

As Introduced

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

H. B. No. 272

Representatives Schneider, D. Evans, Reidelbach

—

A BILL

To amend sections 145.01, 145.19, 145.191, 145.193, 1
145.20, 145.23, 145.294, 145.325, 145.33, 145.35, 2
145.38, 145.384, 145.385, 145.401, 145.43, 3
145.471, 145.472, 145.473, 145.483, 145.49, 4
145.51, 145.54, 145.58, 145.813, 145.814, 145.82, 5
145.83, 145.92, and 145.97 and to enact sections 6
145.016, 145.194, 145.386, 145.52, 145.53, 7
145.583, 145.62, 145.63, 145.64, and 145.65 of the 8
Revised Code regarding the Public Employees 9
Retirement System and to maintain the provisions 10
of this act on October 27, 2006, by amending the 11
version of section 145.92 of the Revised Code that 12
takes effect on that date. 13

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

Section 1. That sections 145.01, 145.19, 145.191, 145.193, 14
145.20, 145.23, 145.294, 145.325, 145.33, 145.35, 145.38, 145.384, 15
145.385, 145.401, 145.43, 145.471, 145.472, 145.473, 145.483, 16
145.49, 145.51, 145.54, 145.58, 145.813, 145.814, 145.82, 145.83, 17
145.92, and 145.97 be amended and sections 145.016, 145.194, 18
145.386, 145.52, 145.53, 145.583, 145.62, 145.63, 145.64, and 19
145.65 of the Revised Code be enacted to read as follows: 20

Sec. 145.01. As used in this chapter:	21
(A) "Public employee" means:	22
(1) Any person holding an office, not elective, under the	23
state or any county, township, municipal corporation, park	24
district, conservancy district, sanitary district, health	25
district, metropolitan housing authority, state retirement board,	26
Ohio historical society, public library, county law library, union	27
cemetery, joint hospital, institutional commissary, state	28
university, or board, bureau, commission, council, committee,	29
authority, or administrative body as the same are, or have been,	30
created by action of the general assembly or by the legislative	31
authority of any of the units of local government named in	32
division (A)(1) of this section, or employed and paid in whole or	33
in part by the state or any of the authorities named in division	34
(A)(1) of this section in any capacity not covered by section	35
742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code.	36
(2) A person who is a member of the public employees	37
retirement system and who continues to perform the same or similar	38
duties under the direction of a contractor who has contracted to	39
take over what before the date of the contract was a publicly	40
operated function. The governmental unit with which the contract	41
has been made shall be deemed the employer for the purposes of	42
administering this chapter.	43
(3) Any person who is an employee of a public employer,	44
notwithstanding that the person's compensation for that employment	45
is derived from funds of a person or entity other than the	46
employer. Credit for such service shall be included as total	47
service credit, provided that the employee makes the payments	48
required by this chapter, and the employer makes the payments	49
required by sections 145.48 and 145.51 of the Revised Code.	50
(4) A person who elects in accordance with section 145.015 of	51

the Revised Code to remain a contributing member of the public employees retirement system.

52
53

In all cases of doubt, the public employees retirement board shall determine whether any person is a public employee, and its decision is final.

54
55
56

(B) "Member" means any public employee, other than a public employee excluded or exempted from membership in the retirement system by section 145.03, 145.031, 145.032, 145.033, 145.034, 145.035, or 145.38 of the Revised Code. "Member" includes a PERS retirant who becomes a member under division ~~(C)~~(D) of section 145.38 of the Revised Code. "Member" also includes a disability benefit recipient.

57
58
59
60
61
62
63

(C) "Head of the department" means the elective or appointive head of the several executive, judicial, and administrative departments, institutions, boards, and commissions of the state and local government as the same are created and defined by the laws of this state or, in case of a charter government, by that charter.

64
65
66
67
68
69

(D) ~~"Employer"~~ Except as provided in division (B)(2)(b) of section 145.58 of the Revised Code, "employer" or "public employer" means the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state medical college, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in this division not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the

70
71
72
73
74
75
76
77
78
79
80
81
82

Revised Code. In addition, "employer" means the employer of any public employee.

(E) "Prior service" means all service as a public employee rendered before January 1, 1935, and all service as an employee of any employer who comes within the state teachers retirement system or of the school employees retirement system or of any other retirement system established under the laws of this state rendered prior to January 1, 1935, provided that if the employee claiming the service was employed in any capacity covered by that other system after that other system was established, credit for the service may be allowed by the public employees retirement system only when the employee has made payment, to be computed on the salary earned from the date of appointment to the date membership was established in the public employees retirement system, at the rate in effect at the time of payment, and the employer has made payment of the corresponding full liability as provided by section 145.44 of the Revised Code. "Prior service" also means all service credited for active duty with the armed forces of the United States as provided in section 145.30 of the Revised Code.

If an employee who has been granted prior service credit by the public employees retirement system for service rendered prior to January 1, 1935, as an employee of a board of education establishes, before retirement, one year or more of contributing service in the state teachers retirement system or school employees retirement system, then the prior service ceases to be the liability of this system.

If the board determines that a position of any member in any calendar year prior to January 1, 1935, was a part-time position, the board shall determine what fractional part of a year's credit shall be allowed by the following formula:

(1) When the member has been either elected or appointed to

an office the term of which was two or more years and for which an
annual salary is established, the fractional part of the year's
credit shall be computed as follows:

First, when the member's annual salary is one thousand
dollars or less, the service credit for each such calendar year
shall be forty per cent of a year.

Second, for each full one hundred dollars of annual salary
above one thousand dollars, the member's service credit for each
such calendar year shall be increased by two and one-half per
cent.

(2) When the member is paid on a per diem basis, the service
credit for any single year of the service shall be determined by
using the number of days of service for which the compensation was
received in any such year as a numerator and using two hundred
fifty days as a denominator.

(3) When the member is paid on an hourly basis, the service
credit for any single year of the service shall be determined by
using the number of hours of service for which the compensation
was received in any such year as a numerator and using two
thousand hours as a denominator.

(F) "Contributor" means any person who has an account in the
employees' savings fund created by section 145.23 of the Revised
Code. When used in the sections listed in division (B) of section
145.82 of the Revised Code, "contributor" includes any person
participating in a PERS defined contribution plan.

(G) "Beneficiary" or "beneficiaries" means the estate or a
person or persons who, as the result of the death of a member,
contributor, or retirant, qualify for or are receiving some right
or benefit under this chapter.

(H)(1) "Total service credit," except as provided in section

145.37 of the Revised Code, means all service credited to a member 145
of the retirement system since last becoming a member, including 146
restored service credit as provided by section 145.31 of the 147
Revised Code; credit purchased under sections 145.293 and 145.299 148
of the Revised Code; all the member's prior service credit; all 149
the member's military service credit computed as provided in this 150
chapter; all service credit established pursuant to section 151
145.297 of the Revised Code; and any other service credited under 152
this chapter. In addition, "total service credit" includes any 153
period, not in excess of three years, during which a member was 154
out of service and receiving benefits under Chapters 4121. and 155
4123. of the Revised Code. For the exclusive purpose of satisfying 156
the service credit requirement and of determining eligibility for 157
benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, 158
and 145.361 of the Revised Code, "five or more years of total 159
service credit" means sixty or more calendar months of 160
contributing service in this system. 161

(2) "One and one-half years of contributing service credit," 162
as used in division (B) of section 145.45 of the Revised Code, 163
also means eighteen or more calendar months of employment by a 164
municipal corporation that formerly operated its own retirement 165
plan for its employees or a part of its employees, provided that 166
all employees of that municipal retirement plan who have eighteen 167
or more months of such employment, upon establishing membership in 168
the public employees retirement system, shall make a payment of 169
the contributions they would have paid had they been members of 170
this system for the eighteen months of employment preceding the 171
date membership was established. When that payment has been made 172
by all such employee members, a corresponding payment shall be 173
paid into the employers' accumulation fund by that municipal 174
corporation as the employer of the employees. 175

(3) Where a member also is a member of the state teachers 176

retirement system or the school employees retirement system, or 177
both, except in cases of retirement on a combined basis pursuant 178
to section 145.37 of the Revised Code or as provided in section 179
145.383 of the Revised Code, service credit for any period shall 180
be credited on the basis of the ratio that contributions to the 181
public employees retirement system bear to total contributions in 182
all state retirement systems. 183

(4) Not more than one year of credit may be given for any 184
period of twelve months. 185

(5) "Ohio service credit" means credit for service that was 186
rendered to the state or any of its political subdivisions or any 187
employer. 188

(I) "Regular interest" means interest at any rates for the 189
respective funds and accounts as the public employees retirement 190
board may determine from time to time. 191

(J) "Accumulated contributions" means the sum of all amounts 192
credited to a contributor's individual account in the employees' 193
savings fund together with any interest credited to the 194
contributor's account under section 145.471 or 145.472 of the 195
Revised Code. 196

(K)(1) "Final average salary" means the quotient obtained by 197
dividing by three the sum of the three full calendar years of 198
contributing service in which the member's earnable salary was 199
highest, except that if the member has a partial year of 200
contributing service in the year the member's employment 201
terminates and the member's earnable salary for the partial year 202
is higher than for any comparable period in the three years, the 203
member's earnable salary for the partial year shall be substituted 204
for the member's earnable salary for the comparable period during 205
the three years in which the member's earnable salary was lowest. 206

(2) If a member has less than three years of contributing 207

service, the member's final average salary shall be the member's 208
total earnable salary divided by the total number of years, 209
including any fraction of a year, of the member's contributing 210
service. 211

(3) For the purpose of calculating benefits payable to a 212
member qualifying for service credit under division (Z) of this 213
section, "final average salary" means the total earnable salary on 214
which contributions were made divided by the total number of years 215
during which contributions were made, including any fraction of a 216
year. If contributions were made for less than twelve months, 217
"final average salary" means the member's total earnable salary. 218

(L) "Annuity" means payments for life derived from 219
contributions made by a contributor and paid from the annuity and 220
pension reserve fund as provided in this chapter. All annuities 221
shall be paid in twelve equal monthly installments. 222

(M) "Annuity reserve" means the present value, computed upon 223
the basis of the mortality and other tables adopted by the board, 224
of all payments to be made on account of any annuity, or benefit 225
in lieu of any annuity, granted to a retirant as provided in this 226
chapter. 227

(N)(1) "Disability retirement" means retirement as provided 228
in section 145.36 of the Revised Code. 229

(2) "Disability allowance" means an allowance paid on account 230
of disability under section 145.361 of the Revised Code. 231

(3) "Disability benefit" means a benefit paid as disability 232
retirement under section 145.36 of the Revised Code, as a 233
disability allowance under section 145.361 of the Revised Code, or 234
as a disability benefit under section 145.37 of the Revised Code. 235

(4) "Disability benefit recipient" means a member who is 236
receiving a disability benefit. 237

(O) "Age and service retirement" means retirement as provided 238
in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of 239
the Revised Code. 240

(P) "Pensions" means annual payments for life derived from 241
contributions made by the employer that at the time of retirement 242
are credited into the annuity and pension reserve fund from the 243
employers' accumulation fund and paid from the annuity and pension 244
reserve fund as provided in this chapter. All pensions shall be 245
paid in twelve equal monthly installments. 246

(Q) "Retirement allowance" means the pension plus that 247
portion of the benefit derived from contributions made by the 248
member. 249

(R)(1) Except as otherwise provided in division (R) of this 250
section, "earnable salary" means all salary, wages, and other 251
earnings paid to a contributor by reason of employment in a 252
position covered by the retirement system. The salary, wages, and 253
other earnings shall be determined prior to determination of the 254
amount required to be contributed to the employees' savings fund 255
under section 145.47 of the Revised Code and without regard to 256
whether any of the salary, wages, or other earnings are treated as 257
deferred income for federal income tax purposes. "Earnable salary" 258
includes the following: 259

(a) Payments made by the employer in lieu of salary, wages, 260
or other earnings for sick leave, personal leave, or vacation used 261
by the contributor; 262

(b) Payments made by the employer for the conversion of sick 263
leave, personal leave, and vacation leave accrued, but not used if 264
the payment is made during the year in which the leave is accrued, 265
except that payments made pursuant to section 124.383 or 124.386 266
of the Revised Code are not earnable salary; 267

(c) Allowances paid by the employer for full maintenance, 268

consisting of housing, laundry, and meals, as certified to the	269
retirement board by the employer or the head of the department	270
that employs the contributor;	271
(d) Fees and commissions paid under section 507.09 of the	272
Revised Code;	273
(e) Payments that are made under a disability leave program	274
sponsored by the employer and for which the employer is required	275
by section 145.296 of the Revised Code to make periodic employer	276
and employee contributions;	277
(f) Amounts included pursuant to divisions (K)(3) and (Y) of	278
this section.	279
(2) "Earnable salary" does not include any of the following:	280
(a) Fees and commissions, other than those paid under section	281
507.09 of the Revised Code, paid as sole compensation for personal	282
services and fees and commissions for special services over and	283
above services for which the contributor receives a salary;	284
(b) Amounts paid by the employer to provide life insurance,	285
sickness, accident, endowment, health, medical, hospital, dental,	286
or surgical coverage, or other insurance for the contributor or	287
the contributor's family, or amounts paid by the employer to the	288
contributor in lieu of providing the insurance;	289
(c) Incidental benefits, including lodging, food, laundry,	290
parking, or services furnished by the employer, or use of the	291
employer's property or equipment, or amounts paid by the employer	292
to the contributor in lieu of providing the incidental benefits;	293
(d) Reimbursement for job-related expenses authorized by the	294
employer, including moving and travel expenses and expenses	295
related to professional development;	296
(e) Payments for accrued but unused sick leave, personal	297
leave, or vacation that are made at any time other than in the	298

year in which the sick leave, personal leave, or vacation was accrued;	299 300
(f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended;	301 302 303 304 305
(g) Payments made under division (B), (C), or (E) of section 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly, Section 3 of Amended Substitute Senate Bill No. 164 of the 124th general assembly, or Amended Substitute House Bill No. 405 of the 124th general assembly;	306 307 308 309 310 311
(h) Anything of value received by the contributor that is based on or attributable to retirement or an agreement to retire, except that payments made on or before January 1, 1989, that are based on or attributable to an agreement to retire shall be included in earnable salary if both of the following apply:	312 313 314 315 316
(i) The payments are made in accordance with contract provisions that were in effect prior to January 1, 1986;	317 318
(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability resulting from the payments.	319 320 321
(3) The retirement board shall determine by rule whether any compensation not enumerated in division (R) of this section is earnable salary, and its decision shall be final.	322 323 324
(S) "Pension reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments to be made on account of any retirement allowance or benefit in lieu of any retirement allowance, granted to a	325 326 327 328

member or beneficiary under this chapter. 329

(T)(1) "Contributing service" means all service credited to a 330
member of the system since January 1, 1935, for which 331
contributions are made as required by sections 145.47, 145.48, and 332
145.483 of the Revised Code. In any year subsequent to 1934, 333
credit for any service shall be allowed ~~by the following formula:~~ 334

~~(a) For each month for which the member's earnable salary is 335
two hundred fifty dollars or more, allow one month's credit. 336~~

~~(b) For each month for which the member's earnable salary is 337
less than two hundred fifty dollars, allow a fraction of a month's 338
credit. The numerator of this fraction shall be the earnable 339
salary during the month, and the denominator shall be two hundred 340
fifty dollars, except that if the member's annual earnable salary 341
is less than six hundred dollars, the member's credit shall not be 342
reduced below twenty per cent of a year for a calendar year of 343
employment during which the member worked each month. Division 344
(T)(1)(b) of this section shall not reduce any credit earned 345
before January 1, 1985. 346~~

~~(2) Notwithstanding division (T)(1) of this section, an 347
elected official who prior to January 1, 1980, was granted a full 348
year of credit for each year of service as an elected official 349
shall be considered to have earned a full year of credit for each 350
year of service regardless of whether the service was full time or 351
part time. The public employees retirement board has no authority 352
to reduce the credit in accordance with section 145.016 of the 353
Revised Code. 354~~

(U) "State retirement board" means the public employees 355
retirement board, the school employees retirement board, or the 356
state teachers retirement board. 357

(V) "Retirant" means any former member who retires and is 358
receiving a monthly allowance as provided in sections 145.32, 359

145.33, 145.331, 145.34, and 145.46 of the Revised Code. 360

(W) "Employer contribution" means the amount paid by an 361
employer as determined under section 145.48 of the Revised Code. 362

(X) "Public service terminates" means the last day for which 363
a public employee is compensated for services performed for an 364
employer or the date of the employee's death, whichever occurs 365
first. 366

(Y) When a member has been elected or appointed to an office, 367
the term of which is two or more years, for which an annual salary 368
is established, and in the event that the salary of the office is 369
increased and the member is denied the additional salary by reason 370
of any constitutional provision prohibiting an increase in salary 371
during a term of office, the member may elect to have the amount 372
of the member's contributions calculated upon the basis of the 373
increased salary for the office. At the member's request, the 374
board shall compute the total additional amount the member would 375
have contributed, or the amount by which each of the member's 376
contributions would have increased, had the member received the 377
increased salary for the office the member holds. If the member 378
elects to have the amount by which the member's contribution would 379
have increased withheld from the member's salary, the member shall 380
notify the employer, and the employer shall make the withholding 381
and transmit it to the retirement system. A member who has not 382
elected to have that amount withheld may elect at any time to make 383
a payment to the retirement system equal to the additional amount 384
the member's contribution would have increased, plus interest on 385
that contribution, compounded annually at a rate established by 386
the board and computed from the date on which the last 387
contribution would have been withheld from the member's salary to 388
the date of payment. A member may make a payment for part of the 389
period for which the increased contribution was not withheld, in 390
which case the interest shall be computed from the date the last 391

contribution would have been withheld for the period for which the
payment is made. Upon the payment of the increased contributions
as provided in this division, the increased annual salary as
provided by law for the office for the period for which the member
paid increased contributions thereon shall be used in determining
the member's earnable salary for the purpose of computing the
member's final average salary.

(Z) "Five years of service credit," for the exclusive purpose
of satisfying the service credit requirements and of determining
eligibility for benefits under section 145.33 of the Revised Code,
means employment covered under this chapter or under a former
retirement plan operated, recognized, or endorsed by the employer
prior to coverage under this chapter or under a combination of the
coverage.

(AA) "Deputy sheriff" means any person who is commissioned
and employed as a full-time peace officer by the sheriff of any
county, and has been so employed since on or before December 31,
1965, ~~and whose primary duties are to preserve the peace, to
protect life and property, and to enforce the laws of this state;~~
any person who is or has been commissioned and employed as a peace
officer by the sheriff of any county since January 1, 1966, and
who has received a certificate attesting to the person's
satisfactory completion of the peace officer training school as
required by section 109.77 of the Revised Code ~~and whose primary
duties are to preserve the peace, protect life and property, and
enforce the laws of this state;~~ or any person deputized by the
sheriff of any county and employed pursuant to section 2301.12 of
the Revised Code as a criminal bailiff or court constable who has
received a certificate attesting to the person's satisfactory
completion of the peace officer training school as required by
section 109.77 of the Revised Code ~~and whose primary duties are to
preserve the peace, protect life and property, and enforce the~~

~~laws of this state.~~ 424

(BB) "Township constable or police officer in a township 425
police department or district" means any person who is 426
commissioned and employed as a full-time peace officer pursuant to 427
Chapter 505. or 509. of the Revised Code, who has received a 428
certificate attesting to the person's satisfactory completion of 429
the peace officer training school as required by section 109.77 of 430
the Revised Code, ~~and whose primary duties are to preserve the~~ 431
~~peace, protect life and property, and enforce the laws of this~~ 432
~~state.~~ 433

(CC) "Drug agent" means any person who is either of the 434
following: 435

(1) Employed full-time as a narcotics agent by a county 436
narcotics agency created pursuant to section 307.15 of the Revised 437
Code and has received a certificate attesting to the satisfactory 438
completion of the peace officer training school as required by 439
section 109.77 of the Revised Code; 440

(2) Employed full-time as an undercover drug agent as defined 441
in section 109.79 of the Revised Code and is in compliance with 442
section 109.77 of the Revised Code. 443

(DD) "Department of public safety enforcement agent" means a 444
full-time employee of the department of public safety who is 445
designated under section 5502.14 of the Revised Code as an 446
enforcement agent and who is in compliance with section 109.77 of 447
the Revised Code. 448

(EE) "Natural resources law enforcement staff officer" means 449
a full-time employee of the department of natural resources who is 450
designated a natural resources law enforcement staff officer under 451
section 1501.013 of the Revised Code and is in compliance with 452
section 109.77 of the Revised Code. 453

(FF) "Park officer" means a full-time employee of the 454

department of natural resources who is designated a park officer 455
under section 1541.10 of the Revised Code and is in compliance 456
with section 109.77 of the Revised Code. 457

(GG) "Forest officer" means a full-time employee of the 458
department of natural resources who is designated a forest officer 459
under section 1503.29 of the Revised Code and is in compliance 460
with section 109.77 of the Revised Code. 461

(HH) "Preserve officer" means a full-time employee of the 462
department of natural resources who is designated a preserve 463
officer under section 1517.10 of the Revised Code and is in 464
compliance with section 109.77 of the Revised Code. 465

(II) "Wildlife officer" means a full-time employee of the 466
department of natural resources who is designated a wildlife 467
officer under section 1531.13 of the Revised Code and is in 468
compliance with section 109.77 of the Revised Code. 469

(JJ) "State watercraft officer" means a full-time employee of 470
the department of natural resources who is designated a state 471
watercraft officer under section 1547.521 of the Revised Code and 472
is in compliance with section 109.77 of the Revised Code. 473

(KK) "Park district police officer" means a full-time 474
employee of a park district who is designated pursuant to section 475
511.232 or 1545.13 of the Revised Code and is in compliance with 476
section 109.77 of the Revised Code. 477

(LL) "Conservancy district officer" means a full-time 478
employee of a conservancy district who is designated pursuant to 479
section 6101.75 of the Revised Code and is in compliance with 480
section 109.77 of the Revised Code. 481

(MM) "Municipal police officer" means a member of the 482
organized police department of a municipal corporation who is 483
employed full-time, is in compliance with section 109.77 of the 484

Revised Code, and is not a member of the Ohio police and fire pension fund. 485
486

(NN) "Veterans' home police officer" means any person who is employed at a veterans' home as a police officer pursuant to section 5907.02 of the Revised Code and is in compliance with section 109.77 of the Revised Code. 487
488
489
490

(OO) "Special police officer for a mental health institution" means any person who is designated as such pursuant to section 5119.14 of the Revised Code and is in compliance with section 109.77 of the Revised Code. 491
492
493
494

(PP) "Special police officer for an institution for the mentally retarded and developmentally disabled" means any person who is designated as such pursuant to section 5123.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code. 495
496
497
498
499

(QQ) "State university law enforcement officer" means any person who is employed full-time as a state university law enforcement officer pursuant to section 3345.04 of the Revised Code and who is in compliance with section 109.77 of the Revised Code. 500
501
502
503
504

(RR) "House sergeant at arms" means any person appointed by the speaker of the house of representatives under division (B)(1) of section 101.311 of the Revised Code who has arrest authority under division (E)(1) of that section. 505
506
507
508

(SS) "Assistant house sergeant at arms" means any person appointed by the house sergeant at arms under division (C)(1) of section 101.311 of the Revised Code. 509
510
511

(TT) "Regional transit authority police officer" means a person who is employed full time as a regional transit authority police officer under division (Y) of section 306.35 of the Revised 512
513
514

Code and is in compliance with section 109.77 of the Revised Code. 515

(UU) "State highway patrol police officer" means a special 516
police officer employed full time and designated by the 517
superintendent of the state highway patrol pursuant to section 518
5503.09 of the Revised Code or a person serving full time as a 519
special police officer pursuant to that section on a permanent 520
basis on October 21, 1997, who is in compliance with section 521
109.77 of the Revised Code. 522

(VV) Notwithstanding section 2901.01 of the Revised Code, 523
"PERS law enforcement officer" means a sheriff, or any of the 524
following whose primary duties are to preserve the peace, protect 525
life and property, and enforce the laws of this state: a deputy 526
sheriff, township constable or police officer in a township police 527
department or district, drug agent, department of public safety 528
enforcement agent, natural resources law enforcement staff 529
officer, park officer, forest officer, preserve officer, wildlife 530
officer, state watercraft officer, park district police officer, 531
conservancy district officer, veterans' home police officer, 532
special police officer for a mental health institution, special 533
police officer for an institution for the mentally retarded and 534
developmentally disabled, state university law enforcement 535
officer, municipal police officer, house sergeant at arms, 536
assistant house sergeant at arms, regional transit authority 537
police officer, or state highway patrol police officer. 538

(WW) "Hamilton county municipal court bailiff" means a person 539
appointed by the clerk of courts of the Hamilton county municipal 540
court under division (A)(3) of section 1901.32 of the Revised Code 541
who is employed full time as a bailiff or deputy bailiff, who has 542
received a certificate attesting to the person's satisfactory 543
completion of the peace officer basic training described in 544
division (D)(1) of section 109.77 of the Revised Code, and whose 545
primary duties are to preserve the peace, to protect life and 546

property, and to enforce the laws of this state.

547

(XX) "PERS public safety officer" means a Hamilton county municipal court bailiff, or any of the following whose primary duties are other than to preserve the peace, protect life and property, and enforce the laws of this state: a deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the mentally retarded and developmentally disabled, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer.

548

549

550

551

552

553

554

555

556

557

558

559

560

561

562

563

(YY) "Fiduciary" means a person who does any of the following:

564

565

(1) Exercises any discretionary authority or control with respect to the management of the system or with respect to the management or disposition of its assets;

566

567

568

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

569

570

(3) Has any discretionary authority or responsibility in the administration of the system.

571

572

~~(YY)~~(ZZ) "Actuary" means an individual who satisfies all of the following requirements:

573

574

(1) Is a member of the American academy of actuaries;

575

(2) Is an associate or fellow of the society of actuaries;

576

(3) Has a minimum of five years' experience in providing 577
actuarial services to public retirement plans. 578

~~(ZZ)~~(AAA) "PERS defined benefit plan" means the plan 579
described in sections 145.201 to 145.79 of the Revised Code. 580

~~(AAA)~~(BBB) "PERS defined contribution plans" means the plan 581
or plans established under section 145.81 of the Revised Code. 582

Sec. 145.016. Contributing service shall be allowed in 583
accordance with the following: 584

(A) For service on or after the effective date of this 585
section and prior to January 1, 2007, credit for any contributing 586
service shall be allowed in accordance with the following: 587

(1) For each month for which the member's earnable salary is 588
two hundred fifty dollars or more, allow one month's credit. 589

(2) For each month for which the member's earnable salary is 590
less than two hundred fifty dollars, allow a fraction of a month's 591
credit. The numerator of this fraction shall be the earnable 592
salary during the month, and the denominator shall be two hundred 593
fifty dollars, except that if the member's annual earnable salary 594
is less than six hundred dollars, the member's credit shall not be 595
reduced below twenty per cent of a year for a calendar year of 596
employment during which the member worked each month. Division 597
(A)(2) of this section shall not reduce any credit earned before 598
January 1, 1985. 599

(B) For service after December 31, 2006, credit for any 600
contributing service shall be allowed in accordance with the 601
following: 602

(1) For each month for which the member's earnable salary 603
equals or exceeds the amount specified in division (B)(1)(a) or 604
(b) of this section, as appropriate, allow one month's credit: 605

(a) For calendar year 2007, four hundred fifty dollars; 606

(b) For each calendar year after 2007, the sum of the prior 607
year's amount plus the amount determined by multiplying the prior 608
year's amount by the average wage index as described in 20 C.F.R. 609
404.272, as amended, rounded up to the next dollar for the most 610
recent year for which information is available on January 1 of the 611
year for which the sum is being calculated. 612

(2) Except as provided in division (C) of this section, for 613
each month that the member's earnable salary is less than the 614
appropriate amount specified in division (B)(1) of this section, 615
allow a fraction of a month's credit. The numerator of the 616
fraction shall be the earnable salary during the month and the 617
denominator shall be the amount specified in division (B)(1)(a) or 618
(b) of this section, as appropriate. Division (B) of this section 619
shall not reduce any credit earned before January 1, 2007. 620

(C) If a member's annual earnable salary for calendar year 621
2007 is less than one thousand eighty dollars, the member's credit 622
shall not be reduced below twenty per cent of a year for a 623
calendar year of employment during which the member worked each 624
month. 625

If a member's annual earnable salary for any calendar year 626
after 2007 is less than one thousand eighty dollars plus the 627
amount determined by multiplying the prior year's amount by the 628
average wage index as described in 20 C.F.R. 404.272, as amended, 629
rounded up to the next dollar, for the most recent year for which 630
information is available on January 1 of the year for which the 631
sum is being calculated, the member's credit shall not be reduced 632
below twenty per cent of a year for a calendar year of employment 633
during which the member worked each month. 634

(D) Notwithstanding any other provision of this section, an 635
elected official who prior to January 1, 1980, was granted a full 636

year of credit for each year of service as an elected official 637
shall be considered to have earned a full year of credit for each 638
year of service regardless of whether the service was full-time or 639
part-time. The public employees retirement board has no authority 640
to reduce the credit. 641

Sec. 145.19. (A) Except as provided in division (D) of this 642
section, an individual who becomes employed in a position subject 643
to this chapter on or after ~~the date on which the public employees~~ 644
~~retirement board first establishes a PERS defined contribution~~ 645
~~plan~~ January 1, 2003, shall make an election under this section. 646
Not later than one hundred eighty days after the date on which 647
employment begins, the individual shall elect to participate 648
either in the PERS defined benefit plan or a PERS defined 649
contribution plan. ~~If~~ Unless a form evidencing an election under 650
this section is ~~not~~ received by the public employees retirement 651
system ~~not later than~~ on or before the last day of the 652
one-hundred-eighty-day period, the individual is deemed to have 653
elected to participate in the PERS defined benefit plan. 654

(B) An election under this section shall be made in writing 655
on a form provided by the system and filed with the system. 656

(C) An election under this section shall take effect on the 657
date employment began and, except as provided in section 145.814 658
of the Revised Code or rules governing the PERS defined benefit 659
plan, is irrevocable on receipt by the system. 660

(D) An individual is ineligible to make an election under 661
this section if one of the following applies: 662

(1) At the time employment begins, the individual is a PERS 663
retirant or other system retirant, as those terms are defined in 664
section 145.38 of the Revised Code, or is retired under section 665
145.383 of the Revised Code. 666

(2) The individual is participating or has elected to participate in an alternative retirement plan under section 3305.05 or 3305.051 of the Revised Code and the employment is in a position that is subject to division (C)(4) of section 3305.05 or division (F) of section 3305.051 of the Revised Code.

(3) ~~The~~ At the time employment begins, the individual ~~is a contributor who, as of the last day of the month prior to the date employment begins, has five or more years of total service credit~~ has contributions standing to the individual's credit in the employees' savings fund or defined contribution fund established under section 145.23 of the Revised Code.

(4) The individual is employed in a position covered under this chapter to which section 145.193 of the Revised Code applies.

(5) The individual is a PERS law enforcement officer or ~~Hamilton county municipal court bailiff~~ PERS public safety officer.

Sec. 145.191. (A) Except as provided in division ~~(E)~~(F) of this section, a public employees retirement system member or contributor who, as of ~~the last day of the month immediately preceding the date on which the public employees retirement board first establishes a PERS defined contribution plan~~ December 31, 2002, has less than five years of total service credit is eligible to make an election under this section. A member or contributor who is employed in more than one position subject to this chapter is eligible to make only one election. The election applies to all positions subject to this chapter.

Not later than ~~one hundred eighty days after the day the board first establishes a PERS defined contribution plan~~ June 30, 2003, an eligible member or contributor may elect to participate in a PERS defined contribution plan. ~~If~~ Unless a form evidencing

an election is ~~not~~ received by the system ~~not later than the last~~ 697
~~day of the one hundred eighty day period~~ on or before that date, a 698
member or contributor to whom this section applies is deemed to 699
have elected to continue participating in the PERS defined benefit 700
plan. 701

(B) An election under this section shall be made in writing 702
on a form provided by the system and filed with the system. 703

(C) On ~~receipt of~~ the request of a member or contributor who 704
made an election under this section, the system shall ~~do both of~~ 705
~~the following:~~ 706

~~(1) Credit~~ credit to the plan elected ~~both of the following:~~ 707

~~(a) Any employer contributions attributable to the member for~~ 708
~~the period beginning on the day the board first established a PERS~~ 709
~~defined contribution plan;~~ 710

~~(b) All the~~ accumulated contributions attributable standing 711
to the credit of the member or contributor. 712

~~(2) Cancel~~ in the employees' savings fund and cancel all 713
service credit and eligibility for any payment, benefit, or right 714
under the PERS defined benefit plan. 715

(D) For each member or contributor who elected under this 716
section to participate in a PERS defined contribution plan and 717
made a request under division (C) of this section, any additional 718
deposits that were made by the member or contributor prior to the 719
effective date of this amendment under the version of division (C) 720
of section 145.23 of the Revised Code as it existed immediately 721
prior to the effective date of this amendment shall be credited to 722
the defined contribution plan. 723

(E) An election under this section is effective as of ~~the~~ 724
~~date the board first established a PERS defined contribution plan~~ 725
January 1, 2003, and, except as provided in section 145.814 of the 726

Revised Code or rules governing the PERS defined benefit plan, is 727
irrevocable on receipt by the system. 728

~~(E)~~(F) An election may not be made under this section by a 729
member or contributor who is either of the following: 730

(1) A PERS retirant who is a member under division ~~(C)~~(D) of 731
section 145.38 of the Revised Code; 732

(2) A PERS law enforcement officer or a ~~Hamilton county~~ 733
~~municipal court bailiff~~ PERS public safety officer. 734

Sec. 145.193. Except as provided in section 145.194 or 735
division (C)(4) of section 3305.05 and division (F) of section 736
3305.051 of the Revised Code, an election made or deemed to have 737
been made under section 145.19 or 145.191 of the Revised Code 738
applies to all positions subject to this chapter for which the 739
member is contributing under section 145.47 or 145.85 of the 740
Revised Code. A 741

A member who terminates employment in all positions subject 742
to this chapter, receives a refund of the member's contributions 743
under section 145.47 or 145.85 of the Revised Code, and later 744
becomes employed in a position subject to this chapter may make an 745
election under section 145.19 of the Revised Code as provided by 746
that section. 747

Sec. 145.194. (A) A member participating in a PERS defined 748
contribution plan at the time of commencing employment as a PERS 749
law enforcement officer or PERS public safety officer shall cease 750
making contributions to that plan. During employment as a PERS law 751
enforcement officer or a PERS public safety officer and any 752
concurrent employment in a position subject to this chapter, the 753
member shall contribute only to the PERS defined benefit plan. 754

(B) A member described in division (A) of this section with 755
contributions standing to the member's credit in a PERS defined 756

contribution plan may elect to have those contributions deposited 757
and credited in the PERS defined benefit plan in accordance with 758
section 145.814 of the Revised Code and rules governing the PERS 759
defined benefit plan. 760

761

Sec. 145.20. (A) Any elective official of the state of Ohio 762
or of any political subdivision thereof having employees in the 763
public employees retirement system shall be considered as an 764
employee of the state or such political subdivision, and may 765
become a member of the system upon application to the public 766
employees retirement board, with all the rights, privileges, and 767
obligations of membership. An elective official who becomes a 768
member of the system on or after ~~the date the public employees~~ 769
~~retirement board first establishes a PERS defined contribution~~ 770
~~plan~~ January 1, 2003, shall make an election pursuant to section 771
145.19 of the Revised Code not later than one hundred eighty days 772
after ~~applying for~~ membership in the system begins, except that no 773
election shall be made if the elected official has already made an 774
election under section 145.19 or 145.191 of the Revised Code. The 775
election is effective as of the date the ~~official applies for~~ 776
~~official's~~ membership begins and, except as provided in section 777
145.814 of the Revised Code and rules governing the PERS defined 778
benefit plan, is irrevocable on receipt by the system. ~~If~~ Unless a 779
form evidencing an election is ~~not~~ received by the system ~~not~~ 780
~~later than~~ on or before the last day of the one-hundred-eighty-day 781
period, the official is deemed to have elected to participate in 782
the PERS defined benefit plan. 783

(B) Service as any such elective official by any member of 784
the system rendered prior to January 1, 1935, shall be included as 785
prior service, provided the member does both of the following: 786

(1) Completes three years of contributing service, or the 787

equivalent thereof, in the public employees retirement system 788
subsequent to the date that membership is established; 789

(2) Participates in the PERS defined benefit plan or a PERS 790
defined contribution plan with definitely determinable benefits. 791

(C) Credit for service between January 1, 1935, and the date 792
that membership is established, except service as an elective 793
official that was subject to the tax on wages imposed by the 794
"Federal Insurance Contributions Act," 68A Stat. 415 (1954), 26 795
U.S.C.A. 3101, as amended, may be secured by the elective official 796
provided the elective official does all of the following: 797

(1) Pays into the employees' savings fund an amount 798
determined by applying the member contribution rate in effect at 799
the time of payment to the earnable salary of the member during 800
all periods of service after January 1, 1935, covered by this 801
chapter, for which contributions have not been paid, plus interest 802
on such amount compounded annually at a rate to be determined by 803
the board; 804

(2) Completes one and one-half years of contributing 805
membership in the public employees retirement system subsequent to 806
the date membership was established; 807

(3) Participates in the PERS defined benefit plan or a PERS 808
defined contribution plan with definitely determinable benefits. 809

A member may choose to purchase in any one payment only part 810
of the credit the member is eligible to purchase. The public 811
employees retirement board shall determine the amount and manner 812
of payment. In the event of death or withdrawal from service, the 813
payment into the employees' savings fund for such service credit 814
shall be considered as accumulated contributions of the member. 815

Sec. 145.23. The funds hereby created are the employees' 816
savings fund, the employers' accumulation fund, the annuity and 817

pension reserve fund, the income fund, the survivors' benefit fund, the defined contribution fund, and the expense fund. 818
819

(A) The employees' savings fund is the fund in which shall be accumulated contributions from the earnable salaries of contributors for the purchase of annuities or retirement allowances. 820
821
822
823

The accumulated contributions of a contributor returned to the contributor upon withdrawal, or paid to the contributor's estate or designated beneficiary in the event of death, shall be paid from the employees' savings fund. Any accumulated contributions forfeited by failure of a member, or a member's estate, to claim the same, shall ~~be transferred from~~ remain in the employees' savings fund or may be transferred to the income fund. 824
825
826
827
828
829
830
831
832
833
The accumulated contributions of a contributor shall be transferred from the employees' savings fund to the annuity and pension reserve fund in the event of the contributor's retirement.

(B) The employers' accumulation fund is the fund in which shall be accumulated the reserves for the payment of all pensions and disability benefits payable as provided in this chapter. The amounts paid by any employer under section 145.48 of the Revised Code shall be credited to the employers' accumulation fund. 834
835
836
837
838
Amounts paid by an employer under section 145.483 of the Revised Code shall be credited to the employers' accumulation fund, except that if the amounts paid by the employer are for members participating in a PERS defined contribution plan those amounts may be credited to the defined contribution fund. 839
840
841
842
843

Amounts paid by an employer under section 145.86 of the Revised Code may be credited to the employers' accumulation fund. 844
845

Any payments made into the employers' accumulation fund by a member as provided in section 145.31 of the Revised Code shall be refunded to such member under the conditions specified in section 846
847
848

145.40 of the Revised Code. 849

Upon the retirement of a contributor, the full amount of the 850
contributor's pension reserve shall be transferred from the 851
employers' accumulation fund to the annuity and pension reserve 852
fund. 853

(C) The annuity and pension reserve fund is the fund from 854
which shall be paid all pensions, disability benefits, annuities, 855
and benefits in lieu thereof, because of which reserves have been 856
transferred from the employees' savings fund and the employers' 857
accumulation fund. The annuity and pension reserve fund is also 858
the fund from which shall be paid all pensions, disability 859
benefits, annuities, and benefits in lieu thereof under a PERS 860
defined contribution plan, if reserves have been transferred to 861
the fund for that purpose. 862

~~Any member participating in the PERS defined benefit plan may 863
deposit in the employees' savings fund, subject to rules 864
established by the public employees retirement system, additional 865
amounts, and, at the time of age and service retirement, shall 866
receive in return therefor, at the participant's option, either an 867
annuity having a reserve equal to the amount deposited or a cash 868
refund of such amounts together with such interest as may have 869
been allowed by the board. Such deposits for additional annuity 870
together with such interest as may have been allowed by the board 871
at the end of each calendar year shall be refunded in the event of 872
death prior to retirement or withdrawal of accumulated 873
contributions as provided in sections 145.40 and 145.43 of the 874
Revised Code or upon application of the contributor prior to age 875
and service retirement. 876~~

~~Any additional deposits that were made under this section by 877
a member who elects under section 145.191 of the Revised Code to 878
participate in a PERS defined contribution plan shall be credited 879~~

~~to the defined contribution plan elected by the member under that section.~~

880
881

~~For deposits received in a calendar year, interest shall be earned beginning on the first day of the calendar year next following and ending on the last day of that year, except that in the case of a payment under this division made prior to the last day of a year, interest shall be earned ending on the last day of the month prior to the date of payment. The board shall credit interest at the end of the calendar year in which it is earned.~~

882
883
884
885
886
887
888

(D) The income fund is the fund from which interest is transferred and credited on the amounts in the funds described in divisions (B), (C), and (F) of this section, and is a contingent fund from which the special requirements of the funds may be paid by transfer from this fund. All income derived from the investment of the funds of the system, together with all gifts and bequests, or the income therefrom, shall be paid into this fund.

889
890
891
892
893
894
895

Any deficit occurring in any other fund that will not be covered by payments to that fund, as otherwise provided in Chapter 145. of the Revised Code, shall be paid by transfers of amounts from the income fund to such fund or funds. If the amount in the income fund is insufficient at any time to meet the amounts payable to the funds described in divisions (C) and (F) of this section, the amount of the deficiency shall be transferred from the employers' accumulation fund.

896
897
898
899
900
901
902
903

The system may accept gifts and bequests. Any gifts or bequests, any funds which may be transferred from the employees' savings fund by reason of lack of a claimant, any surplus in any fund created by this section, or any other funds whose disposition is not otherwise provided for, shall be credited to the income fund.

904
905
906
907
908
909

(E) The Except as provided in division (G) of this section,

910

the expense fund is the fund from which shall be paid the expenses 911
of the administration of this chapter, exclusive of amounts 912
payable as retirement allowances and as other benefits. 913

(F) The survivors' benefit fund is the fund from which shall 914
be paid dependent survivor benefits provided by section 145.45 of 915
the Revised Code. 916

(G) The defined contribution fund is the fund in which shall 917
be accumulated the contributions deducted from the earnable salary 918
of members participating in a PERS defined contribution plan, as 919
provided in section 145.85 of the Revised Code, together with any 920
earnings ~~and employer contributions, as provided in section 145.86~~ 921
~~of the Revised Code,~~ credited thereon. The defined contribution 922
fund is the fund in which may be accumulated the contributions 923
under section 145.86 of the Revised Code, together with any 924
earnings credited thereon. Except as provided in division (C) of 925
this section, the defined contribution fund is the fund from which 926
shall be paid all benefits provided under a PERS defined 927
contribution plan. From this fund may be paid the expenses for 928
administration of a PERS defined contribution plan. 929

Sec. 145.294. (A) The public employees retirement board may 930
establish by rule a payroll deduction plan for payment of the cost 931
of restoring service credit under section 145.31 or 145.311 of the 932
Revised Code or purchasing any service credit members of the 933
public employees retirement system are eligible to purchase under 934
this chapter, or for making additional deposits under section 935
145.583 or 145.62 of the Revised Code. In addition to any other 936
matter considered relevant by the board, the rules shall specify 937
all of the following: 938

(1) The types of service credit that may be paid for through 939
payroll deduction, including the section of the Revised Code that 940
authorizes the purchase of each type of service credit for which 941

payment may be made by payroll deduction; 942

(2) The procedure for informing the member's employer and the 943
system that the member wishes to purchase service credit under 944
this chapter or make additional deposits under section 145.583 or 945
145.62 of the Revised Code through payroll deduction; 946

(3) The procedure to be followed by the system and employers 947
to determine for each request the amount to be deducted, the 948
number of deductions to be made, and the interval at which 949
deductions will be made. The rules may provide for a minimum 950
amount for each deduction or a maximum number of deductions for 951
the purchase of any type of credit. 952

(4) The procedure to be followed by employers in transmitting 953
amounts deducted from the salaries of their employees to the 954
system; 955

(5) The procedure to be followed by the system in crediting 956
service credit to members who choose to purchase it through 957
payroll deduction. 958

(B) If the board establishes a payroll deduction plan under 959
this section, it shall certify to the member's employer for each 960
member for whom deductions are to be made, the amount of each 961
deduction and the payrolls from which deductions are to be made. 962
The employer shall make the deductions as certified and transmit 963
the amounts deducted in accordance with the rules established by 964
the board under this section. 965

(C) Rules adopted under this section shall not affect any 966
right to purchase service credit conferred by any other section of 967
the Revised Code, including the right of a member under any such 968
section to purchase only part of the service credit the member is 969
eligible to purchase. 970

(D) No payroll deduction made pursuant to this section may 971

exceed the amount of a member's net compensation after all other 972
deductions and withholdings required by law. 973

Sec. 145.325. (A) Except as otherwise provided in division 974
(B) of this section, the board of the public employees retirement 975
system shall make available to each retirant or disability benefit 976
recipient receiving a monthly allowance or benefit on or after 977
January 1, 1968, who has attained the age of sixty-five years, and 978
who is not eligible to receive hospital insurance benefits under 979
the federal old age, survivors, and disability insurance program, 980
hospital insurance coverage substantially equivalent to the 981
federal hospital insurance benefits, Social Security Amendments of 982
1965, 79 Stat. 291, 42 U.S.C.A. 1395c, as amended. This coverage 983
shall also be made available to the spouse, widow, or widower of 984
such retirant or disability benefit recipient provided such 985
spouse, widow, or widower has attained age sixty-five and is not 986
eligible to receive hospital insurance benefits under the federal 987
old age, survivors, and disability insurance program. The widow or 988
widower of a retirant or disability benefit recipient shall be 989
eligible for such coverage only if he or she is the recipient of a 990
monthly allowance or benefit from this system. ~~One-half A~~ 991
percentage determined by the board of the cost of the premium for 992
the spouse shall be paid from the appropriate funds of the public 993
employees retirement system and ~~one-half~~ the remainder by the 994
recipient of the allowance or benefit. 995

The cost of such coverage, paid from the funds of the system, 996
shall be included in the employer's rate provided by section 997
145.48 of the Revised Code. The retirement board is authorized to 998
make all necessary rules pursuant to the purpose and intent of 999
this section, and shall contract for such coverage as provided in 1000
section 145.58 of the Revised Code. 1001

(B) The board need not make the hospital insurance coverage 1002

described in division (A) of this section available to any person 1003
for whom it is prohibited by section 145.58 of the Revised Code 1004
from paying or reimbursing the premium cost of such insurance. 1005

Sec. 145.33. (A) Except as provided in division (B) or (C) of 1006
this section, a member with at least five years of total service 1007
credit who has attained age sixty, or who has thirty years of 1008
total Ohio service credit, may apply for age and service 1009
retirement, which shall consist of: 1010

(1) An annuity having a reserve equal to the amount of the 1011
member's accumulated contributions at that time; 1012

(2) A pension equal to the annuity provided by division 1013
(A)(1) of this section; 1014

(3) An additional pension, if the member can qualify for 1015
prior service, equal to forty dollars multiplied by the number of 1016
years, and fraction thereof, of such prior and military service 1017
credit; 1018

(4) A basic annual pension equal to one hundred eighty 1019
dollars if the member has ten or more years of total service 1020
credit as of October 1, 1956, except that the basic annual pension 1021
shall not exceed the sum of the annual benefits provided by 1022
divisions (A)(1), (2), and (3) of this section. 1023

(5) When a member retires on age and service retirement, the 1024
member's total annual single lifetime allowance, including the 1025
allowances provided in divisions (A)(1), (2), (3), and (4) of this 1026
section, shall be not less than a base amount adjusted in 1027
accordance with division (A)(5) of this section and determined by 1028
multiplying the member's total service credit by the greater of 1029
the following: 1030

(a) Eighty-six dollars; 1031

(b) Two and two-tenths per cent of the member's final average 1032

salary for each of the first thirty years of service plus two and 1033
one-half per cent of the member's final average salary for each 1034
subsequent year of service. 1035

The allowance shall be adjusted by the factors of attained 1036
age or years of service to provide the greater amount as 1037
determined by the following schedule: 1038

Attained	or	Years of	Percentage	
Birthday		Total Service	of	
		Credit	Base Amount	
58		25	75	1042
59		26	80	1043
60		27	85	1044
61			88	1045
		28	90	1046
62			91	1047
63			94	1048
		29	95	1049
64			97	1050
65		30 or more	100	1051

Members shall vest the right to a benefit in accordance with 1052
the following schedule, based on the member's attained age by 1053
September 1, 1976: 1054

Attained	Percentage	
Birthday	of	
	Base Amount	
66	102	1058
67	104	1059
68	106	1060
69	108	1061
70 or more	110	1062

(6) The total annual single lifetime allowance that a member 1063
shall receive under division (A)(5) of this section shall not 1064

exceed the lesser of one hundred per cent of the member's final
average salary or the limit established by section 415 of the
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415,
as amended.

(B)(1) For the purposes of divisions (B) to (G) of this
section, "total service credit as a PERS law enforcement officer"
and "total service credit as a ~~Hamilton county municipal court~~
~~bailiff~~ PERS public safety officer" include credit for military
service to the extent permitted by division (E)(2) of this section
and credit for service as a police officer or state highway patrol
trooper to the extent permitted by divisions (E)(3) and (4) of
this section.

(2) A member who meets the conditions in division (B)(2)(a),
(b), or (c), ~~or (d)~~ of this section may apply for an age and
service retirement benefit under this division:

(a) The member has attained age forty-eight and has at least
twenty-five years of total service credit as a PERS law
enforcement officer ~~whose primary duties were to preserve the~~
~~peace, protect life and property, and enforce the laws in the~~
~~member's jurisdiction;~~

(b) The member has attained age fifty-two, and has at least
twenty-five years of total service credit as a PERS ~~law~~
~~enforcement~~ public safety officer, but the member's primary duties
~~were other than to preserve the peace, protect life and property,~~
~~and enforce the laws in the member's jurisdiction~~ or has service
as a PERS public safety officer and service as a PERS law
enforcement officer that when combined equal at least twenty-five
years of total service credit;

(c) ~~The member has attained age fifty two and has at least~~
~~twenty five years of total service as a Hamilton county municipal~~
~~court bailiff;~~

~~(d)~~ The member has attained age sixty-two and has at least 1096
fifteen years of total service credit as either of the following: 1097

(i) A PERS law enforcement officer; 1098

(ii) A ~~Hamilton county municipal court bailiff~~ PERS public 1099
safety officer. 1100

(3) A benefit paid under division (B)(2) of this section 1101
shall consist of an annual single lifetime allowance equal to the 1102
sum of two and one-half per cent of the member's final average 1103
salary multiplied by the first twenty-five years of the member's 1104
total service plus two and one-tenth per cent of the member's 1105
final average salary multiplied by the number of years of the 1106
member's total service credit in excess of twenty-five years. 1107

(4) A member with at least fifteen years of total service 1108
credit as a PERS law enforcement officer or ~~Hamilton county~~ 1109
~~municipal court bailiff~~ PERS public safety officer who voluntarily 1110
resigns or is discharged for any reason except death, dishonesty, 1111
cowardice, intemperate habits, or conviction of a felony may apply 1112
for an age and service retirement benefit, which shall consist of 1113
an annual single lifetime allowance equal to one and one-half per 1114
cent of the member's final average salary multiplied by the number 1115
of years of the member's total service credit. The allowance shall 1116
commence on the first day of the calendar month following the 1117
month in which the application is filed with the public employees 1118
retirement board on or after the attainment by the applicant of 1119
age fifty-two. 1120

(C)(1) A member with at least twenty-five years of total 1121
service credit who would be eligible to retire under division 1122
(B)(2)(b) ~~or (c)~~ of this section had the member attained age 1123
fifty-two and who voluntarily resigns or is discharged for any 1124
reason except death, dishonesty, cowardice, intemperate habits, or 1125
conviction of a felony, on or after the date of attaining 1126

forty-eight years of age, but before the date of attaining 1127
fifty-two years of age, may elect to receive a reduced benefit as 1128
determined by the following schedule: 1129

Attained Age	Reduced Benefit	
48	75% of the benefit payable under	1130
	division (B)(3) of this section	1131
49	80% of the benefit payable under	1132
	division (B)(3) of this section	1133
50	86% of the benefit payable under	1134
	division (B)(3) of this section	1135
51	93% of the benefit payable under	1136
	division (B)(3) of this section	1137
		1138

(2) If a member elects to receive a reduced benefit after 1139
attaining age forty-eight the reduced benefit is payable from the 1140
later of the date of the member's most recent birthday or the date 1141
the member becomes eligible to receive the reduced benefit. 1142

(3) Once a member elects to receive a reduced benefit 1143
determined by the schedule in division (C)(1) of this section and 1144
has received a payment, the member may not reelect to change that 1145
election. 1146

(4) If a member who has resigned or been discharged has left 1147
on deposit the member's accumulated contributions in the 1148
employees' savings fund and has not elected to receive a reduced 1149
benefit determined by the schedule in division (C)(1) of this 1150
section, upon attaining fifty-two years of age, the member shall 1151
be entitled to receive a benefit computed and paid under division 1152
(B)(3) of this section. 1153

(D) A benefit paid under division (B) or (C) of this section 1154
shall not exceed the lesser of ninety per cent of the member's 1155
final average salary or the limit established by section 415 of 1156
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1157
415, as amended. 1158

(E)(1) A member with service credit as a PERS law enforcement officer or a ~~Hamilton county municipal court bailiff~~ PERS public safety officer and other service credit under this chapter may elect one of the following:

(a) To have all the member's service credit under this chapter, including credit for service as a PERS law enforcement officer or ~~Hamilton county municipal court bailiff~~ PERS public safety officer, used in calculating a retirement allowance under division (A) of this section if the member qualifies for an allowance under that division;

(b) If the member qualifies for an allowance under division (B)(2)(a) of this section, to have the member's service credit as a PERS law enforcement officer used in calculating a benefit under that division and the member's credit for all service other than PERS law enforcement service used in calculating a benefit consisting of a single life annuity having a reserve equal to the amount of the member's accumulated contributions and an equal amount of employer contributions.

(c) If the member qualifies for an allowance under division (B)(2)(b) or (c), (B)(4), or (C) of this section, to have the member's service credit as a PERS law enforcement officer or ~~Hamilton county municipal court bailiff~~ PERS public safety officer used in calculating a benefit under the appropriate division and the member's credit for all service other than PERS law enforcement service or service as a ~~Hamilton county municipal court bailiff~~ PERS public safety officer under this chapter used in calculating a benefit consisting of a single life annuity having a reserve equal to the amount of the member's accumulated contributions and an equal amount of the employer's contributions.

(2) Notwithstanding sections 145.01 and 145.30 of the Revised Code, no more than four years of military service credit granted

under section 145.30 of the Revised Code and five years of 1190
military service credit purchased under section 145.301 or 145.302 1191
of the Revised Code shall be used in calculating service as a PERS 1192
law enforcement officer or ~~Hamilton county municipal court bailiff~~ 1193
PERS public safety officer or the total service credit of that 1194
person. 1195

(3) Only credit for the member's service as a PERS law 1196
enforcement officer, PERS public safety officer, or service credit 1197
obtained as a police officer or state highway patrol trooper shall 1198
be used in computing the benefit of a member who qualifies for a 1199
benefit under division (B)~~(2)(a), (b), or (d)(ii) or (4)~~ or 1200
~~division~~ (C) of this section for the following: 1201

(a) Any person who originally is commissioned and employed as 1202
a deputy sheriff by the sheriff of any county, or who originally 1203
is elected sheriff, on or after January 1, 1975; 1204

(b) Any deputy sheriff who originally is employed as a 1205
criminal bailiff or court constable on or after April 16, 1993; 1206

(c) Any person who originally is appointed as a township 1207
constable or police officer in a township police department or 1208
district on or after January 1, 1981; 1209

(d) Any person who originally is employed as a county 1210
narcotics agent on or after September 26, 1984; 1211

(e) Any person who originally is employed as an undercover 1212
drug agent as defined in section 109.79 of the Revised Code, 1213
department of public safety enforcement agent who prior to June 1214
30, 1999, was a liquor control investigator, park officer, forest 1215
officer, wildlife officer, state watercraft officer, park district 1216
police officer, conservancy district officer, veterans' home 1217
police officer, special police officer for a mental health 1218
institution, special police officer for an institution for the 1219
mentally retarded and developmentally disabled, or municipal 1220

police officer on or after December 15, 1988;	1221
(f) Any person who originally is employed as a state university law enforcement officer on or after November 6, 1996;	1222 1223
(g) Any person who is originally employed as a state university law enforcement officer by the university of Akron on or after September 16, 1998;	1224 1225 1226
(h) Any person who originally is employed as a preserve officer on or after March 18, 1999;	1227 1228
(i) Any person who originally is employed as a natural resources law enforcement staff officer on or after March 18, 1999;	1229 1230 1231
(j) Any person who is originally employed as a department of public safety enforcement agent on or after June 30, 1999;	1232 1233
(k) Any person who is originally employed as a house sergeant at arms or assistant house sergeant at arms on or after September 5, 2001;	1234 1235 1236
(l) Any person who is originally appointed as a regional transit authority police officer or state highway patrol police officer on or after February 1, 2002.	1237 1238 1239
(4) Only credit for a member's service as a Hamilton county municipal court bailiff <u>PERS public safety officer</u> or service credit obtained as a PERS law enforcement officer, police officer, or state highway patrol trooper shall be used in computing the benefit of a member who qualifies for a benefit under division (B)(2)(<u>b</u>) or (c) or (d) (ii) or (4) or division (C) of this section for any person who originally is employed as a Hamilton county municipal court bailiff on or after November 6, 1996.	1240 1241 1242 1243 1244 1245 1246 1247
(F) Retirement allowances determined under this section shall be paid as provided in section 145.46 of the Revised Code.	1248 1249
(G) For the purposes of this section, service prior to June	1250

30, 1999, as a food stamp trafficking agent under former section 1251
5502.14 of the Revised Code shall be considered service as a law 1252
enforcement officer. 1253

Sec. 145.35. (A) As used in this section, "on-duty illness or 1254
injury" means an illness or injury that occurred during or 1255
resulted from performance of duties under the direct supervision 1256
of a member's appointing authority. 1257

(B) The public employees retirement system shall provide 1258
disability coverage to each member who has at least five years of 1259
total service credit and disability coverage for on-duty illness 1260
or injury to each member who is a PERS law enforcement officer or 1261
~~Hamilton county municipal court bailiff~~ PERS public safety 1262
officer, regardless of length of service. 1263

Not later than October 16, 1992, the public employees 1264
retirement board shall give each person who is a member on July 1265
29, 1992, the opportunity to elect disability coverage either 1266
under section 145.36 of the Revised Code or under section 145.361 1267
of the Revised Code. The board shall mail notice of the election, 1268
accompanied by an explanation of the coverage under each of the 1269
Revised Code sections and a form on which the election is to be 1270
made, to each member at the member's last known address. The board 1271
shall also provide the explanation and form to any member on 1272
request. 1273

Regardless of whether the member actually receives notice of 1274
the right to make an election, a member who fails to file a valid 1275
election under this section shall be considered to have elected 1276
disability coverage under section 145.36 of the Revised Code. To 1277
be valid, an election must be made on the form provided by the 1278
retirement board, signed by the member, and filed with the board 1279
not later than one hundred eighty days after the date the notice 1280
was mailed, or, in the case of a form provided at the request of a 1281

member, a date specified by rule of the retirement board. Once 1282
made, an election is irrevocable, but if the member ceases to be a 1283
member of the retirement system, the election is void. If a person 1284
who makes an election under this section also makes an election 1285
under section 3307.62 or 3309.39 of the Revised Code, the election 1286
made for the system that pays a disability benefit to that person 1287
shall govern the benefit. 1288

Disability coverage shall be provided under section 145.361 1289
of the Revised Code for persons who become members after July 29, 1290
1992, and for members who elect under this division to be covered 1291
under section 145.361 of the Revised Code. 1292

The retirement board may adopt rules governing elections made 1293
under this division. 1294

(C) Application for a disability benefit may be made by a 1295
member, by a person acting in the member's behalf, or by the 1296
member's employer, provided the member has disability coverage 1297
under section 145.36 or 145.361 of the Revised Code and is not 1298
receiving a disability benefit under any other Ohio state or 1299
municipal retirement program. Application must be made within two 1300
years from the date the member's contributing service under the 1301
PERS defined benefit plan terminated or the date the member ceased 1302
to make contributions to the PERS defined benefit plan under 1303
section 145.814 of the Revised Code, unless the retirement board 1304
determines that the member's medical records demonstrate 1305
conclusively that at the time the two-year period expired, the 1306
member was physically or mentally incapacitated for duty and 1307
unable to make an application. Application may not be made by or 1308
for any person receiving age and service retirement benefits under 1309
section 145.33, 145.331, 145.34, or 145.37 of the Revised Code or 1310
any person who, pursuant to section 145.40 of the Revised Code, 1311
has been paid the accumulated contributions standing to the credit 1312
of the person's individual account in the employees' savings fund. 1313

The application shall be made on a form provided by the retirement board. 1314
1315

(D) The benefit payable to any member who is approved for a disability benefit shall become effective on the first day of the month immediately following the later of the following: 1316
1317
1318

(1) The last day for which compensation was paid; 1319

(2) The attainment of eligibility for a disability benefit. 1320

(E) Medical examination of a member who has applied for a disability benefit shall be conducted by a competent disinterested physician or physicians selected by the board to determine whether the member is mentally or physically incapacitated for the performance of duty by a disabling condition either permanent or presumed to be permanent. The disability must have occurred since last becoming a member or have increased since last becoming a member to such extent as to make the disability permanent or presumed to be permanent. A disability is presumed to be permanent if it is expected to last for a continuous period of not less than twelve months following the filing of the application. 1321
1322
1323
1324
1325
1326
1327
1328
1329
1330
1331

If the physician or physicians determine that the member qualifies for a disability benefit, the board concurs with the determination, and the member agrees to medical treatment as specified in division (F) of this section, the member shall receive a disability benefit under section 145.36 or 145.361 of the Revised Code. The action of the board shall be final. 1332
1333
1334
1335
1336
1337

(F) The public employees retirement board shall adopt rules requiring a disability benefit recipient, as a condition of continuing to receive a disability benefit, to agree in writing to obtain any medical treatment recommended by the board's physician and submit medical reports regarding the treatment. If the board determines that a disability benefit recipient is not obtaining the medical treatment or the board does not receive a required 1338
1339
1340
1341
1342
1343
1344

medical report, the disability benefit shall be suspended until 1345
the treatment is obtained, the report is received by the board, or 1346
the board's physician certifies that the treatment is no longer 1347
helpful or advisable. Should the recipient's failure to obtain 1348
treatment or submit a medical report continue for one year, the 1349
recipient's right to the disability benefit shall be terminated as 1350
of the effective date of the original suspension. 1351

(G) In the event an employer files an application for a 1352
disability benefit as a result of a member having been separated 1353
from service because the member is considered to be mentally or 1354
physically incapacitated for the performance of the member's 1355
present duty, and the physician or physicians selected by the 1356
board reports to the board that the member is physically and 1357
mentally capable of performing service similar to that from which 1358
the member was separated and the board concurs in the report, the 1359
board shall so certify to the employer and the employer shall 1360
restore the member to the member's previous position and salary or 1361
to a similar position and salary. 1362

Sec. 145.38. (A) As used in this section and sections 145.381 1363
and 145.384 of the Revised Code: 1364

(1) "PERS retirant" means a former member of the public 1365
employees retirement system who is receiving ~~one~~ either of the 1366
following: 1367

(a) ~~Age~~ An age and service retirement ~~benefits~~ allowance paid 1368
under section 145.32, 145.33, 145.331, 145.34, or 145.46 of the 1369
Revised Code; 1370

~~(b) Age and service retirement benefits~~ or paid by the public 1371
employees retirement system ~~under~~ as a consequence of section 1372
145.37 of the Revised Code; 1373

~~(c)~~ (b) Any ~~benefit paid~~ distribution under a PERS defined 1374

contribution plan made by virtue of the former member's 1375
retirement. 1376

(2) "Other system retirant" means ~~both~~ all of the following: 1377

(a) A member or former member of the Ohio police and fire 1378
pension fund, state teachers retirement system, school employees 1379
retirement system, state highway patrol retirement system, or 1380
Cincinnati retirement system who is receiving an age and service 1381
or commuted age and service retirement ~~benefits~~ allowance or a 1382
disability benefit from a system of which the person is a member 1383
or former member; 1384

(b) A member or former member of the public employees 1385
retirement system who is receiving an age and service retirement 1386
~~benefits~~ allowance or a disability benefit ~~under as a consequence~~ 1387
of section 145.37 of the Revised Code paid by the school employees 1388
retirement system or the state teachers retirement system; 1389

(c) A former member of the state teachers retirement system 1390
or school employees retirement system who is receiving a 1391
distribution under a plan established under section 3307.81 or 1392
3309.81 of the Revised Code by virtue of the former member's 1393
retirement. 1394

(3) "Retirement benefit" means an age and service retirement 1395
allowance or a distribution by virtue of retirement as described 1396
in division (A)(1) or (2) of this section. 1397

(4) Notwithstanding the definitions of "pension" and 1398
"annuity" in section 145.01 of the Revised Code, in the case of a 1399
PERS retirant or other system retirant who is retired under the 1400
PERS defined contribution plan or a plan established under section 1401
3307.81 or 3309.81 of the Revised Code: 1402

(a) "Pension portion of the retirement benefit" means the 1403
portion of the retirement benefit that is derived from 1404
contributions made by the employer and is paid in monthly or less 1405

frequent installments. 1406

(b) "Annuity portion of the retirement benefit" means the 1407
portion of the retirement benefit that is derived from 1408
contributions made by the former member and is paid in monthly or 1409
less frequent installments. 1410

(B)(1) Subject to this section and section 145.381 of the 1411
Revised Code, a PERS retirant or other system retirant may be 1412
employed by a public employer. If so employed, the PERS retirant 1413
or other system retirant shall contribute to the public employees 1414
retirement system in accordance with section 145.47 of the Revised 1415
Code, and the employer shall make contributions in accordance with 1416
section 145.48 of the Revised Code. 1417

(2) A public employer that employs a PERS retirant or other 1418
system retirant, or enters into a contract for services as an 1419
independent contractor with a PERS retirant shall notify the 1420
retirement board of the employment or contract not later than the 1421
end of the month in which the employment or contract commences. 1422
Any overpayment of benefits to a PERS retirant by the retirement 1423
system resulting from delay or failure of the employer to give the 1424
notice shall be repaid to the retirement system by the employer. 1425

(3) On receipt of notice from a public employer that a person 1426
who is an other system retirant has been employed, the retirement 1427
system shall notify the retirement system of which the other 1428
system retirant was a member of such employment. 1429

(4)(a) A PERS retirant who has received a retirement 1430
~~allowance~~ benefit for less than two months when employment subject 1431
to this section commences shall forfeit the retirement ~~allowance~~ 1432
benefit for any month the PERS retirant is employed prior to the 1433
expiration of the two-month period. Service and contributions for 1434
that period shall not be included in calculation of any benefits 1435
payable to the PERS retirant and those contributions shall be 1436

refunded on the retirant's death or termination of the employment. 1437

(b) An other system retirant who has received a retirement 1438
~~allowance~~ benefit or disability benefit for less than two months 1439
when employment subject to this section commences shall forfeit 1440
the retirement ~~allowance~~ benefit or disability benefit for any 1441
month the other system retirant is employed prior to the 1442
expiration of the two-month period. Service and contributions for 1443
that period shall not be included in the calculation of any 1444
benefits payable to the other system retirant and those 1445
contributions shall be refunded on the retirant's death or 1446
termination of the employment. 1447

(c) Contributions made on compensation earned after the 1448
expiration of the two-month period shall be used in the 1449
calculation of the benefit or payment due under section 145.384 of 1450
the Revised Code. 1451

(5) On receipt of notice from the Ohio police and fire 1452
pension fund, school employees retirement system, or state 1453
teachers retirement system of the re-employment of a PERS 1454
retirant, the public employees retirement system shall not pay, or 1455
if paid, shall recover, the amount to be forfeited by the PERS 1456
retirant in accordance with section 742.26, 3307.35, or 3309.341 1457
of the Revised Code. 1458

(6) A PERS retirant who enters into a contract to provide 1459
services as an independent contractor to the employer by which the 1460
retirant was employed at the time of retirement or, less than two 1461
months after the retirement ~~allowance~~ benefit commences, begins 1462
providing services as an independent contractor pursuant to a 1463
contract with another public employer, shall forfeit the pension 1464
portion of the retirement benefit for the period beginning the 1465
first day of the month following the month in which the services 1466
begin and ending on the first day of the month following the month 1467
in which the services end. The annuity portion of the retirement 1468

allowance benefit shall be suspended on the day services under the 1469
contract begin and shall accumulate to the credit of the retirant 1470
to be paid in a single payment after services provided under the 1471
contract terminate. A PERS retirant subject to division (B)(6) of 1472
this section shall not contribute to the retirement system and 1473
shall not become a member of the system. 1474

(7) As used in this division, "employment" includes service 1475
for which a PERS retirant or other system retirant, the retirant's 1476
employer, or both, have waived any earnable salary for the 1477
service. 1478

~~(C)(1) Except as provided in division (C)(3) of this section,~~ 1479
~~this division applies to both of the following:~~ 1480

~~(a) A PERS retirant who, prior to September 14, 2000, was~~ 1481
~~subject to division (C)(1)(b) of this section as that division~~ 1482
~~existed immediately prior to September 14, 2000, and has not~~ 1483
~~elected pursuant to Am. Sub. S.B. 144 of the 123rd general~~ 1484
~~assembly to cease to be subject to that division;~~ 1485

~~(b) A PERS retirant to whom both of the following apply:~~ 1486

~~(i) The retirant held elective office in this state, or in~~ 1487
~~any municipal corporation, county, or other political subdivision~~ 1488
~~of this state at the time of retirement under this chapter.~~ 1489

~~(ii) The retirant was elected or appointed to the same office~~ 1490
~~for the remainder of the term or the term immediately following~~ 1491
~~the term during which the retirement occurred.~~ 1492

~~(2) A PERS retirant who is subject to this division is a~~ 1493
~~member of the public employees retirement system with all the~~ 1494
~~rights, privileges, and obligations of membership, except that the~~ 1495
~~membership does not include survivor benefits provided pursuant to~~ 1496
~~section 145.45 of the Revised Code or, beginning on the ninetieth~~ 1497
~~day after September 14, 2000, any amount calculated under section~~ 1498
~~145.401 of the Revised Code. The pension portion of the PERS~~ 1499

~~retirant's retirement allowance shall be forfeited until the first 1500
day of the first month following termination of the employment. 1501
The annuity portion of the retirement allowance shall accumulate 1502
to the credit of the PERS retirant to be paid in a single payment 1503
after termination of the employment. The retirement allowance 1504
shall resume on the first day of the first month following 1505
termination of the employment. On termination of the employment, 1506
the PERS retirant shall elect to receive either a refund of the 1507
retirant's contributions to the retirement system during the 1508
period of employment subject to this section or a supplemental 1509
retirement allowance based on the retirant's contributions and 1510
service credit for that period of employment. 1511~~

~~(3) This division does not apply to any of the following: 1512~~

~~(a) A PERS retirant elected to office who, at the time of the 1513
election for the retirant's current term, was not retired but, not 1514
less than ninety days prior to the primary election for the term 1515
or the date on which a primary for the term would have been held, 1516
filed a written declaration of intent to retire before the end of 1517
the term with the board of elections of the county in which 1518
petitions for nomination or election to the office are filed; 1519~~

~~(b) A PERS retirant elected to office who, at the time of the 1520
election for the retirant's current term, was a retirant and had 1521
been retired for not less than ninety days; 1522~~

~~(c) A PERS retirant appointed to office who, at the time of 1523
appointment to the retirant's current term, notified the person or 1524
entity making the appointment that the retirant was already 1525
retired or intended to retire before the end of the term. 1526~~

~~(D)(1) Except as provided in division (C)(D) of this section, 1527
a PERS retirant or other system retirant subject to this section 1528
is not a member of the public employees retirement system, and, 1529
except as specified in this section does not have any of has only 1530~~

the rights, privileges, or obligations of membership specified in 1531
this section. ~~Except~~ 1532

~~Except~~ as specified in ~~division (D)(2) of this section 145.58~~ 1533
~~of the Revised Code,~~ the retirant is not eligible to receive 1534
health, medical, hospital, or surgical benefits coverage under 1535
that section ~~145.58 of the Revised Code~~ for employment subject to 1536
this section. 1537

~~(2) A PERS retirant subject to this section shall receive~~ 1538
~~primary health, medical, hospital, or surgical insurance coverage~~ 1539
~~from the retirant's employer, if the employer provides coverage to~~ 1540
~~other employees performing comparable work. Neither the employer~~ 1541
~~nor the PERS retirant may waive the employer's coverage, except~~ 1542
~~that the PERS retirant may waive the employer's coverage if the~~ 1543
~~retirant has coverage comparable to that provided by the employer~~ 1544
~~from a source other than the employer or the public employees~~ 1545
~~retirement system. If a claim is made, the employer's coverage~~ 1546
~~shall be the primary coverage and shall pay first. The benefits~~ 1547
~~provided under section 145.58 of the Revised Code shall pay only~~ 1548
~~those medical expenses not paid through the employer's coverage or~~ 1549
~~coverage the PERS retirant receives through a source other than~~ 1550
~~the retirement system.~~ 1551

(D)(1) As used in this division, "elective office" or 1552
"office" means an elective office of this state or any municipal 1553
corporation, county, or other political subdivision of this state. 1554

(2) Unless the PERS retirant took the action described in 1555
division (D)(3)(a) or (b) of this section prior to retirement 1556
under this chapter or is described in division (D)(4) of this 1557
section, a PERS retirant elected or appointed to the same elective 1558
office held at the time of retirement for the remainder of the 1559
term during which the retirement occurred or the term immediately 1560
following that term shall forfeit the pension portion of the 1561
retirant's retirement benefit until the first day of the first 1562

month following termination of employment. The annuity portion of 1563
the retirement benefit shall accumulate to the credit of the 1564
retirant to be paid in a single payment following termination of 1565
the employment. The retirant is a member of the system with all 1566
the rights, privileges, and obligations of membership, except that 1567
the membership does not include survivor benefits provided 1568
pursuant to section 145.45 of the Revised Code, or beginning 1569
December 13, 2000, any amount calculated under section 145.401 of 1570
the Revised Code. 1571

The PERS retirant's benefit shall resume on the first day of 1572
the first month following termination of employment. On 1573
termination of the employment, the PERS retirant shall elect to 1574
receive either a refund of the retirant's contributions to the 1575
retirement system during the period of employment subject to this 1576
section or a supplemental benefit based on the retirant's 1577
contributions and service credit for that period of employment. 1578

(3) An individual who is a PERS retirant is not subject to 1579
division (D)(2) of this section if either of the following is the 1580
case: 1581

(a) Not less than ninety days prior to the primary election 1582
for the term in which the retirement occurred or the date on which 1583
a primary election for that term would have been held, the 1584
individual filed a written declaration of intent to retire before 1585
the end of that term with the board of election of the county in 1586
which petitions for nomination or election to the office are 1587
filed. 1588

(b) If appointed to elective office, the individual, at the 1589
time of appointment, notified the person or entity making the 1590
appointment that the individual intended to retire from the office 1591
before the end of the term in which the appointment occurred. 1592

(4) Division (D)(2) of this section does not apply to either 1593

of the following: 1594

(a) A PERS retirant elected to elective office who, at the 1595
time of the election, was a retirant and had been retired for not 1596
less than ninety days; 1597

(b) A PERS retirant appointed to elective office who, at the 1598
time of the appointment to the retirant's current term, notified 1599
the person or entity making the appointment that the retirant was 1600
already retired. 1601

(5) Division (D)(2) of this section applies to a PERS 1602
retirant who, prior to September 14, 2000, was subject to division 1603
(C)(1)(b) of this section as that division existed immediately 1604
prior to that date, and has not elected pursuant to Am. Sub. S.B. 1605
144 of the 123rd general assembly to cease to be subject to that 1606
division. 1607

(E) If the disability benefit of an other system retirant 1608
employed under this section is terminated, the retirant shall 1609
become a member of the public employees retirement system and 1610
participate in the PERS defined benefit plan, effective on the 1611
first day of the month next following the termination with all the 1612
rights, privileges, and obligations of membership. If such person, 1613
after the termination of the disability benefit, earns two years 1614
of service credit under ~~this system~~ the PERS defined benefit plan 1615
or under the Ohio police and fire pension fund, state teachers 1616
retirement system, school employees retirement system, or state 1617
highway patrol retirement system, the person's prior contributions 1618
as an other system retirant under this section shall be included 1619
in the person's total service credit as a public employees 1620
retirement system member, and the person shall forfeit all rights 1621
and benefits of this section. Not more than one year of credit may 1622
be given for any period of twelve months. 1623

(F) This section does not affect the receipt of benefits by 1624

or eligibility for benefits of any person who on August 20, 1976,
was receiving a disability benefit or service retirement pension
or allowance from a state or municipal retirement system in Ohio
and was a member of any other state or municipal retirement system
of this state.

(G) The public employees retirement board may adopt rules to
carry out this section.

Sec. 145.384. (A) As used in this section, "PERS retirant"
means a PERS retirant who is not subject to division ~~(C)~~(D) of
section 145.38 of the Revised Code. For purposes of this section,
"PERS retirant" also includes both of the following:

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

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

(B)(1) An other system retirant or PERS retirant who has made
contributions under section 145.38 or 145.383 of the Revised Code
or, in the case of a retirant described in division (A)(2) of this
section, section 145.47 of the Revised Code may file an
application with the public employees retirement system to receive
either a benefit, as provided in division (B)(2) of this section,
or payment of the retirant's contributions made under those
sections, as provided in division ~~(H)~~(G) of this section.

(2) A benefit under this section shall consist of an annuity
having a reserve equal to the amount of the retirant's accumulated
contributions for the period of employment, other than the
contributions excluded pursuant to division (B)(4)(a) or (b) of
section 145.38 of the Revised Code, and an amount of the
employer's contributions determined by the board.

(a) Unless, as described in division ~~(I)~~(H) of this section,

the application is accompanied by a statement of the spouse's 1655
consent to another form of payment or the board waives the 1656
requirement of spousal consent, a PERS retirant or other system 1657
retirant who is married at the time of application for a benefit 1658
under this section shall receive a monthly annuity under which the 1659
actuarial equivalent of the retirant's single life annuity is paid 1660
in a lesser amount for life and one-half of the lesser amount 1661
continues after the retirant's death to the surviving spouse. 1662

(b) A PERS retirant or other system retirant who is not 1663
subject to division (B)(2)(a) of this section shall elect either 1664
to receive the benefit as a monthly annuity or a lump sum payment 1665
discounted to the present value using a rate of interest 1666
determined by the board. A retirant who elects to receive a 1667
monthly annuity shall select one of the following as the plan of 1668
payment: 1669

(i) The retirant's single life annuity; 1670

(ii) The actuarial equivalent of the retirant's single life 1671
annuity in an equal or lesser amount for life and continuing after 1672
death to a surviving beneficiary designated at the time the plan 1673
of payment is selected. 1674

If a retirant who is eligible to select a plan of payment 1675
under division (B)(2)(b) of this section fails to do so, the 1676
benefit shall be paid as a monthly annuity under the plan of 1677
payment specified in rules adopted by the public employees 1678
retirement board. 1679

(c) Notwithstanding divisions (B)(2)(a) and (b) of this 1680
section, if a monthly annuity would be less than twenty-five 1681
dollars per month, the retirant shall receive a lump sum payment. 1682

(C)(1) The death of a spouse or other designated beneficiary 1683
under a plan of payment described in division (B)(2) of this 1684
section cancels that plan of payment. The PERS retirant or other 1685

system retirant shall receive the equivalent of the retirant's 1686
single life annuity, as determined by the board, effective the 1687
first day of the month following receipt by the board of notice of 1688
the death. 1689

(2) On divorce, annulment, or marriage dissolution, a PERS 1690
retirant or other system retirant receiving a benefit described in 1691
division (B)(2) of this section under which the beneficiary is the 1692
spouse may, with the written consent of the spouse or pursuant to 1693
an order of the court with jurisdiction over the termination of 1694
the marriage, elect to cancel the plan and receive the equivalent 1695
of the retirant's single life annuity as determined by the board. 1696
The election shall be made on a form provided by the board and 1697
shall be effective the month following its receipt by the board. 1698

(D) Following a marriage or remarriage, a PERS retirant or 1699
other system retirant who is receiving a benefit described in 1700
division (B)(2)(b)(i) of this section may elect a new plan of 1701
payment under division (B)(2)(b) of this section based on the 1702
actuarial equivalent of the retirant's single life annuity as 1703
determined by the board. The plan shall be effective the first day 1704
of the month following receipt by the board of an application on a 1705
form approved by the board. 1706

(E) A benefit payable under division (B)(2) of this section 1707
shall commence on the latest of the following: 1708

(1) The last day for which compensation for all employment 1709
subject to section 145.38, 145.383, or 145.385 of the Revised Code 1710
was paid; 1711

(2) Attainment by the PERS retirant or other system retirant 1712
of age sixty-five; 1713

(3) If the PERS retirant or other system retirant was 1714
previously employed under section 145.38, 145.383, or 145.385 of 1715
the Revised Code and is receiving or previously received a benefit 1716

under this section, completion of a period of twelve months since 1717
the effective date of the last benefit under this section; 1718

(4) A date specified by the retirant. 1719

~~(F)(1) If a PERS retirant or other system retirant dies while 1720
employed in employment subject to section 145.38, 145.383, or 1721
145.385 of the Revised Code, a lump sum payment calculated in 1722
accordance with division (B)(2) of this section shall be paid to 1723
the retirant's beneficiary under division (G) of this section. 1724~~

~~(2)(1) If at the time of death a PERS retirant or other 1725
system retirant receiving a monthly annuity under division 1726
(B)(2)(b)(i) of this section has received less than the retirant 1727
would have received as a lump sum payment, the difference between 1728
the amount received and the amount that would have been received 1729
as a lump sum payment shall be paid to the retirant's beneficiary 1730
under division (G) of this section 145.386 of the Revised Code. 1731~~

~~(3)(2) If a beneficiary receiving a monthly annuity under 1732
division (B)(2) of this section dies and, at the time of the 1733
beneficiary's death, the total of the amounts paid to the retirant 1734
and beneficiary are less than the amount the retirant would have 1735
received as a lump sum payment, the difference between the total 1736
of the amounts received by the retirant and beneficiary and the 1737
amount that the retirant would have received as a lump sum payment 1738
shall be paid to the beneficiary's estate. 1739~~

~~(G) A PERS retirant or other system retirant employed under 1740
section 145.38, 145.383, or 145.385 of the Revised Code may 1741
designate one or more persons as beneficiary to receive any 1742
benefits payable under division (B)(2)(b) of this section due to 1743
death. The designation shall be in writing duly executed on a form 1744
provided by the public employees retirement board, signed by the 1745
PERS retirant or other system retirant, and filed with the board 1746
prior to death. The last designation of a beneficiary revokes all 1747~~

~~previous designations. The PERS retirant's or other system 1748
retirant's marriage, divorce, marriage dissolution, legal 1749
separation, withdrawal of account, birth of a child, or adoption 1750
of a child revokes all previous designations. If there is no 1751
designated beneficiary, the beneficiary is the beneficiary 1752
determined under division (D) of section 145.43 of the Revised 1753
Code. If any benefit payable under this section due to the death 1754
of a PERS retirant or other system retirant is not claimed by a 1755
beneficiary within five years after the death, the amount payable 1756
shall be transferred to the income fund and thereafter paid to the 1757
beneficiary or the estate of the PERS retirant or other system 1758
retirant on application to the board. 1759~~

~~(H)(1) A PERS retirant or other system retirant who applies 1760
under division (B)(1) of this section for payment of the 1761
retirant's contributions and is unmarried or is married and, 1762
unless the board has waived the requirement of spousal consent, 1763
includes with the application a statement of the spouse's consent 1764
to the payment, shall be paid the contributions made under section 1765
145.38 or 145.383 of the Revised Code or, in the case of a 1766
retirant described in division (A)(2) of this section, section 1767
145.47 of the Revised Code, plus interest as provided in section 1768
145.471 of the Revised Code, if the following conditions are met: 1769~~

~~(a) The retirant has not attained sixty-five years of age and 1770
has terminated employment subject to section 145.38, 145.383, or 1771
145.385 of the Revised Code for any cause other than death or the 1772
receipt of a benefit under this section. 1773~~

~~(b) Three months have elapsed since the termination of the 1774
retirant's employment subject to section 145.38, 145.383, or 1775
145.385 of the Revised Code, other than employment exempted from 1776
contribution pursuant to section 145.03 of the Revised Code. 1777~~

~~(c) The retirant has not returned to public service, other 1778
than service exempted from contribution pursuant to section 145.03 1779~~

of the Revised Code, during the three-month period. 1780

(2) Payment of a retirant's contributions cancels the 1781
retirant's right to a benefit under division (B)(2) of this 1782
section. 1783

~~(F)~~(H) A statement of a spouse's consent under division 1784
(B)(2) of this section to the form of a benefit or under division 1785
~~(H)~~(G) of this section to a payment of contributions is valid only 1786
if signed by the spouse and witnessed by a notary public. The 1787
board may waive the requirement of spousal consent if the spouse 1788
is incapacitated or cannot be located, or for any other reason 1789
specified by the board. Consent or waiver is effective only with 1790
regard to the spouse who is the subject of the consent or waiver. 1791

~~(J)~~(I) No amount received under this section shall be 1792
included in determining an additional benefit under section 1793
145.323 of the Revised Code or any other post-retirement benefit 1794
increase. 1795

Sec. 145.385. (A) A PERS retirant who made an election under 1796
former section 145.381 of the Revised Code under which the annuity 1797
portion of the retirant's retirement allowance was suspended and 1798
the pension portion forfeited may have the entire retirement 1799
allowance resume by giving notice to the public employees 1800
retirement system. The notice must be given not later than ninety 1801
days after October 1, 2002. 1802

(B) The retirement allowance shall resume on the first day of 1803
the month following receipt of notice by the retirement system. 1804

(C) The annuity portion of the retirement allowance that has 1805
accumulated to the retirant's credit shall be paid as a single 1806
payment on the first day of the month following receipt of notice 1807
by the retirement system. 1808

(D) Contributions made by the retirant and employer during 1809

the period of forfeiture and contributions made after the 1810
retirement allowance resumes shall be left on deposit with the 1811
system and, except in the case of a retirant who elects, under 1812
division ~~(H)~~(G) of section 145.384 of the Revised Code, to receive 1813
a payment of the retirant contributions, shall be used in the 1814
calculation of a benefit under section 145.384 of the Revised 1815
Code. 1816

Sec. 145.386. If a PERS retirant or other system retirant 1817
dies prior to the commencement of a benefit under section 145.384 1818
of the Revised Code, a lump sum payment calculated in accordance 1819
with division (B)(2)(b) of section 145.384 shall be paid to the 1820
retirant's beneficiary under this section. 1821

Anytime prior to the commencement of a benefit under section 1822
145.384 of the Revised Code, a PERS retirant or other system 1823
retirant may designate one or more persons as beneficiary to 1824
receive any benefits payable under this section or division (F) of 1825
section 145.384 of the Revised Code due to death. The designation 1826
shall be in writing duly executed on a form provided by the public 1827
employees retirement board, signed by the PERS retirant or other 1828
system retirant, and filed with the board prior to death. The last 1829
designation of a beneficiary revokes all previous designations. 1830
The PERS retirant's or other system retirant's marriage, divorce, 1831
marriage dissolution, legal separation, withdrawal of account, 1832
birth of a child, or adoption of a child revokes all previous 1833
designations. If there is no designated beneficiary, the 1834
beneficiary is the beneficiary determined under division (D) of 1835
section 145.43 of the Revised Code or under the PERS defined 1836
contribution plan. If any benefit payable under this section due 1837
to the death of a PERS retirant or other system retirant is not 1838
claimed by a beneficiary within five years after the death, the 1839
amount payable shall remain in the employees' savings fund or may 1840

be transferred to the income fund and thereafter shall be paid to 1841
the beneficiary or the estate of the PERS retirant or other system 1842
retirant on application to the board. 1843

Sec. 145.401. (A) As used in this section: 1844

(1) "Eligible contributions" means amounts contributed under 1845
section 145.47 of the Revised Code, amounts received from a member 1846
or transferred under section 145.20, 145.295, 145.302, or 145.44 1847
of the Revised Code, and any interest credited under section 1848
145.471 or 145.472 of the Revised Code. "Eligible contributions" 1849
does not include contributions that were used in the payment of a 1850
disability benefit or, as provided in rules adopted by the board, 1851
were refunded to a member because the system was not authorized to 1852
accept the contributions. 1853

(2) "Service credit" means service credit earned for periods 1854
for which contributions were made under section 145.47 of the 1855
Revised Code and, if applicable, periods for which service credit 1856
was purchased or transferred under section 145.20, 145.295, 1857
145.2911, 145.302, or 145.44 of the Revised Code. 1858

(B) If a member has, or at the time of death had, at least 1859
five years of service credit, the public employees retirement 1860
board shall include the amount specified in division (B)(1) or (2) 1861
of this section in the amount payable under section 145.40 of the 1862
Revised Code to the member, or under division (B) of section 1863
145.43 of the Revised Code to a beneficiary or beneficiaries of 1864
the member, unless at the time of death the member was a 1865
disability benefit recipient. The amount specified in division 1866
(B)(1) or (2) of this section shall be paid from the employers' 1867
accumulation fund. 1868

(1) If the member has, or had at the time of death, at least 1869
five but less than ten years of service credit, the amount 1870

included shall be equal to thirty-three per cent of the member's 1871
eligible contributions. 1872

(2) If the member has, or had at the time of death, at least 1873
ten years of service credit, the amount included shall be equal to 1874
sixty-seven per cent of the member's eligible contributions. 1875

Sec. 145.43. (A) As used in this section and in section 1876
145.45 of the Revised Code: 1877

(1) "Child" means a biological or legally adopted child of a 1878
deceased member. If a court hearing for an interlocutory decree 1879
for adoption was held prior to the member's death, "child" 1880
includes the child who was the subject of the hearing 1881
notwithstanding the fact that the final decree of adoption, 1882
adjudging the surviving spouse as the adoptive parent, is made 1883
subsequent to the member's death. 1884

(2) "Parent" is a parent or legally adoptive parent of a 1885
deceased member. 1886

(3) "Dependent" means a beneficiary who receives one-half of 1887
the beneficiary's support from a member during the twelve months 1888
prior to the member's death. 1889

(4) "Surviving spouse" means an individual who establishes a 1890
valid marriage to a member at the time of the member's death by 1891
marriage certificate or pursuant to division (E) of this section. 1892

(5) "Survivor" means a surviving spouse, child, or parent. 1893

(6) "Accumulated contributions" has the meaning given in 1894
section 145.01 of the Revised Code, except that, notwithstanding 1895
that section, it does not include additional amounts deposited in 1896
the employees' savings fund pursuant to the version of division 1897
(C) of section 145.23 of the Revised Code as it existed 1898
immediately prior to the effective date of this amendment or to 1899
section 145.62 of the Revised Code. 1900

(B) Except as provided in division (C)(1) of section 145.45 1901
of the Revised Code, should a member die before age and service 1902
retirement, the member's accumulated contributions, ~~any deposits~~ 1903
~~for purchase of additional annuity, any payment the member has~~ 1904
~~made to restore previously forfeited service credit as provided in~~ 1905
~~section 145.31 of the Revised Code,~~ and any applicable amount 1906
calculated under section 145.401 of the Revised Code, shall be 1907
paid to the person or persons the member has designated in writing 1908
duly executed on a form provided by the public employees 1909
retirement board, signed by the member, and filed with the board 1910
prior to the member's death. A member may designate two or more 1911
persons as beneficiaries jointly to be paid the accumulated 1912
account in a lump sum. The last designation of any beneficiary 1913
revokes all previous designations. The member's marriage, divorce, 1914
marriage dissolution, legal separation, or withdrawal of account, 1915
or the birth of the member's child, or adoption of a child, shall 1916
constitute an automatic revocation of the member's previous 1917
designation. If a deceased member was also a member of the school 1918
employees retirement system or the state teachers retirement 1919
system, the beneficiary last established among the systems shall 1920
be the sole beneficiary in all the systems. 1921

If the accumulated contributions of a deceased member are not 1922
claimed by a beneficiary or by the estate of the deceased member 1923
within five years after the death, the contributions shall remain 1924
in the employees' savings fund or may be transferred to the income 1925
fund and thereafter shall be paid to the beneficiary or to the 1926
member's estate upon application to the board. The board shall 1927
formulate and adopt the necessary rules governing all designations 1928
of beneficiaries. 1929

(C) Except as provided in division (C)(1) of section 145.45 1930
of the Revised Code, if a member dies before age and service 1931
retirement and is not survived by a designated beneficiary, ~~any~~ 1932

~~beneficiaries~~ the following shall qualify, with all attendant 1933
rights and privileges, in the following order of precedence, ~~with~~ 1934
~~all attendant rights and privileges~~ the member's: 1935

(1) Surviving spouse; 1936

(2) Children, share and share alike; 1937

(3) A dependent parent ~~of a member,~~ if that parent takes 1938
survivor benefits under division (B) of section 145.45 of the 1939
Revised Code; 1940

(4) Parents, share and share alike; 1941

(5) Estate. 1942

If the beneficiary is deceased or is not located within 1943
ninety days, the beneficiary ceases to qualify for any benefit and 1944
the beneficiary next in order of precedence shall qualify as a 1945
beneficiary. 1946

Any payment made to a beneficiary as determined by the ~~public~~ 1947
~~employees retirement~~ board shall be a full discharge and release 1948
to the board from any future claims. 1949

(D) Any amount due a retirant or disability benefit recipient 1950
receiving a monthly benefit and unpaid to the retirant or 1951
recipient at death shall be paid to the beneficiary designated in 1952
writing on a form approved by the board, signed by the retirant or 1953
recipient and filed with the board. If no such designation has 1954
been filed, or if the designated beneficiary is not located within 1955
ninety days, any amounts payable under this chapter due to the 1956
death of the retirant or recipient shall be paid in the following 1957
order of precedence to the retirant's or recipient's: 1958

(1) Surviving spouse; 1959

(2) Children, share and share alike; 1960

(3) Parents, share and share alike; 1961

(4) Estate. 1962

The payment shall be a full discharge and release to the 1963
board from any future claim for the payment. 1964

Any amount due a beneficiary receiving a monthly benefit and 1965
unpaid to the beneficiary at the beneficiary's death shall be paid 1966
to the beneficiary's estate. 1967

(E) If the validity of marriage cannot be established to the 1968
satisfaction of the ~~retirement~~ board for the purpose of disbursing 1969
any amount due under this section or section 145.45 of the Revised 1970
Code, the board may accept a decision rendered by a court having 1971
jurisdiction in the state in which the member was domiciled at the 1972
time of death that the relationship constituted a valid marriage 1973
at the time of death, or the "spouse" would have the same status 1974
as a widow or widower for purposes of sharing the distribution of 1975
the member's intestate personal property. 1976

(F) As used in this division, "recipient" means an individual 1977
who is receiving or may be eligible to receive an allowance or 1978
benefit under this chapter based on the individual's service to a 1979
public employer. 1980

If the death of a member, a recipient, or any individual who 1981
would be eligible to receive an allowance or benefit under this 1982
chapter by virtue of the death of a member or recipient is caused 1983
by one of the following beneficiaries, no amount due under this 1984
chapter to the beneficiary shall be paid to the beneficiary in the 1985
absence of a court order to the contrary filed with the board: 1986

(1) A beneficiary who is convicted of, pleads guilty to, or 1987
is found not guilty by reason of insanity of a violation of or 1988
complicity in the violation of either of the following: 1989

(a) Section 2903.01, 2903.02, or 2903.03 of the Revised Code; 1990

(b) An existing or former law of any other state, the United 1991

States, or a foreign nation that is substantially equivalent to 1992
section 2903.01, 2903.02, or 2903.03 of the Revised Code. 1993

(2) A beneficiary who is indicted for a violation of or 1994
complicity in the violation of the sections or laws described in 1995
division (F)(1)(a) or (b) of this section and is adjudicated 1996
incompetent to stand trial; 1997

(3) A beneficiary who is a juvenile found to be a delinquent 1998
child by reason of committing an act that, if committed by an 1999
adult, would be a violation of or complicity in the violation of 2000
the sections or laws described in division (F)(1)(a) or (b) of 2001
this section. 2002

Sec. 145.471. (A)(1) On and after ~~the effective date of this~~ 2003
~~section~~ December 13, 2000, the public employees retirement board 2004
shall credit interest to the individual accounts of contributors, 2005
except that interest shall not be credited to the individual 2006
account of a PERS or other system retirant, as defined in section 2007
145.38 of the Revised Code, for contributions received during the 2008
period described in division (B)(4)(a) or (b) of section 145.38 of 2009
the Revised Code. For amounts deposited by a contributor under 2010
section 145.62 or the version of division (C) of section 145.23 of 2011
the Revised Code as it existed immediately prior to the effective 2012
date of this amendment, interest or earnings shall be credited in 2013
accordance with that section and former division. 2014

(2) Except as provided in section 145.472 of the Revised 2015
Code, the board shall not credit interest to individual accounts 2016
for the period beginning December 31, 1958, and ending on ~~the~~ 2017
~~effective date of this section~~ December 13, 2000. 2018

(B) For contributions received in a calendar year, interest 2019
shall be earned beginning on the first day of the calendar year 2020
next following and ending on the last day of that year, except 2021

that interest shall be earned, in the case of an application for retirement or payment under section 145.40 or 145.43 of the Revised Code, ending on the last day of the month prior to retirement or payment under those sections. The board shall credit interest at the end of the calendar year in which it is earned.

2022
2023
2024
2025
2026

Sec. 145.472. This section applies to individuals who are contributors on ~~the effective date of this section~~ December 13, 2000.

2027
2028
2029

(A) Not later than thirty days after ~~the effective date of this section~~ December 13, 2000, the public employees retirement board shall credit interest to the individual account of each contributor in accordance with this section, except that interest shall not be credited to the individual account of a PERS or other system retirant, as defined in section 145.38 of the Revised Code, for contributions received during the period described in division (B)(4)(a) or (b) of section 145.38 of the Revised Code. For amounts deposited by a contributor under section 145.62 or the version of division (C) of section 145.23 of the Revised Code as it existed immediately prior to the effective date of this amendment, interest or earnings shall be credited in accordance with that section or former division.

2030
2031
2032
2033
2034
2035
2036
2037
2038
2039
2040
2041
2042

For contributors with service credit earned prior to December 31, 1981, the board may reflect the compounding of interest by using factors provided by the board's actuary.

2043
2044
2045

(B) The interest credited under this section shall be calculated on all amounts on deposit in an individual's account in the employees' savings fund as follows:

2046
2047
2048

(1) If this section takes effect on or before December 31, 2000, interest shall be calculated on amounts on deposit on December 31, 1998.

2049
2050
2051

(2) If this section takes effect after December 31, 2000, 2052
interest shall be calculated on amounts on deposit on December 31, 2053
1999. 2054

Sec. 145.473. (A) Except as provided in division (C) of this 2055
section, the rate of interest credited to individual accounts of 2056
contributors under sections 145.471 and 145.472 of the Revised 2057
Code shall be as follows: 2058

(1) Four per cent per annum, compounded annually, to and 2059
including December 31, 1955; 2060

(2) Three per cent per annum, compounded annually, from 2061
January 1, 1956, to and including December 31, 1963; 2062

(3) Three and one-quarter per cent per annum, compounded 2063
annually, from January 1, 1964, to and including December 31, 2064
1969; 2065

(4) Four per cent per annum, compounded annually, from 2066
January 1, 1970, to and including the day before December 13, 2067
2000; 2068

(5) An amount determined by the public employees retirement 2069
board that is not greater than six per cent per annum, compounded 2070
annually, on and after December 13, 2000. 2071

(B) Except as provided in division (C) of this section, for 2072
the purpose of determining the reserve value of a contributor's 2073
annuity, the rate of interest shall be as follows: 2074

(1) Four per cent per annum, compounded annually, for 2075
contributors retiring before October 1, 1956; 2076

(2) Three per cent per annum, compounded annually, for 2077
contributors retiring on or after October 1, 1956, but before 2078
January 1, 1964; 2079

(3) Three and one-quarter per cent per annum, compounded 2080

annually, for contributors retiring on or after January 1, 1964,
but before January 1, 1970;

(4) Four per cent per annum, compounded annually, for
contributors retiring on or after January 1, 1970, but before
December 13, 2000;

(5) An amount determined by the board based on the
recommendation of the board's actuary, compounded annually, for
contributors retiring on or after December 13, 2000.

(C) For a PERS retirant who is not subject to division ~~(C)~~(D)
of section 145.38 of the Revised Code or an other system retirant,
as those terms are defined in section 145.38 of the Revised Code,
or a member of the public employees retirement system who retires
in accordance with section 145.383 of the Revised Code, the rate
of interest shall be the current actuarial assumption rate of
interest, as determined by the board's actuary, for the purposes
described in divisions (A) and (B) of this section.

Sec. 145.483. Upon a finding that an employer failed to
deduct contributions pursuant to section 145.47 of the Revised
Code during a period of employment for which such contributions
were required, a statement of delinquent contributions shall be
prepared showing the amount the contributor and employer would
have contributed had regular payroll deductions been taken. Simple
interest from the end of each calendar year at a rate set by the
public employees retirement board shall be included. If delinquent
contribution statements are not paid not later than ~~ninety~~ thirty
days after the end of the ~~quarterly period~~ month in which they
become an obligation of the employer, any balance remaining shall
be collected with penalties and interest pursuant to section
145.51 of the Revised Code.

Any amount paid under this section by an employer shall be

credited in accordance with section 145.23 of the Revised Code. 2111

Sec. 145.49. (A) Notwithstanding section 145.47 of the 2112
Revised Code: 2113

(1) The public employees retirement system shall be 2114
authorized to calculate the employee contribution rates separately 2115
for those public employees contributing toward benefits under 2116
division (B)(2)(~~b~~), (~~c~~), or (~~d~~) of section 145.33 of the Revised 2117
Code. 2118

(2) ~~Each~~ In addition to the per cent of earnable salary 2119
established under division (A)(1) of this section, each public 2120
employee contributing toward benefits under division (B)(2)(a) of 2121
section 145.33 of the Revised Code shall contribute to the 2122
employees' savings fund ~~ten~~ an additional one and one-tenth per 2123
cent of the employee's earnable salary. 2124

(B) Notwithstanding section 145.48 of the Revised Code, the 2125
public employees retirement system shall be authorized to 2126
calculate the employer contribution rates separately for those 2127
public employees contributing toward benefits under division 2128
(B)(2)(a) of section 145.33 of the Revised Code or under division 2129
(B)(2)(~~b~~), or (~~c~~), or (~~d~~) of that section, except that the 2130
employer contribution rate shall not exceed eighteen and one-tenth 2131
per cent of the earnable salaries of those employees. 2132

Sec. 145.51. (A) Each employer described in division (D) of 2133
section 145.01 of the Revised Code shall pay into the employers' 2134
accumulation fund, in ~~such~~ monthly or ~~less frequent~~ installments 2135
~~as the public employees retirement board requires~~, an amount 2136
certified by the public employees retirement board which equals 2137
the employer obligation as described in section 145.12 or 145.69 2138
of the Revised Code. In addition, the board shall add to the 2139
employer billing next succeeding the amount, with interest, to be 2140

paid by the employer to provide the member with contributing 2141
service credit for the service prior to the date of initial 2142
contribution to the system for which the member has made 2143
additional payments, except payments made pursuant to sections 2144
145.28 and 145.29 of the Revised Code. ~~Ninety days after the end~~ 2145
~~of a quarterly period, any amounts that remain unpaid are subject~~ 2146
~~to a penalty for late payment in the amount of five per cent. In~~ 2147
~~addition, interest on past due amounts and penalties may be~~ 2148
~~charged at a rate set by the retirement board.~~ 2149

(B) Except as provided in section 145.52 of the Revised Code, 2150
all employer obligations described in division (A) of this section 2151
must be received by the public employees retirement system not 2152
later than the thirtieth day after the last day of the calendar 2153
month for which related member contributions are withheld. 2154

(C) Unless the board adopts a rule under division (F) of this 2155
section establishing a different interest rate or penalty, 2156
interest and penalties for failing to pay the employer obligation 2157
when due under division (B) of this section shall be as follows: 2158

(1) Interest, compounded annually and charged monthly, for 2159
each day after the due date that the employer obligation remains 2160
unpaid in an amount equal to six per cent per annum of the past 2161
due amount of the employer obligation and any penalties imposed 2162
under this section; 2163

(2) The penalty for failing to pay the employer obligation 2164
when due under division (B) is as follows: 2165

(a) At least eleven but not more than thirty days past due, 2166
an amount equal to one per cent of the past due obligation; 2167

(b) At least thirty-one but not more than sixty days past 2168
due, an additional amount equal to one and one-half per cent of 2169
the past due obligation; 2170

(c) Sixty-one or more days past due, an additional amount 2171

equal to two and one-half per cent of the past due obligation. 2172

(D) The aggregate of all ~~such~~ payments by ~~such~~ employers 2173
under this section shall be sufficient, when combined with the 2174
amount in the employers' accumulation fund, to provide amounts 2175
payable under this chapter out of the fund, and if not, the 2176
additional amount so required shall be collected by means of an 2177
increased rate per cent which shall be certified to such employers 2178
by the board. 2179

(E) Upon certification by the board to the director of budget 2180
and management, or to the county auditor, of an amount due from an 2181
employer within any county who is subject to this chapter, by 2182
reason of such employer's delinquency in making payments into the 2183
employers' accumulation fund for past billings, such amount shall 2184
be withheld from such employer from any funds subject to the 2185
control of the director or the county auditor to such employer and 2186
shall be paid to the public employees retirement system. 2187

(F) The board may adopt rules to do any of the following: 2188

(1) Establish interest at a rate that does not exceed the 2189
annual rate described in division (C)(1) of this section; 2190

(2) Establish penalties in amounts that do not exceed the 2191
amounts described in division (C)(2) of this section; 2192

(3) Permit the board to lengthen the periods of time or enter 2193
into repayment agreements for employers to comply with divisions 2194
(B) and (C) of this section. 2195

Sec. 145.52. (A) As used in this section and section 145.53 2196
of the Revised Code, "transitional liability" means an amount 2197
equal to the employer obligation due under division (A) of section 2198
145.51 of the Revised Code for the months of October, November, 2199
and December of 2005. 2200

(B) The transitional liability is payable in three 2201

installments on or before December 31, 2006, December 31, 2007, 2202
and December 31, 2008. 2203

(1) The first installment is due not later than December 31, 2204
2006, and equals the portion of the transitional liability for the 2205
month of October 2005. 2206

(2) The second installment is due not later than December 31, 2207
2007, and equals the portion of the transitional liability for the 2208
month of November 2005. 2209

(3) The third installment is due not later than December 31, 2210
2008, and equals the portion of the transitional liability for the 2211
month of December 2005. 2212

(C) Interest and penalties for failing to pay amounts when 2213
due under division (B) of this section shall be calculated in 2214
accordance with division (C) of section 145.51 of the Revised 2215
Code. 2216

Sec. 145.53. (A) From the employer obligation for the month 2217
of February 2006, under section 145.51 of the Revised Code, an 2218
amount equal to the portion of the employer obligation 2219
attributable to section 145.86 of the Revised Code for the months 2220
of October, November, and December of 2005, shall be credited to 2221
the PERS defined contribution plan to satisfy the portion of the 2222
transitional liability attributable to section 145.86 of the 2223
Revised Code. 2224

(B) When the amount described in division (A) of this section 2225
is credited to the PERS defined contribution plan, an equal amount 2226
shall be added to the transitional liability described in section 2227
145.52 of the Revised Code to satisfy a portion of the February 2228
2006 employer obligation that is attributable to the PERS defined 2229
benefit plan. This amount shall be paid in accordance with section 2230
145.52 of the Revised Code, and shall be prorated to correspond 2231

with the portion of the transitional liability due under division 2232
(B) of that section. 2233

Sec. 145.54. The public employees retirement board shall 2234
estimate annually the amount required to defray the expenses of 2235
the administration of the public employees retirement system in 2236
the ensuing year. If in the judgment of the board, as evidenced by 2237
a resolution of that board in its minutes, the amount in the 2238
income fund exceeds the amount necessary to cover the ordinary 2239
requirements of that fund, the board may transfer to the expense 2240
fund such excess amount not exceeding the entire amount required 2241
to cover the expenses as estimated for the year. The board may 2242
then ~~apportion~~ transfer any remaining amount required for the 2243
expense fund ~~for the year then current among contributors. The~~ 2244
~~amount so apportioned in any year shall not exceed three dollars~~ 2245
~~per contributor~~ from the employers' accumulation fund. 2246

Sec. 145.58. (A) As used in this section, ~~"ineligible:~~ 2247

(1) "Ineligible individual" means all of the following: 2248

~~(1)(a)~~ (a) A former member receiving benefits pursuant to section 2249
145.32, 145.33, 145.331, 145.34, or 145.46 of the Revised Code for 2250
whom eligibility is established more than five years after June 2251
13, 1981, and who, at the time of establishing eligibility, has 2252
accrued less than ten years' service credit, exclusive of credit 2253
obtained pursuant to section 145.297 or 145.298 of the Revised 2254
Code, credit obtained after January 29, 1981, pursuant to section 2255
145.293 or 145.301 of the Revised Code, and credit obtained after 2256
May 4, 1992, pursuant to section 145.28 of the Revised Code; 2257

~~(2)(b)~~ (b) The spouse of the former member; 2258

~~(3)(c)~~ (c) The beneficiary of the former member receiving 2259
benefits pursuant to section 145.46 of the Revised Code. 2260

(2) "Sponsored dependent" means a spouse, dependent child, 2261
or, as the public employees retirement board considers 2262
appropriate, another dependent of an eligible individual. 2263

~~(B) The public employees retirement~~ (1) Subject to division 2264
(B)(2) of this section, the board may enter into agreements with 2265
insurance companies, health insuring corporations, or government 2266
agencies authorized to do business in the state for issuance of a 2267
policy or contract of health, medical, hospital, or surgical 2268
benefits coverage, or any combination thereof, for those 2269
individuals receiving age and service retirement or a disability 2270
or survivor benefit subscribing to the plan, or for PERS retirants 2271
employed under section 145.38 of the Revised Code, for coverage of 2272
benefits in accordance with division (D)(2) of section 145.38 of 2273
the Revised Code. Notwithstanding any other provision of this 2274
chapter, the policy or contract may also include coverage for any 2275
eligible individual's spouse and sponsored dependent children and 2276
for any of the individual's sponsored dependents as the board 2277
determines appropriate. If all or any portion of the policy or 2278
contract premium is to be paid by any individual receiving age and 2279
service retirement or a disability or survivor benefit, the 2280
individual shall, by written authorization, instruct the board to 2281
deduct the premium agreed to be paid by the individual to the 2282
company, corporation, or agency. 2283

(2)(a) A PERS retirant subject to section 145.38 of the 2284
Revised Code shall receive primary health, medical, hospital, or 2285
surgical insurance coverage from the retirant's employer, if the 2286
employer provides coverage to other employees performing 2287
comparable work. Neither the employer nor the PERS retirant may 2288
wave the employer's coverage, except that the PERS retirant may 2289
wave the employer's coverage if the retirant has coverage 2290
comparable to that provided by the employer from a source other 2291
than the employer or the public employees retirement system. If a 2292

claim is made, the employer's coverage shall be the primary 2293
coverage and shall pay first. Any coverage provided under this 2294
section shall pay only those medical expenses not paid through the 2295
employer's coverage or coverage the PERS retirant receives through 2296
a source other than the retirement system. 2297

(b) As used in division (B)(2)(b) of this section, "employer" 2298
means a public or private entity that acts as an employer and is 2299
not limited to an "employer" as defined in section 145.01 of the 2300
Revised Code. 2301

An individual who is a recipient of a disability or survivor 2302
benefit, is a PERS retirant not subject to division (B)(2)(a) of 2303
this section, or is a sponsored dependent of the recipient or 2304
retirant is not eligible to receive primary health, medical, 2305
hospital, or surgical insurance coverage under this section if the 2306
individual is employed and coverage is available through the 2307
employer. Any coverage provided under this section shall pay only 2308
those medical expenses, or the portion of medical expenses, not 2309
payable from coverage available through the employer. 2310

(c) Each individual subject to division (B)(2) of this 2311
section shall annually make a report to the board or an entity 2312
designated by the board stating whether primary health, medical, 2313
hospital, or surgical insurance coverage is available to the 2314
individual through the individual's employer. The report shall 2315
include any information requested by the board or entity. 2316

(3) The board may contract for coverage on the basis of part 2317
or all of the cost of the coverage to be paid from appropriate 2318
funds of the public employees retirement system. The cost paid 2319
from the funds of the system shall be included in the employer's 2320
contribution rate provided by sections 145.48 and 145.51 of the 2321
Revised Code. The board may by rule provide coverage to ineligible 2322
individuals if the coverage is provided at no cost to the 2323

retirement system. The board shall not pay or reimburse the cost 2324
for coverage under this section or section 145.325 of the Revised 2325
Code for any ineligible individual. 2326

The board may provide for self-insurance of risk or level of 2327
risk as set forth in the contract with the companies, 2328
corporations, or agencies, and may provide through the 2329
self-insurance method specific benefits as authorized by rules of 2330
the board. 2331

(C) The board shall, beginning the month following receipt of 2332
satisfactory evidence of the payment for coverage, pay monthly to 2333
each recipient of service retirement, or a disability or survivor 2334
benefit under the public employees retirement system who is 2335
eligible for medical insurance coverage under part B of Title 2336
XVIII of "The Social Security Act," 79 Stat. 301 (1965), 42 2337
U.S.C.A. 1395j, as amended, an amount equal to the basic premium 2338
for such coverage, except that the board shall make no such 2339
payment to any ineligible individual. 2340

(D)(1) As used in this division: 2341

(a) "Available coverage" means coverage available from a 2342
source other than coverage provided under this section or section 2343
145.325 of the Revised Code. 2344

(b) "Coverage" includes any payment or benefit. 2345

(2) The board shall establish by rule requirements for the 2346
coordination of any coverage, ~~payment, or benefit~~ provided under 2347
this section or section 145.325 of the Revised Code with any 2348
similar available coverage, ~~payment, or benefit made available to~~ 2349
~~the same individual by the Ohio police and fire pension fund,~~ 2350
~~state teachers retirement system, school employees retirement~~ 2351
~~system, or state highway patrol retirement system.~~ 2352

For situations not subject to division (B)(2) of this 2353
section, the rules shall specify all of the following: 2354

(a) In the case of an individual receiving an age and service retirement or a disability or survivor benefit as referenced in division (B)(1) of this section, coverage under this section or section 145.325 of the Revised Code shall pay medical expenses prior to payment under any available coverage if the available coverage requires coordination with coverage under this section or section 145.325 of the Revised Code and is provided to the individual as the spouse or dependent of another person.

(b) Coverage under this section or section 145.325 of the Revised Code shall pay only medical expenses not paid by any available coverage if any of the following applies:

(i) The available coverage does not require coordination with coverage under this section or section 145.325 of the Revised Code.

(ii) In the case of an individual receiving an age and service retirement or a disability or survivor benefit as referenced in division (B)(1) of this section, the available coverage requires coordination with coverage under this section or section 145.325 of the Revised Code, is not provided as a spouse or dependent of another person, and has been in effect for a longer time than the coverage under this section or section 145.325 of the Revised Code.

(iii) In the case of a sponsored dependent, the available coverage requires coordination with coverage under this section or section 145.325 of the Revised Code and either is not provided as the spouse or dependent of another person or is provided as the spouse or dependent of another person but has been in effect for a longer time than the coverage under this section or section 145.325 of the Revised Code.

(3) Each person who has coverage under this section or section 145.325 of the Revised Code as an individual receiving an

age and service retirement or a disability or survivor benefit as 2386
referenced in division (B)(1) of this section and each sponsored 2387
dependent shall annually make a report to the board or an entity 2388
designated by the board stating whether the person has available 2389
coverage. The report shall include any information requested by 2390
the board or entity. 2391

(E) The board shall make all other necessary rules pursuant 2392
to the purpose and intent of this section. The rules may establish 2393
additional limitations on the coverage available to recipients, 2394
retirants, and sponsored dependents under division (B) or (D) of 2395
this section and may provide for exceptions to the requirements 2396
specified in that division. 2397

Sec. 145.583. The PERS defined benefit plan or a PERS defined 2398
contribution plan may include a program under which a member 2399
participating in the plan or a member's employer is permitted to 2400
make additional deposits for the purpose of providing funds to the 2401
member or retirant for the payment of health, medical, hospital, 2402
surgical, dental, or vision care expenses, including insurance 2403
premiums, deductible amounts, or copayments. The program may be a 2404
voluntary employees' beneficiary association, as described in 2405
section 501(c)(9) of the "Internal Revenue Code of 1986," 100 2406
Stat. 2085, 26 U.S.C.A. 501(c)(9), as amended; a medical savings 2407
account; or a similar type of program under which an individual 2408
may accumulate funds for the purpose of paying such expenses. To 2409
implement the program, the public employees retirement board may 2410
enter into agreements with insurance companies or other entities 2411
authorized to conduct business in this state. 2412

If the PERS defined benefit plan or a PERS defined 2413
contribution plan includes a program described in this section, 2414
the board shall adopt rules to establish and administer the 2415
program. 2416

Sec. 145.62. Subject to rules adopted by the public employees retirement system under section 145.09 of the Revised Code, a contributor participating in the PERS defined benefit plan or contributing under section 145.38 of the Revised Code may deposit additional amounts in the employees' savings fund established under section 145.23 of the Revised Code. The additional deposits may be made either directly to the retirement system or by payroll deduction under section 145.294 of the Revised Code. The contributor shall receive in return either an annuity, as provided in section 145.64 of the Revised Code, having a reserve equal to the amount deposited or a refund under section 145.63 of the Revised Code of the amount deposited, together with earnings on the amount deposited as the public employees retirement board determines appropriate. If the annuity under the plan of payment selected by the contributor under section 145.64 of the Revised Code would be less than twenty-five dollars per month, the contributor shall receive the refund.

Sec. 145.63. (A) Deposits under section 145.62 of the Revised Code, together with earnings, shall be refunded under whichever of the following circumstances applies:

(1) On withdrawal of accumulated contributions as provided in sections 145.40 and 145.43 of the Revised Code;

(2) On the death of a contributor prior to retirement;

(3) In the case of a contributor participating in the PERS defined benefit plan, on application of the contributor prior to attaining eligibility for age and service retirement;

(4) In the case of a contributor under section 145.38 of the Revised Code, on application of the contributor prior to attaining eligibility for a benefit under section 145.384 of the Revised Code;

(5) In the case of a contributor who has attained eligibility for an age and service retirement benefit or a benefit under section 145.384 of the Revised Code and is not married, on application; 2447
2448
2449
2450

(6) In the case of a contributor who has attained eligibility for an age and service retirement benefit or a benefit under section 145.384 of the Revised Code and is married, on application if the application is accompanied by a statement of the spouse's consent to the refund or the public employees retirement board waives the requirement that the spouse consent. 2451
2452
2453
2454
2455
2456

(B) The consent of a spouse to a refund is valid only if it is in writing, signed, and witnessed by a notary public. 2457
2458

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. 2459
2460
2461
2462

Sec. 145.64. (A) As used in this section: 2463

(1) "Plan A" means a plan of payment that is the same as "plan A" as described in section 145.46 of the Revised Code. 2464
2465

(2) "Plan B" means a plan of payment that is the same as "plan B" as described in section 145.46 of the Revised Code. 2466
2467

(B) A contributor who has not received a refund of amounts deposited under section 145.62 or the version of division (C) of section 145.23 of the Revised Code as it existed immediately prior to the effective date of this section may file an application with the public employees retirement system for a benefit under this section. The benefit shall consist of an annuity under a plan of payment described in division (B) of section 145.46 of the Revised Code. 2468
2469
2470
2471
2472
2473
2474
2475

A contributor who is married at the time of application for a 2476

benefit under this section shall receive the benefit as a monthly annuity under "plan A", unless the application is accompanied by a statement of the spouse's consent to another plan of payment or the public employees retirement board waives the requirement that the spouse consent. 2477
2478
2479
2480
2481

The contributor shall designate a beneficiary under a plan of payment in writing at the time the plan is selected. A plan of payment, other than "plan B," shall be effective only if it is certified by an actuary engaged by the board to be the actuarial equivalent of the contributor's "plan B" annuity and is approved by the board. 2482
2483
2484
2485
2486
2487

A contributor who is eligible to select a plan of payment under this section, but fails to do so, shall receive a monthly annuity under the plan of payment specified in rules adopted by the board. 2488
2489
2490
2491

An annuity shall be paid monthly and consist of an amount determined by the public employees retirement system or the actuarial equivalent of that amount paid under a plan of payment described in this section. 2492
2493
2494
2495

Payments shall begin on whichever of the following applies: 2496

(1) The effective date of the contributor's age and service retirement allowance; 2497
2498

(2) The effective date of a benefit under section 145.384 of the Revised Code; 2499
2500

(3) The date on which a member receiving disability retirement under section 145.36 of the Revised Code would have been eligible for an age and service retirement allowance. 2501
2502
2503

(C) The consent of a spouse to a plan of payment other than "plan A" is valid only if it is in writing, signed, and witnessed by a notary public. The board may waive the requirement of consent 2504
2505
2506

if the spouse is incapacitated or cannot be located or for any 2507
other reason specified by the board. Consent or waiver is 2508
effective only with regard to the spouse who is the subject of the 2509
consent or waiver. 2510

(D)(1) The death of a spouse or designated beneficiary under 2511
a plan of payment described in division (B) of section 145.46 of 2512
the Revised Code cancels the plan of payment. Effective the month 2513
following receipt by the board of notice of the death, the 2514
contributor shall receive payments under "plan B." 2515

(2) On divorce, annulment, or marriage dissolution, a 2516
contributor may, with written consent of the spouse or pursuant to 2517
an order of the court with jurisdiction over the termination of 2518
the marriage, elect to cancel a plan and instead receive payments 2519
under "plan B." The election shall be made on a form provided by 2520
the system and shall be effective the month following its receipt 2521
by the system. 2522

(3) Following marriage or remarriage, a contributor receiving 2523
payments under "plan B" may select a new plan of payment based on 2524
the actuarial equivalent of the contributor's "plan B" annuity as 2525
determined by the board. The plan shall become effective the first 2526
day of the month following receipt by the system of an application 2527
on a form provided by the system. 2528

(E) If at the time of death a contributor receiving a monthly 2529
annuity under "plan B" has received less than the retirant's 2530
deposits under section 145.62 or the version of division (C) of 2531
section 145.23 of the Revised Code as it existed immediately prior 2532
to the effective date of this section, plus earnings on those 2533
deposits, the difference between the amount received and the 2534
amount of the contributor's deposits plus earnings shall be paid 2535
to the contributor's beneficiary under section 145.65 of the 2536
Revised Code. If a beneficiary receiving a monthly annuity under 2537

this section dies and at the time of the beneficiary's death the 2538
amounts paid to the contributor and the beneficiary are less than 2539
the amount of the contributor's deposits plus earnings on those 2540
deposits, the difference between the amount received by the 2541
contributor and the beneficiary and the amount of the 2542
contributor's deposits plus earnings shall be paid to the 2543
beneficiary's estate. 2544

(F) Receipt of the first month's annuity payment constitutes 2545
final acceptance of the plan of payment and may be changed only as 2546
provided in this section. 2547

Sec. 145.65. (A) As used in this section, "child," "parent," 2548
and "surviving spouse" have the same meanings as in section 145.43 2549
of the Revised Code. 2550

(B) Should a contributor die before commencement of a benefit 2551
under section 145.64 of the Revised Code, any deposits made under 2552
section 145.62 or the version of division (C) of section 145.23 of 2553
the Revised Code as it existed immediately prior to the effective 2554
date of this section plus earnings shall be paid to the person or 2555
persons the contributor has designated in writing duly executed on 2556
a form provided by the public employees retirement system, signed 2557
by the contributor, and filed with the system prior to the 2558
contributor's death. A contributor may designate two or more 2559
persons as beneficiaries to be paid jointly. The last designation 2560
of any beneficiary revokes all previous designations. The 2561
contributor's marriage, divorce, marriage dissolution, legal 2562
separation, or refund under section 145.63 of the Revised Code, or 2563
the birth of the contributor's child, or adoption of a child, 2564
shall constitute an automatic revocation of the contributor's 2565
previous designation. 2566

If the deposits of a deceased contributor are not claimed by 2567
a beneficiary or by the estate of the deceased contributor within 2568

five years after the death, the deposits shall remain in the 2569
employees' savings fund or may be transferred to the income fund 2570
and thereafter shall be paid to the beneficiary or to the 2571
contributor's estate on application to the system. The public 2572
employees retirement board shall formulate and adopt the necessary 2573
rules governing all designations of beneficiaries. 2574

(C) If a contributor dies before commencement of a benefit 2575
under section 145.64 of the Revised Code and is not survived by a 2576
designated beneficiary, the following shall qualify with all 2577
attendant rights and privileges, in the following order of 2578
precedence, the contributor's: 2579

(1) Surviving spouse; 2580

(2) Children, share and share alike; 2581

(3) Parents, share and share alike; 2582

(4) Estate. 2583

If the beneficiary is deceased or is not located within 2584
ninety days, the beneficiary ceases to qualify for any benefit and 2585
the beneficiary next in order of precedence shall qualify as a 2586
beneficiary. 2587

Any payment made to a beneficiary as determined by the board 2588
shall be a full discharge and release to the board from any future 2589
claims. 2590

(D) If the validity of marriage cannot be established to the 2591
satisfaction of the board for the purpose of disbursing any amount 2592
due under sections 145.63 or 145.64 of the Revised Code, the board 2593
may accept a decision rendered by a court having jurisdiction in 2594
the state in which the contributor was domiciled at the time of 2595
death that the relationship constituted a valid marriage at the 2596
time of death, or the "spouse" would have the same status as a 2597
widow or widower for purposes of sharing the distribution of the 2598

contributor's intestate personal property. 2599

(E) If the death of a contributor or any individual who would be eligible to receive a refund under section 145.63 of the Revised Code or an annuity payment under section 145.64 of the Revised Code by virtue of the death of a contributor is caused by a beneficiary, as described in division (F) of section 145.43 of the Revised Code, no amount due under section 145.63 or 145.64 of the Revised Code to that beneficiary shall be paid to that beneficiary in the absence of a court order to the contrary filed with the board. 2600
2601
2602
2603
2604
2605
2606
2607
2608

Sec. 145.813. Each PERS defined contribution plan shall require the public employees retirement board, or the entity administering the plan pursuant to a contract with the board, to cause an individual account to be maintained for each member participating in the plan. Amounts to be credited ~~to an individual account~~ under a PERS defined contribution plan may be deposited into any of the funds created under section 145.23 of the Revised Code or may be transferred to the entity administering the plan for ~~deposit into the purpose of making distributions from the~~ member's individual account. 2609
2610
2611
2612
2613
2614
2615
2616
2617
2618

Sec. 145.814. (A) As used in this section: 2619

~~(1) "Additional liability" means an amount that, when added to the amount on deposit, will provide the remaining portion of the pension reserve for the period of service that corresponds to the contributions made by or on behalf of a member.~~ 2620
2621
2622
2623

~~(2) "Amount on deposit" means the sum of a member's employee and employer contributions and, if applicable, any earnings or losses on those contributions.~~ 2624
2625
2626

~~(3) "Eligible, "eligible member" means a member who was eligible to make an election under section 145.19 or 145.191 of~~ 2627
2628

the Revised Code, regardless of whether the member elected to participate in a PERS defined contribution plan. 2629
2630

(B) If permitted to do so by the plan documents for a PERS defined contribution plan or rules governing the PERS defined benefit plan, an eligible member may elect, at intervals specified by the plan document or rules, to participate in a different defined contribution plan or in the PERS defined benefit plan. The election is subject to this section and rules adopted by the public employees retirement board under sections 145.09 and 145.80 of the Revised Code. An election to participate in a different plan shall be made in writing on a form provided by the public employees retirement system and filed with the system. The election shall take effect on the first day of the month following the date the election is filed and, except as provided in the plan documents or rules governing the PERS defined benefit plan, is irrevocable on receipt by the system. 2631
2632
2633
2634
2635
2636
2637
2638
2639
2640
2641
2642
2643
2644

~~(C)(1)~~ Except as provided in division ~~(C)(2)~~(D) of this section, an election to participate in a different plan shall apply only to employee and employer contributions made and, if applicable, service credit earned after the effective date of the election. 2645
2646
2647
2648
2649

~~(2)(D)~~ An eligible member may elect to have the member's amount on deposit for the prior plan and, if applicable, service credit earned prior to the effective date of the election deposited and credited in accordance with the member's new plan if ~~one of the following applies:~~ 2650
2651
2652
2653
2654

~~(a) The member, by an election under this section, will cease participation in a PERS defined contribution plan that does not include definitely determinable benefits.~~ 2655
2656
2657

~~(b) The the member, by an election under ~~division (A)~~ of this section, will begin participating in the PERS defined benefit plan~~ 2658
2659

or a PERS defined contribution plan with definitely determinable 2660
benefits. The amount on deposit is the amount the member would be 2661
entitled to receive as a refund from the prior plan if the member 2662
ceased to be a public employee. 2663

~~(3) If a member described in division (C)(2) of this section~~ 2664
makes the election described in ~~that~~ this division, and service 2665
credit is to be transferred, the board's actuary shall determine 2666
the additional liability to the system, if any. ~~If~~ The additional 2667
liability is the amount that, when added to the amount on deposit, 2668
will provide the remaining portion of the pension reserve for the 2669
period of the member's service as a public employee in the prior 2670
plan. 2671

If the actuary determines that there is an additional 2672
liability, the member shall elect one of the following: 2673

~~(a)(1)~~ (1) To receive the total amount of service credit that the 2674
member would have received had the member been participating in 2675
the new plan, and pay to the system an amount equal to the 2676
additional liability; 2677

~~(b) Receive~~ (2) To receive an amount of service credit in the 2678
new plan that corresponds to the amount on deposit for the prior 2679
plan. 2680

For each member who makes the election described in this 2681
division ~~(C)(2) of this section,~~ the system shall deposit and 2682
credit to the new plan the amount on deposit for the prior plan 2683
and, if applicable, the amount paid by the member. 2684

Sec. 145.82. (A) Except as provided in divisions (B) and (C) 2685
of this section, sections 145.201 to 145.70 of the Revised Code do 2686
not apply to a PERS defined contribution plan, except that a PERS 2687
defined contribution plan may incorporate provisions of those 2688
sections as specified in the plan document. 2689

(B) The following sections of Chapter 145. of the Revised Code apply to a PERS defined contribution plan: 145.22, 145.221, 145.23, 145.25, 145.26, 145.27, 145.296, 145.38, ~~145.382, 145.383,~~ 145.384, 145.391, 145.47, 145.48, 145.483, 145.51, 145.52, 145.53, 145.54, 145.55, 145.56, 145.563, 145.57, 145.571, 145.69, and 145.70 of the Revised Code.

(C) A PERS defined contribution plan that includes definitely determinable benefits may incorporate by reference all or part of sections 145.201 to 145.79 of the Revised Code to allow a member participating in the plan to purchase service credit or to be eligible for any of the following:

(1) Retirement, disability, survivor, or death benefits;

(2) Health or long-term care insurance or any other type of health care benefit;

(3) Additional increases under section 145.323 of the Revised Code;

(4) A refund of contributions made by or on behalf of a member.

With respect to the benefits described in division (C)(1) of this section, the public employees retirement board may establish eligibility requirements and benefit formulas or amounts that differ from those of members participating in the PERS defined benefit plan. With respect to the purchase of service credit by a member participating in a PERS defined contribution plan, the board may reduce the cost of the service credit to reflect the different benefit formula established for the member.

Sec. 145.83. A PERS defined contribution plan may include a program described in section 145.583 of the Revised Code under which a ~~participating~~ member participating in the plan is required to accumulate a portion of the amount contributed under section

145.86 of the Revised Code for the purpose of providing funds to 2720
the member for the payment of health, medical, hospital, surgical, 2721
dental, or vision care expenses, including insurance premiums, 2722
deductible amounts, or copayments as described in that section. 2723
~~The program may be a voluntary employees' beneficiary association,~~ 2724
~~as described in section 501(c)(9) of the "Internal Revenue Code of~~ 2725
~~1986," 100 Stat. 2085, 26 U.S.C.A. 501(c)(9), as amended; a~~ 2726
~~medical savings account; or a similar type of program under which~~ 2727
~~an individual may accumulate funds for the purpose of paying such~~ 2728
~~expenses. To implement the program, the public employees~~ 2729
~~retirement board may enter into agreements with insurance~~ 2730
~~companies or other entities authorized to conduct business in this~~ 2731
~~state.~~ 2732

If a PERS defined contribution plan includes a program 2733
described in this section, the public employees retirement board 2734
shall adopt rules to ~~establish and administer the program.~~ The 2735
~~rules shall~~ specify the length of time during which the member 2736
will vest in amounts accumulated on the member's behalf and may 2737
provide for a minimum annual distribution from the accumulated 2738
amount after the member terminates employment in positions subject 2739
to this chapter. 2740

Sec. 145.92. If a member participating in a PERS defined 2741
contribution plan is married at the time benefits under the plan 2742
are to commence, unless the spouse consents to another plan of 2743
payment, the member's ~~retirement allowance~~ benefit under the plan 2744
shall be paid in a lesser amount payable for life and one-half of 2745
~~the allowance~~ that amount continuing after death to the surviving 2746
spouse for the life of the spouse. 2747

Consent is valid only if it is evidenced by a written 2748
document signed by the ~~member~~ spouse and the signature is 2749
witnessed by a notary public. A plan may waive the requirement of 2750

consent if the spouse is incapacitated or cannot be located or for 2751
any other reason specified by the plan or in rules adopted by the 2752
public employees retirement board. 2753

Consent or waiver is effective only with regard to the spouse 2754
who is the subject of the consent or waiver. 2755

Sec. 145.97. Each PERS defined contribution plan shall permit 2756
a member participating in the plan to do all of the following: 2757
2758

(A) Maintain on deposit with the public employees retirement 2759
system, or the entity administering the plan pursuant to a 2760
contract with the public employees retirement board, any amounts 2761
that have accumulated on behalf of the member; 2762

(B) If the member has withdrawn the amounts described in 2763
division (A) of this section, returns to employment covered under 2764
this chapter, and is participating in a plan that includes 2765
definitely determinable benefits, pay to the system the amounts 2766
withdrawn in accordance with rules adopted under section ~~145.31~~ 2767
145.80 of the Revised Code; 2768

(C) Make additional deposits as permitted by the "Internal 2769
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 2770

Section 2. That existing sections 145.01, 145.19, 145.191, 2771
145.193, 145.20, 145.23, 145.294, 145.325, 145.33, 145.35, 145.38, 2772
145.384, 145.385, 145.401, 145.43, 145.471, 145.472, 145.473, 2773
145.483, 145.49, 145.51, 145.54, 145.58, 145.813, 145.814, 145.82, 2774
145.83, 145.92, and 145.97 of the Revised Code are hereby 2775
repealed. 2776

Section 3. That the version of section 145.92 of the Revised 2777
Code that is scheduled to take effect October 27, 2006, be amended 2778
to read as follows: 2779

Sec. 145.92. If a member participating in a PERS defined 2780
contribution plan is married at the time benefits under the plan 2781
are to commence, unless the spouse consents to another plan of 2782
payment or the spouse's consent is waived, the member's ~~retirement~~ 2783
~~allowance~~ benefit under the plan shall be paid in a lesser amount 2784
payable for life and one-half of ~~the allowance~~ that amount 2785
continuing after death to the surviving spouse for the life of the 2786
spouse. 2787

Consent is valid only if it is evidenced by a written 2788
document signed by the ~~member~~ spouse and the signature is 2789
witnessed by a notary public. A plan may waive the requirement of 2790
consent if the spouse is incapacitated or cannot be located or for 2791
any other reason specified by the plan or in rules adopted by the 2792
public employees retirement board. 2793

A plan shall waive the requirement of consent if a plan of 2794
payment that provides for payment in a specified portion of the 2795
~~retirement allowance~~ benefit continuing after the member's death 2796
to a former spouse is required by a court order issued under 2797
section 3105.171 or 3105.65 of the Revised Code or laws of another 2798
state regarding division of marital property prior to the 2799
effective date of the member's retirement. If a court order 2800
requires this plan of payment, the member shall be required to 2801
annuitize the member's accumulated amounts in accordance with the 2802
order. If the member is married, the plan of payment selected by 2803
the member also shall provide for payment to the member's current 2804
spouse, unless the current spouse consents in writing to not being 2805
designated a beneficiary under the plan of payment or the current 2806
spouse's consent is waived by reason other than the court order. 2807

Consent or waiver is effective only with regard to the spouse 2808
who is the subject of the consent or waiver. 2809

Section 4. That the version of section 145.92 of the Revised Code that is scheduled to take effect on October 27, 2006, is hereby repealed.

2810
2811
2812

Section 5. Sections 3 and 4 of this act shall take effect October 27, 2006.

2813
2814