123rd 218
General Assembly, as amended by Sub. H.B. 535 of the 123rd General 219
Assembly, is hereby repealed. 220

The intent of the repeal by this act of Section 6 of Am. Sub. 221
S.B. 144 of the 123rd General Assembly, as amended, is to 222
eliminate the authority to make the election described in that 223
section. The repeal does not affect any election made pursuant to 224
that section prior to the effective date of this act. 225

Section 4. Section 3305.08 of the Revised Code is presented 226
in this act as a composite of the section as amended by both Sub. 227
H.B. 535 and Am. Sub. S.B. 180 of the 123rd General Assembly. The 228

General Assembly, applying the principle stated in division (B) of 229
section 1.52 of the Revised Code that amendments are to be 230
harmonized if reasonably capable of simultaneous operation, finds 231
that the composite is the resulting version of the section in 232
effect prior to the effective date of the section as presented in 233
this act. 234

Section 5. This act is hereby declared to be an emergency 235
measure necessary for the immediate preservation of the public 236
peace, health, and safety. The reason for such necessity is that 237
this act is needed to prevent certain elected officials from 238
collecting at the same time both a public pension and compensation 239
for service in the same office. Therefore, this act shall go into 240
immediate effect. 241