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**126th General Assembly
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H. B. No. 10

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Sykes, Taylor, Uecker, Ujvagi, Wagoner, Walcher, Widener, Willamowski,
Williams, Wolpert**

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A B I L L

To amend sections 145.384, 145.46, 742.3711, 3307.60, 1
3309.46, and 5505.162 of the Revised Code 2
regarding an election by a retirant of one of the 3
state's public retirement systems who has married 4
or remarried to change the plan under which a 5
retirement benefit is paid. 6

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

Section 1. That sections 145.384, 145.46, 742.3711, 3307.60, 7
3309.46, and 5505.162 of the Revised Code be amended to read as 8
follows: 9

Sec. 145.384. (A) As used in this section, "PERS retirant" 10
means a PERS retirant who is not subject to division (C) of 11

section 145.38 of the Revised Code. For purposes of this section, 12
"PERS retirant" also includes both of the following: 13

(1) A member who retired under section 145.383 of the Revised 14
Code; 15

(2) A retirant whose retirement allowance resumed under 16
section 145.385 of the Revised Code. 17

(B) An other system retirant or PERS retirant who has made 18
contributions under section 145.38 or 145.383 of the Revised Code 19
or, in the case of a retirant described in division (A)(2) of this 20
section, section 145.47 of the Revised Code may file an 21
application with the public employees retirement system for a 22
benefit under this section. The benefit shall consist of an 23
annuity having a reserve equal to the amount of the retirant's 24
accumulated contributions for the period of employment, other than 25
the contributions excluded pursuant to division (B)(4)(a) or (b) 26
of section 145.38 of the Revised Code, and an equal amount of the 27
employer's contributions. The PERS retirant or other system 28
retirant shall elect either to receive the benefit as a monthly 29
annuity or a lump sum payment discounted to the present value 30
using the current actuarial assumption rate of interest, except 31
that if the monthly annuity would be less than twenty-five dollars 32
per month, the retirant shall receive a lump sum payment. A 33
retirant who elects to receive a monthly annuity shall select one 34
of the following as the plan of payment: 35

(1) The retirant's single life annuity; 36

(2) The actuarial equivalent of the retirant's single life 37
annuity in a lesser amount for life and continuing after death to 38
a surviving beneficiary designated at the time the plan of payment 39
is selected. 40

(C)(1) The death of a spouse or other designated beneficiary 41
following selection of a plan of payment under division (B)(2) of 42

this section cancels that plan of payment. The PERS retirant or
other system retirant shall receive the equivalent of the
retirant's single life annuity, as determined by the public
employees retirement board, effective the first day of the month
following receipt by the board of notice of the death.

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

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(D) Following a marriage or remarriage, a PERS retirant or
other system retirant who is receiving a benefit under division
(B)(1) of this section may elect a new plan of payment under this
section based on the actuarial equivalent of the retirant's single
life annuity as determined by the board. The If the marriage or
remarriage occurs on or after the effective date of this
amendment, the election must be made not later than one year after
the date of the marriage or remarriage.

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The plan elected under this division shall be effective the
first day of the month following on the date of receipt by the
board of an application on a form approved by the board, but any
change in the amount of the benefit shall commence on the first
day of the month following the effective date of the plan.

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

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(1) The last day for which compensation for all employment

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subject to section 145.38, 145.383, or 145.385 of the Revised Code 74
was paid; 75

(2) Attainment by the PERS retiree or other system retiree 76
of age sixty-five; 77

(3) If the PERS retiree or other system retiree was 78
previously employed under section 145.38, 145.383, or 145.385 of 79
the Revised Code and is receiving or previously received a benefit 80
under this section, completion of a period of twelve months since 81
the effective date of the last benefit under this section. 82

(F)(1) If a PERS retiree or other system retiree dies while 83
employed in employment subject to section 145.38, 145.383, or 84
145.385 of the Revised Code, a lump sum payment calculated in 85
accordance with division (B) of this section shall be paid to the 86
retiree's beneficiary under division (G) of this section. 87

(2) If at the time of death a PERS retiree or other system 88
retiree receiving a monthly annuity has received less than the 89
retiree would have received as a lump sum payment, the difference 90
between the amount received and the amount that would have been 91
received as a lump sum payment shall be paid to the retiree's 92
beneficiary under division (G) of this section. 93

(G) A PERS retiree or other system retiree employed under 94
section 145.38, 145.383, or 145.385 of the Revised Code may 95
designate one or more persons as beneficiary to receive any 96
benefits payable under this section due to death. The designation 97
shall be in writing duly executed on a form provided by the public 98
employees retirement board, signed by the PERS retiree or other 99
system retiree, and filed with the board prior to death. The last 100
designation of a beneficiary revokes all previous designations. 101
The PERS retiree's or other system retiree's marriage, divorce, 102
marriage dissolution, legal separation, withdrawal of account, 103
birth of a child, or adoption of a child revokes all previous 104

designations. If there is no designated beneficiary, the
beneficiary is the beneficiary determined under division (D) of
section 145.43 of the Revised Code. If any benefit payable under
this section due to the death of a PERS retirant or other system
retirant is not claimed by a beneficiary within five years after
the death, the amount payable shall be transferred to the income
fund and thereafter paid to the beneficiary or the estate of the
PERS retirant or other system retirant on application to the
board.

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

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

(B)(1) Unless the member is eligible to elect another plan of
payment, a member who retires under section 145.32, 145.331, or
145.34 of the Revised Code shall receive a retirement allowance
under "plan A," which shall consist of the actuarial equivalent of
the member's retirement allowance determined under section 145.33,
145.331, or 145.34 of the Revised Code in a lesser amount payable
for life and one-half of such allowance continuing after death to
the member's surviving spouse for the life of the spouse.

A member may elect to receive the member's retirement

allowance under a plan of payment other than "plan A" if the
member is not married or either the member's spouse consents in
writing to the member's election of a plan of payment other than
"plan A" or the board waives the requirement that the spouse
consent. An application for retirement shall include an
explanation of all of the following:

(a) That, if the member is married, unless the spouse
consents to another plan of payment, 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;

(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;

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

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

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

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

(a) "Plan B," which shall consist of an allowance determined 167
under section 145.33, 145.331, or 145.34 of the Revised Code; 168

(b) "Plan C," which shall consist of the actuarial equivalent 169
of the member's retirement allowance determined under section 170
145.33, 145.331, or 145.34 of the Revised Code in a lesser amount 171
payable for life and one-half or some other portion of the 172
allowance continuing after death to the member's sole surviving 173
beneficiary designated at the time of the member's retirement, 174
provided that the amount payable to the beneficiary does not 175
exceed the amount payable to the member; 176

(c) "Plan D," which shall consist of the actuarial equivalent 177
of the member's retirement allowance determined under section 178
145.33, 145.331, or 145.34 of the Revised Code in a lesser amount 179
payable for life and continuing after death to a surviving 180
beneficiary designated at the time of the member's retirement; 181

(d) "Plan E," which shall consist of the actuarial equivalent 182
of the member's retirement allowance determined under section 183
145.33, 145.331, or 145.34 of the Revised Code in a lesser amount 184
payable for a certain period from the member's retirement date as 185
elected by the member and approved by the retirement board, and on 186
the member's death before the expiration of that certain period 187
the member's lesser retirement allowance payable for the remainder 188
of that period to the member's surviving designated beneficiary 189
nominated by written designation filed with the retirement board. 190

Should the nominated beneficiary designated in writing die 191
prior to the expiration of the guarantee period, then for the 192
purpose of completing payment for the remainder of the guarantee 193
period, the present value of such payments shall be paid to the 194
estate of the beneficiary last receiving. 195

(3)(a) Beginning on a date selected by the retirement board, 196
which shall be not later than July 1, 2004, a member may elect to 197

receive a retirement allowance under a plan of payment consisting 198
of both a lump sum in an amount the member designates that 199
constitutes a portion of the member's retirement allowance under a 200
plan described in division (B) of this section and the remainder 201
as a monthly allowance under that plan. 202

The total amount paid as a lump sum and a monthly benefit 203
shall be the actuarial equivalent of the amount that would have 204
been paid had the lump sum not been selected. 205

(b) The lump sum designated by a member shall be not less 206
than six times and not more than thirty-six times the monthly 207
amount that would be payable to the member under the plan of 208
payment elected under division (B)(3)(a) of this section had the 209
lump sum not been elected and shall not result in a monthly 210
allowance that is less than fifty per cent of that monthly amount. 211

(4) An election under division (B)(2) or (3) of this section 212
shall be made at the time the member makes application for 213
retirement. 214

(5) A member eligible to elect to receive the member's 215
retirement allowance under a plan of payment other than "plan A" 216
because the member is unmarried who fails to make an election on 217
retirement shall receive the member's retirement allowance under 218
"plan B." 219

(C) If the retirement allowances, as a single life annuity or 220
payment plan as provided in this section, due and paid are in a 221
total amount less than (1) the accumulated contributions, and (2) 222
other deposits made by the member as provided by this chapter, 223
standing to the credit of the member at the time of retirement, 224
then the difference between the total amount of the allowances 225
paid and the accumulated contributions and other deposits shall be 226
paid to the beneficiary provided under division (D) of section 227
145.43 of the Revised Code. 228

(D)(1) The death of a spouse or any designated beneficiary 229
following retirement shall cancel any plan of payment to provide 230
continuing lifetime benefits to the spouse or beneficiary and 231
return the retirant to the retirant's single lifetime benefit 232
equivalent, as determined by the board, to be effective the month 233
following receipt by the board of notice of the death. 234

(2) On divorce, annulment, or marriage dissolution, a 235
retirant receiving a retirement allowance under a plan that 236
provides for continuation of all or part of the allowance after 237
death for the lifetime of the retirant's surviving spouse may, 238
with the written consent of the spouse or pursuant to an order of 239
the court with jurisdiction over the termination of the marriage, 240
elect to cancel the plan and receive the member's single lifetime 241
benefit equivalent as determined by the retirement board. The 242
election shall be made on a form provided by the board and shall 243
be effective the month following its receipt by the board. 244

(E) Following a marriage or remarriage, a retirant who is 245
receiving the retirant's retirement allowance under "plan B" may 246
elect a new plan of payment under division (B)(1), (2)(b), or 247
(2)(c) of this section based on the actuarial equivalent of the 248
retirant's single lifetime benefit as determined by the board. ~~The~~ 249
If the marriage or remarriage occurs on or after the effective 250
date of this amendment, the election must be made not later than 251
one year after the date of the marriage or remarriage. 252

The plan elected under this division shall become effective 253
the first day of the month following on the date of receipt by the 254
board of an application on a form approved by the board, but any 255
change in the amount of the retirement allowance shall commence on 256
the first day of the month following the effective date of the 257
plan. 258

(F) Any person who, prior to July 24, 1990, selected an 259

optional plan of payment at retirement that provided for a return 260
to the single life benefit after the designated beneficiary's 261
death shall have the retirant's benefit adjusted to the optional 262
plan equivalent without such provision. 263

(G) A retirant's receipt of the first month's retirement 264
allowance constitutes the retirant's final acceptance of the plan 265
of payment and may be changed only as provided in this chapter. 266

Sec. 742.3711. (A) On application for retirement as provided 267
in section 742.37 of the Revised Code, a member of the fund may 268
elect to receive a retirement allowance payable throughout the 269
member's life, or may elect, on the application for retirement, to 270
receive the actuarial equivalent of the member's retirement 271
allowance in a lesser amount payable for life and continuing after 272
death to a surviving designated beneficiary under one of the 273
following optional plans, provided the amount payable to the 274
beneficiary shall not exceed the amount payable to the retiring 275
member of the fund, and is certified by the actuary engaged by the 276
board of trustees of the Ohio police and fire pension fund to be 277
the actuarial equivalent of the member's retirement allowance and 278
is approved by the board. 279

(1) Option 1. The member's lesser retirement allowance shall 280
be paid for life to the sole beneficiary designated at the time of 281
the member's retirement. 282

(2) Option 2. One-half or some other portion of the member's 283
lesser retirement allowance shall be paid for life to the sole 284
beneficiary designated at the time of the member's retirement. 285

(3) Option 3. Upon the member's death before the expiration 286
of a certain period from the retirement date and elected by the 287
member and approved by the retirement board, the member's lesser 288
retirement allowance shall be continued for the remainder of that 289

period to the beneficiary the member has nominated by written 290
designation and filed with the retirement board. 291

Should the nominated beneficiary designated in writing become 292
deceased prior to the expiration of the guarantee period, then for 293
the purpose of completing payment for the remainder of the 294
guarantee period, the present value of such payments shall be paid 295
to the estate of the beneficiary last receiving. 296

(B)(1) The death of a spouse nominated as beneficiary or the 297
death of any other nominated beneficiary following a member's 298
retirement or election under section 742.44 of the Revised Code to 299
participate in the deferred retirement option plan shall cancel 300
any optional plan of payment to provide continuing lifetime 301
benefits to such nominated beneficiary and return the member of 302
the fund to the member's single lifetime benefit equivalent, as 303
determined by the board, to be effective the month following 304
receipt by the board of notice of the death. 305

(2) On divorce, annulment, or marriage dissolution, a member 306
receiving a retirement allowance under a plan that provides for 307
continuation of all or part of the allowance after death for the 308
lifetime of the member's surviving spouse may, with the written 309
consent of the spouse or pursuant to an order of the court with 310
jurisdiction over the termination of the marriage, elect to cancel 311
the plan and receive the member's single lifetime benefit 312
equivalent as determined by the board. The election shall be made 313
on a form provided by the board and shall be effective the month 314
following its receipt by the board. 315

(C) Following marriage or remarriage, a member of the fund 316
receiving a ~~pension~~ retirement allowance under section 742.37 or 317
742.39 of the Revised Code may elect not later than one year after 318
the date of marriage or remarriage a new optional plan of payment 319
based on the actuarial equivalent of the member's single lifetime 320

benefit as determined by the board. ~~The~~ 321

The plan elected under this division and the member's lesser 322
retirement allowance shall become effective on the date ~~the~~ 323
~~election is made~~ of receipt by the board of an application on a 324
form approved by the board. 325

(D)(1) Unless one of the following occurs, an application for 326
retirement by a married person shall be considered an election of 327
a benefit under option 2 as provided for in division (A)(2) of 328
this section under which one-half of the lesser retirement 329
allowance payable during the life of the retirant will be paid 330
after death to the retirant's spouse for life as sole beneficiary: 331

(a) The retirant selects an optional plan under division (A) 332
of this section providing for payment after death to the 333
retirant's spouse for life as sole beneficiary of more than 334
one-half of the lesser retirement allowance payable during the 335
life of the retirant; 336

(b) The retirant submits to the retirement board a written 337
statement signed by the spouse attesting that the spouse consents 338
to the retirant's election to receive a single lifetime retirement 339
allowance or a payment under an optional benefit plan under which 340
after the death of the retirant the surviving spouse will receive 341
less than one-half of the lesser retirement allowance payable 342
during the life of the retirant. 343

(2) An application for retirement shall include an 344
explanation of all of the following: 345

(a) That, if the member is married, unless the spouse 346
consents to another plan of payment, the member's retirement 347
allowance will be paid under "option 2" and consist of the 348
actuarial equivalent of the member's retirement allowance in a 349
lesser amount payable for life and one-half of the lesser 350
allowance continuing after death to the surviving spouse for the 351

life of the spouse; 352

(b) A description of the alternative plans of payment 353
available with the consent of the spouse; 354

(c) That the spouse may consent to another plan of payment 355
and the procedure for giving consent; 356

(d) That consent is irrevocable once notice of consent is 357
filed with the board. 358

Consent shall be valid only if it is signed, in writing, and 359
witnessed by an employee of the board or a notary public. 360

(3) If the retirant does not select an optional plan as 361
described in division (D)(1)(a) of this section and the board does 362
not receive the written statement provided for in division 363
(D)(1)(b) of this section, it shall determine and pay the 364
retirement allowance in accordance with division (A)(2) of this 365
section, except that the board may provide by rule for waiver by 366
the board of the statement and payment of the allowance other than 367
in accordance with division (A)(2) of this section if the retirant 368
is unable to obtain the statement due to absence or incapacity of 369
the spouse or other cause specified by the board. 370

(E) A member of the fund who has elected an optional plan 371
under this section or section 742.3715 of the Revised Code may, 372
with the consent of the designated beneficiary, cancel the 373
optional plan and receive the retirement allowance payable 374
throughout life the member would have received had the member not 375
elected the optional plan, if the member makes a request to cancel 376
the optional plan not later than one year after the later of 377
September 9, 1988, or the date on which the member first receives 378
a payment under this section or section 742.3715 of the Revised 379
Code. Cancellation of the optional plan shall be effective the 380
month after acceptance of the request by the trustees of the fund. 381
No payment or adjustment shall be made in the retirement allowance 382

payable throughout the member's life to compensate for the lesser
allowance the member received under the optional plan.

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

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

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

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

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

The date of the first increase payable under this section 414
shall be the anniversary date for future increases. 415

Sec. 3307.60. (A) Upon application for retirement as provided 416
in section 3307.58 or 3307.59 of the Revised Code, the retirant 417
may elect a plan of payment under this division or, on and after 418
the date specified in division (B) of this section, a plan of 419
payment under that division. Under this division, the retirant may 420
elect to receive a single lifetime benefit, or may elect to 421
receive the actuarial equivalent of the retirant's benefit in a 422
lesser amount, payable for life, and continuing after death to a 423
beneficiary under one of the following optional plans: 424

(1) Option 1. The retirant's lesser benefit shall be paid for 425
life to the sole beneficiary named at retirement. 426

(2) Option 2. Some other portion of the retirant's benefit 427
shall be paid for life to the sole beneficiary named at 428
retirement. The beneficiary's monthly amount shall not exceed the 429
monthly amount payable to the retirant during the retirant's 430
lifetime. 431

(3) Option 3. The retirant's lesser benefit established as 432
provided under option 1 or option 2 shall be paid for life to the 433
sole beneficiary named at retirement, except that in the event of 434
the death of the sole beneficiary or termination of a marital 435
relationship between the retirant and the sole beneficiary the 436
retirant may elect to return to a single lifetime benefit 437
equivalent as determined by the state teachers retirement board, 438
if, in the case of termination of a marital relationship, the 439
election is made with the written consent of the beneficiary or 440
pursuant to an order of the court with jurisdiction over 441
termination of the marital relationship. 442

(4) Option 4. Upon the retirant's death before the expiration 443

of a certain period from the retirement date and elected by the 444
retirant, and approved by the board, the retirant's benefit shall 445
be continued for the remainder of such period to the beneficiary. 446
Monthly benefits shall not be paid to joint beneficiaries, but 447
they may receive the present value of any remaining payments in a 448
lump sum settlement. If all beneficiaries die before the 449
expiration of the certain period, the present value of all 450
payments yet remaining in such period shall be paid to the estate 451
of the beneficiary last receiving. 452

(5) Option 5. A plan of payment established by the state 453
teachers retirement board combining any of the features of options 454
1, 2, and 4. 455

(B) Beginning on a date selected by the state teachers 456
retirement board, which shall be not later than July 1, 2004, a 457
retirant may elect, in lieu of a plan of payment under division 458
(A) of this section, a plan consisting of both of the following: 459

(1) A lump sum in an amount the member designates that 460
constitutes a portion of the member's single lifetime benefit; 461

(2) Either of the following: 462

(a) The remainder of the retirant's single lifetime benefit; 463

(b) The actuarial equivalent of the remainder of the 464
retirant's benefit in a lesser amount, payable for life, and 465
continuing after death to a beneficiary under one of the options 466
described in divisions (A)(1) to (5) of this section. 467

In the event of the death of the sole beneficiary or 468
termination of a marital relationship between the retirant and the 469
sole beneficiary, the retirant may elect to receive the actuarial 470
equivalent of the remainder of the retirant's single lifetime 471
benefit except that, in the case of termination of a marital 472
relationship, the election may be made only with the written 473

consent of the beneficiary or pursuant to an order of the court 474
with jurisdiction over termination of the marital relationship. 475

The amount designated by the member under division (B)(1) of 476
this section shall be not less than six times and not more than 477
thirty-six times the monthly amount that would be payable to the 478
member as a single lifetime benefit and shall not result in a 479
monthly allowance that is less than fifty per cent of that amount. 480

(C) Until the first payment is made to a former member under 481
section 3307.58 or 3307.59 of the Revised Code, the former member 482
may change the selection of a plan of payment. 483

(D)(1) If a deceased member was eligible for but had not yet 484
been awarded a service retirement benefit under section 3307.58 or 485
3307.59 of the Revised Code at the time of death, option 1 as 486
provided for in division (A)(1) of this section shall be paid to 487
the spouse or other sole dependent beneficiary. 488

(2) Beginning on a date selected by the board, which shall be 489
not later than July 1, 2004, the spouse or sole beneficiary may 490
elect, in lieu of option 1, a plan of payment consisting of both 491
of the following: 492

(a) A lump sum in an amount the spouse or other sole 493
dependent beneficiary designates that constitutes a portion of the 494
retirant's single life annuity; 495

(b) The actuarial equivalent of the remainder of the 496
retirant's single life annuity paid in a lesser amount for life to 497
the spouse or other sole dependent beneficiary. 498

The amount designated by the spouse or other sole dependent 499
beneficiary under division (D)(2)(a) of this section shall be not 500
less than six times and not more than thirty-six times the monthly 501
amount that would be payable as the retirant's single life annuity 502
and shall not result in a monthly allowance that is less than 503

fifty per cent of that monthly amount. 504

(E) If the total benefit paid under this section is less than 505
the balance in the teachers' savings fund, the difference shall be 506
paid to the beneficiary provided under division (D) of section 507
3307.562 of the Revised Code. 508

(F) In the case of a retirant who elected an optional plan 509
prior to September 15, 1989: 510

(1) The death of the spouse or other designated beneficiary 511
following retirement shall, at the election of the retirant, 512
cancel any optional plan selected at retirement to provide 513
continuing lifetime benefits to the spouse or other beneficiary 514
and return the retirant to a single lifetime benefit equivalent as 515
determined by the board. 516

(2) A divorce, annulment, or marriage dissolution shall, at 517
the election of the retirant, cancel any optional plan selected at 518
retirement to provide continuing lifetime benefits to the spouse 519
as designated beneficiary and return the retirant to a single 520
lifetime benefit equivalent as determined by the board if the 521
election is made with the written consent of the beneficiary or 522
pursuant to an order of a court of common pleas or the court of 523
another state with jurisdiction over the termination of the 524
marriage. 525

(G) Following marriage or remarriage, a retirant may elect a 526
new optional plan of payment based on the actuarial equivalent of 527
the retirant's single lifetime benefit, as determined by the 528
board, except that if the retirant is receiving a retirement 529
allowance under an optional plan that provides for continuation of 530
benefits after death to a former spouse, the retirant may elect a 531
new optional plan of payment only with the written consent of the 532
former spouse or pursuant to an order of the court with 533
jurisdiction over the termination of the marriage. ~~Such~~ 534

If the marriage or remarriage occurs on or after the 535
effective date of this amendment, the election must be made not 536
later than one year after the date of the marriage or remarriage. 537

The plan elected under this division shall become effective 538
on the first date of the month following receipt by the board of 539
an application on a form approved by the board, but any change in 540
the amount of the benefit shall commence on the first day of the 541
month following the effective date of the plan. 542

(H)(1) Unless one of the following occurs, an application for 543
service retirement made pursuant to section 3307.58 or 3307.59 of 544
the Revised Code by a married person shall be considered an 545
election of a benefit under option 2 as provided for in division 546
(A)(2) of this section under which one-half of the lesser benefit 547
payable during the life of the retirant will be paid after death 548
to the retirant's spouse for life as sole beneficiary: 549

(a) The retirant selects an optional plan under division (A) 550
of this section providing for payment after death to the 551
retirant's spouse for life as sole beneficiary of more than 552
one-half of the lesser benefit payable during the life of the 553
retirant. 554

(b) The retirant submits to the retirement board a written 555
statement signed by the spouse attesting that the spouse consents 556
to the retirant's election to receive a single lifetime annuity or 557
a payment under an optional benefit plan under which after the 558
death of the retirant the surviving spouse will receive less than 559
one-half of the lesser benefit payable during the life of the 560
retirant. 561

(2) An application for retirement shall include an 562
explanation of all of the following: 563

(a) That, if the member is married, unless the spouse 564
consents to another plan of payment, the member's retirement 565

allowance will be paid under "option 2" as provided for in 566
division (A)(2) of this section and consist of the actuarial 567
equivalent of the member's retirement allowance in a lesser amount 568
payable for life and one-half of the lesser allowance continuing 569
after death to the surviving spouse for the life of the spouse; 570

(b) A description of the alternative plans of payment 571
available with the consent of the spouse; 572

(c) That the spouse may consent to another plan of payment 573
and the procedure for giving consent; 574

(d) That consent is irrevocable once notice of consent is 575
filed with the board. 576

Consent shall be valid only if it is signed, in writing, and 577
witnessed by a notary public. 578

(3) If the retirant does not select an optional plan of 579
payment as described in division (H)(1)(a) of this section and the 580
board does not receive the written statement provided for in 581
division (H)(1)(b) of this section, it shall determine and pay the 582
retirement allowance in accordance with this division, except that 583
the board may provide by rule for waiver by the board of the 584
statement and payment of the benefits other than in accordance 585
with this division or payment under section 3307.56 of the Revised 586
Code if the retirant is unable to obtain the statement due to 587
absence or incapacity of the spouse or other cause specified by 588
the board. 589

(I) For the purpose of determining actuarial equivalence 590
under this section, on the advice of an actuary employed by the 591
board, the board shall adopt mortality tables that may take into 592
consideration the membership experience of the state teachers 593
retirement system and may also include the membership experience 594
of the public employees retirement system and the school employees 595
retirement system. 596

Sec. 3309.46. (A) The retirement allowance calculated under 597
section 3309.36, 3309.38, or 3309.381 of the Revised Code shall be 598
paid as provided in this section. If the member is eligible to 599
elect a plan of payment under this section, the election shall be 600
made on the application for retirement. A plan of payment elected 601
under this section shall be effective only if it is certified by 602
the actuary engaged by the school employees retirement board to be 603
the actuarial equivalent of the member's retirement allowance and 604
is approved by the retirement board. 605

(B)(1) Unless the member is eligible to elect another plan of 606
payment, a member who retires under section 3309.36, 3309.38, or 607
3309.381 of the Revised Code shall receive a retirement allowance 608
under "plan A," which shall consist of the actuarial equivalent of 609
the member's retirement allowance determined under section 610
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 611
amount payable for life and one-half of such allowance continuing 612
after death to the member's surviving spouse for the life of the 613
spouse. 614

A member may elect to receive a retirement allowance under a 615
plan of payment other than "plan A" if the member is not married 616
or either the member's spouse consents in writing to the member's 617
election to a plan of payment other than "plan A" or the board 618
waives the requirement that the spouse consent. 619

An application for retirement shall include an explanation of 620
all of the following: 621

(a) That, if the member is married, unless the spouse 622
consents to another plan of payment, the member's retirement 623
allowance will be paid under "plan A," which consists of the 624
actuarial equivalent of the member's retirement allowance in a 625
lesser amount payable for life and one-half of the allowance 626
continuing after death to the surviving spouse for the life of the 627

spouse; 628

(b) A description of the alternative plans of payment, 629
including all plans described in divisions (B)(2) and (3) of this 630
section, available with the consent of the spouse; 631

(c) That the spouse may consent to another plan of payment 632
and the procedure for giving consent; 633

(d) That consent is irrevocable once notice of consent is 634
filed with the board. 635

Consent shall be valid only if it is in writing, signed by 636
the spouse, and witnessed by an employee of the school employees 637
retirement system or a notary public. The board may waive the 638
requirement of consent if the spouse is incapacitated or cannot be 639
located or for any other reason specified by the board. Consent or 640
waiver is effective only with regard to the spouse who is the 641
subject of the consent or waiver. 642

(2) A member eligible to elect to receive a retirement 643
allowance under a plan of payment other than "plan A" shall 644
receive the retirement allowance under the plan described in 645
division (B)(3) of this section or one of the following plans: 646

(a) "Plan B," which shall consist of an allowance determined 647
under section 3309.36, 3309.38, or 3309.381 of the Revised Code; 648

(b) "Plan C," which shall consist of the actuarial equivalent 649
of the member's retirement allowance determined under section 650
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 651
amount payable for life and one-half or some other portion of the 652
allowance continuing after death to the member's sole surviving 653
beneficiary designated at the time of the member's retirement, 654
provided that the amount payable to the beneficiary does not 655
exceed the amount payable to the member; 656

(c) "Plan D," which shall consist of the actuarial equivalent 657

of the member's retirement allowance determined under section 658
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 659
amount payable for life and continuing after death to a surviving 660
designated beneficiary designated at the time of the member's 661
retirement; 662

(d) "Plan E," which shall consist of the actuarial equivalent 663
of the member's retirement allowance determined under section 664
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser 665
amount payable for a certain period from the member's retirement 666
date as elected by the member and approved by the retirement 667
board, and on the member's death before the expiration of that 668
certain period, the member's lesser retirement allowance continued 669
for the remainder of that period to, and in such order, the 670
beneficiaries as the member has nominated by written designation 671
and filed with the retirement board. 672

Monthly benefits shall not be paid to joint beneficiaries, 673
but they may receive the present value of any remaining payments 674
in a lump sum settlement. If all beneficiaries die before the 675
expiration of the certain period, the present value of all such 676
payments yet remaining in such period shall be paid to the estate 677
of the beneficiary last receiving. 678

(3)(a) Beginning on a date selected by the board, which shall 679
be not later than July 1, 2004, a member may elect, in lieu of a 680
plan of payment under division (B)(1) or (2) of this section, a 681
plan consisting of both a lump sum in an amount the member 682
designates that constitutes a portion of the retirement allowance 683
payable under a plan described in division (B)(1) or (2) of this 684
section and the remainder of the allowance payable under that plan 685
in monthly payments. 686

The total amount paid as a lump sum and a monthly benefit 687
shall be the actuarial equivalent of the amount that would have 688

been paid had the lump sum not been selected.

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

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

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(5) 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."

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(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.

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(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

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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.

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

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

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

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If the marriage or remarriage occurs on or after the
effective date of this amendment, the election must be made not
later than one year after the date of the marriage or remarriage.

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The plan elected under division (E)(3) of this section shall 751
become effective on the first day date of the month following 752
receipt by the board of an application on a form approved by the 753
board, but any change in the amount of the benefit shall commence 754
on the first day of the month following the effective date of the 755
plan. 756

Sec. 5505.162. (A) On application for retirement as provided 757
in section 5505.16 of the Revised Code, a member of the state 758
highway patrol retirement system may elect, on a form provided by 759
the state highway patrol retirement board, to receive the pension 760
that the member is eligible to receive on retirement under that 761
section in one of the following forms: 762

(1) A single lifetime pension; 763

(2) The actuarial equivalent of the single lifetime pension 764
that the member may elect under division (A)(1) of this section in 765
a lesser annual amount payable for the member's life and 766
continuing after the member's death to a surviving designated 767
beneficiary under one of the following optional plans, provided 768
the annual amount payable to the designated beneficiary shall not 769
exceed the annual amount payable to such retiring member, the 770
amount is certified by the actuary employed by the system to be 771
the actuarial equivalent of the member's pension, and the amount 772
is approved by the board: 773

(a) Option 1. The member's lesser pension shall be paid for 774
life to the member's sole beneficiary designated at the time of 775
retirement. 776

(b) Option 2. One-half or some other portion of the member's 777
lesser pension shall be paid for life to the member's sole 778
beneficiary designated at the time of retirement. 779

(c) Option 3. Upon death before the expiration of a certain 780

period from the member's retirement date as elected by the member 781
and approved by the board, the member's lesser pension shall be 782
continued for the remainder of such period to the beneficiaries, 783
and in such order, as designated by the member in writing and 784
filed with the board. No monthly payments shall be paid to joint 785
beneficiaries, but they may jointly receive the present value of 786
any remaining payments in a lump sum settlement. If all designated 787
beneficiaries die before the expiration of such period, the 788
present value of all the payments yet remaining in the period 789
shall be paid to the estate of the beneficiary last receiving such 790
payments. 791

(3) If the member has attained age fifty-one with at least 792
twenty-five years' total service or fifty-two with at least twenty 793
years' total service, a pension consisting of both a partial 794
benefit lump sum in an amount the member designates that 795
constitutes a portion of the single lifetime pension the member 796
may elect under division (A)(1) of this section and the actuarial 797
equivalent of the remainder of the single lifetime pension payable 798
for the member's life, provided an actuary employed by the system 799
certifies the actuarial equivalent and the board approves the 800
partial benefit lump sum payment and the amount to be paid as the 801
actuarial equivalent. 802

The amount designated by a member shall be not less than six 803
times the monthly amount that would be payable to the member as a 804
single lifetime pension under division (A)(1) of this section and 805
not more than sixty times that amount. 806

A member who has attained the age of fifty-one with 807
twenty-five years of service who elects a partial benefit lump sum 808
may designate an amount that does not exceed an amount equal to 809
one month's pension for each month of service beyond twenty-five 810
years. A member who has attained the age of fifty-two with twenty 811
years of service who elects a partial benefit lump sum may 812

designate an amount that does not exceed an amount equal to one
month's pension for each month of service beyond twenty years.

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(B)(1) The death of a spouse designated as beneficiary or the
death of any other designated beneficiary following retirement
shall cancel any optional plan of payment selected under division
(A)(2) of this section to provide continuing lifetime benefits to
such designated beneficiary and return the member to the
equivalent of the member's single lifetime pension, as determined
by the board, to be effective the month following receipt by the
board of notice of the death.

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

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(C) Following marriage or remarriage, a member may elect a
new optional plan of payment under division (A)(2) of this section
based on the actuarial equivalent of the member's single lifetime
pension as determined by the board. ~~The~~

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If the marriage or remarriage occurs on or after the
effective date of this amendment, the election must be made not
later than one year after the date of the marriage or remarriage.

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The plan elected under this division shall become effective
on the first day date of the month following receipt by the board
of an application on a form approved by the board, but any change
in the amount of the pension shall commence on the first day of

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the month following the effective date of the plan. 844

(D) A member who has elected an optional plan under division 845
(A)(2) of this section may, with the written consent of the 846
designated beneficiary, cancel the optional plan and receive the 847
single lifetime pension that the member would have received had 848
the member elected the single lifetime pension under division 849
(A)(1) of this section, if the member makes a request to cancel 850
the optional plan not later than one year after the date on which 851
the member first receives a payment under the plan. Cancellation 852
of the optional plan shall be effective the month after acceptance 853
of the request by the board. No payment or adjustment shall be 854
made in the single lifetime pension to compensate for the lesser 855
pension the member received under the optional plan. 856

The request to cancel the optional plan shall be made on a 857
form provided by the board and shall be valid only if the 858
completed form includes a signed statement of the designated 859
beneficiary's understanding of and consent to the cancellation. 860
The designated beneficiary's signature shall be verified by the 861
board prior to its acceptance of the cancellation. 862

(E) Any option elected and payments made under division 863
(A)(2) of this section shall be in addition to any pension payable 864
to the member's surviving spouse, children, or parents under 865
section 5505.17 of the Revised Code. 866

Section 2. That existing sections 145.384, 145.46, 742.3711, 867
3307.60, 3309.46, and 5505.162 of the Revised Code are hereby 868
repealed. 869