

As Reported by the Senate Ways and Means Committee

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Sub. H. B. No. 84

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SENATOR Blessing

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
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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. 42

(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.

(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.

(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 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.

(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.

(C)(1) Except as provided in division (C)(3) of this section, this division applies to both of the following:

(a) A PERS retirant who, prior to September 14, 2000, ~~made an~~

~~election under was subject to~~ division (C)(1)(b) of this section 106
as that division existed immediately prior to September 14, 2000, 107
and ~~a PERS retirant who elects under Section 6 of Am. Sub. S.B.~~ 108
~~No. 144 of the 123rd General Assembly has not elected pursuant to~~ 109
~~Am. Sub. S.B. 144 of the 123rd general assembly to cease to be~~ 110
~~subject to this section that division;~~ 111

(b) A PERS retirant to whom both of the following apply: 112

(i) The retirant held elective office in this state, or in 113
any municipal corporation, county, or other political subdivision 114
of this state at the time of retirement under this chapter. 115

(ii) The retirant was elected or appointed to the same office 116
for the remainder of the term or the term immediately following 117
the term during which the retirement occurred. 118

(2) A PERS retirant who is subject to this division is a 119
member of the public employees retirement system with all the 120
rights, privileges, and obligations of membership, except that the 121
membership does not include survivor benefits provided pursuant to 122
section 145.45 of the Revised Code or, beginning on the ninetieth 123
day after September 14, 2000, any amount calculated under section 124
145.401 of the Revised Code. The pension portion of the PERS 125
retirant's retirement allowance shall be forfeited until the first 126
day of the first month following termination of the employment. 127
The annuity portion of the retirement allowance shall accumulate 128
to the credit of the PERS retirant to be paid in a single payment 129
after termination of the employment. The retirement allowance 130
shall resume on the first day of the first month following 131
termination of the employment. On termination of the employment, 132
the PERS retirant shall elect to receive either a refund of the 133
retirant's contributions to the retirement system during the 134
period of employment subject to this section or a supplemental 135
retirement allowance based on the retirant's contributions and 136
service credit for that period of employment. 137

(3) This division does not apply to a PERS retirant who, not 138
less than ninety days prior to the general election for the 139
retirant's current term of office, filed a written declaration of 140
intent to retire with the board of elections of the county in 141
which petitions for nomination or election to the elective office 142
were filed. 143

(D)(1) Except as provided in division (C) of this section, a 144
PERS retirant or other system retirant subject to this section is 145
not a member of the public employees retirement system, and, 146
except as specified in this section does not have any of the 147
rights, privileges, or obligations of membership. Except as 148
specified in division (D)(2) of this section, the retirant is not 149
eligible to receive health, medical, hospital, or surgical 150
benefits under section 145.58 of the Revised Code for employment 151
subject to this section. 152

(2) A PERS retirant subject to this section shall receive 153
primary health, medical, hospital, or surgical insurance coverage 154
from the retirant's employer, if the employer provides coverage to 155
other employees performing comparable work. Neither the employer 156
nor the PERS retirant may waive the employer's coverage, except 157
that the PERS retirant may waive the employer's coverage if the 158
retirant has coverage comparable to that provided by the employer 159
from a source other than the employer or the public employees 160
retirement system. If a claim is made, the employer's coverage 161
shall be the primary coverage and shall pay first. The benefits 162
provided under section 145.58 of the Revised Code shall pay only 163
those medical expenses not paid through the employer's coverage or 164
coverage the PERS retirant receives through a source other than 165
the retirement system. 166

(E) If the disability benefit of an other system retirant 167
employed under this section is terminated, the retirant shall 168
become a member of the public employees retirement system, 169

effective on the first day of the month next following the
termination with all the rights, privileges, and obligations of
membership. If such person, after the termination of the
disability benefit, earns two years of service credit under this
system or under the Ohio police and fire pension fund, state
teachers retirement system, school employees retirement system, or
state highway patrol retirement system, the person's prior
contributions as an other system retirant under this section shall
be included in the person's total service credit as a public
employees retirement system member, and the person shall forfeit
all rights and benefits of this section. Not more than one year of
credit may be given for any period of twelve months.

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

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

Sec. 3305.08. Any payment, benefit, or other right accruing
to any electing employee under a contract entered into for
purposes of an alternative retirement plan, ~~any contributions to a~~
~~provider pursuant to section 3305.06 of the Revised Code,~~ and all
moneys, investments, and income of those contracts are exempt from
any state tax, except the tax imposed by section 5747.02 of the
Revised Code, are exempt from any county, municipal, or other
local tax, except taxes imposed pursuant to section 5748.02 or
5748.08 of the Revised Code, and except as provided in sections
3105.171, 3105.65, ~~3111.23, 3113.21,~~ 3115.32, 3119.80, 3119.81,
3121.02, 3121.03, 3123.06, and 3305.09 of the Revised Code, shall

not be subject to execution, garnishment, attachment, the 201
operation of bankruptcy or the insolvency law, or other process of 202
law, and shall be unassignable except as specifically provided in 203
this section and sections 3105.171, 3105.65, 3119.80, 3119.81, 204
3121.02, 3121.03, ~~and~~ 3115.32, ~~and~~ 3123.06 of the Revised Code 205
or in any contract the electing employee has entered into for 206
purposes of an alternative retirement plan. 207

Section 2. That existing sections 145.38 and 3305.08 of the 208
Revised Code are hereby repealed. 209

Section 3. That Section 6 of Am. Sub. S.B. 144 of the 123rd 210
General Assembly, as amended by Sub. H.B. 535 of the 123rd General 211
Assembly, is hereby repealed. 212

The intent of the repeal by this act of Section 6 of Am. Sub. 213
S.B. 144 of the 123rd General Assembly, as amended, is to 214
eliminate the authority to make the election described in that 215
section. The repeal does not affect any election made pursuant to 216
that section prior to the effective date of this act. 217

Section 4. Section 3305.08 of the Revised Code is presented 218
in this act as a composite of the section as amended by both Sub. 219
H.B. 535 and Am. Sub. S.B. 180 of the 123rd General Assembly. The 220
General Assembly, applying the principle stated in division (B) of 221
section 1.52 of the Revised Code that amendments are to be 222
harmonized if reasonably capable of simultaneous operation, finds 223
that the composite is the resulting version of the section in 224
effect prior to the effective date of the section as presented in 225
this act. 226

Section 5. This act is hereby declared to be an emergency 227
measure necessary for the immediate preservation of the public 228
peace, health, and safety. The reason for such necessity is that 229

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this act is needed to prevent certain elected officials from	230
collecting at the same time both a public pension and compensation	231
for service in the same office. Therefore, this act shall go into	232
immediate effect.	233