

As Introduced

125th General Assembly
Regular Session
2003-2004

H. B. No. 98

Representative Willamowski

A BILL

To amend sections 145.323, 145.46, 3105.80, 3307.60, 1
3307.67, 3309.374, and 3309.46 of the Revised Code 2
to make changes to the optional benefit plans for 3
retirants and the cost-of-living increase in the 4
Public Employee Retirement System, State Teachers 5
Retirement System, and School Employees Retirement 6
System. 7

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

Section 1. That sections 145.323, 145.46, 3105.80, 3307.60, 8
3307.67, 3309.374, and 3309.46 of the Revised Code be amended to 9
read as follows: 10

Sec. 145.323. (A) The public employees retirement board shall 11
annually increase each allowance, pension, or benefit payable 12
under this chapter by three per cent, except that no allowance, 13
pension, or benefit shall exceed the limit established by section 14
415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 15
U.S.C.A. 415, as amended. 16

The first increase is payable to all persons becoming 17
eligible after June 30, 1971, upon such persons receiving an 18
allowance for twelve months. The increased amount is payable for 19
the ensuing twelve-month period or until the next increase is 20

granted under this section, whichever is later. Subsequent 21
increases shall be determined from the date of the first increase 22
paid to the former member in the case of an allowance being paid a 23
beneficiary under an option, or from the date of the first 24
increase to the survivor first receiving an allowance or benefit 25
in the case of an allowance or benefit being paid to the 26
subsequent survivors of the former member. 27

The date of the first increase under this section becomes the 28
anniversary date for any future increases. 29

The allowance or benefit used in the first calculation of an 30
increase under this section shall remain as the base for all 31
future increases, unless a new base is established. 32

(B) If payment of a portion of a benefit is made to an 33
alternate payee under section 145.571 of the Revised Code, 34
increases under this section granted while the order is in effect 35
shall be apportioned between the alternate payee and the retirant 36
or another beneficiary in the same proportion that the amount 37
being paid to the alternate payee bears to the amount paid to the 38
retirant or other beneficiary. 39

(C) The board shall make all rules necessary to carry out 40
this section. 41

Sec. 145.46. (A) A retirement allowance calculated under 42
section 145.33, 145.331, or 145.34 of the Revised Code shall be 43
paid as provided in this section. If the member is eligible to 44
elect a plan of payment under this section, the election shall be 45
made on a form provided by the public employees retirement board. 46
A plan of payment elected under this section shall be effective 47
only if approved by the board, which shall approve it only if it 48
is certified by an actuary engaged by the board to be the 49
actuarial equivalent of the retirement allowance calculated under 50
section 145.33, 145.331, or 145.34 of the Revised Code. 51

(B)(1) ~~Unless the member is eligible to elect another plan of~~ 52
~~payment~~ Except as otherwise provided in this division, a member 53
who retires under section 145.32, 145.331, or 145.34 of the 54
Revised Code shall receive a retirement allowance under "plan A," 55
which shall consist of the actuarial equivalent of the member's 56
retirement allowance determined under section 145.33, 145.331, or 57
145.34 of the Revised Code in a lesser amount payable for life and 58
one-half of such allowance continuing after death to the member's 59
surviving spouse for the life of the spouse. The exceptions are as 60
follows: 61

(a) A member may ~~elect to receive the member's~~ a retirement 62
allowance under a plan of payment other than "plan A" if the 63
member is not married or either the member's spouse consents in 64
writing to the member's election of a plan of payment other than 65
"plan A" or the board waives the requirement that the spouse 66
consent. ~~An~~ 67

(b) Prior to the effective date of the member's retirement, a 68
court issued an order under section 3105.171 or 3105.65 of the 69
Revised Code, or a comparable order terminating a marriage and 70
dividing marital property under the laws of another state, 71
requiring a plan of payment that provides for payment in a 72
specified amount continuing after the member's death to a former 73
spouse. 74

(2) An application for retirement shall include an 75
explanation of all of the following: 76

(a) That, if the member is married, unless the spouse 77
consents to another plan of payment or there is a court order 78
dividing marital property that provides for payment in a specified 79
amount, the member's retirement allowance will be paid under "plan 80
A," which consists of the actuarial equivalent of the member's 81
retirement allowance in a lesser amount payable for life and 82

one-half of the allowance continuing after death to the surviving spouse for the life of the spouse; 83
84

(b) A description of the alternative plans of payment, 85
including all plans described in divisions (B)(2) and (3) of this 86
section, available with the consent of the spouse; 87

(c) That the spouse may consent to another plan of payment 88
and the procedure for giving consent; 89

(d) That consent is irrevocable once notice of consent is 90
filed with the board. 91

Consent shall be valid only if it is signed, in writing, and 92
witnessed by a notary public. The board may waive the requirement 93
of consent if the spouse is incapacitated or cannot be located or 94
for any other reason specified by the board. Consent or waiver is 95
effective only with regard to the spouse who is the subject of the 96
consent or waiver. 97

~~(2)~~(3) A member eligible to elect to receive the member's 98
retirement allowance under a plan of payment other than "plan A" 99
shall receive the member's retirement allowance under the plan 100
described in division (B)~~(3)~~(4) of this section or one of the 101
following plans: 102

(a) "Plan B," which shall consist of an allowance determined 103
under section 145.33, 145.331, or 145.34 of the Revised Code; 104

(b) "Plan C," which shall consist of the actuarial equivalent 105
of the member's retirement allowance determined under section 106
145.33, 145.331, or 145.34 of the Revised Code in a lesser amount 107
payable for life and one-half or some other portion of the 108
allowance continuing after death to the member's sole surviving 109
beneficiary designated at the time of the member's retirement, 110
provided that the amount payable to the beneficiary does not 111
exceed the amount payable to the member; 112

(c) "Plan D," which shall consist of the actuarial equivalent 113
of the member's retirement allowance determined under section 114
145.33, 145.331, or 145.34 of the Revised Code in a lesser amount 115
payable for life and continuing after death to a surviving 116
beneficiary designated at the time of the member's retirement; 117

(d) "Plan E," which shall consist of the actuarial equivalent 118
of the member's retirement allowance determined under section 119
145.33, 145.331, or 145.34 of the Revised Code in a lesser amount 120
payable for a certain period from the member's retirement date as 121
elected by the member and approved by the retirement board, and on 122
the member's death before the expiration of that certain period 123
the member's lesser retirement allowance payable for the remainder 124
of that period to the member's surviving designated beneficiary 125
nominated by written designation filed with the retirement board. 126

(e) "Plan F," which shall consist of the actuarial equivalent 127
of the member's retirement allowance determined under section 128
145.33, 145.331, or 145.34 of the Revised Code in a lesser amount 129
payable for life and continuing after death to each of two or more 130
surviving beneficiaries designated at the time of the member's 131
retirement, in such portion as specified at retirement. 132

Should the nominated beneficiary designated in writing die 133
prior to the expiration of the guarantee period, then for the 134
purpose of completing payment for the remainder of the guarantee 135
period, the present value of such payments shall be paid to the 136
estate of the beneficiary last receiving. 137

~~(3)~~(4)(a) Beginning on a date selected by the retirement 138
board, which shall be not later than July 1, 2004, a member may 139
elect to receive a retirement allowance under a plan of payment 140
consisting of both a lump sum in an amount the member designates 141
that constitutes a portion of the member's retirement allowance 142
under a plan described in division (B) of this section and the 143

remainder as a monthly allowance under that plan. 144

The total amount paid as a lump sum and a monthly benefit 145
shall be the actuarial equivalent of the amount that would have 146
been paid had the lump sum not been selected. 147

(b) The lump sum designated by a member shall be not less 148
than six times and not more than thirty-six times the monthly 149
amount that would be payable to the member under the plan of 150
payment elected under division (B)~~(3)~~(4)(a) of this section had 151
the lump sum not been elected and shall not result in a monthly 152
allowance that is less than fifty per cent of that monthly amount. 153

~~(4)~~(5) An election under division (B)~~(2)~~(3) or ~~(3)~~(4) of this 154
section shall be made at the time the member makes application for 155
retirement. 156

~~(5)~~(6) A member eligible to elect to receive the member's 157
retirement allowance under a plan of payment other than "plan A" 158
because the member is unmarried who fails to make an election on 159
retirement shall receive the member's retirement allowance under 160
"plan B." 161

(C) If the retirement allowances, as a single life annuity or 162
payment plan as provided in this section, due and paid are in a 163
total amount less than (1) the accumulated contributions, and (2) 164
other deposits made by the member as provided by this chapter, 165
standing to the credit of the member at the time of retirement, 166
then the difference between the total amount of the allowances 167
paid and the accumulated contributions and other deposits shall be 168
paid to the beneficiary provided under division (D) of section 169
145.43 of the Revised Code. 170

(D)(1) The death of a spouse or any designated beneficiary 171
following retirement shall cancel any plan of payment to provide 172
continuing lifetime benefits to the spouse or beneficiary and 173
return the retirant to the retirant's single lifetime benefit 174

equivalent, as determined by the board, to be effective the month 175
following receipt by the board of notice of the death. 176

(2) On divorce, annulment, or marriage dissolution, a 177
retirant receiving a retirement allowance under a plan that 178
provides for continuation of all or part of the allowance after 179
death for the lifetime of the retirant's surviving spouse may, 180
with the written consent of the spouse or pursuant to an order of 181
the court with jurisdiction over the termination of the marriage, 182
elect to cancel the plan and receive the member's single lifetime 183
benefit equivalent as determined by the retirement board. The 184
election shall be made on a form provided by the board and shall 185
be effective the month following its receipt by the board. 186

(E) Following a marriage or remarriage, a retirant who is 187
receiving the retirant's retirement allowance under "plan B" may 188
elect a new plan of payment under division (B)(1), ~~(2)~~(3)(b), or 189
~~(2)~~(3)(c) of this section based on the actuarial equivalent of the 190
retirant's single lifetime benefit as determined by the board. The 191
plan shall become effective the first day of the month following 192
receipt by the board of an application on a form approved by the 193
board. 194

(F) Any person who, prior to July 24, 1990, selected an 195
optional plan of payment at retirement that provided for a return 196
to the single life benefit after the designated beneficiary's 197
death shall have the retirant's benefit adjusted to the optional 198
plan equivalent without such provision. 199

(G) A retirant's receipt of the first month's retirement 200
allowance constitutes the retirant's final acceptance of the plan 201
of payment and may be changed only as provided in this chapter. 202

Sec. 3105.80. As used in this section and sections 3105.81 to 203
3105.90 of the Revised Code: 204

(A) "Alternate payee" means a party in an action for divorce, 205
legal separation, annulment, or dissolution of marriage who is to 206
receive one or more payments from a benefit or lump sum payment 207
under an order issued under section 3105.171 or 3105.65 of the 208
Revised Code that is in compliance with sections 3105.81 to 209
3105.90 of the Revised Code. 210

(B) "Benefit" means a periodic payment under a pension, 211
annuity, allowance, or other type of benefit, other than a 212
survivor benefit, that has been or may be granted to a participant 213
under sections 742.01 to 742.61 or Chapter 145., 3307., 3309., or 214
5505. of the Revised Code or any payment that is to be made under 215
a contract a participant has entered into for the purposes of an 216
alternative retirement plan. "Benefit" also includes all amounts 217
received or to be received under a plan of payment elected under 218
division (B)~~(3)~~(4) of section 145.46, division (B) of section 219
3307.60, or division (B)~~(3)~~(4) of section 3309.46 of the Revised 220
Code. 221

(C) "Lump sum payment" means a payment of accumulated 222
contributions standing to a participant's credit under sections 223
742.01 to 742.61 or Chapter 145., 3307., 3309., or 5505. of the 224
Revised Code or pursuant to a contract a participant has entered 225
into for the purposes of an alternative retirement plan and any 226
other payment made or that may be made to a participant under 227
those sections or chapters on withdrawal of a participant's 228
contributions. "Lump sum payment" includes a lump sum payment 229
under section 145.384, 742.26, 3307.352, or 3309.344 of the 230
Revised Code. 231

(D) "Participant" means a member, contributor, retirant, or 232
disability benefit recipient who is or will be entitled to a 233
benefit or lump sum payment under sections 742.01 to 742.61 or 234
Chapter 145., 3307., 3309., or 5505. of the Revised Code or an 235
academic or administrative employee who elects to participate in 236

an alternative retirement plan under Chapter 3305. of the Revised 237
Code. 238

(E) "Personal history record" has the same meaning as in 239
section 145.27, 742.41, 3305.20, 3307.20, 3309.22, and 5505.04 of 240
the Revised Code. 241

(F) "Public retirement program" means the public employees 242
retirement system, Ohio police and fire pension fund, school 243
employees retirement system, state teachers retirement system, 244
state highway patrol retirement system, or an entity providing an 245
alternative retirement plan under Chapter 3305. of the Revised 246
Code. 247

Sec. 3307.60. (A) Upon application for retirement as provided 248
in section 3307.58 or 3307.59 of the Revised Code, the retirant 249
may elect a plan of payment under this division or, on and after 250
the date specified in division (B) of this section, a plan of 251
payment under that division. Under this division, the retirant may 252
elect to receive a single lifetime benefit, or may elect to 253
receive the actuarial equivalent of the retirant's benefit in a 254
lesser amount, payable for life, and continuing after death to a 255
beneficiary under one of the following optional plans: 256

(1) Option 1. The retirant's lesser benefit shall be paid for 257
life to the sole beneficiary named at retirement. 258

(2) Option 2. Some other portion of the retirant's benefit 259
shall be paid for life to the sole beneficiary named at 260
retirement. The beneficiary's monthly amount shall not exceed the 261
monthly amount payable to the retirant during the retirant's 262
lifetime. 263

(3) Option 3. The retirant's lesser benefit established as 264
provided under option 1 or option 2 shall be paid for life to the 265
sole beneficiary named at retirement, except that in the event of 266

the death of the sole beneficiary or termination of a marital 267
relationship between the retirant and the sole beneficiary the 268
retirant may elect to return to a single lifetime benefit 269
equivalent as determined by the state teachers retirement board, 270
if, in the case of termination of a marital relationship, the 271
election is made with the written consent of the beneficiary or 272
pursuant to an order of the court with jurisdiction over 273
termination of the marital relationship. 274

(4) Option 4. A portion of the retirant's lesser benefit 275
shall be paid for life to each of two or more beneficiaries named 276
at retirement, in such portion as specified at retirement. 277

(5) Option 5. Upon the retirant's death before the expiration 278
of a certain period from the retirement date and elected by the 279
retirant, and approved by the board, the retirant's benefit shall 280
be continued for the remainder of such period to the beneficiary. 281
Monthly benefits shall not be paid to joint beneficiaries, but 282
they may receive the present value of any remaining payments in a 283
lump sum settlement. If all beneficiaries die before the 284
expiration of the certain period, the present value of all 285
payments yet remaining in such period shall be paid to the estate 286
of the beneficiary last receiving. 287

~~(5)~~(6) Option ~~5~~6. A plan of payment established by the state 288
teachers retirement board combining any of the features of options 289
1, 2, and ~~4~~5. 290

(B) Beginning on a date selected by the state teachers 291
retirement board, which shall be not later than July 1, 2004, a 292
retirant may elect, in lieu of a plan of payment under division 293
(A) of this section, a plan consisting of both of the following: 294

(1) A lump sum in an amount the member designates that 295
constitutes a portion of the member's single lifetime benefit; 296

(2) Either of the following: 297

(a) The remainder of the retirant's single lifetime benefit;	298
(b) The actuarial equivalent of the remainder of the	299
retirant's benefit in a lesser amount, payable for life, and	300
continuing after death to a beneficiary under one of the options	301
described in divisions (A)(1) to (5) of this section.	302
In the event of the death of the sole beneficiary or	303
termination of a marital relationship between the retirant and the	304
sole beneficiary, the retirant may elect to receive the actuarial	305
equivalent of the remainder of the retirant's single lifetime	306
benefit except that, in the case of termination of a marital	307
relationship, the election may be made only with the written	308
consent of the beneficiary or pursuant to an order of the court	309
with jurisdiction over termination of the marital relationship.	310
The amount designated by the member under division (B)(1) of	311
this section shall be not less than six times and not more than	312
thirty-six times the monthly amount that would be payable to the	313
member as a single lifetime benefit and shall not result in a	314
monthly allowance that is less than fifty per cent of that amount.	315
(C) Until the first payment is made to a former member under	316
section 3307.58 or 3307.59 of the Revised Code, the former member	317
may change the selection of a plan of payment.	318
(D)(1) If a deceased member was eligible for but had not yet	319
been awarded a service retirement benefit under section 3307.58 or	320
3307.59 of the Revised Code at the time of death, option 1 as	321
provided for in division (A)(1) of this section shall be paid to	322
the spouse or other sole dependent beneficiary.	323
(2) Beginning on a date selected by the board, which shall be	324
not later than July 1, 2004, the spouse or sole beneficiary may	325
elect, in lieu of option 1, a plan of payment consisting of both	326
of the following:	327

(a) A lump sum in an amount the spouse or other sole dependent beneficiary designates that constitutes a portion of the retirant's single life annuity;

(b) The actuarial equivalent of the remainder of the retirant's single life annuity paid in a lesser amount for life to the spouse or other sole dependent beneficiary.

The amount designated by the spouse or other sole dependent beneficiary under division (D)(2)(a) of this section shall be not less than six times and not more than thirty-six times the monthly amount that would be payable as the retirant's single life annuity and shall not result in a monthly allowance that is less than fifty per cent of that monthly amount.

(E) If the total benefit paid under this section is less than the balance in the teachers' savings fund, the difference shall be paid to the beneficiary provided under division (D) of section 3307.562 of the Revised Code.

(F) In the case of a retirant who elected an optional plan prior to September 15, 1989:

(1) The death of the spouse or other designated beneficiary following retirement shall, at the election of the retirant, cancel any optional plan selected at retirement to provide continuing lifetime benefits to the spouse or other beneficiary and return the retirant to a single lifetime benefit equivalent as determined by the board.

(2) A divorce, annulment, or marriage dissolution shall, at the election of the retirant, cancel any optional plan selected at retirement to provide continuing lifetime benefits to the spouse as designated beneficiary and return the retirant to a single lifetime benefit equivalent as determined by the board if the election is made with the written consent of the beneficiary or pursuant to an order of a court of common pleas or the court of

other state with jurisdiction over the termination of the marriage. 359
360

(G) Following marriage or remarriage, a retirant may elect a 361
new optional plan of payment based on the actuarial equivalent of 362
the retirant's single lifetime benefit, as determined by the 363
board, except that if the retirant is receiving a retirement 364
allowance under an optional plan that provides for continuation of 365
benefits after death to a former spouse, the retirant may elect a 366
new optional plan of payment only with the written consent of the 367
former spouse or pursuant to an order of the court with 368
jurisdiction over the termination of the marriage. Such plan shall 369
become effective the first of the month following an application 370
on a form approved by the board. 371

(H)(1) ~~Unless one of the following occurs~~ Except as otherwise 372
provided in this division, an application for service retirement 373
made pursuant to section 3307.58 or 3307.59 of the Revised Code by 374
a married person shall be considered an election of a benefit 375
under option 2 as provided for in division (A)(2) of this section 376
under which one-half of the lesser benefit payable during the life 377
of the retirant will be paid after death to the retirant's spouse 378
for life as sole beneficiary. The exceptions are as follows: 379

(a) The retirant selects an optional plan under division (A) 380
of this section providing for payment after death to the 381
retirant's spouse for life as sole beneficiary of more than 382
one-half of the lesser benefit payable during the life of the 383
retirant. 384

(b) Prior to the effective date of the member's retirement, a 385
court issued an order under section 3105.171 or 3105.65 of the 386
Revised Code, or a comparable order dividing marital property 387
under the laws of another state, requiring a plan of payment that 388
provides for payment in a specified amount continuing after the 389
retirant's death to a former spouse. 390

(c) The retirant submits to the retirement board a written statement signed by the spouse attesting that the spouse consents to the retirant's election to receive a single lifetime annuity or a payment under an optional benefit plan under which after the death of the retirant the surviving spouse will receive less than one-half of the lesser benefit payable during the life of the retirant.

(2) An application for retirement shall include an explanation of all of the following:

(a) That, if the member is married, unless the spouse consents to another plan of payment or there is a court order dividing marital property that provides for payment in a specified amount, the member's retirement allowance will be paid under "option 2" as provided for in division (A)(2) of this section and consist of the actuarial equivalent of the member's retirement allowance in a lesser amount payable for life and one-half of the lesser allowance continuing after death to the surviving spouse for the life of the spouse;

(b) A description of the alternative plans of payment available with the consent of the spouse;

(c) That the spouse may consent to another plan of payment and the procedure for giving consent;

(d) That consent is irrevocable once notice of consent is filed with the board.

Consent shall be valid only if it is signed, in writing, and witnessed by a notary public.

(3) If the retirant does not select an optional plan of payment as described in division (H)(1)(a) of this section, no court has ordered a plan of payment described in division (H)(1)(b) of this section, and the board does not receive the

written statement provided for in division (H)(1)~~(b)~~(c) of this 421
section, ~~it~~ the board shall determine and pay the retirement 422
allowance in accordance with this division, except that the board 423
may provide by rule for waiver by the board of the statement and 424
payment of the benefits other than in accordance with this 425
division or payment under section 3307.56 of the Revised Code if 426
the retirant is unable to obtain the statement due to absence or 427
incapacity of the spouse or other cause specified by the board. 428

(I) For the purpose of determining actuarial equivalence 429
under this section, on the advice of an actuary employed by the 430
board, the board shall adopt mortality tables that may take into 431
consideration the membership experience of the state teachers 432
retirement system and may also include the membership experience 433
of the public employees retirement system and the school employees 434
retirement system. 435

Sec. 3307.67. (A) The state teachers retirement board shall 436
annually increase each allowance or benefit payable under sections 437
3307.50 to 3307.79 of the Revised Code by three per cent, except 438
that no allowance or benefit shall exceed the limit established by 439
section 415 of the "Internal Revenue Code of 1986," 100 Stat. 440
2085, 26 U.S.C.A. 415, as amended. 441

The first increase is payable to all persons becoming 442
eligible after June 30, 1971, upon such persons receiving an 443
allowance or benefit for twelve months. The increased amount is 444
payable for the ensuing twelve-month period or until the next 445
increase is granted under this section, whichever is later. 446
Subsequent increases shall be determined from the date of the 447
first increase paid to the former member in the case of an 448
allowance being paid a beneficiary under an option, or from the 449
date of the first increase to the survivor first receiving an 450
allowance or benefit in the case of an allowance or benefit being 451

paid to the subsequent survivors of the former member. 452

The date of the first increase under this section becomes the 453
anniversary date for any future increases. 454

The allowance or benefit used in the first calculation of an 455
increase under this section shall remain as the base for all 456
future increases, unless a new base is established. 457

(B) If payment of a portion of a benefit is made to an 458
alternate payee under section 3307.371 of the Revised Code, 459
increases under this section granted while the order is in effect 460
shall be apportioned between the alternate payee and the retirant 461
or another beneficiary in the same proportion that the amount 462
being paid to the alternate payee bears to the amount paid to the 463
retirant or other beneficiary. 464

(C) The board shall make all rules necessary to carry out 465
this section. 466

Sec. 3309.374. (A) The school employees retirement board 467
shall annually increase each allowance, pension, or benefit 468
payable under this chapter by three per cent, except that no 469
allowance, pension, or benefit shall exceed the limit established 470
by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 471
2085, 26 U.S.C.A. 415, as amended. 472

The first increase is payable to all persons becoming 473
eligible after June 30, 1971, upon such persons receiving an 474
allowance, pension, or benefit for twelve months. 475

The increased amount is payable for the ensuing twelve-month 476
period or until the next increase is granted under this section, 477
whichever is later. Subsequent increases shall be determined from 478
the date of the first increase paid to the former member in the 479
case of an allowance being paid a beneficiary under an option, or 480
from the date of the first increase to the survivor first 481

g an allowance or benefit in the case of an allowance or benefit 482
being paid to the subsequent survivors of the former member. 483

484

The date of the first increase under this section becomes the 485
anniversary date for any future increases. 486

The allowance or benefit used in the first calculation of an 487
increase under this section shall remain as the base for all 488
future increases, unless a new base is established. Any increase 489
resulting from payment of a recalculated benefit under Section 3 490
of Substitute Senate Bill No. 270 of the 123rd general assembly 491
shall be included in the calculation of future increases under 492
this section. 493

(B) If payment of a portion of a benefit is made to an 494
alternate payee under section 3309.671 of the Revised Code, 495
increases under this section granted while the order is in effect 496
shall be apportioned between the alternate payee and the retirant 497
or another beneficiary in the same proportion that the amount 498
being paid to the alternate payee bears to the amount paid to the 499
retirant or other beneficiary. 500

(C) The board shall make all rules necessary to carry out 501
this section. 502

Sec. 3309.46. (A) The retirement allowance calculated under 503
section 3309.36, 3309.38, or 3309.381 of the Revised Code shall be 504
paid as provided in this section. If the member is eligible to 505
elect a plan of payment under this section, the election shall be 506
made on the application for retirement. A plan of payment elected 507
under this section shall be effective only if it is certified by 508
the actuary engaged by the school employees retirement board to be 509
the actuarial equivalent of the member's retirement allowance and 510
is approved by the retirement board. 511

(B)(1) ~~Unless the member is eligible to elect another plan of~~ 512
~~payment~~ Except as otherwise provided in this division, a member 513
who retires under section 3309.36, 3309.38, or 3309.381 of the 514
Revised Code shall receive a retirement allowance under "plan A," 515
which shall consist of the actuarial equivalent of the member's 516
retirement allowance determined under section 3309.36, 3309.38, or 517
3309.381 of the Revised Code in a lesser amount payable for life 518
and one-half of such allowance continuing after death to the 519
member's surviving spouse for the life of the spouse. The 520
exceptions are as follows: 521

(a) A member may ~~elect to~~ receive a retirement allowance 522
under a plan of payment other than "plan A" if the member is not 523
married or either the member's spouse consents in writing to the 524
member's election to a plan of payment other than "plan A" or the 525
board waives the requirement that the spouse consent. 526

(b) Prior to the effective date of the member's retirement, a 527
court issued an order under section 3105.171 or 3105.65 of the 528
Revised Code, or a comparable order dividing marital property 529
under the laws of another state, requiring a plan of payment that 530
provides for payment in a specified amount continuing after the 531
member's death to a former spouse. 532

(2) An application for retirement shall include an 533
explanation of all of the following: 534

(a) That, if the member is married, unless the spouse 535
consents to another plan of payment or there is a court order 536
dividing marital property that provides for payment in a specified 537
amount, the member's retirement allowance will be paid under "plan 538
A," which consists of the actuarial equivalent of the member's 539
retirement allowance in a lesser amount payable for life and 540
one-half of the allowance continuing after death to the surviving 541
spouse for the life of the spouse; 542

(b) A description of the alternative plans of payment, 543
including all plans described in divisions (B)~~(2)~~(3) and ~~(3)~~(4) of 544
this section, available with the consent of the spouse; 545

(c) That the spouse may consent to another plan of payment 546
and the procedure for giving consent; 547

(d) That consent is irrevocable once notice of consent is 548
filed with the board. 549

Consent shall be valid only if it is in writing, signed by 550
the spouse, and witnessed by an employee of the school employees 551
retirement system or a notary public. The board may waive the 552
requirement of consent if the spouse is incapacitated or cannot be 553
located or for any other reason specified by the board. Consent or 554
waiver is effective only with regard to the spouse who is the 555
subject of the consent or waiver. 556

~~(2)~~(3) A member eligible to elect to receive a retirement 557
allowance under a plan of payment other than "plan A" shall 558
receive the retirement allowance under the plan described in 559
division (B)~~(3)~~(4) of this section or one of the following plans: 560

(a) "Plan B," which shall consist of an allowance determined 561
under section 3309.36, 3309.38, or 3309.381 of the Revised Code; 562

(b) "Plan C," which shall consist of the actuarial equivalent 563
of the member's retirement allowance determined under section 564
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 565
amount payable for life and one-half or some other portion of the 566
allowance continuing after death to the member's sole surviving 567
beneficiary designated at the time of the member's retirement, 568
provided that the amount payable to the beneficiary does not 569
exceed the amount payable to the member; 570

(c) "Plan D," which shall consist of the actuarial equivalent 571
of the member's retirement allowance determined under section 572

3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 573
amount payable for life and continuing after death to a surviving 574
designated beneficiary designated at the time of the member's 575
retirement; 576

(d) "Plan E," which shall consist of the actuarial equivalent 577
of the member's retirement allowance determined under section 578
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 579
amount payable for a certain period from the member's retirement 580
date as elected by the member and approved by the retirement 581
board, and on the member's death before the expiration of that 582
certain period, the member's lesser retirement allowance continued 583
for the remainder of that period to, and in such order, the 584
beneficiaries as the member has nominated by written designation 585
and filed with the retirement board. 586

(e) "Plan F," which shall consist of the actuarial equivalent 587
of the member's retirement allowance determined under section 588
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 589
amount payable for life and continuing after death to each of two 590
or more surviving beneficiaries designated at the time of the 591
member's retirement, in such portion as specified at retirement. 592

Monthly benefits shall not be paid to joint beneficiaries, 593
but they may receive the present value of any remaining payments 594
in a lump sum settlement. If all beneficiaries die before the 595
expiration of the certain period, the present value of all such 596
payments yet remaining in such period shall be paid to the estate 597
of the beneficiary last receiving. 598

~~(3)~~(4)(a) Beginning on a date selected by the board, which 599
shall be not later than July 1, 2004, a member may elect, in lieu 600
of a plan of payment under division (B)(1) or ~~(2)~~(3) of this 601
section, a plan consisting of both a lump sum in an amount the 602
member designates that constitutes a portion of the retirement 603
allowance payable under a plan described in division (B)(1) or 604

(3) of this section and the remainder of the allowance payable 605
under that plan in monthly payments. 606

The total amount paid as a lump sum and a monthly benefit 607
shall be the actuarial equivalent of the amount that would have 608
been paid had the lump sum not been selected. 609

(b) The lump sum amount designated by the member shall be not 610
less than six times and not more than thirty-six times the monthly 611
amount that would be payable to the member under the plan of 612
payment elected under this section had the lump sum not been 613
elected and shall not result in a monthly benefit that is less 614
than fifty per cent of that amount. 615

~~(4)~~(5) An election under division (B)~~(2)~~(3) or ~~(3)~~(4) of this 616
section shall be made at the time the member makes application for 617
retirement. 618

~~(5)~~(6) A member eligible to elect to receive a retirement 619
allowance under a plan of payment other than "plan A" because the 620
member is unmarried who fails to make an election on retirement 621
shall receive a retirement allowance under "plan B." 622

(C) Until the first payment of any retirement allowance is 623
made, as provided in sections 3309.36, 3309.38, or 3309.381 of the 624
Revised Code, a member may change the member's election of a 625
payment plan if the election is made in accordance with and is 626
consistent with division (B) of this section. 627

(D) If the retirement allowances due and paid under the above 628
provisions of this section are in a total amount less than (1) the 629
accumulated contributions, (2) the deposits for additional credit 630
as provided by section 3309.31 of the Revised Code, (3) the 631
deposits for additional annuities as provided by section 3309.47 632
of the Revised Code, (4) the deposits for repurchase of service 633
credit as provided by section 3309.26 of the Revised Code, (5) the 634
accumulated contributions provided by section 3309.65 of the 635

Revised Code, (6) the deposits for purchase of military service 636
credit provided by section 3309.021 or 3309.022 of the Revised 637
Code, and (7) the deposits for the purchase of service credit 638
provided by section 3309.73 of the Revised Code, standing to the 639
credit of the member at the time of retirement, then the 640
difference between the total amount of the allowances paid and the 641
accumulated contributions and other deposits shall be paid to the 642
beneficiary provided under division (D) of section 3309.44 of the 643
Revised Code. 644

(E)(1) The death of a spouse or any other designated 645
beneficiary following the member's retirement shall cancel any 646
plan of payment to provide continuing lifetime benefits to the 647
spouse or designated beneficiary and the retirant shall receive 648
the retirant's single lifetime retirement allowance equivalent as 649
determined by the board. 650

(2) On divorce, annulment, or marriage dissolution, a 651
retirant receiving a retirement allowance under a plan of payment 652
that provides for continuation of all or part of the allowance 653
after death for the lifetime of the member's surviving spouse may 654
elect to cancel the plan and receive the member's single lifetime 655
retirement allowance equivalent as determined by the retirement 656
board, except that in the case of a member who retires on or after 657
July 24, 1990, the election may be made only with the written 658
consent of the spouse or pursuant to an order of the court with 659
jurisdiction over the termination of the marriage. The election 660
shall be made on a form provided by the board and shall be 661
effective the month following its receipt by the board. 662

(3) Following marriage or remarriage, a retirant who is 663
receiving a benefit pursuant to "plan B" may elect a new plan of 664
payment under division (B)(1), ~~(2)(3)~~(b), or ~~(2)(3)~~(c) of this 665
section based on the actuarial equivalent of the member's single 666
lifetime retirement allowance as determined by the board. The plan 667

shall become effective the first day of the month following 668
receipt by the board of an application on a form approved by the 669
board. 670

Section 2. That existing sections 145.323, 145.46, 3105.80, 671
3307.60, 3307.67, 3309.374, and 3309.46 of the Revised Code are 672
hereby repealed. 673