

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

**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  
Senator Wachtmann**

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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:**

<b>Section 1.</b> 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.

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(C)(1) The death of a spouse or other designated beneficiary following selection of a plan of payment under division (B)(2) of 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 71  
the latest of the following: 72

(1) The last day for which compensation for all employment 73  
subject to section 145.38, 145.383, or 145.385 of the Revised Code 74  
was paid; 75

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

(3) If the PERS retirant or other system retirant 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 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,  
marriage dissolution, legal separation, withdrawal of account,  
birth of a child, or adoption of a child revokes all previous  
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 133  
the member's surviving spouse for the life of the spouse. 134

A member may elect to receive the member's retirement 135  
allowance under a plan of payment other than "plan A" if the 136  
member is not married or either the member's spouse consents in 137  
writing to the member's election of a plan of payment other than 138  
"plan A" or the board waives the requirement that the spouse 139  
consent. An application for retirement shall include an 140  
explanation of all of the following: 141

(a) That, if the member is married, unless the spouse 142  
consents to another plan of payment, the member's retirement 143  
allowance will be paid under "plan A," which consists of the 144  
actuarial equivalent of the member's retirement allowance in a 145  
lesser amount payable for life and one-half of the allowance 146  
continuing after death to the surviving spouse for the life of the 147  
spouse; 148

(b) A description of the alternative plans of payment, 149  
including all plans described in divisions (B)(2) and (3) of this 150  
section, available with the consent of the spouse; 151

(c) That the spouse may consent to another plan of payment 152  
and the procedure for giving consent; 153

(d) That consent is irrevocable once notice of consent is 154  
filed with the board. 155

Consent shall be valid only if it is signed, in writing, and 156  
witnessed by a notary public. The board may waive the requirement 157  
of consent if the spouse is incapacitated or cannot be located or 158  
for any other reason specified by the board. Consent or waiver is 159  
effective only with regard to the spouse who is the subject of the 160  
consent or waiver. 161

(2) A member eligible to elect to receive the member's 162

retirement allowance under a plan of payment other than "plan A" 163  
shall receive the member's retirement allowance under the plan 164  
described in division (B)(3) of this section or one of the 165  
following plans: 166

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

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(D)(1) The death of a spouse or any designated beneficiary  
following retirement shall cancel any plan of payment to provide  
continuing lifetime benefits to the spouse or beneficiary and  
return the retirant to the retirant's single lifetime benefit  
equivalent, 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  
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

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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  
Code. Cancellation of the optional plan shall be effective the  
month after acceptance of the request by the trustees of the fund.  
No payment or adjustment shall be made in the retirement allowance  
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 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  
equivalent of the remainder of the retirant's single lifetime  
benefit except that, in the case of termination of a marital  
relationship, the election may be made only with the written  
consent of the beneficiary or pursuant to an order of the court  
with jurisdiction over termination of the marital relationship.

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

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

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

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

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

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

The amount designated by the spouse or other sole dependent

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

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

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

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

(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.

(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~~

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 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  
the amount of the benefit shall commence on the first day of the  
month following the effective date of the plan.

(H)(1) Unless one of the following occurs, an application for  
service retirement made pursuant to section 3307.58 or 3307.59 of  
the Revised Code 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 benefit  
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 benefit 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 annuity 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 benefit payable during the life of the  
retirant.

(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  
consideration the membership experience of the state teachers  
retirement system and may also include the membership experience  
of the public employees retirement system and the school employees  
retirement system.

**Sec. 3309.46.** (A) The retirement allowance calculated under  
section 3309.36, 3309.38, or 3309.381 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 the application for retirement. A plan of payment elected  
under this section shall be effective only if it is certified by  
the actuary engaged by the school employees retirement board to be  
the actuarial equivalent of the member's retirement allowance and  
is approved by the retirement board.

(B)(1) Unless the member is eligible to elect another plan of  
payment, a member who retires under section 3309.36, 3309.38, or  
3309.381 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  
3309.36, 3309.38, or 3309.381 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 a 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 to 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 in writing, signed by  
the spouse, and witnessed by an employee of the school employees  
retirement system or 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 a retirement  
allowance under a plan of payment other than "plan A" shall  
receive the 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 3309.36, 3309.38, or 3309.381 of the Revised Code;

(b) "Plan C," which shall consist of the actuarial equivalent  
of the member's retirement allowance determined under section  
3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser

amount payable for life and one-half or some other portion of the  
allowance continuing after death to the member's sole surviving  
beneficiary designated at the time of the member's retirement,  
provided that the amount payable to the beneficiary does not  
exceed the amount payable to the member;

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

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

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

(3)(a) Beginning on a date selected by the board, which shall  
be not later than July 1, 2004, a member may elect, in lieu of a  
plan of payment under division (B)(1) or (2) of this section, a  
plan consisting of both a lump sum in an amount the member

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 694  
than fifty per cent of that amount. 695

(4) An election under division (B)(2) or (3) of this section 696  
shall be made at the time the member makes application for 697  
retirement. 698

(5) A member eligible to elect to receive a retirement 699  
allowance under a plan of payment other than "plan A" because the 700  
member is unmarried who fails to make an election on retirement 701  
shall receive a retirement allowance under "plan B." 702

(C) Until the first payment of any retirement allowance is 703  
made, as provided in sections 3309.36, 3309.38, or 3309.381 of the 704  
Revised Code, a member may change the member's election of a 705  
payment plan if the election is made in accordance with and is 706  
consistent with division (B) of this section. 707

(D) If the retirement allowances due and paid under the above 708  
provisions of this section are in a total amount less than (1) the 709  
accumulated contributions, (2) the deposits for additional credit 710  
as provided by section 3309.31 of the Revised Code, (3) the 711  
deposits for additional annuities as provided by section 3309.47 712  
of the Revised Code, (4) the deposits for repurchase of service 713



credit as provided by section 3309.26 of the Revised Code, (5) the  
accumulated contributions provided by section 3309.65 of the  
Revised Code, (6) the deposits for purchase of military service  
credit provided by section 3309.021 or 3309.022 of the Revised  
Code, and (7) the deposits for the purchase of service credit  
provided by section 3309.73 of the Revised Code, standing to the  
credit of the member at the time of retirement, then the  
difference between the total amount of the allowances paid and the  
accumulated contributions and other deposits shall be paid to the  
beneficiary provided under division (D) of section 3309.44 of the  
Revised Code.

(E)(1) The death of a spouse or any other designated  
beneficiary following the member's retirement shall cancel any  
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.

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

(1) A single lifetime pension;

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

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

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