

**As Introduced**

**125th General Assembly  
Regular Session  
2003-2004**

**H. B. No. 449**

**Representatives Seitz, Calvert, Collier, Carano, Aslanides, Webster, Setzer,  
Buehrer, Clancy, D. Evans, McGregor, Schneider, Gibbs, Slaby, Allen**

---

**A B I L L**

To amend sections 145.384 and 145.385 of the Revised Code to allow a retirant re-employed in a position covered by the Public Employees Retirement System to receive a refund of the retirant's contributions in lieu of a benefit for the period of re-employment. 1  
2  
3  
4  
5  
6

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

**Section 1.** That sections 145.384 and 145.385 of the Revised Code be amended to read as follows: 7  
8

**Sec. 145.384.** (A) As used in this section, "PERS retirant" means a PERS retirant who is not subject to division (C) of section 145.38 of the Revised Code. For purposes of this section, "PERS retirant" also includes both of the following: 9  
10  
11  
12

(1) A member who retired under section 145.383 of the Revised Code; 13  
14

(2) A retirant whose retirement allowance resumed under section 145.385 of the Revised Code. 15  
16

(B) (1) An other system retirant or PERS retirant who has made contributions under section 145.38 or 145.383 of the Revised Code 17  
18

or, in the case of a retirant described in division (A)(2) of this section, section 145.47 of the Revised Code may file an application with the public employees retirement system ~~for to~~ receive either a benefit under, as provided in division (B)(2) of this section, or payment of the retirant's contributions made under those sections, as provided in division (H) of this section. The

(2) A benefit under this section shall consist of an annuity having a reserve equal to the amount of the retirant's accumulated contributions for the period of employment, other than the contributions excluded pursuant to division (B)(4)(a) or (b) of section 145.38 of the Revised Code, and an equal amount of the employer's contributions. The

(a) Unless the application is accompanied by a statement of the spouse's consent to another form of payment, a PERS retirant or other system retirant who is married at the time of application for a benefit under this section shall receive the benefit as a monthly annuity under which the actuarial equivalent of the retirant's single life annuity is paid in a lesser amount for life and one-half of the lesser amount continues after the retirant's death to the surviving spouse.

(b) A PERS retirant or other system retirant who is not subject to division (B)(2)(a) of this section shall elect either to receive the benefit as a monthly annuity or a lump sum payment discounted to the present value using the current actuarial assumption rate of interest, ~~except that if the monthly annuity would be less than twenty five dollars per month, the retirant shall receive a lump sum payment.~~ A retirant who elects to receive a monthly annuity shall select one of the following as the plan of payment:

~~(1)~~(i) The retirant's single life annuity;

~~(2)(ii)~~ The actuarial equivalent of the retirant's single life annuity in ~~a~~ an equal or lesser amount for life and continuing after death to a surviving beneficiary designated at the time the plan of payment is selected.

If a retirant who is eligible to select a plan of payment under division (B)(2)(b) of this section fails to do so, the benefit shall be paid as a monthly annuity under the plan of payment specified in rules adopted by the public employees retirement board.

(c) Notwithstanding divisions (B)(2)(a) and (b) of this section, if a monthly annuity would be less than twenty-five dollars per month, the retirant shall receive a lump sum payment.

(C)(1) The death of a spouse or other designated beneficiary ~~following selection of~~ under a plan of payment ~~under~~ described in division (B)(2) of this section cancels that plan of payment. The PERS retirant or other system retirant shall receive the equivalent of the retirant's single life annuity, as determined by the ~~public employees retirement~~ board, effective the first day of the month following receipt by the board of notice of the death.

(2) On divorce, annulment, or marriage dissolution, a PERS retirant or other system retirant receiving a benefit ~~under~~ described in division (B)(2) of this section under which the beneficiary is the spouse may, with the written consent of the spouse or pursuant to an order of the court with jurisdiction over the termination of the marriage, elect to cancel the plan and receive the equivalent of the ~~member's~~ retirant's single life annuity as determined by the ~~retirement~~ board. The election shall be made on a form provided by the board and shall be effective the month following its receipt by the board.

(D) Following a marriage or remarriage, a PERS retirant or other system retirant who is receiving a benefit ~~under~~ described

in division (B)~~(1)~~(2)(b)(i) of this section may elect a new plan 81  
of payment under division (B)(2)(b) of this section based on the 82  
actuarial equivalent of the retirant's single life annuity as 83  
determined by the board. The plan shall be effective the first day 84  
of the month following receipt by the board of an application on a 85  
form approved by the board. 86

(E) A benefit payable under division (B)(2) of this section 87  
shall commence on the latest of the following: 88

(1) The last day for which compensation for all employment 89  
subject to section 145.38, 145.383, or 145.385 of the Revised Code 90  
was paid; 91

(2) Attainment by the PERS retirant or other system retirant 92  
of age sixty-five; 93

(3) If the PERS retirant or other system retirant was 94  
previously employed under section 145.38, 145.383, or 145.385 of 95  
the Revised Code and is receiving or previously received a benefit 96  
under this section, completion of a period of twelve months since 97  
the effective date of the last benefit under this section. 98

(F)(1) If a PERS retirant or other system retirant dies while 99  
employed in employment subject to section 145.38, 145.383, or 100  
145.385 of the Revised Code, a lump sum payment calculated in 101  
accordance with division (B)(2) of this section shall be paid to 102  
the retirant's beneficiary under division (G) of this section. 103

(2) If at the time of death a PERS retirant or other system 104  
retirant receiving a monthly annuity has received less than the 105  
retirant would have received as a lump sum payment, the difference 106  
between the amount received and the amount that would have been 107  
received as a lump sum payment shall be paid to the retirant's 108  
beneficiary under division (G) of this section. 109

(3) If a beneficiary receiving a monthly annuity under 110  
division (B)(2) of this section dies and, at the time of the 111

beneficiary's death, the total of the amounts paid to the retirant 112  
and beneficiary are less than the amount the retirant would have 113  
received as a lump sum payment, the difference between the total 114  
of the amounts received by the retirant and beneficiary and the 115  
amount that the retirant would have been received as a lump sum 116  
payment shall be paid to the beneficiary's estate. 117

(G) A PERS retirant or other system retirant employed under 118  
section 145.38, 145.383, or 145.385 of the Revised Code may 119  
designate one or more persons as beneficiary to receive any 120  
benefits payable under division (B)(2)(b) of this section due to 121  
death. The designation shall be in writing duly executed on a form 122  
provided by the public employees retirement board, signed by the 123  
PERS retirant or other system retirant, and filed with the board 124  
prior to death. The last designation of a beneficiary revokes all 125  
previous designations. The PERS retirant's or other system 126  
retirant's marriage, divorce, marriage dissolution, legal 127  
separation, withdrawal of account, birth of a child, or adoption 128  
of a child revokes all previous designations. If there is no 129  
designated beneficiary, the beneficiary is the beneficiary 130  
determined under division (D) of section 145.43 of the Revised 131  
Code. If any benefit payable under this section due to the death 132  
of a PERS retirant or other system retirant is not claimed by a 133  
beneficiary within five years after the death, the amount payable 134  
shall be transferred to the income fund and thereafter paid to the 135  
beneficiary or the estate of the PERS retirant or other system 136  
retirant on application to the board. 137

(H)(1) A PERS retirant or other system retirant who applies 138  
under division (B)(1) of this section for payment of the 139  
retirant's contributions and is unmarried or includes with the 140  
application a statement of the spouse's consent to the payment 141  
shall be paid the contributions made under section 145.38 or 142  
145.383 of the Revised Code or, in the case of a retirant 143

described in division (A)(2) of this section, section 145.47 of 144  
the Revised Code, plus interest as provided in section 145.471 of 145  
the Revised Code, if the following conditions are met: 146

(a) The retirant has not attained sixty-five years of age and 147  
has terminated employment subject to section 145.38, 145.383, or 148  
145.385 of the Revised Code for any cause other than death or the 149  
receipt of a benefit under this section. 150

(b) Three months have elapsed since the termination of the 151  
retirant's employment subject to section 145.38, 145.383, or 152  
145.385 of the Revised Code, other than employment exempted from 153  
contribution pursuant to section 145.03 of the Revised Code. 154

(c) The retirant has not returned to public service, other 155  
than service exempted from contribution pursuant to section 145.03 156  
of the Revised Code, during the three-month period. 157

(2) Payment of a retirant's contributions cancels the 158  
retirant's right to a benefit under division (B)(2) of this 159  
section. 160

(I) A statement of a spouse's consent under division (B)(2) 161  
of this section to the form of a benefit or under division (H) of 162  
this section to a payment of contributions is valid only if signed 163  
by the spouse and witnessed by a notary public. The board may 164  
waive the requirement of spousal consent if the spouse is 165  
incapacitated or cannot be located, or for any other reason 166  
specified by the board. Consent or waiver is effective only with 167  
regard to the spouse who is the subject of the consent or waiver. 168

(J) No amount received under this section shall be included 169  
in determining an additional benefit under section 145.323 of the 170  
Revised Code or any other post-retirement benefit increase. 171

**Sec. 145.385.** (A) A PERS retirant who made an election under 172  
former section 145.381 of the Revised Code under which the annuity 173

portion of the retirant's retirement allowance was suspended and 174  
the pension portion forfeited may have the entire retirement 175  
allowance resume by giving notice to the public employees 176  
retirement system. The notice must be given not later than ninety 177  
days after ~~the effective date of this section~~ October 1, 2002. 178

(B) The retirement allowance shall resume on the first day of 179  
the month following receipt of notice by the retirement system. 180

(C) The annuity portion of the retirement allowance that has 181  
accumulated to the retirant's credit shall be paid as a single 182  
payment on the first day of the month following receipt of notice 183  
by the retirement system. 184

(D) Contributions made by the retirant and employer during 185  
the period of forfeiture and contributions made after the 186  
retirement allowance resumes shall be left on deposit with the 187  
system and, except in the case of a retirant who elects, under 188  
division (H) of section 145.384 of the Revised Code, to receive a 189  
payment of the retirant contributions, shall be used in the 190  
calculation of a benefit under section 145.384 of the Revised 191  
Code. 192

**Section 2.** That existing sections 145.384 and 145.385 of the 193  
Revised Code are hereby repealed. 194