

**As Reported by the House Financial Institutions, Real Estate and  
Securities Committee**

**126th General Assembly  
Regular Session  
2005-2006**

**H. B. No. 10**

**Representatives Schneider, Seitz, Setzer, C. Evans, Allen, Book, Daniels,  
Gibbs, Hagan, Mason, S. Patton, G. Smith, S. Smith, J. Stewart, White**

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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 43  
other system retirant shall receive the equivalent of the 44  
retirant's single life annuity, as determined by the public 45  
employees retirement board, effective the first day of the month 46  
following receipt by the board of notice of the death. 47

(2) On divorce, annulment, or marriage dissolution, a PERS 48

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.

(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.

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.

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

(1) The last day for which compensation for all employment  
subject to section 145.38, 145.383, or 145.385 of the Revised Code  
was paid;

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

(3) If the PERS retirant or other system retirant was  
previously employed under section 145.38, 145.383, or 145.385 of

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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 retirant or other system retirant 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  
retirant's beneficiary under division (G) of this section. 87

(2) If at the time of death a PERS retirant or other system 88  
retirant receiving a monthly annuity has received less than the 89  
retirant 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 retirant's 92  
beneficiary under division (G) of this section. 93

(G) A PERS retirant or other system retirant 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 retirant or other 99  
system retirant, and filed with the board prior to death. The last 100  
designation of a beneficiary revokes all previous designations. 101  
The PERS retirant's or other system retirant'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 105  
beneficiary is the beneficiary determined under division (D) of 106  
section 145.43 of the Revised Code. If any benefit payable under 107  
this section due to the death of a PERS retirant or other system 108  
retirant is not claimed by a beneficiary within five years after 109  
the death, the amount payable shall be transferred to the income 110  
fund and thereafter paid to the beneficiary or the estate of the 111

PERS retirant or other system retirant on application to the board. 112  
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(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. 114  
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**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. 117  
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(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. 127  
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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: 135  
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(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 under section 145.33, 145.331, or 145.34 of the Revised Code;

(b) "Plan C," 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 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.

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(2) On divorce, annulment, or marriage dissolution, a  
retirant receiving a retirement allowance under a plan that  
provides for continuation of all or part of the allowance after  
death for the lifetime of the retirant'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 member's single lifetime  
benefit equivalent 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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(E) Following a marriage or remarriage, a retirant who is  
receiving the retirant's retirement allowance under "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  
retirant's single lifetime benefit 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 become 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 retirement allowance shall commence on  
the first day of the month following the effective date of the  
plan.

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

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(G) A retirant's receipt of the first month's retirement

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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 retirement by a married person shall be considered an election of a benefit under option 2 as provided for in division (A)(2) of this section under which one-half of the lesser retirement allowance payable during the life of the retirant will be paid after death to the retirant's spouse for life as sole beneficiary:

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

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

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

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

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

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

(d) That consent is irrevocable once notice of consent is 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 383  
allowance the member received under the optional plan. 384

The request to cancel the optional plan shall be made on a 385  
form provided by the fund and shall be valid only if the completed 386  
form includes a signed statement of the designated beneficiary's 387

understanding of and consent to the cancellation. The signature 388  
shall be verified by the trustees of the fund prior to their 389  
acceptance of the cancellation. 390

(F) Any option elected and payments made under this section 391  
shall be in addition to any benefit payable under divisions (D), 392  
(E), and (F) of section 742.37 of the Revised Code. 393

(G) A person is eligible to receive a benefit increase under 394  
this division if the person is receiving a retirement allowance or 395  
benefit under an optional plan elected under this section or 396  
section 742.3715 of the Revised Code based on an award made prior 397  
to July 24, 1986. A person is not eligible to receive an increase 398  
under this division if the person is receiving a pension or 399  
benefit in accordance with rules in force on April 1, 1947, that 400  
govern the granting of pensions and benefits and that provide an 401  
increase in the original pension or benefit from time to time 402  
pursuant to changes in the salaries of active members. 403

The board shall annually increase all benefits payable under 404  
this section or section 742.3715 of the Revised Code to eligible 405  
persons by the actuarial equivalent of three hundred sixty 406  
dollars, except that no benefit shall exceed the limit established 407  
by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 408  
2085, 26 U.S.C.A. 415, as amended. 409

The first increase is payable to all eligible persons on July 410  
1, 1988. The increase is payable for the ensuing twelve-month 411  
period or until the next increase is granted under this section, 412  
whichever is later. 413

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:

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(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 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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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 date of the month following receipt by the board of an application on a form approved by the board, but any change in

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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. 689

(b) The lump sum amount designated by the member shall be not 690  
less than six times and not more than thirty-six times the monthly 691  
amount that would be payable to the member under the plan of 692  
payment elected under this section had the lump sum not been 693

elected and shall not result in a monthly benefit that is less than fifty per cent of that amount. 694  
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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. 696  
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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." 699  
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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. 703  
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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 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. 708  
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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.

(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.

(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~~

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.

The plan elected under division (E)(3) of this section 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 benefit shall commence on the first day of the month following the effective date of the

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 813  
month's pension for each month of service beyond twenty years. 814

(B)(1) The death of a spouse designated as beneficiary or the 815  
death of any other designated beneficiary following retirement 816

shall cancel any optional plan of payment selected under division 817  
(A)(2) of this section to provide continuing lifetime benefits to 818  
such designated beneficiary and return the member to the 819  
equivalent of the member's single lifetime pension, as determined 820  
by the board, to be effective the month following receipt by the 821  
board of notice of the death. 822

(2) On divorce, annulment, or marriage dissolution, a member 823  
receiving a pension under a plan that provides for continuation of 824  
all or part of the pension after death for the lifetime of the 825  
member's surviving spouse may, with the written consent of the 826  
spouse or pursuant to an order of the court with jurisdiction over 827  
the termination of the marriage, elect to cancel the plan and 828  
receive the equivalent of the member's single lifetime pension as 829  
determined by the board. The election shall be made on a form 830  
provided by the board and shall be effective the month following 831  
its receipt by the board. 832

(C) Following marriage or remarriage, a member may elect a 833  
new optional plan of payment under division (A)(2) of this section 834  
based on the actuarial equivalent of the member's single lifetime 835  
pension as determined by the board. ~~The~~ 836

If the marriage or remarriage occurs on or after the 837  
effective date of this amendment, the election must be made not 838  
later than one year after the date of the marriage or remarriage. 839

The plan elected under this division shall become effective 840  
on the first day date of the month following receipt by the board 841  
of an application on a form approved by the board, but any change 842  
in the amount of the pension shall commence on the first day of 843  
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