

**As Reported by the Senate Health, Human Services and Aging  
Committee**

**125th General Assembly  
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2003-2004**

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

**Representatives Willamowski, Hughes, Gibbs, Allen, Otterman, J. Stewart,  
Schneider, Schmidt, Reidelbach, Buehrer, Cates, Clancy, Core, Distel,  
Domenick, Fessler, Flowers, Hagan, Harwood, Hollister, Key, Latta,  
McGregor, Niehaus, Price, Seitz**

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**A B I L L**

To amend sections 145.323, 145.46, 145.92, 742.3711, 1  
742.3716, 742.3717, 3105.80, 3105.82, 3307.60, 2  
3307.67, 3307.87, 3309.374, 3309.46, 3309.92, 3  
5505.162, and 5505.174 of the Revised Code to make 4  
changes to the optional benefit plans for 5  
retirants and the cost-of-living increase in the 6  
state retirement systems. 7

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

**Section 1.** That sections 145.323, 145.46, 145.92, 742.3711, 8  
742.3716, 742.3717, 3105.80, 3105.82, 3307.60, 3307.67, 3307.87, 9  
3309.374, 3309.46, 3309.92, 5505.162, and 5505.174 of the Revised 10  
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

If payment of a portion of a benefit is made to one or more 40  
beneficiaries under "plan F" under division (B)(3)(e) of section 41  
145.46 of the Revised Code, each increase under this section 42  
granted while the plan of payment is in effect shall be divided 43  
among the designated beneficiaries in accordance with the portion 44  
each beneficiary has been allocated. 45

(C) The board shall make all rules necessary to carry out 46

this section. 47

**Sec. 145.46.** (A) A retirement allowance calculated under 48  
section 145.33, 145.331, or 145.34 of the Revised Code shall be 49  
paid as provided in this section. If the member is eligible to 50  
elect a plan of payment under this section, the election shall be 51  
made on a form provided by the public employees retirement board. 52  
A plan of payment elected under this section shall be effective 53  
only if approved by the board, which shall approve it only if it 54  
is certified by an actuary engaged by the board to be the 55  
actuarial equivalent of the retirement allowance calculated under 56  
section 145.33, 145.331, or 145.34 of the Revised Code. 57

(B)(1) ~~Unless the member is eligible to elect another plan of~~ 58  
~~payment~~ (a) Except as provided in divisions (B)(1)(b) and (c) of 59  
this section, a member who retires under section 145.32, 145.331, 60  
or 145.34 of the Revised Code shall receive a retirement allowance 61  
under "plan A," which shall consist of the actuarial equivalent of 62  
the member's retirement allowance determined under section 145.33, 63  
145.331, or 145.34 of the Revised Code in a lesser amount payable 64  
for life and one-half of such allowance continuing after death to 65  
the member's surviving spouse for the life of the spouse. 66

(b) A member may ~~elect to receive the member's~~ a retirement 67  
allowance under a plan of payment other than "plan A" if either of 68  
the following is the case: 69

(i) The member is not married or either the member's spouse 70  
consents in writing to the member's election of a plan of payment 71  
other than "plan A" or the board waives the requirement that the 72  
spouse consent. ~~And~~ 73

(ii) A plan of payment providing for payment in a specified 74  
portion of the allowance continuing after the member's death to a 75  
former spouse is required by a court order issued under section 76  
3105.171 or 3105.65 of the Revised Code or the laws of another 77

state regarding division of marital property prior to the  
effective date of the member's retirement.

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(c) If a member is subject to division (B)(1)(b)(ii) of this  
section and the board has received a copy of the order described  
in that division, the board shall accept the member's election of  
a plan of payment under this section only if the member complies  
with both of the following:

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(i) The member elects a plan of payment that is in accordance  
with the order described in division (B)(1)(b)(ii) of this  
section.

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(ii) If the member is married, the member elects "plan F" and  
designates the member's current spouse as a beneficiary under that  
plan unless that spouse consents in writing to not being  
designated a beneficiary under any plan of payment or the board  
waives the requirement that the current spouse consent.

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

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(a) That, if the member is married, unless the spouse  
consents to another plan of payment or there is a court order  
dividing marital property issued under section 3105.171 or 3105.65  
of the Revised Code or the laws of another state regarding the  
division of marital property that provides for payment in a  
specified amount, the member's retirement allowance will be paid  
under "plan A," which consists of the actuarial equivalent of the  
member's retirement allowance in a lesser amount payable for life  
and one-half of the allowance continuing after death to the  
surviving spouse for the life of the spouse;

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

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(c) That the spouse may consent to another plan of payment 108  
and the procedure for giving consent; 109

(d) That consent is irrevocable once notice of consent is 110  
filed with the board. 111

Consent shall be valid only if it is signed, in writing, and 112  
witnessed by a notary public. The board may waive the requirement 113  
of consent if the spouse is incapacitated or cannot be located or 114  
for any other reason specified by the board. Consent or waiver is 115  
effective only with regard to the spouse who is the subject of the 116  
consent or waiver. 117

~~(2)~~(3) A member eligible to elect to receive the member's 118  
retirement allowance under a plan of payment other than "plan A" 119  
shall receive the member's retirement allowance under the plan 120  
described in division (B)~~(3)~~(4) of this section or one of the 121  
following plans: 122

(a) "Plan B," which shall consist of an allowance determined 123  
under section 145.33, 145.331, or 145.34 of the Revised Code; 124

(b) "Plan C," which shall consist of the actuarial equivalent 125  
of the member's retirement allowance determined under section 126  
145.33, 145.331, or 145.34 of the Revised Code in a lesser amount 127  
payable for life and one-half or some other portion of the 128  
allowance continuing after death to the member's sole surviving 129  
beneficiary designated at the time of the member's retirement, 130  
provided that the amount payable to the beneficiary does not 131  
exceed the amount payable to the member; 132

(c) "Plan D," which shall consist of the actuarial equivalent 133  
of the member's retirement allowance determined under section 134  
145.33, 145.331, or 145.34 of the Revised Code in a lesser amount 135  
payable for life and continuing after death to a surviving 136  
beneficiary designated at the time of the member's retirement; 137

(d) "Plan E," which shall consist of the actuarial equivalent 138  
of the member's retirement allowance determined under section 139  
145.33, 145.331, or 145.34 of the Revised Code in a lesser amount 140  
payable for a certain period from the member's retirement date as 141  
elected by the member and approved by the retirement board, and on 142  
the member's death before the expiration of that certain period 143  
the member's lesser retirement allowance payable for the remainder 144  
of that period to the member's surviving designated beneficiary 145  
nominated by written designation filed with the retirement board. 146

Should the nominated beneficiary designated in writing die 147  
prior to the expiration of the guarantee period, then for the 148  
purpose of completing payment for the remainder of the guarantee 149  
period, the present value of such payments shall be paid to the 150  
estate of the beneficiary last receiving. 151

(e) "Plan F," which shall consist of the actuarial equivalent 152  
of the member's retirement allowance determined under section 153  
145.33, 145.331, or 145.34 of the Revised Code in a lesser amount 154  
payable to the retirant for life and some portion of the lesser 155  
amount continuing after death to two, three, or four surviving 156  
beneficiaries designated at the time of the member's retirement. 157  
The portion of the lesser allowance that continues after the 158  
member's death shall be allocated among the beneficiaries at the 159  
time of the member's retirement. If the member elects this plan as 160  
required by a court order issued under section 3105.171 or 3105.65 161  
of the Revised Code or the laws of another state regarding the 162  
division of marital property and compliance with the court order 163  
requires the allocation of a portion less than ten per cent to any 164  
beneficiary, the member shall allocate a portion less than ten per 165  
cent to that beneficiary in accordance with that order. In all 166  
other circumstances, no portion allocated under this plan of 167  
payment shall be less than ten per cent. The total of the portions 168  
allocated shall not exceed one hundred per cent of the member's 169

lesser allowance. 170

~~(3)~~(4)(a) Beginning on a date selected by the retirement 171  
board, which shall be not later than July 1, 2004, a member may 172  
elect to receive a retirement allowance under a plan of payment 173  
consisting of both a lump sum in an amount the member designates 174  
that constitutes a portion of the member's retirement allowance 175  
under a plan described in division (B) of this section and the 176  
remainder as a monthly allowance under that plan. 177

The total amount paid as a lump sum and a monthly benefit 178  
shall be the actuarial equivalent of the amount that would have 179  
been paid had the lump sum not been selected. 180

(b) The lump sum designated by a member shall be not less 181  
than six times and not more than thirty-six times the monthly 182  
amount that would be payable to the member under the plan of 183  
payment elected under division (B)~~(3)~~(4)(a) of this section had 184  
the lump sum not been elected and shall not result in a monthly 185  
allowance that is less than fifty per cent of that monthly amount. 186

~~(4)~~(5) An election under division (B)~~(2)~~(3) or ~~(3)~~(4) of this 187  
section shall be made at the time the member makes application for 188  
retirement. 189

~~(5)~~(6) A member eligible to elect to receive the member's 190  
retirement allowance under a plan of payment other than "plan A" 191  
because the member is unmarried who fails to make an election on 192  
retirement shall receive the member's retirement allowance under 193  
"plan B." 194

(C) If the retirement allowances, as a single life annuity or 195  
payment plan as provided in this section, due and paid are in a 196  
total amount less than (1) the accumulated contributions, and (2) 197  
other deposits made by the member as provided by this chapter, 198  
standing to the credit of the member at the time of retirement, 199  
then the difference between the total amount of the allowances 200

paid and the accumulated contributions and other deposits shall be 201  
paid to the beneficiary provided under division (D) of section 202  
145.43 of the Revised Code. 203

(D)(1) The death of a spouse or any designated beneficiary 204  
following retirement shall cancel ~~any the portion of the~~ plan of 205  
payment ~~to provide~~ providing continuing lifetime benefits to the 206  
deceased spouse or deceased designated beneficiary ~~and return the~~. 207  
The retirant ~~to~~ shall receive the actuarial equivalent of the 208  
retirant's single lifetime benefit ~~equivalent~~, as determined by 209  
the board, ~~to~~ based on the number of remaining beneficiaries, with 210  
no change in the amount payable to any remaining beneficiary. The 211  
change shall be effective the month following receipt by the board 212  
of notice of the death. 213

(2) On divorce, annulment, or marriage dissolution, a 214  
retirant receiving a retirement allowance under a plan that 215  
provides for continuation of all or part of the allowance after 216  
death for the lifetime of the retirant's surviving spouse may, 217  
with the written consent of the spouse or pursuant to an order of 218  
the court with jurisdiction over the termination of the marriage, 219  
elect to cancel the portion of the plan and providing continuing 220  
lifetime benefits to that spouse. The retirant shall receive the 221  
~~member's~~ actuarial equivalent of the retirant's single lifetime 222  
benefit ~~equivalent~~ as determined by the retirement board based on 223  
the number of remaining beneficiaries, with no change in amount 224  
payable to any remaining beneficiary. The election shall be made 225  
on a form provided by the board and shall be effective the month 226  
following its receipt by the board. 227

(E) Following a marriage or remarriage, ~~a~~ both of the 228  
following apply: 229

(1) A retirant who is receiving the retirant's retirement 230  
allowance under "plan B" may elect a new plan of payment under 231



division (B)(1), ~~(2)(3)(b)~~, or ~~(2)(3)(c)~~ of this section based on 232  
the actuarial equivalent of the retirant's single lifetime benefit 233  
as determined by the board. ~~The~~ 234

(2) A retirant who is receiving a benefit pursuant to a plan 235  
of payment providing for payment to a former spouse pursuant to a 236  
court order described in division (B)(1)(b)(ii) of this section 237  
may elect a new plan of payment under "plan F" based on the 238  
actuarial equivalent of the retirant's single lifetime retirement 239  
allowance as determined by the board if the new plan of payment 240  
elected does not reduce the payment to the former spouse. 241

The plan shall become effective the first day of the month 242  
following receipt by the board of an application on a form 243  
approved by the board. 244

(F) Any person who, prior to July 24, 1990, selected an 245  
optional plan of payment at retirement that provided for a return 246  
to the single life benefit after the designated beneficiary's 247  
death shall have the retirant's benefit adjusted to the optional 248  
plan equivalent without such provision. 249

(G) A retirant's receipt of the first month's retirement 250  
allowance constitutes the retirant's final acceptance of the plan 251  
of payment and may be changed only as provided in this chapter. 252

**Sec. 145.92.** If a member participating in a PERS defined 253  
contribution plan is married at the time benefits under the plan 254  
are to commence, unless the spouse consents to another plan of 255  
payment or the spouse's consent is waived, the member's retirement 256  
allowance under the plan shall be paid in a lesser amount payable 257  
for life and one-half of the allowance continuing after death to 258  
the surviving spouse for the life of the spouse. 259

Consent is valid only if it is evidenced by a written 260  
document signed by the member and the signature is witnessed by a 261

notary public. A plan may waive the requirement of consent if the spouse is incapacitated or cannot be located or for any other reason specified by the plan or in rules adopted by the public employees retirement board.

A plan shall waive the requirement of consent if a plan of payment that provides for payment in a specified portion of the retirement allowance continuing after the member's death to a former spouse is required by a court order issued under section 3105.171 or 3105.65 of the Revised Code or laws of another state regarding division of marital property prior to the effective date of the member's retirement. If a court order requires this plan of payment, the member shall be required to annuitize the member's accumulated amounts in accordance with the order. If the member is married, the plan of payment selected by the member also shall provide for payment to the member's current spouse, unless the current spouse consents in writing to not being designated a beneficiary under the plan of payment or the current spouse's consent is waived by reason other than the court order.

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

**Sec. 742.3711.** (A) On application for retirement as provided in section 742.37 of the Revised Code, a member of the fund may elect to receive a retirement allowance payable throughout the member's life, or may elect, on the application for retirement, to receive the actuarial equivalent of the member's retirement allowance in a lesser amount payable for life and continuing after death to a surviving designated beneficiary under one of the following optional plans, provided the amount payable to the beneficiary shall not exceed the amount payable to the retiring member of the fund, and is certified by the actuary engaged by the board of trustees of the Ohio police and fire pension fund to be

the actuarial equivalent of the member's retirement allowance and 293  
is approved by the board. 294

(1) Option 1. The member's lesser retirement allowance shall 295  
be paid for life to the sole beneficiary designated at the time of 296  
the member's retirement. 297

(2) Option 2. One-half or some other portion of the member's 298  
lesser retirement allowance shall be paid for life to the sole 299  
beneficiary designated at the time of the member's retirement. 300

(3) Option 3. Upon the member's death before the expiration 301  
of a certain period from the retirement date and elected by the 302  
member and approved by the retirement board, the member's lesser 303  
retirement allowance shall be continued for the remainder of that 304  
period to the beneficiary the member has nominated by written 305  
designation and filed with the retirement board. 306

Should the nominated beneficiary designated in writing become 307  
deceased prior to the expiration of the guarantee period, then for 308  
the purpose of completing payment for the remainder of the 309  
guarantee period, the present value of such payments shall be paid 310  
to the estate of the beneficiary last receiving. 311

(4) Option 4. The member's lesser retirement allowance or a 312  
portion of the lesser retirement allowance shall be paid for life 313  
to two, three, or four surviving beneficiaries designated at the 314  
time of the member's retirement, in such portions as specified at 315  
retirement. If the member elects this plan as required by a court 316  
order issued under section 3105.171 or 3105.65 of the Revised Code 317  
or the laws of another state regarding the division of marital 318  
property and compliance with the court order requires the 319  
allocation of a portion less than ten per cent to any beneficiary, 320  
the member shall allocate a portion less than ten per cent to that 321  
beneficiary in accordance with that order. In all other 322  
circumstances, no portion allocated under this plan of payment 323

shall be less than ten per cent. The total of the portions 324  
allocated shall not exceed one hundred per cent of the member's 325  
lesser allowance. 326

(B)(1) The death of a spouse nominated as beneficiary or the 327  
death of any other nominated beneficiary following a member's 328  
retirement or election under section 742.44 of the Revised Code to 329  
participate in the deferred retirement option plan shall cancel 330  
~~any the portion of the optional plan of payment to provide~~ 331  
~~providing~~ continuing lifetime benefits to ~~such the deceased~~ 332  
nominated beneficiary ~~and return the.~~ The member of the fund ~~to~~ 333  
shall receive the actuarial equivalent of the member's single 334  
lifetime benefit ~~equivalent~~, as determined by the board, ~~to~~ based 335  
on the number of remaining beneficiaries, with no change in the 336  
amount payable to any remaining beneficiary. The change shall be 337  
effective the month following receipt by the board of notice of 338  
the death. 339

(2) On divorce, annulment, or marriage dissolution, a member 340  
receiving a retirement allowance under a plan that provides for 341  
continuation of all or part of the allowance after death for the 342  
lifetime of the member's surviving spouse may, with the written 343  
consent of the spouse or pursuant to an order of the court with 344  
jurisdiction over the termination of the marriage, elect to cancel 345  
the portion of the plan and providing continuing lifetime benefits 346  
to that spouse. The member shall receive the actuarial equivalent 347  
of the member's single lifetime benefit equivalent as determined 348  
by the board based on the number of remaining beneficiaries, with 349  
no change in amount payable to any remaining beneficiary. The 350  
election shall be made on a form provided by the board and shall 351  
be effective the month following its receipt by the board. 352

(C) Following marriage or remarriage, a both of the following 353  
apply: 354

(1) A member of the fund receiving a pension under section 355  
742.37 or 742.39 of the Revised Code may elect not later than one 356  
year after the date of marriage or remarriage a new optional plan 357  
of payment based on the actuarial equivalent of the member's 358  
single lifetime benefit as determined by the board. The 359

(2) If a member is receiving a benefit pursuant to a plan of 360  
payment providing for payment to a former spouse pursuant to a 361  
court order described in division (D)(1)(c) of this section and 362  
the board has received a copy of the order described in that 363  
division, the member may elect a new plan of payment under "option 364  
4" based on the actuarial equivalent of the retirant's single 365  
lifetime retirement allowance as determined by the board if the 366  
new plan of payment elected does not reduce the payment to the 367  
former spouse. 368

The plan and the member's lesser retirement allowance shall 369  
become effective on the date the election is made on a form 370  
approved by the board. 371

(D)(1) Unless one of the following occurs, an application for 372  
retirement by a married person shall be considered an election of 373  
a benefit under option 2 as provided for in division (A)(2) of 374  
this section under which one-half of the lesser retirement 375  
allowance payable during the life of the retirant will be paid 376  
after death to the retirant's spouse for life as sole beneficiary: 377

(a) The retirant selects an optional plan under division (A) 378  
of this section providing for payment after death to the 379  
retirant's spouse for life as sole beneficiary of more than 380  
one-half of the lesser retirement allowance payable during the 381  
life of the retirant; 382

(b) The retirant submits to the retirement board a written 383  
statement signed by the spouse attesting that the spouse consents 384  
to the retirant's election to receive a single lifetime retirement 385

allowance or a payment under an optional benefit plan under which 386  
after the death of the retirant the surviving spouse will receive 387  
less than one-half of the lesser retirement allowance payable 388  
during the life of the retirant; 389

(c) A plan of payment providing for payment in a specified 390  
amount continuing after the retirant's death to a former spouse is 391  
required by a court order issued prior to the effective date of 392  
the retirant's retirement under section 3105.171 or 3105.65 of the 393  
Revised Code or the laws of another state regarding division of 394  
marital property. 395

(d) If a retirant is subject to division (D)(1)(c) of this 396  
section and the board has received a copy of the order described 397  
in that division, the board shall accept the retirant's election 398  
of a plan of payment under this section only if the retirant 399  
complies with both of the following: 400

(i) The retirant elects a plan of payment that is in 401  
accordance with the order described in division (D)(1)(c) of this 402  
section. 403

(ii) If the retirant is married, the retirant elects "option 404  
4" and designates the retirant's current spouse as a beneficiary 405  
under that plan unless that spouse consents in writing to not 406  
being designated a beneficiary under any plan of payment or the 407  
board waives the requirement that the current spouse consent. 408

(2) An application for retirement shall include an 409  
explanation of all of the following: 410

(a) That, if the member is married, unless the spouse 411  
consents to another plan of payment or there is a court order 412  
dividing marital property issued under section 3105.171 or 3105.65 413  
of the Revised Code or the laws of another state regarding the 414  
division of marital property that provides for payment in a 415  
specified amount, the member's retirement allowance will be paid 416

under "option 2" and consist of the actuarial equivalent of the 417  
member's retirement allowance in a lesser amount payable for life 418  
and one-half of the lesser allowance continuing after death to the 419  
surviving spouse for the life of the spouse; 420

(b) A description of the alternative plans of payment 421  
available with the consent of the spouse; 422

(c) That the spouse may consent to another plan of payment 423  
and the procedure for giving consent; 424

(d) That consent is irrevocable once notice of consent is 425  
filed with the board. 426

Consent shall be valid only if it is signed, in writing, and 427  
witnessed by an employee of the board or a notary public. 428

(3) If the retirant does not select an optional plan as 429  
described in division (D)(1)(a) of this section and the board does 430  
not receive the written statement provided for in division 431  
(D)(1)(b) of this section, it shall determine and pay the 432  
retirement allowance in accordance with division (A)(2) of this 433  
section, except that the board may provide by rule for waiver by 434  
the board of the statement and payment of the allowance other than 435  
in accordance with division (A)(2) of this section if the retirant 436  
is unable to obtain the statement due to absence or incapacity of 437  
the spouse or other cause specified by the board. 438

(E) A member of the fund who has elected an optional plan 439  
under this section or section 742.3715 of the Revised Code may, 440  
with the consent of the designated beneficiary, cancel the 441  
optional plan and receive the retirement allowance payable 442  
throughout life the member would have received had the member not 443  
elected the optional plan, if the member makes a request to cancel 444  
the optional plan not later than one year after the later of 445  
September 9, 1988, or the date on which the member first receives 446  
a payment under this section or section 742.3715 of the Revised 447

Code. Cancellation of the optional plan shall be effective the 448  
month after acceptance of the request by the trustees of the fund. 449  
No payment or adjustment shall be made in the retirement allowance 450  
payable throughout the member's life to compensate for the lesser 451  
allowance the member received under the optional plan. 452

The request to cancel the optional plan shall be made on a 453  
form provided by the fund and shall be valid only if the completed 454  
form includes a signed statement of the designated beneficiary's 455  
understanding of and consent to the cancellation. The signature 456  
shall be verified by the trustees of the fund prior to their 457  
acceptance of the cancellation. 458

(F) Any option elected and payments made under this section 459  
shall be in addition to any benefit payable under divisions (D), 460  
(E), and (F) of section 742.37 of the Revised Code. 461

(G) A person is eligible to receive a benefit increase under 462  
this division if the person is receiving a retirement allowance or 463  
benefit under an optional plan elected under this section or 464  
section 742.3715 of the Revised Code based on an award made prior 465  
to July 24, 1986. A person is not eligible to receive an increase 466  
under this division if the person is receiving a pension or 467  
benefit in accordance with rules in force on April 1, 1947, that 468  
govern the granting of pensions and benefits and that provide an 469  
increase in the original pension or benefit from time to time 470  
pursuant to changes in the salaries of active members. 471

The board shall annually increase all benefits payable under 472  
this section or section 742.3715 of the Revised Code to eligible 473  
persons by the actuarial equivalent of three hundred sixty 474  
dollars, except that no benefit shall exceed the limit established 475  
by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 476  
2085, 26 U.S.C.A. 415, as amended. 477

The first increase is payable to all eligible persons on July 478



1, 1988. The increase is payable for the ensuing twelve-month 479  
period or until the next increase is granted under this section, 480  
whichever is later. 481

The date of the first increase payable under this section 482  
shall be the anniversary date for future increases. 483

If payment of a portion of a benefit is made to an alternate 484  
payee under section 742.462 of the Revised Code, increases under 485  
this division granted while the order is in effect shall be 486  
apportioned between the alternate payee and the benefit recipient 487  
in the same proportion that the amount being paid to the alternate 488  
payee bears to the amount paid to the benefit recipient. 489

If payment of a portion of a retirement allowance is made to 490  
one or more beneficiaries under "option 4" under division (A)(4) 491  
of section 742.3711 of the Revised Code, each increase under this 492  
division granted while the plan of payment is in effect shall be 493  
divided among the designated beneficiaries in accordance with the 494  
portion each beneficiary has been allocated. 495

**Sec. 742.3716.** (A)(1) As used in this section: 496

(a) "Eligible person" means a person who meets all of the 497  
following conditions: 498

(i) Has been receiving a pension or benefit under this 499  
chapter for one year or more based on an award made on or after 500  
July 24, 1986; 501

(ii) Has not made the election provided for in division (B) 502  
of this section; 503

(iii) Is not the spouse or survivor of a person who has made 504  
the election provided for in division (B) of this section; 505

(iv) Is receiving a benefit in accordance with division (A), 506  
(B), or (C) of section 742.37, division (C)(2), (3), (4), or (5) 507

of former section 742.37, section 742.3711, or section 742.39 of  
the Revised Code.

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(b) "Recalculated average annual salary" means the highest  
average annual compensation of a member of the Ohio police and  
fire pension fund during any three years of contributions,  
including amounts included in terminal pay attributable to such  
three years, determined by dividing the member's total earnings as  
an employee during such years by three.

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(2) In the case of a member participating in the deferred  
retirement option plan established under section 742.43 of the  
Revised Code or a member described in division (B) of section  
742.444 of the Revised Code, the period of one year or more  
described in division (A)(1)(a)(i) of this section begins on the  
effective date of the member's election under section 742.44 of  
the Revised Code.

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(B)(1) Notwithstanding section 742.37 or 742.39 of the  
Revised Code, a member of the fund who is not receiving a pension  
or benefit under this chapter and who on January 1, 1989, has  
completed fifteen or more years of active service in a police or  
fire department may elect to have any future benefit or pension  
paid to the member or the member's spouse or survivors under this  
chapter calculated on the basis of the member's recalculated  
average annual salary rather than the member's average annual  
salary. The election shall be made by the member prior to or at  
the time of making an election under section 742.3711 of the  
Revised Code. This division does not apply to a member of the fund  
who elected to participate in the deferred retirement option plan  
established under section 742.43 of the Revised Code unless the  
member's participation has terminated pursuant to division (C) of  
section 742.444 or to section 742.445 of the Revised Code.

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(2) If the member eligible to make the election under

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division (B)(1) of this section dies prior to making the election 539  
and at the time of death is eligible to retire and receive a 540  
pension or benefit under division (C)(1) or (3) of section 742.37 541  
of the Revised Code, the person entitled to receive a benefit 542  
under section 742.3714 of the Revised Code may make the election 543  
provided for in division (B)(1) of this section. 544

(3) The election under division (B)(1) or (2) of this section 545  
shall be made on forms provided by the trustees of the fund. Once 546  
received by the fund, the election shall be irrevocable and shall 547  
bind the member and any other person who receives a pension or 548  
benefit based on the member's service. No person who receives a 549  
pension or benefit calculated in accordance with division (B) of 550  
this section is eligible to receive a cost-of-living allowance 551  
under this section. If the person making the election receives a 552  
benefit under section 742.3714 of the Revised Code, that person is 553  
not eligible to receive a cost-of-living allowance under section 554  
742.3711 of the Revised Code. 555

(C)(1) The board of trustees of the Ohio police and fire 556  
pension fund shall annually increase all benefits payable to 557  
eligible persons by three per cent, except that no benefit shall 558  
exceed the limit established by section 415 of the "Internal 559  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as 560  
amended. 561

The first increase is payable to all eligible persons who on 562  
July 1, 1988, have been receiving a pension or benefit for twelve 563  
months or longer. The increase is payable for the ensuing 564  
twelve-month period or until the next increase is granted under 565  
this section, whichever is later. 566

The date of the first increase paid under this section shall 567  
be the anniversary date for future increases. The pension or 568  
benefit used in the first calculation of an increase under this 569

section shall remain as the base for all future increases paid 570  
under this section, unless a new base is established by law. In 571  
the case of a member who has elected to participate in the 572  
deferred retirement option plan established under section 742.43 573  
of the Revised Code or a member described in division (B) of 574  
section 742.444 of the Revised Code, the pension amount used in 575  
the first calculation of an increase under this section shall be 576  
the amount calculated under section 742.442 of the Revised Code 577  
unless the member's participation has terminated pursuant to 578  
division (C) of section 742.444 or to section 742.445 of the 579  
Revised Code. 580

(2) Increases paid in years subsequent to the year of the 581  
first increase paid under this section shall be paid to all 582  
eligible persons who, on the date that the increase is authorized 583  
by the board, have been receiving a pension or benefit for twelve 584  
months. 585

(E) If payment of a portion of a benefit is made to an 586  
alternate payee under section 742.462 of the Revised Code, 587  
increases under this section granted while the order is in effect 588  
shall be apportioned between the alternate payee and the benefit 589  
recipient in the same proportion that the amount being paid to the 590  
alternate payee bears to the amount paid to the benefit recipient. 591

If payment of a portion of a retirement allowance is made to 592  
one or more beneficiaries under "option 4" under division (A)(4) 593  
of section 742.3711 of the Revised Code, each increase under this 594  
section granted while the plan of payment is in effect shall be 595  
divided among the designated beneficiaries in accordance with the 596  
portion each beneficiary has been allocated. 597

**Sec. 742.3717.** (A)(1) Except as provided in division (A)(2) 598  
of this section, as used in this section, "eligible person" means 599  
a person who meets both of the following conditions: 600

(a) The person is receiving an annual pension or benefit 601  
under division (A), (B), or (C) of section 742.37 or division 602  
(C)(2), (3), (4), or (5) of former section 742.37 of the Revised 603  
Code based on an award made prior to July 24, 1986. 604

(b) The person has not elected under section 742.3711 of the 605  
Revised Code to receive a retirement allowance under an optional 606  
benefit plan. 607

(2) A person is not an eligible person if the person is 608  
receiving a pension or benefit in accordance with rules in force 609  
on April 1, 1947, that govern the granting of pensions and 610  
benefits and that provide an increase in the original pension or 611  
benefit from time to time pursuant to changes in the salaries of 612  
active members. 613

(B)(1) The board of trustees of the Ohio police and fire 614  
pension fund shall annually increase all benefits payable to 615  
eligible persons by three hundred sixty dollars, except that no 616  
benefit shall exceed the limit established by section 415 of the 617  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, 618  
as amended. 619

(2) The first increase is payable to all eligible persons on 620  
July 1, 1988. The increase is payable for the ensuing twelve-month 621  
period or until the next increase is granted under this section, 622  
whichever is later. 623

The date of the first increase payable under this section 624  
shall be the anniversary date for future increases. 625

(3) If payment of a portion of a benefit is made to an 626  
alternate payee under section 742.462 of the Revised Code, 627  
increases under this section granted while the order is in effect 628  
shall be apportioned between the alternate payee and the eligible 629  
person in the same proportion that the amount being paid to the 630  
alternate payee bears to the amount paid to the eligible person. 631

If payment of a portion of a retirement allowance is made to one or more beneficiaries under "option 4" under division (A)(4) of section 742.3711 of the Revised Code, each increase under this section granted while the plan of payment is in effect shall be divided among the designated beneficiaries in accordance with the portion each beneficiary has been allocated.

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

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

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

(C) "Lump sum payment" means a payment of accumulated contributions standing to a participant's credit under sections 742.01 to 742.61 or Chapter 145., 3307., 3309., or 5505. of the Revised Code or pursuant to a contract a participant has entered into for the purposes of an alternative retirement plan and any other payment made or that may be made to a participant under

those sections or chapters on withdrawal of a participant's 663  
contributions. "Lump sum payment" includes a lump sum payment 664  
under section 145.384, 742.26, 3307.352, or 3309.344 of the 665  
Revised Code. 666

(D) "Participant" means a member, contributor, retirant, or 667  
disability benefit recipient who is or will be entitled to a 668  
benefit or lump sum payment under sections 742.01 to 742.61 or 669  
Chapter 145., 3307., 3309., or 5505. of the Revised Code or an 670  
employee who elects to participate in an alternative retirement 671  
plan under Chapter 3305. of the Revised Code. 672

(E) "Personal history record" has the same meaning as in 673  
sections 145.27, 742.41, 3305.20, 3307.20, 3309.22, and 5505.04 of 674  
the Revised Code. 675

(F) "Public retirement program" means the public employees 676  
retirement system, Ohio police and fire pension fund, school 677  
employees retirement system, state teachers retirement system, 678  
state highway patrol retirement system, or an entity providing an 679  
alternative retirement plan under Chapter 3305. of the Revised 680  
Code. 681

**Sec. 3105.82.** An order described in section 3105.81 of the 682  
Revised Code shall meet all of the following requirements: 683

(A) Be on the form created under section 3105.90 of the 684  
Revised Code; 685

(B) Set forth the name and address of the public retirement 686  
program subject to the order or, if the court determines that the 687  
participant has contributions on deposit with more than one public 688  
retirement program, the name and address of each public retirement 689  
program that is potentially subject to the order; 690

(C) Set forth the names, social security numbers, and current 691  
addresses of the participant and alternate payee; 692

(D) Specify the amount to be paid to the alternate payee as 693  
one of the following: 694

(1) As both a monthly dollar amount should the participant 695  
elect a benefit and as a one-time payment should the participant 696  
elect a lump sum payment; 697

(2) As a percentage of a fraction determined as follows of a 698  
monthly benefit or lump sum payment: 699

(a) The numerator of the fraction shall be the number of 700  
years during which the participant was both a contributing member 701  
of a public retirement program and married to the alternate payee. 702

(b) The denominator, which shall be determined by the public 703  
retirement program at the time the participant elects to take the 704  
benefit or payment, shall be the participant's total years of 705  
service credit or, in the case of a participant in a retirement 706  
plan established under section 145.81, 3307.81, or 3309.81 or 707  
Chapter 3305. of the Revised Code, years of participation in the 708  
plan. 709

(E) If the participant is eligible for more than one benefit 710  
or lump sum payment, specify in accordance with division (D) of 711  
this section the amount, if any, to be paid to the alternate payee 712  
from each benefit or lump sum payment. 713

(F) Require an individual who is a participant or alternate 714  
payee to notify the public retirement program in writing of a 715  
change in the individual's mailing address; 716

(G) Notify the alternate payee of the following: 717

(1) The payee's right to payment under the order is 718  
conditional on the participant's right to a benefit payment or 719  
lump sum payment; 720

(2) The possible reduction under section 145.571, 742.462, 721  
3307.371, 3309.671, or 5505.261 of the Revised Code of the amount 722



paid to the alternate payee;	723
(3) The possible termination of the payee's rights as described in section 3105.86 of the Revised Code.	724 725
(H) Apply to payments made by the public retirement program after retention of an order under section 145.571, 742.462, 3305.21, 3307.371, 3309.671, or 5505.261 of the Revised Code.	726 727 728
<b>Sec. 3307.60.</b> (A) Upon application for retirement as provided in section 3307.58 or 3307.59 of the Revised Code, the retirant may elect a plan of payment under this division or, on and after the date specified in division (B) of this section, a plan of payment under that division. Under this division, the retirant may elect to receive a single lifetime benefit, or may elect to receive the actuarial equivalent of the retirant's benefit in a lesser amount, payable for life, and continuing after death to a beneficiary under one of the following optional plans:	729 730 731 732 733 734 735 736 737
(1) Option 1. The retirant's lesser benefit shall be paid for life to the sole beneficiary named at retirement.	738 739
(2) Option 2. Some other portion of the retirant's benefit shall be paid for life to the sole beneficiary named at retirement. The beneficiary's monthly amount shall not exceed the monthly amount payable to the retirant during the retirant's lifetime.	740 741 742 743 744
(3) Option 3. The retirant's lesser benefit established as provided under option 1 or option 2 shall be paid for life to the sole beneficiary named at retirement, except that in the event of the death of the sole beneficiary or termination of a marital relationship between the retirant and the sole beneficiary the retirant may elect to return to a single lifetime benefit equivalent as determined by the state teachers retirement board, if, in the case of termination of a marital relationship, the	745 746 747 748 749 750 751 752

election is made with the written consent of the beneficiary or 753  
pursuant to an order of the court with jurisdiction over 754  
termination of the marital relationship. 755

(4) Option 4. The retirant's lesser benefit or a portion of 756  
the retirant's lesser benefit shall be paid for life to two, 757  
three, or four surviving beneficiaries named at retirement. The 758  
portion of the allowance that continues after the member's death 759  
shall be allocated among the beneficiaries at the time of the 760  
member's retirement. If the retirant elects this plan as required 761  
by a court order issued under section 3105.171 or 3105.65 of the 762  
Revised Code or the laws of another state regarding the division 763  
of marital property and compliance with the court order requires 764  
the allocation of a portion less than ten per cent to any person, 765  
the retirant shall allocate a portion less than ten per cent to 766  
that beneficiary in accordance with that order. In all other 767  
circumstances, no portion allocated under this plan of payment 768  
shall be less than ten per cent. The total of the portions 769  
allocated shall not exceed one hundred per cent of the retirant's 770  
lesser allowance. 771

(5) Option 5. Upon the retirant's death before the expiration 772  
of a certain period from the retirement date and elected by the 773  
retirant, and approved by the board, the retirant's benefit shall 774  
be continued for the remainder of such period to the beneficiary. 775  
Monthly benefits shall not be paid to joint beneficiaries, but 776  
they may receive the present value of any remaining payments in a 777  
lump sum settlement. If all beneficiaries die before the 778  
expiration of the certain period, the present value of all 779  
payments yet remaining in such period shall be paid to the estate 780  
of the beneficiary last receiving. 781

~~(5)~~(6) Option ~~5~~6. A plan of payment established by the state 782  
teachers retirement board combining any of the features of options 783  
1, 2, and ~~4~~5. 784

(B) Beginning on a date selected by the state teachers 785  
retirement board, which shall be not later than July 1, 2004, a 786  
retirant may elect, in lieu of a plan of payment under division 787  
(A) of this section, a plan consisting of both of the following: 788

(1) A lump sum in an amount the member designates that 789  
constitutes a portion of the member's single lifetime benefit; 790

(2) Either of the following: 791

(a) The remainder of the retirant's single lifetime benefit; 792

(b) The actuarial equivalent of the remainder of the 793  
retirant's benefit in a lesser amount, payable for life, and 794  
continuing after death to a beneficiary under one of the options 795  
described in divisions (A)(1) to ~~(5)~~(6) of this section. 796

In the event of the death of ~~the sole~~ a beneficiary or 797  
termination of a marital relationship between the retirant and ~~the~~ 798  
~~sole~~ a beneficiary, the retirant may elect to cancel the portion 799  
of the plan of payment providing continuing lifetime benefits to 800  
that beneficiary. The retirant shall receive the actuarial 801  
equivalent of the remainder of the retirant's single lifetime 802  
benefit ~~except that, in~~ based on the number of remaining 803  
beneficiaries, with no change in the amount payable to any 804  
remaining beneficiary. In the case of termination of a marital 805  
relationship, the election may be made only with the written 806  
consent of the beneficiary or pursuant to an order of the court 807  
with jurisdiction over termination of the marital relationship. 808

The amount designated by the member under division (B)(1) of 809  
this section shall be not less than six times and not more than 810  
thirty-six times the monthly amount that would be payable to the 811  
member as a single lifetime benefit and shall not result in a 812  
monthly allowance that is less than fifty per cent of that amount. 813

(C) Until the first payment is made to a former member under 814

section 3307.58 or 3307.59 of the Revised Code, the former member  
may change the selection of a plan of payment.

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

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

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

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

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

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

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

(1) The death of the spouse or other designated beneficiary

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

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

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(G) Following marriage or remarriage, a both of the following  
apply:

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(1) A retirant may elect a new optional plan of payment based  
on the actuarial equivalent of the retirant's single lifetime  
benefit, as determined by the board, except that if the retirant  
is receiving a retirement allowance under an optional plan that  
provides for continuation of benefits after death to a former  
spouse, the retirant may elect a new optional plan of payment only  
with the written consent of the former spouse or pursuant to an  
order of the court with jurisdiction over the termination of the  
marriage. ~~Such~~

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(2) A retirant who is receiving a benefit pursuant to a plan  
of payment providing for payment to a former spouse pursuant to a  
court order described in division (H)(1)(b) of this section may  
elect a new plan of payment under "option 4" based on the  
actuarial equivalent of the retirant's single lifetime retirement  
allowance as determined by the board if the new plan of payment

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elected does not reduce the payment to the former spouse. 876

The plan shall become effective the first of the month 877  
following an application on a form approved by the board. 878

(H)(1) ~~Unless one of the following occurs~~ Except as otherwise 879  
provided in this division and division (H)(2) of this section, an 880  
application for service retirement made pursuant to section 881  
3307.58 or 3307.59 of the Revised Code by a married person shall 882  
be considered an election of a benefit under option 2 as provided 883  
for in division (A)(2) of this section under which one-half of the 884  
lesser benefit payable during the life of the retirant will be 885  
paid after death to the retirant's spouse for life as sole 886  
beneficiary. The exceptions are as follows: 887

(a) The retirant selects an optional plan under division (A) 888  
of this section providing for payment after death to the 889  
retirant's spouse for life as sole beneficiary of more than 890  
one-half of the lesser benefit payable during the life of the 891  
retirant. 892

(b) A plan of payment providing for payment in a specified 893  
amount continuing after the retirant's death to a former spouse is 894  
required by a court order issued prior to the effective date of 895  
retirement under section 3105.171 or 3105.65 of the Revised Code 896  
or the laws of another state regarding division of marital 897  
property. 898

(c) The retirant submits to the retirement board a written 899  
statement signed by the spouse attesting that the spouse consents 900  
to the retirant's election to receive a single lifetime annuity or 901  
a payment under an optional benefit plan under which after the 902  
death of the retirant the surviving spouse will receive less than 903  
one-half of the lesser benefit payable during the life of the 904  
retirant. 905

(2) If a retirant is subject to division (H)(1)(b) of this 906

section and the board has received a copy of the order described 907  
in that division, the board shall accept the retirant's election 908  
of a plan of payment under this section only if the retirant 909  
complies with both of the following: 910

(i) The retirant elects a plan of payment that is in 911  
accordance with the order described in division (H)(1)(b) of this 912  
section. 913

(ii) If the retirant is married, the retirant elects "option 914  
4" and designates the retirant's current spouse as a beneficiary 915  
under that plan unless that spouse consents in writing to not 916  
being designated a beneficiary under any plan of payment or the 917  
board waives the requirement that the current spouse consent. 918

(3) An application for retirement shall include an 919  
explanation of all of the following: 920

(a) That, if the member is married, unless the spouse 921  
consents to another plan of payment or there is a court order 922  
dividing marital property issued under section 3105.171 or 3105.65 923  
of the Revised Code or the laws of another state regarding the 924  
division of marital property that provides for payment in a 925  
specified amount, the member's retirement allowance will be paid 926  
under "option 2" as provided for in division (A)(2) of this 927  
section and consist of the actuarial equivalent of the member's 928  
retirement allowance in a lesser amount payable for life and 929  
one-half of the lesser allowance continuing after death to the 930  
surviving spouse for the life of the spouse; 931

(b) A description of the alternative plans of payment 932  
available with the consent of the spouse; 933

(c) That the spouse may consent to another plan of payment 934  
and the procedure for giving consent; 935

(d) That consent is irrevocable once notice of consent is 936  
filed with the board. 937

Consent shall be valid only if it is signed, in writing, and 938  
witnessed by a notary public. 939

~~(3)~~(4) If the retirant does not select an optional plan of 940  
payment as described in division (H)(1)(a) of this section, no 941  
court has ordered a plan of payment described in division 942  
(H)(1)(b) of this section, and the board does not receive the 943  
written statement provided for in division (H)(1)~~(b)~~(c) of this 944  
section, ~~it~~ the board shall determine and pay the retirement 945  
allowance in accordance with this division, except that the board 946  
may provide by rule for waiver by the board of the statement and 947  
payment of the benefits other than in accordance with this 948  
division or payment under section 3307.56 of the Revised Code if 949  
the retirant is unable to obtain the statement due to absence or 950  
incapacity of the spouse or other cause specified by the board. 951

(I) For the purpose of determining actuarial equivalence 952  
under this section, on the advice of an actuary employed by the 953  
board, the board shall adopt mortality tables that may take into 954  
consideration the membership experience of the state teachers 955  
retirement system and may also include the membership experience 956  
of the public employees retirement system and the school employees 957  
retirement system. 958

**Sec. 3307.67.** (A) The state teachers retirement board shall 959  
annually increase each allowance or benefit payable under sections 960  
3307.50 to 3307.79 of the Revised Code by three per cent, except 961  
that no allowance or benefit shall exceed the limit established by 962  
section 415 of the "Internal Revenue Code of 1986," 100 Stat. 963  
2085, 26 U.S.C.A. 415, as amended. 964

The first increase is payable to all persons becoming 965  
eligible after June 30, 1971, upon such persons receiving an 966  
allowance or benefit for twelve months. The increased amount is 967  
payable for the ensuing twelve-month period or until the next 968



increase is granted under this section, whichever is later. 969  
Subsequent increases shall be determined from the date of the 970  
first increase paid to the former member in the case of an 971  
allowance being paid a beneficiary under an option, or from the 972  
date of the first increase to the survivor first receiving an 973  
allowance or benefit in the case of an allowance or benefit being 974  
paid to the subsequent survivors of the former member. 975

The date of the first increase under this section becomes the 976  
anniversary date for any future increases. 977

The allowance or benefit used in the first calculation of an 978  
increase under this section shall remain as the base for all 979  
future increases, unless a new base is established. 980

(B) If payment of a portion of a benefit is made to an 981  
alternate payee under section 3307.371 of the Revised Code, 982  
increases under this section granted while the order is in effect 983  
shall be apportioned between the alternate payee and the benefit 984  
recipient in the same proportion that the amount being paid to the 985  
alternate payee bears to the amount paid to the benefit recipient. 986

If payment of a portion of a benefit is made to one or more 987  
beneficiaries under "option 4" under division (A)(4) of section 988  
3307.60 of the Revised Code, each increase under this section 989  
granted while the plan of payment is in effect shall be divided 990  
among the designated beneficiaries in accordance with the portion 991  
each beneficiary has been allocated. 992

(C) The board shall make all rules necessary to carry out 993  
this section. 994

**Sec. 3307.87.** (A)(1) If a member participating in a plan 995  
established under section 3307.81 of the Revised Code is married 996  
at the time any benefits under the plan commence, benefits shall 997  
be paid in accordance with division (A)(2) of this section, unless 998

the spouse has consented under division (C) of this section to a 999  
different form of payment or the spouse's consent is waived under 1000  
that division. 1001

(2) The benefits described in division (A)(1) of this section 1002  
shall be paid in the form of an annuity, which shall consist of 1003  
the actuarial equivalent of the member's benefits, in an amount 1004  
that is payable for the life of the member and one-half of the 1005  
amount continuing after the member's death to the spouse for the 1006  
life of the spouse. 1007

(B) If a member participating in a plan established under 1008  
section 3307.81 of the Revised Code is married at the time of the 1009  
member's death, any benefits that are payable to the member shall 1010  
be paid to the member's spouse, unless the spouse has consented 1011  
under division (C) of this section to the designation of a 1012  
different beneficiary or the spouse's consent is waived under that 1013  
division. 1014

(C) Consent is valid only if it is evidenced by a signed 1015  
statement that is witnessed by a notary public. Each plan may 1016  
waive the requirement of consent if the spouse is incapacitated or 1017  
cannot be located or for any other reason specified by the plan or 1018  
in rules adopted by the state teachers retirement board. A plan 1019  
shall waive the requirement of consent if a plan of payment that 1020  
provides for payment in a specified amount continuing after the 1021  
member's death to a former spouse is required by a court order 1022  
issued prior to the effective date of the member's retirement 1023  
under section 3105.171 or 3105.65 of the Revised Code or laws of 1024  
another state regarding division of marital property. 1025

Consent or waiver is effective only with regard to the spouse 1026  
who is the subject of the consent or waiver. 1027

**Sec. 3309.374.** (A) The school employees retirement board 1028  
shall annually increase each allowance, pension, or benefit 1029

payable under this chapter by three per cent, except that no 1030  
allowance, pension, or benefit shall exceed the limit established 1031  
by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 1032  
2085, 26 U.S.C.A. 415, as amended. 1033

The first increase is payable to all persons becoming 1034  
eligible after June 30, 1971, upon such persons receiving an 1035  
allowance, pension, or benefit for twelve months. 1036

The increased amount is payable for the ensuing twelve-month 1037  
period or until the next increase is granted under this section, 1038  
whichever is later. Subsequent increases shall be determined from 1039  
the date of the first increase paid to the former member in the 1040  
case of an allowance being paid a beneficiary under an option, or 1041  
from the date of the first increase to the survivor first 1042  
receiving an allowance or benefit in the case of an allowance or 1043  
benefit being paid to the subsequent survivors of the former 1044  
member. 1045

The date of the first increase under this section becomes the 1046  
anniversary date for any future increases. 1047

The allowance or benefit used in the first calculation of an 1048  
increase under this section shall remain as the base for all 1049  
future increases, unless a new base is established. Any increase 1050  
resulting from payment of a recalculated benefit under Section 3 1051  
of Substitute Senate Bill No. 270 of the 123rd general assembly 1052  
shall be included in the calculation of future increases under 1053  
this section. 1054

(B) If payment of a portion of a benefit is made to an 1055  
alternate payee under section 3309.671 of the Revised Code, 1056  
increases under this section granted while the order is in effect 1057  
shall be apportioned between the alternate payee and the retirant 1058  
or disability benefit recipient in the same proportion that the 1059  
amount being paid to the alternate payee bears to the amount paid 1060

to the retirant or disability benefit recipient. 1061

If payment of a portion of a benefit is made to one or more 1062  
beneficiaries under "plan F" under division (B)(3)(e) of section 1063  
3309.46 of the Revised Code, each increase under this section 1064  
granted while the plan of payment is in effect shall be divided 1065  
among the designated beneficiaries in accordance with the portion 1066  
each beneficiary has been allocated. 1067

(C) The board shall make all rules necessary to carry out 1068  
this section. 1069

**Sec. 3309.46.** (A) The retirement allowance calculated under 1070  
section 3309.36, 3309.38, or 3309.381 of the Revised Code shall be 1071  
paid as provided in this section. If the member is eligible to 1072  
elect a plan of payment under this section, the election shall be 1073  
made on the application for retirement. A plan of payment elected 1074  
under this section shall be effective only if it is certified by 1075  
the actuary engaged by the school employees retirement board to be 1076  
the actuarial equivalent of the member's retirement allowance and 1077  
is approved by the retirement board. 1078

~~(B)(1) Unless the member is eligible to elect another plan of~~ 1079  
~~payment~~ (a) Except as provided in divisions (B)(1)(b) and (c) of 1080  
this section, a member who retires under section 3309.36, 3309.38, 1081  
or 3309.381 of the Revised Code shall receive a retirement 1082  
allowance under "plan A," which shall consist of the actuarial 1083  
equivalent of the member's retirement allowance determined under 1084  
section 3309.36, 3309.38, or 3309.381 of the Revised Code in a 1085  
lesser amount payable for life and one-half of such allowance 1086  
continuing after death to the member's surviving spouse for the 1087  
life of the spouse. 1088

(b) A member may ~~elect to~~ receive a retirement allowance 1089  
under a plan of payment other than "plan A" if ~~the~~ either of the 1090  
following is the case: 1091

(i) The member is not married or either the member's spouse consents in writing to the member's election to a plan of payment other than "plan A" or the board waives the requirement that the spouse consent; 1092  
1093  
1094  
1095

(ii) A plan of payment providing 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 the laws of another state regarding division of marital property. 1096  
1097  
1098  
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1101

(c) If a member is subject to division (B)(1)(b)(ii) of this section and the board has received a copy of the order described in that division, the board shall accept the member's election of a plan of payment under this section only if the member complies with both of the following: 1102  
1103  
1104  
1105  
1106

(i) The member elects a plan of payment that is in accordance with the order described in division (B)(1)(b)(ii) of this section. 1107  
1108  
1109

(ii) If the member is married, the member elects "plan F" and designates the member's current spouse as a beneficiary under that plan unless that spouse consents in writing to not being designated a beneficiary under any plan of payment or the board waives the requirement that the current spouse consent. 1110  
1111  
1112  
1113  
1114

(2) An application for retirement shall include an explanation of all of the following: 1115  
1116

(a) That, if the member is married, unless the spouse consents to another plan of payment or there is a court order dividing marital property issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property that provides for payment in a specified amount, the member's retirement allowance will be paid 1117  
1118  
1119  
1120  
1121  
1122

under "plan A," which consists of the actuarial equivalent of the 1123  
member's retirement allowance in a lesser amount payable for life 1124  
and one-half of the allowance continuing after death to the 1125  
surviving spouse for the life of the spouse; 1126

(b) A description of the alternative plans of payment, 1127  
including all plans described in divisions (B)~~(2)~~(3) and ~~(3)~~(4) of 1128  
this section, available with the consent of the spouse; 1129

(c) That the spouse may consent to another plan of payment 1130  
and the procedure for giving consent; 1131

(d) That consent is irrevocable once notice of consent is 1132  
filed with the board. 1133

Consent shall be valid only if it is in writing, signed by 1134  
the spouse, and witnessed by an employee of the school employees 1135  
retirement system or a notary public. The board may waive the 1136  
requirement of consent if the spouse is incapacitated or cannot be 1137  
located or for any other reason specified by the board. Consent or 1138  
waiver is effective only with regard to the spouse who is the 1139  
subject of the consent or waiver. 1140

~~(2)~~(3) A member eligible to elect to receive a retirement 1141  
allowance under a plan of payment other than "plan A" shall 1142  
receive the retirement allowance under the plan described in 1143  
division (B)~~(3)~~(4) of this section or one of the following plans: 1144

(a) "Plan B," which shall consist of an allowance determined 1145  
under section 3309.36, 3309.38, or 3309.381 of the Revised Code; 1146

(b) "Plan C," which shall consist of the actuarial equivalent 1147  
of the member's retirement allowance determined under section 1148  
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 1149  
amount payable for life and one-half or some other portion of the 1150  
allowance continuing after death to the member's sole surviving 1151  
beneficiary designated at the time of the member's retirement, 1152  
provided that the amount payable to the beneficiary does not 1153

exceed the amount payable to the member; 1154

(c) "Plan D," which shall consist of the actuarial equivalent 1155  
of the member's retirement allowance determined under section 1156  
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 1157  
amount payable for life and continuing after death to a surviving 1158  
designated beneficiary designated at the time of the member's 1159  
retirement; 1160

(d) "Plan E," which shall consist of the actuarial equivalent 1161  
of the member's retirement allowance determined under section 1162  
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 1163  
amount payable for a certain period from the member's retirement 1164  
date as elected by the member and approved by the retirement 1165  
board, and on the member's death before the expiration of that 1166  
certain period, the member's lesser retirement allowance continued 1167  
for the remainder of that period to, and in such order, the 1168  
beneficiaries as the member has nominated by written designation 1169  
and filed with the retirement board. 1170

Monthly benefits shall not be paid to joint beneficiaries, 1171  
but they may receive the present value of any remaining payments 1172  
in a lump sum settlement. If all beneficiaries die before the 1173  
expiration of the certain period, the present value of all such 1174  
payments yet remaining in such period shall be paid to the estate 1175  
of the beneficiary last receiving. 1176

(e) "Plan F," which shall consist of the actuarial equivalent 1177  
of the member's retirement allowance determined under section 1178  
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 1179  
amount payable to the member for life and some portion of the 1180  
lesser amount continuing after death to two, three, or four 1181  
surviving beneficiaries designated at the time of the member's 1182  
retirement. The portion of the lesser amount that continues after 1183  
the member's death shall be allocated among the beneficiaries at 1184

the time of the member's retirement. If the member elects this 1185  
plan as required by a court order issued under section 3105.171 or 1186  
3105.65 of the Revised Code or the laws of another state regarding 1187  
the division of marital property and compliance with the court 1188  
order requires the allocation of a portion less than ten per cent 1189  
to any person, the member shall allocate a portion less than ten 1190  
per cent to that beneficiary in accordance with that order. In all 1191  
other circumstances, no portion allocated under this plan of 1192  
payment shall be less than ten per cent. The total of the portions 1193  
allocated shall not exceed one hundred per cent of the member's 1194  
lesser allowance. 1195

~~(3)~~(4)(a) Beginning on a date selected by the board, which 1196  
shall be not later than July 1, 2004, a member may elect, in lieu 1197  
of a plan of payment under division (B)(1) or ~~(2)~~(3) of this 1198  
section, a plan consisting of both a lump sum in an amount the 1199  
member designates that constitutes a portion of the retirement 1200  
allowance payable under a plan described in division (B)(1) or 1201  
~~(2)~~(3) of this section and the remainder of the allowance payable 1202  
under that plan in monthly payments. 1203

The total amount paid as a lump sum and a monthly benefit 1204  
shall be the actuarial equivalent of the amount that would have 1205  
been paid had the lump sum not been selected. 1206

(b) The lump sum amount designated by the member shall be not 1207  
less than six times and not more than thirty-six times the monthly 1208  
amount that would be payable to the member under the plan of 1209  
payment elected under this section had the lump sum not been 1210  
elected and shall not result in a monthly benefit that is less 1211  
than fifty per cent of that amount. 1212

~~(4)~~(5) An election under division (B)~~(2)~~(3) or ~~(3)~~(4) of this 1213  
section shall be made at the time the member makes application for 1214  
retirement. 1215



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

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

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

(E)(1) The death of a spouse or any other designated beneficiary following the member's retirement shall cancel ~~any the portion of the~~ plan of payment ~~to provide~~ providing continuing lifetime benefits to the deceased spouse or deceased designated beneficiary ~~and the~~. The retirant shall receive the actuarial equivalent of the retirant's single lifetime retirement allowance

~~equivalent~~ as determined by the board based on the number of 1248  
remaining beneficiaries, with no change in the amount payable to 1249  
any remaining beneficiary. 1250

(2) On divorce, annulment, or marriage dissolution, a 1251  
retirant receiving a retirement allowance under a plan of payment 1252  
that provides for continuation of all or part of the allowance 1253  
after death for the lifetime of the ~~member's~~ retirant's surviving 1254  
spouse may elect to cancel the portion of the plan and providing 1255  
continuing lifetime benefits to that spouse. The retirant shall 1256  
receive the ~~member's~~ actuarial equivalent of the retirant's single 1257  
lifetime retirement allowance ~~equivalent~~ as determined by the 1258  
retirement board, ~~except that in~~ based on the number of remaining 1259  
beneficiaries, with no change in the amount payable to any 1260  
remaining beneficiary. In the case of a member who retires on or 1261  
after July 24, 1990, the election may be made only with the 1262  
written consent of the spouse or pursuant to an order of the court 1263  
with jurisdiction over the termination of the marriage. The 1264  
election shall be made on a form provided by the board and shall 1265  
be effective the month following its receipt by the board. 1266

(3) Following marriage or remarriage, ~~a~~ both of the following 1267  
apply: 1268

(a) A retirant who is receiving a benefit pursuant to "plan 1269  
B" may elect a new plan of payment under division (B)(1), 1270  
~~(2)(3)(b)~~, or ~~(2)(3)(c)~~ of this section based on the actuarial 1271  
equivalent of the ~~member's~~ retirant's single lifetime retirement 1272  
allowance as determined by the board. ~~The~~ 1273

(b) A retirant who is receiving a benefit pursuant to a plan 1274  
of payment providing for payment to a former spouse pursuant to a 1275  
court order described in division (B)(1)(b)(ii) of this section 1276  
may elect a new plan of payment under division (B)(3)(e) of this 1277  
section based on the actuarial equivalent of the retirant's single 1278  
lifetime retirement allowance as determined by the board if the 1279

new plan of payment elected does not reduce the payment to the 1280  
former spouse. 1281

The plan shall become effective the first day of the month 1282  
following receipt by the board of an application on a form 1283  
approved by the board. 1284

**Sec. 3309.92.** If a member participating in a plan established 1285  
under section 3309.81 of the Revised Code is married at the time 1286  
benefits under the plan are to commence, before making any payment 1287  
the school employees retirement system, or the entity 1288  
administering the plan pursuant to a contract with the school 1289  
employees retirement board, shall obtain the consent of the 1290  
member's spouse to the form of payment selected by the member, 1291  
unless the spouse's consent is waived under this section. 1292

A plan established under section 3309.81 of the Revised Code 1293  
shall include requirements for consent under this section that are 1294  
the same as the requirements specified in section 417(a)(2) of the 1295  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1296  
417(a)(2), as amended. A plan may waive consent if the spouse 1297  
cannot be located or for any other reason specified in the 1298  
regulations adopted under that section. 1299

A plan shall waive the requirement of consent if a plan of 1300  
payment that provides for payment in a specified portion of the 1301  
retirement allowance continuing after the member's death to a 1302  
former spouse is required by a court order issued under section 1303  
3105.171 or 3105.65 of the Revised Code or laws of another state 1304  
regarding division of marital property prior to the effective date 1305  
of the member's retirement. If a court order requires this plan of 1306  
payment, the member shall be required to annuitize the member's 1307  
accumulated amounts in accordance with the order. If the member is 1308  
married, the plan of payment selected by the member also shall 1309  
provide for payment to the member's current spouse, unless the 1310

current spouse consents in writing to not being designated a 1311  
beneficiary under the plan of payment or the current spouse's 1312  
consent is waived by reason other than the court order. 1313

Consent or waiver is effective only with regard to the spouse 1314  
who is the subject of the consent or waiver. 1315

**Sec. 5505.162.** (A) On application for retirement as provided 1316  
in section 5505.16 of the Revised Code, a member of the state 1317  
highway patrol retirement system may elect, on a form provided by 1318  
the state highway patrol retirement board, to receive the pension 1319  
that the member is eligible to receive on retirement under that 1320  
section in one of the following forms: 1321

(1) A single lifetime pension; 1322

(2) The actuarial equivalent of the single lifetime pension 1323  
that the member may elect under division (A)(1) of this section in 1324  
a lesser annual amount payable for the member's life and 1325  
continuing after the member's death to a surviving designated 1326  
beneficiary under one of the following optional plans, provided 1327  
the annual amount payable to the designated beneficiary shall not 1328  
exceed the annual amount payable to such retiring member, the 1329  
amount is certified by the actuary employed by the system to be 1330  
the actuarial equivalent of the member's pension, and the amount 1331  
is approved by the board: 1332

(a) Option 1. The member's lesser pension shall be paid for 1333  
life to the member's sole beneficiary designated at the time of 1334  
retirement. 1335

(b) Option 2. One-half or some other portion of the member's 1336  
lesser pension shall be paid for life to the member's sole 1337  
beneficiary designated at the time of retirement. 1338

(c) Option 3. Upon death before the expiration of a certain 1339  
period from the member's retirement date as elected by the member 1340

and approved by the board, the member's lesser pension shall be  
continued for the remainder of such period to the beneficiaries,  
and in such order, as designated by the member in writing and  
filed with the board. No monthly payments shall be paid to joint  
beneficiaries, but they may jointly receive the present value of  
any remaining payments in a lump sum settlement. If all designated  
beneficiaries die before the expiration of such period, the  
present value of all the payments yet remaining in the period  
shall be paid to the estate of the beneficiary last receiving such  
payments.

(d) Option 4. The member's lesser pension or portion of the  
lesser pension shall be paid for life to two, three, or four  
surviving beneficiaries designated at the time of the member's  
retirement, in such portions as specified at retirement. If the  
member elects this plan as required by a court order issued under  
section 3105.171 or 3105.65 of the Revised Code or the laws of  
another state regarding the division of marital property and  
compliance with the court order requires the allocation of a  
portion less than ten per cent to any person, the member shall  
allocate a portion less than ten per cent to that person in  
accordance with that order. In all other circumstances, no portion  
allocated under this plan of payment shall be less than ten per  
cent. The total of the portions allocated shall not exceed one  
hundred per cent of the member's lesser pension.

(3) If the member has attained age fifty-one with at least  
twenty-five years' total service or fifty-two with at least twenty  
years' total service, a pension consisting of both a partial  
benefit lump sum in an amount the member designates that  
constitutes a portion of the single lifetime pension the member  
may elect under division (A)(1) of this section and the actuarial  
equivalent of the remainder of the single lifetime pension payable  
for the member's life, provided an actuary employed by the system

certifies the actuarial equivalent and the board approves the 1373  
partial benefit lump sum payment and the amount to be paid as the 1374  
actuarial equivalent. 1375

The amount designated by a member shall be not less than six 1376  
times the monthly amount that would be payable to the member as a 1377  
single lifetime pension under division (A)(1) of this section and 1378  
not more than sixty times that amount. 1379

A member who has attained the age of fifty-one with 1380  
twenty-five years of service who elects a partial benefit lump sum 1381  
may designate an amount that does not exceed an amount equal to 1382  
one month's pension for each month of service beyond twenty-five 1383  
years. A member who has attained the age of fifty-two with twenty 1384  
years of service who elects a partial benefit lump sum may 1385  
designate an amount that does not exceed an amount equal to one 1386  
month's pension for each month of service beyond twenty years. 1387

(4) If a plan of payment providing for payment in a specified 1388  
portion of the pension continuing after the member's death to a 1389  
former spouse is required by a court order issued under section 1390  
3105.171 or 3105.65 of the Revised Code or the laws of another 1391  
state regarding division of marital property prior to the 1392  
effective date of the member's retirement and the board has 1393  
received a copy of the order, the board shall accept the member's 1394  
election of a plan of payment under this section only if the 1395  
member elects a plan of payment that is in accordance with the 1396  
order. 1397

(B)(1) The death of a spouse designated as beneficiary or the 1398  
death of any other designated beneficiary following retirement 1399  
shall cancel ~~any~~ the portion of the optional plan of payment 1400  
selected under division (A)(2) of this section ~~to provide~~ 1401  
providing continuing lifetime benefits to ~~such~~ the deceased 1402  
designated beneficiary ~~and return the.~~ The member to the shall 1403

receive the actuarial equivalent of the member's single lifetime 1404  
pension, as determined by the board,~~to~~ based on the number of 1405  
remaining beneficiaries, with no change in the amount payable to 1406  
any remaining beneficiary. The change shall be effective the month 1407  
following receipt by the board of notice of the death. 1408

(2) On divorce, annulment, or marriage dissolution, a member 1409  
receiving a pension under a plan that provides for continuation of 1410  
all or part of the pension after death for the lifetime of the 1411  
member's surviving spouse may, with the written consent of the 1412  
spouse or pursuant to an order of the court with jurisdiction over 1413  
the termination of the marriage, elect to cancel the portion of 1414  
the plan and providing continuing lifetime benefits to that 1415  
spouse. The member shall receive the actuarial equivalent of the 1416  
member's single lifetime pension as determined by the board based 1417  
on the number of remaining beneficiaries, with no change in amount 1418  
payable to any remaining beneficiary. The election shall be made 1419  
on a form provided by the board and shall be effective the month 1420  
following its receipt by the board. 1421

(C) Following marriage or remarriage, a both of the following 1422  
apply: 1423

(1) A member may elect a new optional plan of payment under 1424  
division (A)(2) of this section based on the actuarial equivalent 1425  
of the member's single lifetime pension as determined by the 1426  
board. ~~The~~ 1427

(2) A member who is receiving a pension pursuant to a plan of 1428  
payment providing for payment to a former spouse pursuant to a 1429  
court order described in division (A)(4) of this section may elect 1430  
a new plan of payment under "option 4" based on the actuarial 1431  
equivalent of the retirant's single lifetime pension as determined 1432  
by the board if the new plan of payment elected does not reduce 1433  
the payment to the former spouse. 1434

The plan shall become effective the first day of the month 1435  
following receipt by the board of an application on a form 1436  
approved by the board. 1437

(D) A member who has elected an optional plan under division 1438  
(A)(2) of this section may, with the written consent of the 1439  
designated beneficiary, cancel the optional plan and receive the 1440  
single lifetime pension that the member would have received had 1441  
the member elected the single lifetime pension under division 1442  
(A)(1) of this section, if the member makes a request to cancel 1443  
the optional plan not later than one year after the date on which 1444  
the member first receives a payment under the plan. Cancellation 1445  
of the optional plan shall be effective the month after acceptance 1446  
of the request by the board. No payment or adjustment shall be 1447  
made in the single lifetime pension to compensate for the lesser 1448  
pension the member received under the optional plan. 1449

The request to cancel the optional plan shall be made on a 1450  
form provided by the board and shall be valid only if the 1451  
completed form includes a signed statement of the designated 1452  
beneficiary's understanding of and consent to the cancellation. 1453  
The designated beneficiary's signature shall be verified by the 1454  
board prior to its acceptance of the cancellation. 1455

(E) Any option elected and payments made under division 1456  
(A)(2) of this section shall be in addition to any pension payable 1457  
to the member's surviving spouse, children, or parents under 1458  
section 5505.17 of the Revised Code. 1459

**Sec. 5505.174.** (A) The following persons are eligible to 1460  
receive an increase under this section: 1461

(1) Persons fifty-three years old or older who have been 1462  
receiving pensions pursuant to division (B) of section 5505.16, 1463  
division (A)(1) of section 5505.17, or division (B) of section 1464



5505.18 of the Revised Code for not less than twelve months; 1465

(2) Persons who have been receiving pensions pursuant to 1466  
division (B) of section 5505.18 of the Revised Code for not less 1467  
than sixty months regardless of age; 1468

(3) Persons who have been receiving pensions pursuant to 1469  
section 5505.162 or division (A)(3), (4), (5), (6), or (7) of 1470  
section 5505.17 of the Revised Code for not less than twelve 1471  
months regardless of age. 1472

(B) The state highway patrol retirement board shall annually 1473  
increase each benefit payable under this chapter by three per 1474  
cent, except that no benefit shall exceed the limit established by 1475  
section 415 of the "Internal Revenue Code of 1986," 100 Stat. 1476  
2085, 26 U.S.C.A. 415, as amended. 1477

The first increase is payable to all persons becoming 1478  
eligible on or after November 18, 1981. The increase is payable 1479  
for each ensuing twelve-month period or until the next increase is 1480  
granted under this section, whichever is later. 1481

The date of the first increase paid under this section shall 1482  
be the anniversary date for future increases. The pension used in 1483  
the first calculation of an increase under this section shall 1484  
remain as the base for all future increases paid under this 1485  
section, unless a new base is established. 1486

Increases paid in years subsequent to the year of the first 1487  
increase paid under this section shall be paid to all persons who, 1488  
on the date that the increase is authorized by the board, are 1489  
eligible as provided in this section. 1490

(C) If payment of a portion of a benefit is made to an 1491  
alternate payee under section 5505.261 of the Revised Code, 1492  
increases under this section granted while the order is in effect 1493  
shall be apportioned between the alternate payee and the eligible 1494

person in the same proportion that the amount being paid to the 1495  
alternate payee bears to the amount paid to the eligible person. 1496

If payment of a portion of a benefit is made to one or more 1497  
beneficiaries under "option 4" under division (A)(4) of section 1498  
5505.162 of the Revised Code, each increase under this section 1499  
granted while the plan of payment is in effect shall be divided 1500  
among the designated beneficiaries in accordance with the portion 1501  
each beneficiary has been allocated. 1502

(D) The board shall adopt, and may amend or rescind, any rule 1503  
necessary to carry out this section. 1504

**Section 2.** That existing sections 145.323, 145.46, 145.92, 1505  
742.3711, 742.3716, 742.3717, 3105.80, 3105.82, 3307.60, 3307.67, 1506  
3307.87, 3309.374, 3309.46, 3309.92, 5505.162, and 5505.174 of the 1507  
Revised Code are hereby repealed. 1508

**Section 3.** Sections 1 and 2 of this act take effect eighteen 1509  
months after the effective date of this act. 1510