

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

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

**Sub. H. B. No. 98**

**Representatives Willamowski, Hughes, Gibbs, Allen, Otterman, J. Stewart,  
Schneider, Schmidt, Reidelbach**

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**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 ~~56~~5. A plan of payment established by the state 355  
teachers retirement board combining any of the features of options 356  
1, 2, and ~~45~~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  
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  
section, ~~it~~ the board shall determine and pay the retirement  
allowance in accordance with this division, except that the board  
may provide by rule for waiver by the board of the statement and  
payment of the benefits other than in accordance with this  
division or payment under section 3307.56 of the Revised Code if  
the retirant is unable to obtain the statement due to absence or  
incapacity of the spouse or other cause specified by the board.

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

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

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

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. 784

**Sec. 3309.92.** If a member participating in a plan established 785  
under section 3309.81 of the Revised Code is married at the time 786  
benefits under the plan are to commence, before making any payment 787  
the school employees retirement system, or the entity 788  
administering the plan pursuant to a contract with the school 789  
employees retirement board, shall obtain the consent of the 790

member's spouse to the form of payment selected by the member, 791  
unless the spouse's consent is waived under this section. 792

A plan established under section 3309.81 of the Revised Code 793  
shall include requirements for consent under this section that are 794  
the same as the requirements specified in section 417(a)(2) of the 795  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 796  
417(a)(2), as amended. A plan may waive consent if the spouse 797  
cannot be located or for any other reason specified in the 798  
regulations adopted under that section. A plan shall waive consent 799  
if a plan of payment that provides for payment in a specified 800  
amount continuing after the member's death to a former spouse is 801  
required by a court order issued prior to the effective date of 802  
the member's retirement under section 3105.171 or 3105.65 of the 803  
Revised Code or laws of another state regarding division of 804  
marital property. 805

Consent or waiver is effective only with regard to the spouse 806  
who is the subject of the consent or waiver. 807

**Section 2.** That existing sections 145.323, 145.46, 145.92, 808  
3105.80, 3105.82, 3307.60, 3307.67, 3307.87, 3309.374, 3309.46, 809  
and 3309.92 of the Revised Code are hereby repealed. 810

**Section 3.** Sections 1 and 2 of this act take effect July 1, 811  
2004. 812