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Schneider, Schmidt, Reidelbach, Buehrer, Cates, Clancy, Core, Distel,
Domenick, Fessler, Flowers, Hagan, Harwood, Hollister, Key, Latta,
McGregor, Niehaus, Price, Seitz

A B I L L

To amend sections 145.323, 145.46, 145.92, 3105.80, 1
3105.82, 3307.60, 3307.67, 3307.87, 3309.374, 2
3309.46, and 3309.92 of the Revised Code to make 3
changes to the optional benefit plans for 4
retirants and the cost-of-living increase in the 5
Public Employee Retirement System, State Teachers 6
Retirement System, and School Employees Retirement 7
System. 8

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

Section 1. That sections 145.323, 145.46, 145.92, 3105.80, 9
3105.82, 3307.60, 3307.67, 3307.87, 3309.374, 3309.46, and 3309.92 10
of the Revised Code be amended to read as follows: 11

Sec. 145.323. (A) The public employees retirement board shall 12
annually increase each allowance, pension, or benefit payable 13
under this chapter by three per cent, except that no allowance, 14
pension, or benefit shall exceed the limit established by section 15
415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 16
U.S.C.A. 415, as amended. 17

The first increase is payable to all persons becoming 18
eligible after June 30, 1971, upon such persons receiving an 19
allowance for twelve months. The increased amount is payable for 20
the ensuing twelve-month period or until the next increase is 21
granted under this section, whichever is later. Subsequent 22
increases shall be determined from the date of the first increase 23
paid to the former member in the case of an allowance being paid a 24
beneficiary under an option, or from the date of the first 25
increase to the survivor first receiving an allowance or benefit 26
in the case of an allowance or benefit being paid to the 27
subsequent survivors of the former member. 28

The date of the first increase under this section becomes the 29
anniversary date for any future increases. 30

The allowance or benefit used in the first calculation of an 31
increase under this section shall remain as the base for all 32
future increases, unless a new base is established. 33

(B) If payment of a portion of a benefit is made to an 34
alternate payee under section 145.571 of the Revised Code, 35
increases under this section granted while the order is in effect 36
shall be apportioned between the alternate payee and the benefit 37
recipient in the same proportion that the amount being paid to the 38
alternate payee bears to the amount paid to the benefit recipient. 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~~ (a) Except as provided in division (B)(1)(b) of this 53
section, a member who retires under section 145.32, 145.331, or 54
145.34 of the Revised Code shall receive a retirement allowance 55
under "plan A," which shall consist of the actuarial equivalent of 56
the member's retirement allowance determined under section 145.33, 57
145.331, or 145.34 of the Revised Code in a lesser amount payable 58
for life and one-half of such allowance continuing after death to 59
the member's surviving spouse for the life of the spouse. 60

(b) A member may ~~elect to receive the member's~~ a retirement 61
allowance under a plan of payment other than "plan A" if either of 62
the following is the case: 63

(i) The member is not married or either the member's spouse 64
consents in writing to the member's election of a plan of payment 65
other than "plan A" or the board waives the requirement that the 66
spouse consent. ~~An;~~ 67

(ii) A plan of payment providing for payment in a specified 68
amount continuing after the member's death to a former spouse is 69
required by a court order issued prior to the effective date of 70
the member's retirement under section 3105.171 or 3105.65 of the 71
Revised Code or the laws of another state regarding division of 72
marital property. 73

(2) An application for retirement shall include an 74
explanation of all of the following: 75

(a) That, if the member is married, unless the spouse 76
consents to another plan of payment or there is a court order 77

dividing marital property that provides for payment in a specified 78
amount, the member's retirement allowance will be paid under "plan 79
A," which consists of the actuarial equivalent of the member's 80
retirement allowance in a lesser amount payable for life and 81
one-half of the allowance continuing after death to the surviving 82
spouse for the life of the spouse; 83

(b) A description of the alternative plans of payment, 84
including all plans described in divisions (B)(2) and (3) of this 85
section, available with the consent of the spouse; 86

(c) That the spouse may consent to another plan of payment 87
and the procedure for giving consent; 88

(d) That consent is irrevocable once notice of consent is 89
filed with the board. 90

Consent shall be valid only if it is signed, in writing, and 91
witnessed by a notary public. The board may waive the requirement 92
of consent if the spouse is incapacitated or cannot be located or 93
for any other reason specified by the board. Consent or waiver is 94
effective only with regard to the spouse who is the subject of the 95
consent or waiver. 96

~~+2+~~(3) A member eligible to elect to receive the member's 97
retirement allowance under a plan of payment other than "plan A" 98
shall receive the member's retirement allowance under the plan 99
described in division (B)~~+3+~~(4) of this section or one of the 100
following plans: 101

(a) "Plan B," which shall consist of an allowance determined 102
under section 145.33, 145.331, or 145.34 of the Revised Code; 103

(b) "Plan C," which shall consist of the actuarial equivalent 104
of the member's retirement allowance determined under section 105
145.33, 145.331, or 145.34 of the Revised Code in a lesser amount 106
payable for life and one-half or some other portion of the 107
allowance continuing after death to the member's sole surviving 108

beneficiary designated at the time of the member's retirement, 109
provided that the amount payable to the beneficiary does not 110
exceed the amount payable to the member; 111

(c) "Plan D," which shall consist of the actuarial equivalent 112
of the member's retirement allowance determined under section 113
145.33, 145.331, or 145.34 of the Revised Code in a lesser amount 114
payable for life and continuing after death to a surviving 115
beneficiary designated at the time of the member's retirement; 116

(d) "Plan E," which shall consist of the actuarial equivalent 117
of the member's retirement allowance determined under section 118
145.33, 145.331, or 145.34 of the Revised Code in a lesser amount 119
payable for a certain period from the member's retirement date as 120
elected by the member and approved by the retirement board, and on 121
the member's death before the expiration of that certain period 122
the member's lesser retirement allowance payable for the remainder 123
of that period to the member's surviving designated beneficiary 124
nominated by written designation filed with the retirement board. 125

Should the nominated beneficiary designated in writing die 126
prior to the expiration of the guarantee period, then for the 127
purpose of completing payment for the remainder of the guarantee 128
period, the present value of such payments shall be paid to the 129
estate of the beneficiary last receiving. 130

(e) "Plan F," which shall consist of the actuarial equivalent 131
of the member's retirement allowance determined under section 132
145.33, 145.331, or 145.34 of the Revised Code in a lesser amount 133
payable for life and continuing after death to each of two or more 134
surviving beneficiaries designated at the time of the member's 135
retirement, in such portion as specified at retirement. 136

~~(3)~~(4)(a) Beginning on a date selected by the retirement 137
board, which shall be not later than July 1, 2004, a member may 138
elect to receive a retirement allowance under a plan of payment 139

consisting of both a lump sum in an amount the member designates 140
that constitutes a portion of the member's retirement allowance 141
under a plan described in division (B) of this section and the 142
remainder as a monthly allowance under that plan. 143

The total amount paid as a lump sum and a monthly benefit 144
shall be the actuarial equivalent of the amount that would have 145
been paid had the lump sum not been selected. 146

(b) The lump sum designated by a member shall be not less 147
than six times and not more than thirty-six times the monthly 148
amount that would be payable to the member under the plan of 149
payment elected under division (B)~~(3)~~(4)(a) of this section had 150
the lump sum not been elected and shall not result in a monthly 151
allowance that is less than fifty per cent of that monthly amount. 152

~~(4)~~(5) An election under division (B)~~(2)~~(3) or ~~(3)~~(4) of this 153
section shall be made at the time the member makes application for 154
retirement. 155

~~(5)~~(6) A member eligible to elect to receive the member's 156
retirement allowance under a plan of payment other than "plan A" 157
because the member is unmarried who fails to make an election on 158
retirement shall receive the member's retirement allowance under 159
"plan B." 160

(C) If the retirement allowances, as a single life annuity or 161
payment plan as provided in this section, due and paid are in a 162
total amount less than (1) the accumulated contributions, and (2) 163
other deposits made by the member as provided by this chapter, 164
standing to the credit of the member at the time of retirement, 165
then the difference between the total amount of the allowances 166
paid and the accumulated contributions and other deposits shall be 167
paid to the beneficiary provided under division (D) of section 168
145.43 of the Revised Code. 169

(D)(1) The death of a spouse or any designated beneficiary 170

following retirement shall cancel any plan of payment to provide 171
continuing lifetime benefits to the spouse or beneficiary and 172
return the retirant to the retirant's single lifetime benefit 173
equivalent, as determined by the board, to be effective the month 174
following receipt by the board of notice of the death. 175

(2) On divorce, annulment, or marriage dissolution, a 176
retirant receiving a retirement allowance under a plan that 177
provides for continuation of all or part of the allowance after 178
death for the lifetime of the retirant's surviving spouse may, 179
with the written consent of the spouse or pursuant to an order of 180
the court with jurisdiction over the termination of the marriage, 181
elect to cancel the plan and receive the member's single lifetime 182
benefit equivalent as determined by the retirement board. The 183
election shall be made on a form provided by the board and shall 184
be effective the month following its receipt by the board. 185

(E) Following a marriage or remarriage, a retirant who is 186
receiving the retirant's retirement allowance under "plan B" may 187
elect a new plan of payment under division (B)(1), ~~(2)~~(3)(b), or 188
~~(2)~~(3)(c) of this section based on the actuarial equivalent of the 189
retirant's single lifetime benefit as determined by the board. The 190
plan shall become effective the first day of the month following 191
receipt by the board of an application on a form approved by the 192
board. 193

(F) Any person who, prior to July 24, 1990, selected an 194
optional plan of payment at retirement that provided for a return 195
to the single life benefit after the designated beneficiary's 196
death shall have the retirant's benefit adjusted to the optional 197
plan equivalent without such provision. 198

(G) A retirant's receipt of the first month's retirement 199
allowance constitutes the retirant's final acceptance of the plan 200
of payment and may be changed only as provided in this chapter. 201

Sec. 145.92. If a member participating in a PERS defined 202
contribution plan is married at the time benefits under the plan 203
are to commence, unless the spouse consents to another plan of 204
payment or the spouse's consent is waived, the member's retirement 205
allowance under the plan shall be paid in a lesser amount payable 206
for life and one-half of the allowance continuing after death to 207
the surviving spouse for the life of the spouse. 208

Consent is valid only if it is evidenced by a written 209
document signed by the member and the signature is witnessed by a 210
notary public. A plan may waive the requirement of consent if the 211
spouse is incapacitated or cannot be located or for any other 212
reason specified by the plan or in rules adopted by the public 213
employees retirement board. A plan shall waive the requirement of 214
consent if a plan of payment that provides for payment in a 215
specified amount continuing after the member's death to a former 216
spouse is required by a court order issued prior to the effective 217
date of the member's retirement under section 3105.171 or 3105.65 218
of the Revised Code or laws of another state regarding division of 219
marital property. 220

Consent or waiver is effective only with regard to the spouse 221
who is the subject of the consent or waiver. 222

Sec. 3105.80. As used in this section and sections 3105.81 to 223
3105.90 of the Revised Code: 224

(A) "Alternate payee" means a party in an action for divorce, 225
legal separation, annulment, or dissolution of marriage who is to 226
receive one or more payments from a benefit or lump sum payment 227
under an order issued under section 3105.171 or 3105.65 of the 228
Revised Code that is in compliance with sections 3105.81 to 229
3105.90 of the Revised Code. 230

(B) "Benefit" means a periodic payment under a pension, 231

annuity, allowance, or other type of benefit, other than a 232
survivor benefit, that has been or may be granted to a participant 233
under sections 742.01 to 742.61 or Chapter 145., 3307., 3309., or 234
5505. of the Revised Code or any payment that is to be made under 235
a contract a participant has entered into for the purposes of an 236
alternative retirement plan. "Benefit" also includes all amounts 237
received or to be received under a plan of payment elected under 238
division (B)~~(3)~~(4) of section 145.46, division (B) of section 239
3307.60, or division (B)~~(3)~~(4) of section 3309.46 of the Revised 240
Code. 241

(C) "Lump sum payment" means a payment of accumulated 242
contributions standing to a participant's credit under sections 243
742.01 to 742.61 or Chapter 145., 3307., 3309., or 5505. of the 244
Revised Code or pursuant to a contract a participant has entered 245
into for the purposes of an alternative retirement plan and any 246
other payment made or that may be made to a participant under 247
those sections or chapters on withdrawal of a participant's 248
contributions. "Lump sum payment" includes a lump sum payment 249
under section 145.384, 742.26, 3307.352, or 3309.344 of the 250
Revised Code. 251

(D) "Participant" means a member, contributor, retirant, or 252
disability benefit recipient who is or will be entitled to a 253
benefit or lump sum payment under sections 742.01 to 742.61 or 254
Chapter 145., 3307., 3309., or 5505. of the Revised Code or an 255
academic or administrative employee who elects to participate in 256
an alternative retirement plan under Chapter 3305. of the Revised 257
Code. 258

(E) "Personal history record" has the same meaning as in 259
section 145.27, 742.41, 3305.20, 3307.20, 3309.22, and 5505.04 of 260
the Revised Code. 261

(F) "Public retirement program" means the public employees 262
retirement system, Ohio police and fire pension fund, school 263

employees retirement system, state teachers retirement system, 264
state highway patrol retirement system, or an entity providing an 265
alternative retirement plan under Chapter 3305. of the Revised 266
Code. 267

Sec. 3105.82. An order described in section 3105.81 of the 268
Revised Code shall meet all of the following requirements: 269

(A) Be on the form created under section 3105.90 of the 270
Revised Code; 271

(B) Set forth the name and address of the public retirement 272
program subject to the order or, if the court determines that the 273
participant has contributions on deposit with more than one public 274
retirement program, the name and address of each public retirement 275
program that is potentially subject to the order; 276

(C) Set forth the names, social security numbers, and current 277
addresses of the participant and alternate payee; 278

(D) Specify the amount to be paid to the alternate payee as 279
one of the following: 280

(1) As both a monthly dollar amount should the participant 281
elect a benefit and as a one-time payment should the participant 282
elect a lump sum payment; 283

(2) As a percentage of a fraction determined as follows of a 284
monthly benefit or lump sum payment: 285

(a) The numerator of the fraction shall be the number of 286
years during which the participant was both a member of a public 287
retirement program and married to the alternate payee. 288

(b) The denominator, which shall be determined by the public 289
retirement program at the time the participant elects to take the 290
benefit or payment, shall be the participant's total years of 291
service credit or, in the case of a participant in a retirement 292
plan established under section 145.81, 3307.81, or 3309.81 or 293

Chapter 3305. of the Revised Code, years of participation in the 294
plan. 295

(E) If the participant is eligible for more than one benefit 296
or lump sum payment, specify in accordance with division (D) of 297
this section the amount, if any, to be paid to the alternate payee 298
from each benefit or lump sum payment. 299

(F) Require an individual who is a participant or alternate 300
payee to notify the public retirement program in writing of a 301
change in the individual's mailing address; 302

(G) Notify the alternate payee of the following: 303

(1) The payee's right to payment under the order is 304
conditional on the participant's right to a benefit payment or 305
lump sum payment; 306

(2) The possible reduction under section 145.571, 742.462, 307
3307.371, 3309.671, or 5505.261 of the Revised Code of the amount 308
paid to the alternate payee; 309

(3) The possible termination of the payee's rights as 310
described in section 3105.86 of the Revised Code. 311

(H) Apply to payments made by the public retirement program 312
after retention of an order under section 145.571, 742.462, 313
3305.21, 3307.371, 3309.671, or 5505.261 of the Revised Code. 314

Sec. 3307.60. (A) Upon application for retirement as provided 315
in section 3307.58 or 3307.59 of the Revised Code, the retirant 316
may elect a plan of payment under this division or, on and after 317
the date specified in division (B) of this section, a plan of 318
payment under that division. Under this division, the retirant may 319
elect to receive a single lifetime benefit, or may elect to 320
receive the actuarial equivalent of the retirant's benefit in a 321
lesser amount, payable for life, and continuing after death to a 322
beneficiary under one of the following optional plans: 323

(1) Option 1. The retirant's lesser benefit shall be paid for 324
life to the sole beneficiary named at retirement. 325

(2) Option 2. Some other portion of the retirant's benefit 326
shall be paid for life to the sole beneficiary named at 327
retirement. The beneficiary's monthly amount shall not exceed the 328
monthly amount payable to the retirant during the retirant's 329
lifetime. 330

(3) Option 3. The retirant's lesser benefit established as 331
provided under option 1 or option 2 shall be paid for life to the 332
sole beneficiary named at retirement, except that in the event of 333
the death of the sole beneficiary or termination of a marital 334
relationship between the retirant and the sole beneficiary the 335
retirant may elect to return to a single lifetime benefit 336
equivalent as determined by the state teachers retirement board, 337
if, in the case of termination of a marital relationship, the 338
election is made with the written consent of the beneficiary or 339
pursuant to an order of the court with jurisdiction over 340
termination of the marital relationship. 341

(4) Option 4. A portion of the retirant's lesser benefit 342
shall be paid for life to each of two or more beneficiaries named 343
at retirement, in such portion as specified at retirement. 344

(5) Option 5. Upon the retirant's death before the expiration 345
of a certain period from the retirement date and elected by the 346
retirant, and approved by the board, the retirant's benefit shall 347
be continued for the remainder of such period to the beneficiary. 348
Monthly benefits shall not be paid to joint beneficiaries, but 349
they may receive the present value of any remaining payments in a 350
lump sum settlement. If all beneficiaries die before the 351
expiration of the certain period, the present value of all 352
payments yet remaining in such period shall be paid to the estate 353
of the beneficiary last receiving. 354

~~(5)~~(6) Option ~~5~~6. A plan of payment established by the state 355
teachers retirement board combining any of the features of options 356
1, 2, and ~~4~~5. 357

(B) Beginning on a date selected by the state teachers 358
retirement board, which shall be not later than July 1, 2004, a 359
retirant may elect, in lieu of a plan of payment under division 360
(A) of this section, a plan consisting of both of the following: 361

(1) A lump sum in an amount the member designates that 362
constitutes a portion of the member's single lifetime benefit; 363

(2) Either of the following: 364

(a) The remainder of the retirant's single lifetime benefit; 365

(b) The actuarial equivalent of the remainder of the 366
retirant's benefit in a lesser amount, payable for life, and 367
continuing after death to a beneficiary under one of the options 368
described in divisions (A)(1) to ~~(5)~~(6) of this section. 369

In the event of the death of the sole beneficiary or 370
termination of a marital relationship between the retirant and the 371
sole beneficiary, the retirant may elect to receive the actuarial 372
equivalent of the remainder of the retirant's single lifetime 373
benefit except that, in the case of termination of a marital 374
relationship, the election may be made only with the written 375
consent of the beneficiary or pursuant to an order of the court 376
with jurisdiction over termination of the marital relationship. 377

The amount designated by the member under division (B)(1) of 378
this section shall be not less than six times and not more than 379
thirty-six times the monthly amount that would be payable to the 380
member as a single lifetime benefit and shall not result in a 381
monthly allowance that is less than fifty per cent of that amount. 382

(C) Until the first payment is made to a former member under 383
section 3307.58 or 3307.59 of the Revised Code, the former member 384

may change the selection of a plan of payment. 385

(D)(1) If a deceased member was eligible for but had not yet 386
been awarded a service retirement benefit under section 3307.58 or 387
3307.59 of the Revised Code at the time of death, option 1 as 388
provided for in division (A)(1) of this section shall be paid to 389
the spouse or other sole dependent beneficiary. 390

(2) Beginning on a date selected by the board, which shall be 391
not later than July 1, 2004, the spouse or sole beneficiary may 392
elect, in lieu of option 1, a plan of payment consisting of both 393
of the following: 394

(a) A lump sum in an amount the spouse or other sole 395
dependent beneficiary designates that constitutes a portion of the 396
retirant's single life annuity; 397

(b) The actuarial equivalent of the remainder of the 398
retirant's single life annuity paid in a lesser amount for life to 399
the spouse or other sole dependent beneficiary. 400

The amount designated by the spouse or other sole dependent 401
beneficiary under division (D)(2)(a) of this section shall be not 402
less than six times and not more than thirty-six times the monthly 403
amount that would be payable as the retirant's single life annuity 404
and shall not result in a monthly allowance that is less than 405
fifty per cent of that monthly amount. 406

(E) If the total benefit paid under this section is less than 407
the balance in the teachers' savings fund, the difference shall be 408
paid to the beneficiary provided under division (D) of section 409
3307.562 of the Revised Code. 410

(F) In the case of a retirant who elected an optional plan 411
prior to September 15, 1989: 412

(1) The death of the spouse or other designated beneficiary 413
following retirement shall, at the election of the retirant, 414

cancel any optional plan selected at retirement to provide 415
continuing lifetime benefits to the spouse or other beneficiary 416
and return the retirant to a single lifetime benefit equivalent as 417
determined by the board. 418

(2) A divorce, annulment, or marriage dissolution shall, at 419
the election of the retirant, cancel any optional plan selected at 420
retirement to provide continuing lifetime benefits to the spouse 421
as designated beneficiary and return the retirant to a single 422
lifetime benefit equivalent as determined by the board if the 423
election is made with the written consent of the beneficiary or 424
pursuant to an order of a court of common pleas or the court of 425
another state with jurisdiction over the termination of the 426
marriage. 427

(G) Following marriage or remarriage, a retirant may elect a 428
new optional plan of payment based on the actuarial equivalent of 429
the retirant's single lifetime benefit, as determined by the 430
board, except that if the retirant is receiving a retirement 431
allowance under an optional plan that provides for continuation of 432
benefits after death to a former spouse, the retirant may elect a 433
new optional plan of payment only with the written consent of the 434
former spouse or pursuant to an order of the court with 435
jurisdiction over the termination of the marriage. Such plan shall 436
become effective the first of the month following an application 437
on a form approved by the board. 438

(H)(1) ~~Unless one of the following occurs~~ Except as otherwise 439
provided in this division, an application for service retirement 440
made pursuant to section 3307.58 or 3307.59 of the Revised Code by 441
a married person shall be considered an election of a benefit 442
under option 2 as provided for in division (A)(2) of this section 443
under which one-half of the lesser benefit payable during the life 444
of the retirant will be paid after death to the retirant's spouse 445
for life as sole beneficiary. The exceptions are as follows: 446

(a) The retirant selects an optional plan under division (A) 447
of this section providing for payment after death to the 448
retirant's spouse for life as sole beneficiary of more than 449
one-half of the lesser benefit payable during the life of the 450
retirant. 451

(b) A plan of payment providing for payment in a specified 452
amount continuing after the retirant's death to a former spouse is 453
required by a court order issued prior to the effective date of 454
retirement under section 3105.171 or 3105.65 of the Revised Code 455
or the laws of another state regarding division of marital 456
property. 457

(c) The retirant submits to the retirement board a written 458
statement signed by the spouse attesting that the spouse consents 459
to the retirant's election to receive a single lifetime annuity or 460
a payment under an optional benefit plan under which after the 461
death of the retirant the surviving spouse will receive less than 462
one-half of the lesser benefit payable during the life of the 463
retirant. 464

(2) An application for retirement shall include an 465
explanation of all of the following: 466

(a) That, if the member is married, unless the spouse 467
consents to another plan of payment or there is a court order 468
dividing marital property that provides for payment in a specified 469
amount, the member's retirement allowance will be paid under 470
"option 2" as provided for in division (A)(2) of this section and 471
consist of the actuarial equivalent of the member's retirement 472
allowance in a lesser amount payable for life and one-half of the 473
lesser allowance continuing after death to the surviving spouse 474
for the life of the spouse; 475

(b) A description of the alternative plans of payment 476
available with the consent of the spouse; 477

(c) That the spouse may consent to another plan of payment 478
and the procedure for giving consent; 479

(d) That consent is irrevocable once notice of consent is 480
filed with the board. 481

Consent shall be valid only if it is signed, in writing, and 482
witnessed by a notary public. 483

(3) If the retirant does not select an optional plan of 484
payment as described in division (H)(1)(a) of this section, no 485
court has ordered a plan of payment described in division 486
(H)(1)(b) of this section, and the board does not receive the 487
written statement provided for in division (H)(1)(~~b~~)(c) of this 488
section, ~~it~~ the board shall determine and pay the retirement 489
allowance in accordance with this division, except that the board 490
may provide by rule for waiver by the board of the statement and 491
payment of the benefits other than in accordance with this 492
division or payment under section 3307.56 of the Revised Code if 493
the retirant is unable to obtain the statement due to absence or 494
incapacity of the spouse or other cause specified by the board. 495

(I) For the purpose of determining actuarial equivalence 496
under this section, on the advice of an actuary employed by the 497
board, the board shall adopt mortality tables that may take into 498
consideration the membership experience of the state teachers 499
retirement system and may also include the membership experience 500
of the public employees retirement system and the school employees 501
retirement system. 502

Sec. 3307.67. (A) The state teachers retirement board shall 503
annually increase each allowance or benefit payable under sections 504
3307.50 to 3307.79 of the Revised Code by three per cent, except 505
that no allowance or benefit shall exceed the limit established by 506
section 415 of the "Internal Revenue Code of 1986," 100 Stat. 507

2085, 26 U.S.C.A. 415, as amended. 508

The first increase is payable to all persons becoming 509
eligible after June 30, 1971, upon such persons receiving an 510
allowance or benefit for twelve months. The increased amount is 511
payable for the ensuing twelve-month period or until the next 512
increase is granted under this section, whichever is later. 513
Subsequent increases shall be determined from the date of the 514
first increase paid to the former member in the case of an 515
allowance being paid a beneficiary under an option, or from the 516
date of the first increase to the survivor first receiving an 517
allowance or benefit in the case of an allowance or benefit being 518
paid to the subsequent survivors of the former member. 519

The date of the first increase under this section becomes the 520
anniversary date for any future increases. 521

The allowance or benefit used in the first calculation of an 522
increase under this section shall remain as the base for all 523
future increases, unless a new base is established. 524

(B) If payment of a portion of a benefit is made to an 525
alternate payee under section 3307.371 of the Revised Code, 526
increases under this section granted while the order is in effect 527
shall be apportioned between the alternate payee and the benefit 528
recipient in the same proportion that the amount being paid to the 529
alternate payee bears to the amount paid to the benefit recipient. 530

(C) The board shall make all rules necessary to carry out 531
this section. 532

Sec. 3307.87. (A)(1) If a member participating in a plan 533
established under section 3307.81 of the Revised Code is married 534
at the time any benefits under the plan commence, benefits shall 535
be paid in accordance with division (A)(2) of this section, unless 536
the spouse has consented under division (C) of this section to a 537

different form of payment or the spouse's consent is waived under 538
that division. 539

(2) The benefits described in division (A)(1) of this section 540
shall be paid in the form of an annuity, which shall consist of 541
the actuarial equivalent of the member's benefits, in an amount 542
that is payable for the life of the member and one-half of the 543
amount continuing after the member's death to the spouse for the 544
life of the spouse. 545

(B) If a member participating in a plan established under 546
section 3307.81 of the Revised Code is married at the time of the 547
member's death, any benefits that are payable to the member shall 548
be paid to the member's spouse, unless the spouse has consented 549
under division (C) of this section to the designation of a 550
different beneficiary or the spouse's consent is waived under that 551
division. 552

(C) Consent is valid only if it is evidenced by a signed 553
statement that is witnessed by a notary public. Each plan may 554
waive the requirement of consent if the spouse is incapacitated or 555
cannot be located or for any other reason specified by the plan or 556
in rules adopted by the state teachers retirement board. A plan 557
shall waive the requirement of consent if a plan of payment that 558
provides for payment in a specified amount continuing after the 559
member's death to a former spouse is required by a court order 560
issued prior to the effective date of the member's retirement 561
under section 3105.171 or 3105.65 of the Revised Code or laws of 562
another state regarding division of marital property. 563

Consent or waiver is effective only with regard to the spouse 564
who is the subject of the consent or waiver. 565

Sec. 3309.374. (A) The school employees retirement board 566
shall annually increase each allowance, pension, or benefit 567

payable under this chapter by three per cent, except that no 568
allowance, pension, or benefit shall exceed the limit established 569
by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 570
2085, 26 U.S.C.A. 415, as amended. 571

The first increase is payable to all persons becoming 572
eligible after June 30, 1971, upon such persons receiving an 573
allowance, pension, or benefit for twelve months. 574

The increased amount is payable for the ensuing twelve-month 575
period or until the next increase is granted under this section, 576
whichever is later. Subsequent increases shall be determined from 577
the date of the first increase paid to the former member in the 578
case of an allowance being paid a beneficiary under an option, or 579
from the date of the first increase to the survivor first 580
receiving an allowance or benefit in the case of an allowance or 581
benefit being paid to the subsequent survivors of the former 582
member. 583

The date of the first increase under this section becomes the 584
anniversary date for any future increases. 585

The allowance or benefit used in the first calculation of an 586
increase under this section shall remain as the base for all 587
future increases, unless a new base is established. Any increase 588
resulting from payment of a recalculated benefit under Section 3 589
of Substitute Senate Bill No. 270 of the 123rd general assembly 590
shall be included in the calculation of future increases under 591
this section. 592

(B) If payment of a portion of a benefit is made to an 593
alternate payee under section 3309.671 of the Revised Code, 594
increases under this section granted while the order is in effect 595
shall be apportioned between the alternate payee and the retirant 596
or disability benefit recipient in the same proportion that the 597
amount being paid to the alternate payee bears to the amount paid 598

to the retirant or disability benefit recipient. 599

(C) The board shall make all rules necessary to carry out 600
this section. 601

Sec. 3309.46. (A) The retirement allowance calculated under 602
section 3309.36, 3309.38, or 3309.381 of the Revised Code shall be 603
paid as provided in this section. If the member is eligible to 604
elect a plan of payment under this section, the election shall be 605
made on the application for retirement. A plan of payment elected 606
under this section shall be effective only if it is certified by 607
the actuary engaged by the school employees retirement board to be 608
the actuarial equivalent of the member's retirement allowance and 609
is approved by the retirement board. 610

~~(B)(1) Unless the member is eligible to elect another plan of~~ 611
~~payment~~ (a) Except as provided in division (B)(1)(b) of this 612
section, a member who retires under section 3309.36, 3309.38, or 613
3309.381 of the Revised Code shall receive a retirement allowance 614
under "plan A," which shall consist of the actuarial equivalent of 615
the member's retirement allowance determined under section 616
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 617
amount payable for life and one-half of such allowance continuing 618
after death to the member's surviving spouse for the life of the 619
spouse. 620

(b) A member may ~~elect to~~ receive a retirement allowance 621
under a plan of payment other than "plan A" if ~~the~~ either of the 622
following is the case: 623

(i) The member is not married or either the member's spouse 624
consents in writing to the member's election to a plan of payment 625
other than "plan A" or the board waives the requirement that the 626
spouse consent; 627

(ii) A plan of payment providing for payment in a specified 628

amount continuing after the member's death to a former spouse is 629
required by a court order issued prior to the effective date of 630
the member's retirement under section 3105.171 or 3105.65 of the 631
Revised Code or the laws of another state regarding division of 632
marital property. 633

(2) An application for retirement shall include an 634
explanation of all of the following: 635

(a) That, if the member is married, unless the spouse 636
consents to another plan of payment or there is a court order 637
dividing marital property that provides for payment in a specified 638
amount, the member's retirement allowance will be paid under "plan 639
A," which consists of the actuarial equivalent of the member's 640
retirement allowance in a lesser amount payable for life and 641
one-half of the allowance continuing after death to the surviving 642
spouse for the life of the spouse; 643

(b) A description of the alternative plans of payment, 644
including all plans described in divisions (B)~~(2)~~(3) and ~~(3)~~(4) of 645
this section, available with the consent of the spouse; 646

(c) That the spouse may consent to another plan of payment 647
and the procedure for giving consent; 648

(d) That consent is irrevocable once notice of consent is 649
filed with the board. 650

Consent shall be valid only if it is in writing, signed by 651
the spouse, and witnessed by an employee of the school employees 652
retirement system or a notary public. The board may waive the 653
requirement of consent if the spouse is incapacitated or cannot be 654
located or for any other reason specified by the board. Consent or 655
waiver is effective only with regard to the spouse who is the 656
subject of the consent or waiver. 657

~~(2)~~(3) A member eligible to elect to receive a retirement 658

allowance under a plan of payment other than "plan A" shall 659
receive the retirement allowance under the plan described in 660
division (B)~~(3)~~(4) of this section or one of the following plans: 661

(a) "Plan B," which shall consist of an allowance determined 662
under section 3309.36, 3309.38, or 3309.381 of the Revised Code; 663

(b) "Plan C," which shall consist of the actuarial equivalent 664
of the member's retirement allowance determined under section 665
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 666
amount payable for life and one-half or some other portion of the 667
allowance continuing after death to the member's sole surviving 668
beneficiary designated at the time of the member's retirement, 669
provided that the amount payable to the beneficiary does not 670
exceed the amount payable to the member; 671

(c) "Plan D," which shall consist of the actuarial equivalent 672
of the member's retirement allowance determined under section 673
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 674
amount payable for life and continuing after death to a surviving 675
designated beneficiary designated at the time of the member's 676
retirement; 677

(d) "Plan E," which shall consist of the actuarial equivalent 678
of the member's retirement allowance determined under section 679
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 680
amount payable for a certain period from the member's retirement 681
date as elected by the member and approved by the retirement 682
board, and on the member's death before the expiration of that 683
certain period, the member's lesser retirement allowance continued 684
for the remainder of that period to, and in such order, the 685
beneficiaries as the member has nominated by written designation 686
and filed with the retirement board. 687

Monthly benefits shall not be paid to joint beneficiaries, 688
but they may receive the present value of any remaining payments 689

in a lump sum settlement. If all beneficiaries die before the 690
expiration of the certain period, the present value of all such 691
payments yet remaining in such period shall be paid to the estate 692
of the beneficiary last receiving. 693

(e) "Plan F," which shall consist of the actuarial equivalent 694
of the member's retirement allowance determined under section 695
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 696
amount payable for life and continuing after death to each of two 697
or more surviving beneficiaries designated at the time of the 698
member's retirement, in such portion as specified at retirement. 699

~~(3)~~(4)(a) Beginning on a date selected by the board, which 700
shall be not later than July 1, 2004, a member may elect, in lieu 701
of a plan of payment under division (B)(1) or ~~(2)~~(3) of this 702
section, a plan consisting of both a lump sum in an amount the 703
member designates that constitutes a portion of the retirement 704
allowance payable under a plan described in division (B)(1) or 705
~~(2)~~(3) of this section and the remainder of the allowance payable 706
under that plan in monthly payments. 707

The total amount paid as a lump sum and a monthly benefit 708
shall be the actuarial equivalent of the amount that would have 709
been paid had the lump sum not been selected. 710

(b) The lump sum amount designated by the member shall be not 711
less than six times and not more than thirty-six times the monthly 712
amount that would be payable to the member under the plan of 713
payment elected under this section had the lump sum not been 714
elected and shall not result in a monthly benefit that is less 715
than fifty per cent of that amount. 716

~~(4)~~(5) An election under division (B)~~(2)~~(3) or ~~(3)~~(4) of this 717
section shall be made at the time the member makes application for 718
retirement. 719

~~(5)~~(6) A member eligible to elect to receive a retirement 720

allowance under a plan of payment other than "plan A" because the 721
member is unmarried who fails to make an election on retirement 722
shall receive a retirement allowance under "plan B." 723

(C) Until the first payment of any retirement allowance is 724
made, as provided in sections 3309.36, 3309.38, or 3309.381 of the 725
Revised Code, a member may change the member's election of a 726
payment plan if the election is made in accordance with and is 727
consistent with division (B) of this section. 728

(D) If the retirement allowances due and paid under the above 729
provisions of this section are in a total amount less than (1) the 730
accumulated contributions, (2) the deposits for additional credit 731
as provided by section 3309.31 of the Revised Code, (3) the 732
deposits for additional annuities as provided by section 3309.47 733
of the Revised Code, (4) the deposits for repurchase of service 734
credit as provided by section 3309.26 of the Revised Code, (5) the 735
accumulated contributions provided by section 3309.65 of the 736
Revised Code, (6) the deposits for purchase of military service 737
credit provided by section 3309.021 or 3309.022 of the Revised 738
Code, and (7) the deposits for the purchase of service credit 739
provided by section 3309.73 of the Revised Code, standing to the 740
credit of the member at the time of retirement, then the 741
difference between the total amount of the allowances paid and the 742
accumulated contributions and other deposits shall be paid to the 743
beneficiary provided under division (D) of section 3309.44 of the 744
Revised Code. 745

(E)(1) The death of a spouse or any other designated 746
beneficiary following the member's retirement shall cancel ~~any the~~ 747
portion of the plan of payment ~~to provide~~ providing continuing 748
lifetime benefits to the deceased spouse or deceased designated 749
beneficiary and the retirant shall receive the actuarial 750
equivalent of the retirant's single lifetime retirement allowance 751
~~equivalent~~ as determined by the board. 752

(2) On divorce, annulment, or marriage dissolution, a 753
retirant receiving a retirement allowance under a plan of payment 754
that provides for continuation of all or part of the allowance 755
after death for the lifetime of the member's surviving spouse may 756
elect to cancel the portion of the plan providing continuing 757
lifetime benefits to that spouse and receive the ~~member's~~ 758
actuarial equivalent of the retirant's single lifetime retirement 759
allowance ~~equivalent~~ as determined by the retirement board, except 760
that in the case of a member who retires on or after July 24, 761
1990, the election may be made only with the written consent of 762
the spouse or pursuant to an order of the court with jurisdiction 763
over the termination of the marriage. The election shall be made 764
on a form provided by the board and shall be effective the month 765
following its receipt by the board. 766

(3) Following marriage or remarriage, ~~a~~ both of the following 767
apply: 768

(a) A retirant who is receiving a benefit pursuant to "plan 769
B" may elect a new plan of payment under division (B)(1), 770
~~(2)~~(3)(b), or ~~(2)~~(3)(c) of this section based on the actuarial 771
equivalent of the ~~member's~~ retirant's single lifetime retirement 772
allowance as determined by the board. ~~The~~ 773

(b) A retirant who is receiving a benefit pursuant to a plan 774
of payment providing for payment to a former spouse pursuant to a 775
court order described in division (B)(1)(b)(ii) of this section 776
may elect a new plan of payment under division (B)(3)(e) of this 777
section based on the actuarial equivalent of the retirant's single 778
lifetime retirement allowance as determined by the board if the 779
new plan of payment elected does not reduce the payment to the 780
former spouse. 781

The plan shall become effective the first day of the month 782
following receipt by the board of an application on a form 783

approved by the board.

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Sec. 3309.92. If a member participating in a plan established under section 3309.81 of the Revised Code is married at the time benefits under the plan are to commence, before making any payment the school employees retirement system, or the entity administering the plan pursuant to a contract with the school employees retirement board, shall obtain the consent of the member's spouse to the form of payment selected by the member, unless the spouse's consent is waived under this section.

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A plan established under section 3309.81 of the Revised Code shall include requirements for consent under this section that are the same as the requirements specified in section 417(a)(2) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 417(a)(2), as amended. A plan may waive consent if the spouse cannot be located or for any other reason specified in the regulations adopted under that section. A plan shall waive consent if a plan of payment that provides for payment in a specified amount continuing after the member's death to a former spouse is required by a court order issued prior to the effective date of the member's retirement under section 3105.171 or 3105.65 of the Revised Code or laws of another state regarding division of marital property.

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Consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.

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Section 2. That existing sections 145.323, 145.46, 145.92, 3105.80, 3105.82, 3307.60, 3307.67, 3307.87, 3309.374, 3309.46, and 3309.92 of the Revised Code are hereby repealed.

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Section 3. Sections 1 and 2 of this act take effect July 1, 2004.

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