

**As Reported by the House Banking, Pensions and Securities
Committee**

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Sub. H. B. No. 449

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

To amend sections 145.384, 145.385, 742.26, 3307.352, 1
and 3309.344 of the Revised Code to allow a 2
retirant re-employed in a position covered by a 3
state retirement system to receive a refund of the 4
retirant's contributions in lieu of a benefit for 5
the period of re-employment. 6

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

Section 1. That sections 145.384, 145.385, 742.26, 3307.352, 7
and 3309.344 of the Revised Code be amended to read as follows: 8

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

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

(2) A retirant whose retirement allowance resumed under 15
section 145.385 of the Revised Code. 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 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, as described in division (I) of this section, the application is accompanied by a statement of the spouse's consent to another form of payment or the board waives the requirement of spousal consent, a PERS retirant or other system retirant who is married at the time of application under this section shall receive 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: 49

~~(1)(i)~~ The retirant's single life annuity; 50

~~(2)(ii)~~ The actuarial equivalent of the retirant's single 51
life annuity in ~~a~~ an equal or lesser amount for life and 52
continuing after death to a surviving beneficiary designated at 53
the time the plan of payment is selected. 54

If a retirant who is eligible to select a plan of payment 55
under division (B)(2)(b) of this section fails to do so, the 56
benefit shall be paid as a monthly annuity under the plan of 57
payment specified in rules adopted by the public employees 58
retirement board. 59

(c) Notwithstanding divisions (B)(2)(a) and (b) of this 60
section, if a monthly annuity would be less than twenty-five 61
dollars per month, the retirant shall receive a lump sum payment. 62

(C)(1) The death of a spouse or other designated beneficiary 63
~~following selection of~~ under a plan of payment ~~under~~ described in 64
division (B)(2) of this section cancels that plan of payment. The 65
PERS retirant or other system retirant shall receive the 66
equivalent of the retirant's single life annuity, as determined by 67
the ~~public employees retirement~~ board, effective the first day of 68
the month following receipt by the board of notice of the death. 69

(2) On divorce, annulment, or marriage dissolution, a PERS 70
retirant or other system retirant receiving a benefit ~~under~~ 71
described in division (B)(2) of this section under which the 72
beneficiary is the spouse may, with the written consent of the 73
spouse or pursuant to an order of the court with jurisdiction over 74
the termination of the marriage, elect to cancel the plan and 75
receive the equivalent of the ~~member's~~ retirant's single life 76
annuity as determined by the ~~retirement~~ board. The election shall 77
be made on a form provided by the board and shall be effective the 78
month following its receipt by the board. 79

(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 of payment under division (B)(2)(b) of this section based on the actuarial equivalent of the retirant's single life annuity as determined by the board. The plan shall be effective the first day of the month following receipt by the board of an application on a form approved by the board.

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

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

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

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

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

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

(3) If a beneficiary receiving a monthly annuity under 111
division (B)(2) of this section dies and, at the time of the 112
beneficiary's death, the total of the amounts paid to the retirant 113
and beneficiary are less than the amount the retirant would have 114
received as a lump sum payment, the difference between the total 115
of the amounts received by the retirant and beneficiary and the 116
amount that the retirant would have received as a lump sum payment 117
shall be paid to the beneficiary's estate. 118

(G) A PERS retirant or other system retirant employed under 119
section 145.38, 145.383, or 145.385 of the Revised Code may 120
designate one or more persons as beneficiary to receive any 121
benefits payable under division (B)(2)(b) of this section due to 122
death. The designation shall be in writing duly executed on a form 123
provided by the public employees retirement board, signed by the 124
PERS retirant or other system retirant, and filed with the board 125
prior to death. The last designation of a beneficiary revokes all 126
previous designations. The PERS retirant's or other system 127
retirant's marriage, divorce, marriage dissolution, legal 128
separation, withdrawal of account, birth of a child, or adoption 129
of a child revokes all previous designations. If there is no 130
designated beneficiary, the beneficiary is the beneficiary 131
determined under division (D) of section 145.43 of the Revised 132
Code. If any benefit payable under this section due to the death 133
of a PERS retirant or other system retirant is not claimed by a 134
beneficiary within five years after the death, the amount payable 135
shall be transferred to the income fund and thereafter paid to the 136
beneficiary or the estate of the PERS retirant or other system 137
retirant on application to the board. 138

(H)(1) A PERS retirant or other system retirant who applies 139
under division (B)(1) of this section for payment of the 140
retirant's contributions and is unmarried or is married and, 141
unless the board has waived the requirement of spousal consent, 142

includes with the application a statement of the spouse's consent 143
to the payment, shall be paid the contributions made under section 144
145.38 or 145.383 of the Revised Code or, in the case of a 145
retirant described in division (A)(2) of this section, section 146
145.47 of the Revised Code, plus interest as provided in section 147
145.471 of the Revised Code, if the following conditions are met: 148

(a) The retirant has not attained sixty-five years of age and 149
has terminated employment subject to section 145.38, 145.383, or 150
145.385 of the Revised Code for any cause other than death or the 151
receipt of a benefit under this section. 152

(b) Three months have elapsed since the termination of the 153
retirant's employment subject to section 145.38, 145.383, or 154
145.385 of the Revised Code, other than employment exempted from 155
contribution pursuant to section 145.03 of the Revised Code. 156

(c) The retirant has not returned to public service, other 157
than service exempted from contribution pursuant to section 145.03 158
of the Revised Code, during the three-month period. 159

(2) Payment of a retirant's contributions cancels the 160
retirant's right to a benefit under division (B)(2) of this 161
section. 162

(I) A statement of a spouse's consent under division (B)(2) 163
of this section to the form of a benefit or under division (H) of 164
this section to a payment of contributions is valid only if signed 165
by the spouse and witnessed by a notary public. The board may 166
waive the requirement of spousal consent if the spouse is 167
incapacitated or cannot be located, or for any other reason 168
specified by the board. Consent or waiver is effective only with 169
regard to the spouse who is the subject of the consent or waiver. 170

(J) No amount received under this section shall be included 171
in determining an additional benefit under section 145.323 of the 172
Revised Code or any other post-retirement benefit increase. 173

Sec. 145.385. (A) A PERS retirant who made an election under 174
former section 145.381 of the Revised Code under which the annuity 175
portion of the retirant's retirement allowance was suspended and 176
the pension portion forfeited may have the entire retirement 177
allowance resume by giving notice to the public employees 178
retirement system. The notice must be given not later than ninety 179
days after ~~the effective date of this section~~ October 1, 2002. 180

(B) The retirement allowance shall resume on the first day of 181
the month following receipt of notice by the retirement system. 182

(C) The annuity portion of the retirement allowance that has 183
accumulated to the retirant's credit shall be paid as a single 184
payment on the first day of the month following receipt of notice 185
by the retirement system. 186

(D) Contributions made by the retirant and employer during 187
the period of forfeiture and contributions made after the 188
retirement allowance resumes shall be left on deposit with the 189
system and, except in the case of a retirant who elects, under 190
division (H) of section 145.384 of the Revised Code, to receive a 191
payment of the retirant contributions, shall be used in the 192
calculation of a benefit under section 145.384 of the Revised 193
Code. 194

Sec. 742.26. (A) As used in this section: 195

(1) "Actuarial present value" means the calculation under 196
which the probability of occurrence, based on a specified 197
mortality table, and the discount for future monetary growth at a 198
specified interest rate are considered by an actuary to determine 199
the value of an annuity. 200

(2) "Other system retirant" means a former member of the 201
public employees retirement system, state teachers retirement 202
system, school employees retirement system, state highway patrol 203

retirement system, or Cincinnati retirement system who is 204
receiving a disability benefit or an age and service or commuted 205
age and service retirement benefit or allowance from a system of 206
which the person is a former member. 207

(3) "OPFPF retirant" means any person who is receiving a 208
retirement allowance, other than a disability benefit, from the 209
Ohio police and fire pension fund. 210

(B) The mortality table and interest rate used in determining 211
actuarial present value shall be determined by the board of 212
trustees of the fund based on the recommendations of an actuary 213
employed by the board. 214

(C)(1) An OPFPF retirant or other system retirant may be 215
employed as a member of a police or fire department. If so 216
employed, the retirant shall make contributions to the fund in 217
accordance with section 742.31 of the Revised Code, and the 218
employer shall make contributions in accordance with sections 219
742.33 and 742.34 of the Revised Code. 220

(2) An employer that employs an OPFPF retirant or other 221
system retirant shall notify the board of trustees of the fund of 222
the employment not later than the end of the month in which the 223
employment commences. On receipt of notice from an employer that a 224
person who is an other system retirant has been employed, the fund 225
shall notify the retirement system of which the other system 226
retirant was a member of such employment. 227

(D) An OPFPF retirant or other system retirant who has 228
received a retirement allowance or benefit for less than two 229
months when employment subject to this section commences shall 230
forfeit the retirement allowance or benefit for the period that 231
begins on the date the employment commences and ends on the 232
earlier of the date the employment terminates or the date that is 233
two months after the date on which the retirement allowance or 234

benefit commenced. Service and contributions for that period shall 235
not be included in the calculation of any benefits payable under 236
this section, and those contributions shall be refunded on the 237
retirant's death or termination of the employment. 238

(E) On receipt of notice from the public employees retirement 239
system, school employees retirement system, or state teachers 240
retirement system of the re-employment of an OPFPF retirant, the 241
Ohio police and fire pension fund shall not pay, or if paid shall 242
recover, the amount to be forfeited by the OPFPF retirant in 243
accordance with section 145.38, 3307.35, or 3309.341 of the 244
Revised Code. 245

(F)(1)~~(a)~~ On termination of employment under this section, an 246
OPFPF retirant or other system retirant ~~shall elect one of the~~ 247
~~following:~~ 248

~~(i) A monthly~~ may file an application with the board of 249
trustees of the fund to receive either a benefit, as provided in 250
division (F)(2) of this section, or payment of the retirant's 251
contributions made under this section, as provided in division (H) 252
of this section. 253

(2) A benefit under this section shall consist of an annuity 254
the actuarial present value of which is equal to two times the sum 255
of all amounts deducted from the salary of the OPFPF retirant or 256
other system retirant and credited to the retirant's individual 257
account in the fund, other than contributions excluded pursuant to 258
division (D) of this section, together with interest credited 259
thereon at the rate determined by the board, ~~provided the annuity~~ 260
~~equals or exceeds twenty five dollars per month.~~ 261

~~(ii) A (a)~~ Unless, as described in division (I) of this 262
section, the application is accompanied by a statement of the 263
spouse's consent to another form of payment or the board of 264
trustees waives the requirement of spousal consent, a retirant who 265

is married at the time of application under this division shall 266
receive a monthly annuity under which the actuarial equivalent of 267
the retirant's single life annuity is paid in a lesser amount for 268
life and one-half of the lesser amount continues after the 269
retirant's death to the surviving spouse. 270

(b) A retirant who is not subject to division (F)(2)(a) of 271
this section shall elect to receive either a monthly annuity or a 272
lump-sum payment equal to two times the sum of all amounts 273
deducted from the salary of the OPFPPF retirant or other system 274
retirant and credited to the retirant's individual account in the 275
fund, other than contributions excluded pursuant to division (D) 276
of this section, together with interest credited thereon at the 277
rate determined by the board. If the retirant fails to elect a 278
plan of payment, the annuity shall be paid as a monthly annuity 279
under the plan of payment specified in rules adopted by the board 280
of trustees of the fund. 281

A retirant who elects to receive a monthly annuity shall 282
select one of the following as the plan of payment: 283

(i) The retirant's single life annuity; 284

(ii) The actuarial equivalent of the retirant's single life 285
annuity in an equal or lesser amount for life and continuing after 286
death to a surviving beneficiary designated at the time the plan 287
of payment is selected. 288

(c) Notwithstanding divisions (F)(2)(a) and (b) of this 289
section, if a monthly annuity would be less than twenty-five 290
dollars per month, the retirant shall receive a lump sum payment. 291

~~(b)~~(3) Interest shall be credited to accounts only at the 292
time of calculation of a benefit payable under division (F)(~~1~~)(2) 293
of this section. 294

~~(2)~~(4) A benefit payable under this division shall commence 295
on the first day of the month immediately after the latest of the 296

following:	297
(a) The last day for which compensation for employment subject to this section was paid;	298 299
(b) Attainment by the OPFPF retirant or other system retirant of age sixty;	300 301
(c) If the OPFPF retirant or other system retirant was previously employed under this section and is receiving or previously received a benefit under this division, completion of a period of twelve months since the last benefit paid under this section commenced.	302 303 304 305 306
(3) (5) No amount received under this division shall be included in determining an additional benefit under section 742.3711, 742.3716, or 742.3717 of the Revised Code or any other post-retirement benefit increase.	307 308 309 310
(G)(1) If an OPFPF retirant or other system retirant dies while employed in employment subject to this section, a lump-sum payment calculated in accordance with division (F) (1) (a) (ii) (2) of this section shall be paid to the retirant's surviving spouse, or if there is no surviving spouse, to the retirant's estate.	311 312 313 314 315
(2) If at the time of death an OPFPF retirant or other system retirant receiving a monthly annuity under division (F) (1) (a) (i) (2) of this section has received less than would have been received as a lump-sum payment under division (F) (1) (a) (ii) (2) of this section, the difference between the amount received and the amount that would have been received as a lump-sum payment shall be paid to the retirant's surviving spouse, or if there is no surviving spouse, to the retirant's estate.	316 317 318 319 320 321 322 323
<u>(3) If a beneficiary receiving a monthly annuity under division (F)(2) of this section dies and, at the time of the beneficiary's death, the total of the amounts paid to the retirant and beneficiary are less than the amount the retirant would have</u>	324 325 326 327

received as a lump sum payment, the difference between the total 328
of the amounts received by the retirant and beneficiary and the 329
amount that the retirant would have received as a lump sum payment 330
shall be paid to the beneficiary's estate. 331

(H)(1) An OPFPF retirant or other system retirant who applies 332
under division (F)(1) of this section for payment of the 333
retirant's contributions and is unmarried or is married and, 334
unless the board of trustees has waived the requirement of spousal 335
consent, includes with the application a statement of the spouse's 336
consent to the payment shall be paid the contributions made under 337
division (C) of this section, plus interest, if the following 338
conditions are met: 339

(a) The retirant has not attained sixty years of age and has 340
terminated employment subject to this section for any cause other 341
than death or the receipt of a benefit under division (F) of this 342
section. 343

(b) Three months have elapsed since the termination of 344
employment subject to this section. 345

(c) The retirant has not returned to service subject to this 346
chapter or Chapter 145., 3307., or 3309. of the Revised Code, 347
other than service exempted from contribution to the public 348
employees retirement system pursuant to section 145.03 of the 349
Revised Code, during the three-month period. 350

(2) Payment of a retirant's contributions cancels the 351
retirant's right to a benefit under division (F) of this section. 352

(I) A statement of a spouse's consent under division (F) of 353
this section to the form of a benefit or under division (H) of 354
this section to a payment of contributions is valid only if signed 355
by the spouse and witnessed by a notary public. The board of 356
trustees may waive the requirement of spousal consent if the 357
spouse is incapacitated or cannot be located, or for any other 358

reason specified by the board. Consent or waiver is effective only 359
with regard to the spouse who is the subject of the consent or 360
waiver. 361

(J) An other system retirant subject to this section is not a 362
member of the Ohio police and fire pension fund, does not have any 363
of the rights, privileges, or obligations of membership, except as 364
specified in this section, and is not eligible to receive health, 365
medical, hospital, or surgical benefits under section 742.45 of 366
the Revised Code for employment subject to this section. 367

~~(I)~~(K) If any payment is made by the Ohio police and fire 368
pension fund to an OPFPF retirant or other system retirant to 369
which the retirant is not entitled, the retirant shall repay it to 370
the fund. If the retirant fails to make the repayment, the fund 371
shall withhold the amount due from any allowances or other amounts 372
due the OPFPF retirant or other system retirant. 373

~~(J)~~(L) An OPFPF retirant who is employed under this section 374
is not eligible to receive any benefits under section 742.37 of 375
the Revised Code for the employment under this section. 376

~~(K)~~(M) This section does not affect the receipt of benefits 377
by or eligibility for benefits of any person who on August 20, 378
1976, was receiving a disability benefit or service retirement 379
pension or allowance from a state or municipal retirement system 380
in Ohio and was a member of any other state or municipal 381
retirement system of this state. 382

~~(L)~~(N) The board of trustees of the fund may adopt rules to 383
carry out this section. 384

Sec. 3307.352. For purposes of this section, "superannuate" 385
includes a member who retired under section 3307.351 of the 386
Revised Code. 387

(A)(1) A superannuate or other system retirant who has made 388

contributions under section 3307.35 or 3307.351 of the Revised Code may file an application with the state teachers retirement system ~~for to receive either a benefit under, as provided in~~ division (A)(2) of this section, or payment of the superannuate or retirant's contributions made under this section, as provided in division (D) of this section.

(2) A benefit under this section. ~~The benefit~~ shall consist of a single life annuity having a reserve equal to the amount of the superannuate's or retirant's accumulated contributions, as defined in section 3307.50 of the Revised Code, for the period of employment, other than the contributions excluded pursuant to division (F) of ~~the~~ section 3307.35 of the Revised Code, and an equal amount from the employers' trust created by section 3307.14 of the Revised Code, plus interest credited to the date of retirement at the then current actuarial rate of interest. ~~The~~

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

(b) A superannuate or other system retirant who is not subject to division (A)(2)(a) of this section shall elect either to receive the benefit as a monthly annuity for life 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 superannuate or retirant shall receive a lump sum payment.

A superannuate or other system retirant who elects to receive a monthly annuity shall select one of the following as the plan of payment: 421
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(i) The superannuate or retirant's single life annuity; 424

(ii) The actuarial equivalent of the superannuate or retirant's single life annuity in 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. 425
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If a superannuate or retirant who is eligible to select a plan of payment under division (A)(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 state teachers retirement board. 429
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(c) Notwithstanding divisions (A)(2)(a) and (b) of this section, if a monthly annuity would be less than twenty-five dollars per month, the superannuate or retirant shall receive a lump sum payment. 434
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(B) A benefit payable under this section shall commence on the latest of the following: 438
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(1) The last day for which compensation for all employment as a teacher was paid; 440
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(2) Attainment by the superannuate or other system retirant of age sixty-five; 442
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(3) If the superannuate or other system retirant was previously employed under section 3307.35 or 3307.351 of the Revised Code and previously received or is receiving a benefit under this section, completion of a period of twelve months since the effective date of the last benefit under this section. 444
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(C)(1) If a superannuate or other system retirant dies while employed in employment subject to section 3307.35 or 3307.351 of 449
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the Revised Code, a lump sum payment calculated in accordance with 451
division (A) of this section shall be paid to the beneficiary 452
designated under division (D) of section 3307.562 of the Revised 453
Code. 454

(2) If at the time of death a superannuate or other system 455
retirant receiving a monthly annuity has received less than the 456
superannuate or retirant would have received as a lump sum 457
payment, the difference between the amount received and the amount 458
that would have been received as a lump sum payment shall be paid 459
to the superannuate's or retirant's beneficiary designated under 460
division (D) of section 3307.562 of the Revised Code. 461

(3) If a beneficiary receiving a monthly annuity under 462
division (A)(2) of this section dies and, at the time of the 463
beneficiary's death, the total of the amounts paid to the 464
superannuate or retirant and to the beneficiary are less than the 465
amount the superannuate or retirant would have received as a lump 466
sum payment, the difference between the total of the amounts 467
received by the superannuate or retirant and by the beneficiary 468
and the amount that the superannuate or retirant would have 469
received as a lump sum payment shall be paid to the beneficiary's 470
estate. 471

(D)(1) A superannuate or other system retirant who applies 472
under division (A)(1) of this section for payment of the 473
superannuate or retirant's contributions and is unmarried or is 474
married and, unless the board has waived the requirement of 475
spousal consent, includes with the election a statement of the 476
spouse's consent to the payment, shall be paid the contributions 477
made under section 3307.35 or 3307.351 of the Revised Code, plus 478
interest credited to the date of retirement at the then current 479
actuarial rate of interest, if the following conditions are met: 480

(a) The superannuate or retirant has not attained sixty-five 481
years of age and has terminated employment subject to this section 482

for any cause other than death or the receipt of a benefit under 483
division (A)(2) of this section. 484

(b) Three months have elapsed since the termination of the 485
superannuate or retirant's employment subject to this section. 486

(c) The superannuate or retirant has not returned to service 487
subject to this chapter or Chapter 145., 742., or 3309. of the 488
Revised Code, other than service exempted from contribution to the 489
public employees retirement system pursuant to section 145.03 of 490
the Revised Code, during the three-month period. 491

(2) Payment of a superannuate or retirant's contributions 492
cancel the retirant's right to a benefit under division (A)(2) of 493
this section. 494

(E) A statement of a spouse's consent under division (A)(2) 495
of this section to the form of a benefit or under division (D) of 496
this section to a payment of contributions is valid only if signed 497
by the spouse and witnessed by a notary public. The board may 498
waive the requirement of spousal consent if the spouse is 499
incapacitated or cannot be located, or for any other reason 500
specified by the board. Consent or waiver is effective only with 501
regard to the spouse who is the subject of the consent or waiver. 502

(F) No amount received under this section shall be included 503
in determining an additional benefit under section 3307.67 of the 504
Revised Code or any other post-retirement benefit increase. 505

Sec. 3309.344. For purposes of this section, "SERS retirant" 506
includes a member who retired under section 3309.343 of the 507
Revised Code. 508

(A)(1) An SERS retirant or other system retirant who has made 509
contributions under section 3309.341 or 3309.343 of the Revised 510
Code may file an application with the school employees retirement 511
system ~~for~~ to receive either a benefit under, as provided in 512

division (A)(2) of this section, or payment of the retirant's 513
contributions made under those sections, as provided in division 514
(E) of this section. The 515

(2) A benefit shall consist of a single life annuity having a 516
reserve equal to the amount of the retirant's accumulated 517
contributions for the period of employment, other than the 518
contributions excluded pursuant to division (C) of section 519
3309.341 of the Revised Code, and an equal amount of the 520
employer's contributions, plus interest credited to the date of 521
retirement at the rate provided in division (I)(2) of section 522
3309.01 of the Revised Code. The 523

(a) Unless the application is accompanied by a statement of 524
the spouse's consent to another form of payment as described in 525
division (J) of this section or the board waives the requirement 526
for spousal consent, an SERS retirant or other system retirant who 527
is married at the time of application for a benefit under this 528
section shall receive the benefit as a monthly annuity under which 529
the actuarial equivalent of the retirant's single life annuity is 530
paid in a lesser amount for life and one-half of the lesser amount 531
continues after the retirant's death to the surviving spouse. 532

(b) An SERS retirant or other system retirant who is not 533
subject to division (A)(2)(a) of this section shall elect either 534
to receive the benefit as a monthly annuity for life or a lump sum 535
payment discounted to the present value using the current 536
actuarial assumption rate of interest, ~~except that if the monthly~~ 537
~~annuity would be less than twenty five dollars per month, the~~ 538
~~retirant shall receive a lump sum payment. If a retirant who is~~ 539
~~eligible to select a plan of payment under division (A)(2) of this~~ 540
~~section fails to do so, the benefit shall be paid as a monthly~~ 541
~~annuity under the plan of payment specified in rules adopted by~~ 542
~~the school employees retirement board.~~ 543

A retirant who elects to receive a monthly annuity shall 544

<u>select one of the following as the plan of payment:</u>	545
<u>(i) The retirant's single life annuity;</u>	546
<u>(ii) The actuarial equivalent of the retirant's single life annuity in 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.</u>	547 548 549 550
<u>(c) Notwithstanding divisions (A)(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.</u>	551 552 553
(B) A benefit payable under this section shall commence on the first day of the month after the latest of the following:	554 555
(1) The last day for which compensation for all employment subject to sections 3309.341 and 3309.343 of the Revised Code was paid;	556 557 558
(2) Attainment by the SERS retirant or other system retirant of age sixty-five;	559 560
(3) If the SERS retirant or other system retirant was previously employed under section 3309.341 or 3309.343 of the Revised Code and is receiving or previously received a benefit under this section, completion of a period of twelve months since the effective date of that benefit.	561 562 563 564 565
(C)(1) If an SERS retirant or other system retirant dies while employed in employment subject to section 3309.341 or 3309.343 of the Revised Code, a lump sum payment calculated in accordance with division (A) of this section shall be paid to the beneficiary under division (D) of this section.	566 567 568 569 570
(2) If at the time of death an SERS retirant or other system retirant receiving a monthly annuity has received less than the retirant would have received as a lump sum payment, the difference between the amount received and the amount that would have been	571 572 573 574

received as a lump sum payment shall be paid to the retirant's 575
beneficiary under division (D) of this section. 576

(3) If a beneficiary receiving a monthly annuity under 577
division (A)(2) of this section dies and, at the time of the 578
beneficiary's death, the total of the amounts paid to the retirant 579
and beneficiary are less than the amount the retirant would have 580
received as a lump sum payment, the difference between the total 581
of the amounts received by the retirant and beneficiary and the 582
amount that the retirant would have received as a lump sum payment 583
shall be paid to the beneficiary's estate. 584

(D) An SERS retirant or other system retirant employed under 585
section 3309.341 or 3309.343 of the Revised Code may designate one 586
or more persons as beneficiary to receive any benefits payable 587
under this section due to death. The designation shall be in 588
writing duly executed on a form provided by the school employees 589
retirement board, signed by the SERS retirant or other system 590
retirant, and filed with the board prior to death. The last 591
designation of a beneficiary revokes all previous designations. 592
The SERS retirant's or other system retirant's marriage, divorce, 593
marriage dissolution, legal separation, withdrawal of account, 594
birth of the retirant's child, or adoption of a child revokes all 595
previous designations. If there is no designated beneficiary, the 596
beneficiary is the beneficiary designated under division (D) of 597
section 3309.44 of the ~~revised code~~ Revised Code. If any benefit 598
payable under this section due to the death of an SERS retirant or 599
other system retirant is not claimed by a beneficiary within five 600
years after the death, the amount payable shall be transferred to 601
the guarantee fund and thereafter paid to the beneficiary or the 602
estate of the SERS retirant or other system retirant on 603
application to the board. 604

(E)(1) An SERS retirant or other system retirant who applies 605
under division (A)(1) of this section for payment of the 606

retirant's contributions and is unmarried or is married and, 607
unless the board has waived the requirement of spousal consent, 608
includes with the election a statement of the spouse's consent to 609
the payment, shall be paid the contributions made under section 610
3309.341 or 3309.343 of the Revised Code if the following 611
conditions are met: 612

(a) The retirant has not attained sixty-five years of age and 613
has terminated employment subject to this section for any cause 614
other than death or the receipt of a benefit under division (A) of 615
this section. 616

(b) Three months have elapsed since the termination of the 617
retirant's employment subject to this section. 618

(c) The retirant has not returned to service subject to this 619
chapter or Chapter 145., 742., or 3309. of the Revised Code, other 620
than service exempted from contribution to the public employees 621
retirement system pursuant to section 145.03 of the Revised Code, 622
during the three-month period. 623

(2) Payment of a retirant's contributions cancels the 624
retirant's right to a benefit under division (A) of this section. 625

(F) A statement of a spouse's consent under division (A)(2) 626
of this section to the form of a benefit or under division (E) of 627
this section to a payment of contributions is valid only if signed 628
by the spouse and witnessed by a notary public. The board may 629
wave the requirement of spousal consent if the spouse is 630
incapacitated or cannot be located, or for any other reason 631
specified by the board. Consent or waiver is effective only with 632
regard to the spouse who is the subject of the consent or waiver. 633

(G) No amount received under this section shall be included 634
in determining an additional benefit under section 3309.374 of the 635
Revised Code or any other post-retirement benefit increases. 636

Section 2. That existing sections 145.384, 145.385, 742.26, 637

3307.352, and 3309.344 of the Revised Code are hereby repealed.

638