

**As Introduced**

**127th General Assembly  
Regular Session  
2007-2008**

**H. B. No. 270**

**Representative Schneider**

**Cosponsors: Representatives Adams, Latta, Fessler, McGregor, J., Setzer,  
Webster, Collier**

**—**

**A BILL**

To amend sections 145.01, 145.191, 145.38, 145.384, 1  
145.473, 145.58, 742.26, 3307.35, and 3309.341 of 2  
the Revised Code to provide that a member of the 3  
Public Employees Retirement System, Ohio Police 4  
and Fire Pension Fund, State Teachers Retirement 5  
System, or School Employees Retirement System who 6  
retires and then returns to public employment in 7  
the same position will not receive a pension while 8  
earning a salary for that employment. 9

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

**Section 1.** That sections 145.01, 145.191, 145.38, 145.384, 10  
145.473, 145.58, 742.26, 3307.35, and 3309.341 of the Revised Code 11  
be amended to read as follows: 12

**Sec. 145.01.** As used in this chapter: 13

(A) "Public employee" means: 14

(1) Any person holding an office, not elective, under the 15  
state or any county, township, municipal corporation, park 16  
district, conservancy district, sanitary district, health 17  
district, metropolitan housing authority, state retirement board, 18

Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, 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 division (A)(1) of this section, or employed and paid in whole or in part by the state or any of the authorities named in division (A)(1) of this section in any capacity not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code.

(2) A person who is a member of the public employees retirement system and who continues to perform the same or similar duties under the direction of a contractor who has contracted to take over what before the date of the contract was a publicly operated function. The governmental unit with which the contract has been made shall be deemed the employer for the purposes of administering this chapter.

(3) Any person who is an employee of a public employer, notwithstanding that the person's compensation for that employment is derived from funds of a person or entity other than the employer. Credit for such service shall be included as total service credit, provided that the employee makes the payments required by this chapter, and the employer makes the payments required by sections 145.48 and 145.51 of the Revised Code.

(4) A person who elects in accordance with section 145.015 of the Revised Code to remain a contributing member of the public employees retirement system.

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

(B) "Member" means any public employee, other than a public

employee excluded or exempted from membership in the retirement 50  
system by section 145.03, 145.031, 145.032, 145.033, 145.034, 51  
145.035, or 145.38 of the Revised Code. ~~"Member" includes a PERS 52  
retirant who becomes a member under division (C) of section 145.38 53  
of the Revised Code.~~ "Member" also includes a disability benefit 54  
recipient. 55

(C) "Head of the department" means the elective or appointive 56  
head of the several executive, judicial, and administrative 57  
departments, institutions, boards, and commissions of the state 58  
and local government as the same are created and defined by the 59  
laws of this state or, in case of a charter government, by that 60  
charter. 61

(D) "Employer" or "public employer" means the state or any 62  
county, township, municipal corporation, park district, 63  
conservancy district, sanitary district, health district, 64  
metropolitan housing authority, state retirement board, Ohio 65  
historical society, public library, county law library, union 66  
cemetery, joint hospital, institutional commissary, state medical 67  
college, state university, or board, bureau, commission, council, 68  
committee, authority, or administrative body as the same are, or 69  
have been, created by action of the general assembly or by the 70  
legislative authority of any of the units of local government 71  
named in this division not covered by section 742.01, 3307.01, 72  
3309.01, or 5505.01 of the Revised Code. In addition, "employer" 73  
means the employer of any public employee. 74

(E) "Prior service" means all service as a public employee 75  
rendered before January 1, 1935, and all service as an employee of 76  
any employer who comes within the state teachers retirement system 77  
or of the school employees retirement system or of any other 78  
retirement system established under the laws of this state 79  
rendered prior to January 1, 1935, provided that if the employee 80  
claiming the service was employed in any capacity covered by that 81

other system after that other system was established, credit for 82  
the service may be allowed by the public employees retirement 83  
system only when the employee has made payment, to be computed on 84  
the salary earned from the date of appointment to the date 85  
membership was established in the public employees retirement 86  
system, at the rate in effect at the time of payment, and the 87  
employer has made payment of the corresponding full liability as 88  
provided by section 145.44 of the Revised Code. "Prior service" 89  
also means all service credited for active duty with the armed 90  
forces of the United States as provided in section 145.30 of the 91  
Revised Code. 92

If an employee who has been granted prior service credit by 93  
the public employees retirement system for service rendered prior 94  
to January 1, 1935, as an employee of a board of education 95  
establishes, before retirement, one year or more of contributing 96  
service in the state teachers retirement system or school 97  
employees retirement system, then the prior service ceases to be 98  
the liability of this system. 99

If the board determines that a position of any member in any 100  
calendar year prior to January 1, 1935, was a part-time position, 101  
the board shall determine what fractional part of a year's credit 102  
shall be allowed by the following formula: 103

(1) When the member has been either elected or appointed to 104  
an office the term of which was two or more years and for which an 105  
annual salary is established, the fractional part of the year's 106  
credit shall be computed as follows: 107

First, when the member's annual salary is one thousand 108  
dollars or less, the service credit for each such calendar year 109  
shall be forty per cent of a year. 110

Second, for each full one hundred dollars of annual salary 111  
above one thousand dollars, the member's service credit for each 112

such calendar year shall be increased by two and one-half per cent. 113  
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(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. 115  
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(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. 120  
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(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. 125  
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(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. 130  
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(H)(1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including restored service credit as provided by section 145.31 of the Revised Code; credit purchased under sections 145.293 and 145.299 of the Revised Code; all the member's prior service credit; all the member's military service credit computed as provided in this chapter; all service credit established pursuant to section 145.297 of the Revised Code; and any other service credited under this chapter. In addition, "total service credit" includes any 134  
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period, not in excess of three years, during which a member was 144  
out of service and receiving benefits under Chapters 4121. and 145  
4123. of the Revised Code. For the exclusive purpose of satisfying 146  
the service credit requirement and of determining eligibility for 147  
benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, 148  
and 145.361 of the Revised Code, "five or more years of total 149  
service credit" means sixty or more calendar months of 150  
contributing service in this system. 151

(2) "One and one-half years of contributing service credit," 152  
as used in division (B) of section 145.45 of the Revised Code, 153  
also means eighteen or more calendar months of employment by a 154  
municipal corporation that formerly operated its own retirement 155  
plan for its employees or a part of its employees, provided that 156  
all employees of that municipal retirement plan who have eighteen 157  
or more months of such employment, upon establishing membership in 158  
the public employees retirement system, shall make a payment of 159  
the contributions they would have paid had they been members of 160  
this system for the eighteen months of employment preceding the 161  
date membership was established. When that payment has been made 162  
by all such employee members, a corresponding payment shall be 163  
paid into the employers' accumulation fund by that municipal 164  
corporation as the employer of the employees. 165

(3) Where a member also is a member of the state teachers 166  
retirement system or the school employees retirement system, or 167  
both, except in cases of retirement on a combined basis pursuant 168  
to section 145.37 of the Revised Code or as provided in section 169  
145.383 of the Revised Code, service credit for any period shall 170  
be credited on the basis of the ratio that contributions to the 171  
public employees retirement system bear to total contributions in 172  
all state retirement systems. 173

(4) Not more than one year of credit may be given for any 174  
period of twelve months. 175

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

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

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

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

(2) If a member has less than three years of contributing service, the member's final average salary shall be the member's total earnable salary divided by the total number of years, including any fraction of a year, of the member's contributing service.

(3) For the purpose of calculating benefits payable to a member qualifying for service credit under division (Z) of this section, "final average salary" means the total earnable salary on which contributions were made divided by the total number of years during which contributions were made, including any fraction of a

year. If contributions were made for less than twelve months,	207
"final average salary" means the member's total earnable salary.	208
(L) "Annuity" means payments for life derived from	209
contributions made by a contributor and paid from the annuity and	210
pension reserve fund as provided in this chapter. All annuities	211
shall be paid in twelve equal monthly installments.	212
(M) "Annuity reserve" means the present value, computed upon	213
the basis of the mortality and other tables adopted by the board,	214
of all payments to be made on account of any annuity, or benefit	215
in lieu of any annuity, granted to a retirant as provided in this	216
chapter.	217
(N)(1) "Disability retirement" means retirement as provided	218
in section 145.36 of the Revised Code.	219
(2) "Disability allowance" means an allowance paid on account	220
of disability under section 145.361 of the Revised Code.	221
(3) "Disability benefit" means a benefit paid as disability	222
retirement under section 145.36 of the Revised Code, as a	223
disability allowance under section 145.361 of the Revised Code, or	224
as a disability benefit under section 145.37 of the Revised Code.	225
(4) "Disability benefit recipient" means a member who is	226
receiving a disability benefit.	227
(O) "Age and service retirement" means retirement as provided	228
in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of	229
the Revised Code.	230
(P) "Pensions" means annual payments for life derived from	231
contributions made by the employer that at the time of retirement	232
are credited into the annuity and pension reserve fund from the	233
employers' accumulation fund and paid from the annuity and pension	234
reserve fund as provided in this chapter. All pensions shall be	235
paid in twelve equal monthly installments.	236



(Q) "Retirement allowance" means the pension plus that 237  
portion of the benefit derived from contributions made by the 238  
member. 239

(R)(1) Except as otherwise provided in division (R) of this 240  
section, "earnable salary" means all salary, wages, and other 241  
earnings paid to a contributor by reason of employment in a 242  
position covered by the retirement system. The salary, wages, and 243  
other earnings shall be determined prior to determination of the 244  
amount required to be contributed to the employees' savings fund 245  
under section 145.47 of the Revised Code and without regard to 246  
whether any of the salary, wages, or other earnings are treated as 247  
deferred income for federal income tax purposes. "Earnable salary" 248  
includes the following: 249

(a) Payments made by the employer in lieu of salary, wages, 250  
or other earnings for sick leave, personal leave, or vacation used 251  
by the contributor; 252

(b) Payments made by the employer for the conversion of sick 253  
leave, personal leave, and vacation leave accrued, but not used if 254  
the payment is made during the year in which the leave is accrued, 255  
except that payments made pursuant to section 124.383 or 124.386 256  
of the Revised Code are not earnable salary; 257

(c) Allowances paid by the employer for full maintenance, 258  
consisting of housing, laundry, and meals, as certified to the 259  
retirement board by the employer or the head of the department 260  
that employs the contributor; 261

(d) Fees and commissions paid under section 507.09 of the 262  
Revised Code; 263

(e) Payments that are made under a disability leave program 264  
sponsored by the employer and for which the employer is required 265  
by section 145.296 of the Revised Code to make periodic employer 266  
and employee contributions; 267

(f) Amounts included pursuant to divisions (K)(3) and (Y) of this section.	268 269
(2) "Earnable salary" does not include any of the following:	270
(a) Fees and commissions, other than those paid under section 507.09 of the Revised Code, paid as sole compensation for personal services and fees and commissions for special services over and above services for which the contributor receives a salary;	271 272 273 274
(b) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance;	275 276 277 278 279
(c) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, or use of the employer's property or equipment, or amounts paid by the employer to the contributor in lieu of providing the incidental benefits;	280 281 282 283
(d) Reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;	284 285 286
(e) Payments for accrued but unused sick leave, personal leave, or vacation that are made at any time other than in the year in which the sick leave, personal leave, or vacation was accrued;	287 288 289 290
(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;	291 292 293 294 295
(g) Payments made under division (B), (C), or (E) of section 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill	296 297

No. 3 of the 119th general assembly, Section 3 of Amended 298  
Substitute Senate Bill No. 164 of the 124th general assembly, or 299  
Amended Substitute House Bill No. 405 of the 124th general 300  
assembly; 301

(h) Anything of value received by the contributor that is 302  
based on or attributable to retirement or an agreement to retire, 303  
except that payments made on or before January 1, 1989, that are 304  
based on or attributable to an agreement to retire shall be 305  
included in earnable salary if both of the following apply: 306

(i) The payments are made in accordance with contract 307  
provisions that were in effect prior to January 1, 1986; 308

(ii) The employer pays the retirement system an amount 309  
specified by the retirement board equal to the additional 310  
liability resulting from the payments. 311

(3) The retirement board shall determine by rule whether any 312  
compensation not enumerated in division (R) of this section is 313  
earnable salary, and its decision shall be final. 314

(S) "Pension reserve" means the present value, computed upon 315  
the basis of the mortality and other tables adopted by the board, 316  
of all payments to be made on account of any retirement allowance 317  
or benefit in lieu of any retirement allowance, granted to a 318  
member or beneficiary under this chapter. 319

(T)(1) "Contributing service" means all service credited to a 320  
member of the system since January 1, 1935, for which 321  
contributions are made as required by sections 145.47, 145.48, and 322  
145.483 of the Revised Code. In any year subsequent to 1934, 323  
credit for any service shall be allowed by the following formula: 324

(a) For each month for which the member's earnable salary is 325  
two hundred fifty dollars or more, allow one month's credit. 326

(b) For each month for which the member's earnable salary is 327

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

(2) Notwithstanding division (T)(1) of this section, an elected official who prior to January 1, 1980, was granted a full year of credit for each year of service as an elected official shall be considered to have earned a full year of credit for each year of service regardless of whether the service was full-time or part-time. The public employees retirement board has no authority to reduce the credit.

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

(V) "Retirant" means any former member who retires and is receiving a monthly allowance as provided in sections 145.32, 145.33, 145.331, 145.34, and 145.46 of the Revised Code.

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

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

(Y) When a member has been elected or appointed to an office, the term of which is two or more years, for which an annual salary is established, and in the event that the salary of the office is

increased and the member is denied the additional salary by reason 359  
of any constitutional provision prohibiting an increase in salary 360  
during a term of office, the member may elect to have the amount 361  
of the member's contributions calculated upon the basis of the 362  
increased salary for the office. At the member's request, the 363  
board shall compute the total additional amount the member would 364  
have contributed, or the amount by which each of the member's 365  
contributions would have increased, had the member received the 366  
increased salary for the office the member holds. If the member 367  
elects to have the amount by which the member's contribution would 368  
have increased withheld from the member's salary, the member shall 369  
notify the employer, and the employer shall make the withholding 370  
and transmit it to the retirement system. A member who has not 371  
elected to have that amount withheld may elect at any time to make 372  
a payment to the retirement system equal to the additional amount 373  
the member's contribution would have increased, plus interest on 374  
that contribution, compounded annually at a rate established by 375  
the board and computed from the date on which the last 376  
contribution would have been withheld from the member's salary to 377  
the date of payment. A member may make a payment for part of the 378  
period for which the increased contribution was not withheld, in 379  
which case the interest shall be computed from the date the last 380  
contribution would have been withheld for the period for which the 381  
payment is made. Upon the payment of the increased contributions 382  
as provided in this division, the increased annual salary as 383  
provided by law for the office for the period for which the member 384  
paid increased contributions thereon shall be used in determining 385  
the member's earnable salary for the purpose of computing the 386  
member's final average salary. 387

(Z) "Five years of service credit," for the exclusive purpose 388  
of satisfying the service credit requirements and of determining 389  
eligibility for benefits under section 145.33 of the Revised Code, 390  
means employment covered under this chapter or under a former 391

retirement plan operated, recognized, or endorsed by the employer 392  
prior to coverage under this chapter or under a combination of the 393  
coverage. 394

(AA) "Deputy sheriff" means any person who is commissioned 395  
and employed as a full-time peace officer by the sheriff of any 396  
county, and has been so employed since on or before December 31, 397  
1965, and whose primary duties are to preserve the peace, to 398  
protect life and property, and to enforce the laws of this state; 399  
any person who is or has been commissioned and employed as a peace 400  
officer by the sheriff of any county since January 1, 1966, and 401  
who has received a certificate attesting to the person's 402  
satisfactory completion of the peace officer training school as 403  
required by section 109.77 of the Revised Code and whose primary 404  
duties are to preserve the peace, protect life and property, and 405  
enforce the laws of this state; or any person deputized by the 406  
sheriff of any county and employed pursuant to section 2301.12 of 407  
the Revised Code as a criminal bailiff or court constable who has 408  
received a certificate attesting to the person's satisfactory 409  
completion of the peace officer training school as required by 410  
section 109.77 of the Revised Code and whose primary duties are to 411  
preserve the peace, protect life and property, and enforce the 412  
laws of this state. 413

(BB) "Township constable or police officer in a township 414  
police department or district" means any person who is 415  
commissioned and employed as a full-time peace officer pursuant to 416  
Chapter 505. or 509. of the Revised Code, who has received a 417  
certificate attesting to the person's satisfactory completion of 418  
the peace officer training school as required by section 109.77 of 419  
the Revised Code, and whose primary duties are to preserve the 420  
peace, protect life and property, and enforce the laws of this 421  
state. 422

(CC) "Drug agent" means any person who is either of the 423

following: 424

(1) Employed ~~full-time~~ full time as a narcotics agent by a 425  
county narcotics agency created pursuant to section 307.15 of the 426  
Revised Code and has received a certificate attesting to the 427  
satisfactory completion of the peace officer training school as 428  
required by section 109.77 of the Revised Code; 429

(2) Employed ~~full-time~~ full time as an undercover drug agent 430  
as defined in section 109.79 of the Revised Code and is in 431  
compliance with section 109.77 of the Revised Code. 432

(DD) "Department of public safety enforcement agent" means a 433  
full-time employee of the department of public safety who is 434  
designated under section 5502.14 of the Revised Code as an 435  
enforcement agent and who is in compliance with section 109.77 of 436  
the Revised Code. 437

(EE) "Natural resources law enforcement staff officer" means 438  
a full-time employee of the department of natural resources who is 439  
designated a natural resources law enforcement staff officer under 440  
section 1501.013 of the Revised Code and is in compliance with 441  
section 109.77 of the Revised Code. 442

(FF) "Park officer" means a full-time employee of the 443  
department of natural resources who is designated a park officer 444  
under section 1541.10 of the Revised Code and is in compliance 445  
with section 109.77 of the Revised Code. 446

(GG) "Forest officer" means a full-time employee of the 447  
department of natural resources who is designated a forest officer 448  
under section 1503.29 of the Revised Code and is in compliance 449  
with section 109.77 of the Revised Code. 450

(HH) "Preserve officer" means a full-time employee of the 451  
department of natural resources who is designated a preserve 452  
officer under section 1517.10 of the Revised Code and is in 453  
compliance with section 109.77 of the Revised Code. 454

(II) "Wildlife officer" means a full-time employee of the 455  
department of natural resources who is designated a wildlife 456  
officer under section 1531.13 of the Revised Code and is in 457  
compliance with section 109.77 of the Revised Code. 458

(JJ) "State watercraft officer" means a full-time employee of 459  
the department of natural resources who is designated a state 460  
watercraft officer under section 1547.521 of the Revised Code and 461  
is in compliance with section 109.77 of the Revised Code. 462

(KK) "Park district police officer" means a full-time 463  
employee of a park district who is designated pursuant to section 464  
511.232 or 1545.13 of the Revised Code and is in compliance with 465  
section 109.77 of the Revised Code. 466

(LL) "Conservancy district officer" means a full-time 467  
employee of a conservancy district who is designated pursuant to 468  
section 6101.75 of the Revised Code and is in compliance with 469  
section 109.77 of the Revised Code. 470

(MM) "Municipal police officer" means a member of the 471  
organized police department of a municipal corporation who is 472  
employed ~~full-time~~ full time, is in compliance with section 109.77 473  
of the Revised Code, and is not a member of the Ohio police and 474  
fire pension fund. 475

(NN) "Veterans' home police officer" means any person who is 476  
employed at a veterans' home as a police officer pursuant to 477  
section 5907.02 of the Revised Code and is in compliance with 478  
section 109.77 of the Revised Code. 479

(OO) "Special police officer for a mental health institution" 480  
means any person who is designated as such pursuant to section 481  
5119.14 of the Revised Code and is in compliance with section 482  
109.77 of the Revised Code. 483

(PP) "Special police officer for an institution for the 484  
mentally retarded and developmentally disabled" means any person 485



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.

(QQ) "State university law enforcement officer" means any person who is employed ~~full-time~~ 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.

(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.

(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.

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

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

(VV) "Municipal public safety director" means a person who serves ~~full-time~~ full time as the public safety director of a municipal corporation with the duty of directing the activities of the municipal corporation's police department and fire department.

(WW) Notwithstanding section 2901.01 of the Revised Code,

"PERS law enforcement officer" means a sheriff, deputy sheriff, 517  
township constable or police officer in a township police 518  
department or district, drug agent, municipal public safety 519  
director, department of public safety enforcement agent, natural 520  
resources law enforcement staff officer, park officer, forest 521  
officer, preserve officer, wildlife officer, state watercraft 522  
officer, park district police officer, conservancy district 523  
officer, veterans' home police officer, special police officer for 524  
a mental health institution, special police officer for an 525  
institution for the mentally retarded and developmentally 526  
disabled, state university law enforcement officer, municipal 527  
police officer, house sergeant at arms, assistant house sergeant 528  
at arms, regional transit authority police officer, or state 529  
highway patrol police officer. 530

(XX) "Hamilton county municipal court bailiff" means a person 531  
appointed by the clerk of courts of the Hamilton county municipal 532  
court under division (A)(3) of section 1901.32 of the Revised Code 533  
who is employed full time as a bailiff or deputy bailiff, who has 534  
received a certificate attesting to the person's satisfactory 535  
completion of the peace officer basic training described in 536  
division (D)(1) of section 109.77 of the Revised Code, and whose 537  
primary duties are to preserve the peace, to protect life and 538  
property, and to enforce the laws of this state. 539

(YY) "Fiduciary" means a person who does any of the 540  
following: 541

(1) Exercises any discretionary authority or control with 542  
respect to the management of the system or with respect to the 543  
management or disposition of its assets; 544

(2) Renders investment advice for a fee, direct or indirect, 545  
with respect to money or property of the system; 546

(3) Has any discretionary authority or responsibility in the 547

administration of the system. 548

(ZZ) "Actuary" means an individual who satisfies all of the 549  
following requirements: 550

(1) Is a member of the American academy of actuaries; 551

(2) Is an associate or fellow of the society of actuaries; 552

(3) Has a minimum of five years' experience in providing 553  
actuarial services to public retirement plans. 554

(AAA) "PERS defined benefit plan" means the plan described in 555  
sections 145.201 to 145.79 of the Revised Code. 556

(BBB) "PERS defined contribution plans" means the plan or 557  
plans established under section 145.81 of the Revised Code. 558

**Sec. 145.191.** (A) Except as provided in division (E) of this 559  
section, a public employees retirement system member or 560  
contributor who, as of the last day of the month immediately 561  
preceding the date on which the public employees retirement board 562  
first establishes a PERS defined contribution plan, has less than 563  
five years of total service credit is eligible to make an election 564  
under this section. A member or contributor who is employed in 565  
more than one position subject to this chapter is eligible to make 566  
only one election. The election applies to all positions subject 567  
to this chapter. 568

Not later than one hundred eighty days after the day the 569  
board first establishes a PERS defined contribution plan, an 570  
eligible member or contributor may elect to participate in a PERS 571  
defined contribution plan. If a form evidencing an election is not 572  
received by the system not later than the last day of the 573  
one-hundred-eighty-day period, a member or contributor to whom 574  
this section applies is deemed to have elected to continue 575  
participating in the PERS defined benefit plan. 576

(B) An election under this section shall be made in writing 577

on a form provided by the system and filed with the system. 578

(C) On receipt of an election under this section, the system 579  
shall do both of the following: 580

(1) Credit to the plan elected both of the following: 581

(a) Any employer contributions attributable to the member for 582  
the period beginning on the day the board first established a PERS 583  
defined contribution plan; 584

(b) All accumulated contributions attributable to the member 585  
or contributor. 586

(2) Cancel all service credit and eligibility for any 587  
payment, benefit, or right under the PERS defined benefit plan. 588

(D) An election under this section is effective as of the 589  
date the board first established a PERS defined contribution plan 590  
and, except as provided in section 145.814 of the Revised Code or 591  
rules governing the PERS defined benefit plan, is irrevocable on 592  
receipt by the system. 593

(E) An election may not be made under this section by a 594  
member or contributor who is ~~either of the following:~~ 595

~~(1) A PERS retirant who is a member under division (C) of 596  
section 145.38 of the Revised Code;~~ 597

~~(2) A a PERS law enforcement officer or a Hamilton county 598  
municipal court bailiff. 599~~

**Sec. 145.38.** (A) As used in this section and sections 145.381 600  
and 145.384 of the Revised Code: 601

(1) "PERS retirant" means a former member of the public 602  
employees retirement system who is receiving ~~one~~ either of the 603  
following: 604

(a) ~~Age~~ An age and service retirement ~~benefits~~ allowance paid 605  
under section 145.32, 145.33, 145.331, 145.34, or 145.46 of the 606

Revised Code; 607

~~(b) Age and service retirement benefits~~ or paid by the public 608  
employees retirement system ~~under~~ as a consequence of section 609  
145.37 of the Revised Code; 610

~~(c)(b)~~ Any ~~benefit paid distribution~~ under a PERS defined 611  
contribution plan made by virtue of the former member's 612  
retirement. 613

(2) "Other system retirant" means ~~both~~ all of the following: 614

(a) A member or former member of the Ohio police and fire 615  
pension fund, state teachers retirement system, school employees 616  
retirement system, state highway patrol retirement system, or 617  
Cincinnati retirement system who is receiving an age and service 618  
or commuted age and service retirement ~~benefits~~ allowance or a 619  
disability benefit from a system of which the person is a member 620  
or former member; 621

(b) A member or former member of the public employees 622  
retirement system who is receiving an age and service retirement 623  
~~benefits~~ allowance or a disability benefit ~~under~~ as a consequence 624  
of section 145.37 of the Revised Code paid by the school employees 625  
retirement system or the state teachers retirement system; 626

(c) A former member of the state teachers retirement system 627  
or school employees retirement system who is receiving a 628  
distribution under a plan established under section 3307.81 or 629  
3309.81 of the Revised Code by virtue of the former member's 630  
retirement. 631

(3) "Retirement benefit" means an age and service retirement 632  
allowance or a distribution by virtue of retirement as described 633  
in division (A)(1) or (2) of this section. 634

(4) Notwithstanding the definitions of "pension" and 635  
"annuity" in section 145.01 of the Revised Code, in the case of a 636

PERS retirant or other system retirant who is retired under the 637  
PERS defined contribution plan or a plan established under section 638  
3307.81 or 3309.81 of the Revised Code: 639

(a) "Pension portion of the retirement benefit" means the 640  
portion of the retirement benefit that is derived from 641  
contributions made by the employer and is paid in monthly or less 642  
frequent installments. 643

(b) "Annuity portion of the retirement benefit" means the 644  
portion of the retirement benefit that is derived from 645  
contributions made by the former member and is paid in monthly or 646  
less frequent installments. 647

(B)(1) Subject to this section and section 145.381 of the 648  
Revised Code, a PERS retirant or other system retirant may be 649  
employed by a public employer. If so employed, the PERS retirant 650  
or other system retirant shall contribute to the public employees 651  
retirement system in accordance with section 145.47 of the Revised 652  
Code, and the employer shall make contributions in accordance with 653  
section 145.48 of the Revised Code. 654

(2) A public employer that employs a PERS retirant or other 655  
system retirant, or enters into a contract for services as an 656  
independent contractor with a PERS retirant, shall notify the 657  
retirement board of the employment or contract not later than the 658  
end of the month in which the employment or contract commences. 659  
Any overpayment of benefits to a PERS retirant by the retirement 660  
system resulting from delay or failure of the employer to give the 661  
notice shall be repaid to the retirement system by the employer. 662

(3) On receipt of notice from a public employer that a person 663  
who is an other system retirant has been employed, the retirement 664  
system shall notify the retirement system of which the other 665  
system retirant was a member of such employment. 666

(4)(a) A PERS retirant who has received a retirement 667

allowance benefit for less than two months when employment subject 668  
to this section commences shall forfeit the retirement allowance 669  
benefit for any month the PERS retirant is employed prior to the 670  
expiration of the two-month period. Service and contributions for 671  
that period shall not be included in calculation of any benefits 672  
payable to the PERS retirant, and those contributions shall be 673  
refunded on the retirant's death or termination of the employment. 674

(b) An other system retirant who has received a retirement 675  
allowance benefit or disability benefit for less than two months 676  
when employment subject to this section commences shall forfeit 677  
the retirement allowance benefit or disability benefit for any 678  
month the other system retirant is employed prior to the 679  
expiration of the two-month period. Service and contributions for 680  
that period shall not be included in the calculation of any 681  
benefits payable to the other system retirant, and those 682  
contributions shall be refunded on the retirant's death or 683  
termination of the employment. 684

(c) Contributions made on compensation earned after the 685  
expiration of the two-month period shall be used in the 686  
calculation of the benefit or payment due under section 145.384 of 687  
the Revised Code. 688

(5) On receipt of notice from the Ohio police and fire 689  
pension fund, school employees retirement system, or state 690  
teachers retirement system of the re-employment of a PERS 691  
retirant, the public employees retirement system shall not pay, or 692  
if paid, shall recover, the amount to be forfeited by the PERS 693  
retirant in accordance with section 742.26, 3307.35, or 3309.341 694  
of the Revised Code. 695

(6) A PERS retirant who, less than one hundred eighty days 696  
after the retirement benefit commences, returns to employment in 697  
the same position or a position in which the duties are the same 698  
or substantially equivalent with the public employer by which the 699

retirant was employed at the time of retirement shall forfeit the 700  
pension portion of the retirement benefit for the period beginning 701  
on the day on which the employment commences and ending on the 702  
first day of the month following the month in which the employment 703  
ends. The annuity portion of the retirement benefit shall be 704  
suspended on the day the employment under this section commences 705  
and shall accumulate to the credit of the retirant to be paid in a 706  
single payment following termination of the employment. 707

In all cases of doubt, the public employees retirement board 708  
shall determine whether the duties of the position are the same or 709  
substantially equivalent. Its decision is final. 710

Payment of the retirement benefit shall resume on the first 711  
day of the month following termination of the employment. On 712  
termination of the employment, the PERS retirant shall receive a 713  
refund of the retirant's contributions to the retirement system 714  
during the period of employment subject to this section. 715

(7) A PERS retirant who enters into a contract to provide 716  
services as an independent contractor to the employer by which the 717  
retirant was employed at the time of retirement or, less than two 718  
months after the retirement ~~allowance~~ benefit commences, begins 719  
providing services as an independent contractor pursuant to a 720  
contract with another public employer, shall forfeit the pension 721  
portion of the retirement benefit for the period beginning the 722  
first day of the month following the month in which the services 723  
begin and ending on the first day of the month following the month 724  
in which the services end. The annuity portion of the retirement 725  
~~allowance~~ benefit shall be suspended on the day services under the 726  
contract begin and shall accumulate to the credit of the retirant 727  
to be paid in a single payment after services provided under the 728  
contract terminate. A PERS retirant subject to division (B)~~(6)~~(7) 729  
of this section shall not contribute to the retirement system and 730  
shall not become a member of the system. 731



~~(7)(8)~~ As used in this division, "employment" includes 732  
service for which a PERS retirant or other system retirant, the 733  
retirant's employer, or both, have waived any earnable salary for 734  
the service. 735

~~(C)(1)~~ Except as provided in division ~~(C)(3)~~ of this section, 736  
this division applies to both of the following: 737

~~(a)~~ A PERS retirant who, prior to September 14, 2000, was 738  
subject to division ~~(C)(1)(b)~~ of this section as that division 739  
existed immediately prior to September 14, 2000, and has not 740  
elected pursuant to Am. Sub. S.B. 144 of the 123rd general 741  
assembly to cease to be subject to that division; 742

~~(b)~~ A PERS retirant to whom both of the following apply: 743

~~(i)~~ The retirant held elective office in this state, or in 744  
any municipal corporation, county, or other political subdivision 745  
of this state at the time of retirement under this chapter. 746

~~(ii)~~ The retirant was elected or appointed to the same office 747  
for the remainder of the term or the term immediately following 748  
the term during which the retirement occurred. 749

~~(2)~~ A PERS retirant who is subject to this division is a 750  
member of the public employees retirement system with all the 751  
rights, privileges, and obligations of membership, except that the 752  
membership does not include survivor benefits provided pursuant to 753  
section 145.45 of the Revised Code or, beginning on the ninetieth 754  
day after September 14, 2000, any amount calculated under section 755  
145.401 of the Revised Code. The pension portion of the PERS 756  
retirant's retirement allowance shall be forfeited until the first 757  
day of the first month following termination of the employment. 758  
The annuity portion of the retirement allowance shall accumulate 759  
to the credit of the PERS retirant to be paid in a single payment 760  
after termination of the employment. The retirement allowance 761  
shall resume on the first day of the first month following 762

~~termination of the employment. On termination of the employment, 763  
the PERS retirant shall elect to receive either a refund of the 764  
retirant's contributions to the retirement system during the 765  
period of employment subject to this section or a supplemental 766  
retirement allowance based on the retirant's contributions and 767  
service credit for that period of employment. 768~~

~~(3) This division does not apply to any of the following: 769~~

~~(a) A PERS retirant elected to office who, at the time of the 770  
election for the retirant's current term, was not retired but, not 771  
less than ninety days prior to the primary election for the term 772  
or the date on which a primary for the term would have been held, 773  
filed a written declaration of intent to retire before the end of 774  
the term with the director of the board of elections of the county 775  
in which petitions for nomination or election to the office are 776  
filed; 777~~

~~(b) A PERS retirant elected to office who, at the time of the 778  
election for the retirant's current term, was a retirant and had 779  
been retired for not less than ninety days; 780~~

~~(c) A PERS retirant appointed to office who, at the time of 781  
appointment to the retirant's current term, notified the person or 782  
entity making the appointment that the retirant was already 783  
retired or intended to retire before the end of the term. 784~~

~~(D)(1) Except as provided in division (C) of this section, a 785  
A PERS retirant or other system retirant subject to this section 786  
is not a member of the public employees retirement system, and, 787  
except as specified in this section does not have any of the 788  
rights, privileges, or obligations of membership. Except as 789  
specified in division ~~(D)~~(C)(2) of this section, the retirant is 790  
not eligible to receive health, medical, hospital, or surgical 791  
benefits under section 145.58 of the Revised Code for employment 792  
subject to this section. 793~~

(2) A PERS retirant subject to this section shall receive 794  
primary health, medical, hospital, or surgical insurance coverage 795  
from the retirant's employer, if the employer provides coverage to 796  
other employees performing comparable work. Neither the employer 797  
nor the PERS retirant may waive the employer's coverage, except 798  
that the PERS retirant may waive the employer's coverage if the 799  
retirant has coverage comparable to that provided by the employer 800  
from a source other than the employer or the public employees 801  
retirement system. If a claim is made, the employer's coverage 802  
shall be the primary coverage and shall pay first. The benefits 803  
provided under section 145.58 of the Revised Code shall pay only 804  
those medical expenses not paid through the employer's coverage or 805  
coverage the PERS retirant receives through a source other than 806  
the retirement system. 807

~~(E)~~(D) If the disability benefit of an other system retirant 808  
employed under this section is terminated, the retirant shall 809  
become a member of the public employees retirement system and 810  
participate in the PERS defined benefit plan, effective on the 811  
first day of the month next following the termination with all the 812  
rights, privileges, and obligations of membership. If such person, 813  
after the termination of the disability benefit, earns two years 814  
of service credit under ~~this system~~ the PERS defined benefit plan 815  
or under the Ohio police and fire pension fund, state teachers 816  
retirement system, school employees retirement system, or state 817  
highway patrol retirement system, the person's prior contributions 818  
as an other system retirant under this section shall be included 819  
in the person's total service credit as a public employees 820  
retirement system member, and the person shall forfeit all rights 821  
and benefits of this section. Not more than one year of credit may 822  
be given for any period of twelve months. 823

~~(F)~~(E) This section does not affect the receipt of benefits 824  
by or eligibility for benefits of any person who on August 20, 825

1976, was receiving a disability benefit or service retirement 826  
pension or allowance from a state or municipal retirement system 827  
in Ohio and was a member of any other state or municipal 828  
retirement system of this state. 829

~~(G)~~(F) The public employees retirement board may adopt rules 830  
to carry out this section. 831

**Sec. 145.384.** (A) ~~As used in this section, "PERS retirant"~~ 832  
~~means a PERS retirant who is not subject to division (C) of~~ 833  
~~section 145.38 of the Revised Code.~~ For purposes of this section, 834  
"PERS retirant" ~~also~~ includes both of the following: 835

(1) A member who retired under section 145.383 of the Revised 836  
Code; 837

(2) A retirant whose retirement allowance resumed under 838  
section 145.385 of the Revised Code. 839

(B)(1) An other system retirant or PERS retirant who has made 840  
contributions under section 145.38 or 145.383 of the Revised Code 841  
or, in the case of a retirant described in division (A)(2) of this 842  
section, section 145.47 of the Revised Code may file an 843  
application with the public employees retirement system to receive 844  
either a benefit, as provided in division (B)(2) of this section, 845  
or payment of the retirant's contributions made under those 846  
sections, as provided in division (H) of this section. 847

(2) A benefit under this section shall consist of an annuity 848  
having a reserve equal to the amount of the retirant's accumulated 849  
contributions for the period of employment, other than the 850  
contributions excluded pursuant to division (B)(4)(a) or (b) of 851  
section 145.38 of the Revised Code, and an amount of the 852  
employer's contributions determined by the board. 853

(a) Unless, as described in division (I) of this section, the 854  
application is accompanied by a statement of the spouse's consent 855

to another form of payment or the board waives the requirement of 856  
spousal consent, a PERS retirant or other system retirant who is 857  
married at the time of application for a benefit under this 858  
section shall receive a monthly annuity under which the actuarial 859  
equivalent of the retirant's single life annuity is paid in a 860  
lesser amount for life and one-half of the lesser amount continues 861  
after the retirant's death to the surviving spouse. 862

(b) A PERS retirant or other system retirant who is not 863  
subject to division (B)(2)(a) of this section shall elect either 864  
to receive the benefit as a monthly annuity or a lump sum payment 865  
discounted to the present value using a rate of interest 866  
determined by the board. A retirant who elects to receive a 867  
monthly annuity shall select one of the following as the plan of 868  
payment: 869

(i) The retirant's single life annuity; 870

(ii) The actuarial equivalent of the retirant's single life 871  
annuity in an equal or lesser amount for life and continuing after 872  
death to a surviving beneficiary designated at the time the plan 873  
of payment is selected. 874

If a retirant who is eligible to select a plan of payment 875  
under division (B)(2)(b) of this section fails to do so, the 876  
benefit shall be paid as a monthly annuity under the plan of 877  
payment specified in rules adopted by the public employees 878  
retirement board. 879

(c) Notwithstanding divisions (B)(2)(a) and (b) of this 880  
section, if a monthly annuity would be less than twenty-five 881  
dollars per month, the retirant shall receive a lump sum payment. 882

(C)(1) The death of a spouse or other designated beneficiary 883  
under a plan of payment described in division (B)(2) of this 884  
section cancels that plan of payment. The PERS retirant or other 885  
system retirant shall receive the equivalent of the retirant's 886

single life annuity, as determined by the board, effective the 887  
first day of the month following receipt by the board of notice of 888  
the death. 889

(2) On divorce, annulment, or marriage dissolution, a PERS 890  
retirant or other system retirant receiving a benefit described in 891  
division (B)(2) of this section under which the beneficiary is the 892  
spouse may, with the written consent of the spouse or pursuant to 893  
an order of the court with jurisdiction over the termination of 894  
the marriage, elect to cancel the plan and receive the equivalent 895  
of the retirant's single life annuity as determined by the board. 896  
The election shall be made on a form provided by the board and 897  
shall be effective the month following its receipt by the board. 898

(D) Following a marriage or remarriage, a PERS retirant or 899  
other system retirant who is receiving a benefit described in 900  
division (B)(2)(b)(i) of this section may elect a new plan of 901  
payment under division (B)(2)(b) of this section based on the 902  
actuarial equivalent of the retirant's single life annuity as 903  
determined by the board. 904

If the marriage or remarriage occurs on or after ~~the~~ 905  
~~effective date of this amendment~~ June 6, 2005, the election must 906  
be made not later than one year after the date of the marriage or 907  
remarriage. 908

The plan elected under this division shall be effective on 909  
the date of receipt by the board of an application on a form 910  
approved by the board, but any change in the amount of the benefit 911  
shall commence on the first day of the month following the 912  
effective date of the plan. 913

(E) A benefit payable under division (B)(2) of this section 914  
shall commence on the latest of the following: 915

(1) The last day for which compensation for all employment 916  
subject to section 145.38, 145.383, or 145.385 of the Revised Code 917

was paid; 918

(2) Attainment by the PERS retirant or other system retirant 919  
of age sixty-five; 920

(3) If the PERS retirant or other system retirant was 921  
previously employed under section 145.38, 145.383, or 145.385 of 922  
the Revised Code and is receiving or previously received a benefit 923  
under this section, completion of a period of twelve months since 924  
the effective date of the last benefit under this section; 925

(4) A date specified by the retirant. 926

(F)(1) If a PERS retirant or other system retirant dies while 927  
employed in employment subject to section 145.38, 145.383, or 928  
145.385 of the Revised Code, a lump sum payment calculated in 929  
accordance with division (B)(2) of this section shall be paid to 930  
the retirant's beneficiary under division (G) of this section. 931

(2) If at the time of death a PERS retirant or other system 932  
retirant receiving a monthly annuity under division (B)(2)(b)(i) 933  
of this section has received less than the retirant would have 934  
received as a lump sum payment, the difference between the amount 935  
received and the amount that would have been received as a lump 936  
sum payment shall be paid to the retirant's beneficiary under 937  
division (G) of this section. 938

(3) If a beneficiary receiving a monthly annuity under 939  
division (B)(2) of this section dies and, at the time of the 940  
beneficiary's death, the total of the amounts paid to the retirant 941  
and beneficiary are less than the amount the retirant would have 942  
received as a lump sum payment, the difference between the total 943  
of the amounts received by the retirant and beneficiary and the 944  
amount that the retirant would have received as a lump sum payment 945  
shall be paid to the beneficiary's estate. 946

(G) A PERS retirant or other system retirant employed under 947  
section 145.38, 145.383, or 145.385 of the Revised Code may 948

designate one or more persons as beneficiary to receive any 949  
benefits payable under division (B)(2)(b) of this section due to 950  
death. The designation shall be in writing duly executed on a form 951  
provided by the public employees retirement board, signed by the 952  
PERS retirant or other system retirant, and filed with the board 953  
prior to death. The last designation of a beneficiary revokes all 954  
previous designations. The PERS retirant's or other system 955  
retirant's marriage, divorce, marriage dissolution, legal 956  
separation, withdrawal of account, birth of a child, or adoption 957  
of a child revokes all previous designations. If there is no 958  
designated beneficiary, the beneficiary is the beneficiary 959  
determined under division (D) of section 145.43 of the Revised 960  
Code. If any benefit payable under this section due to the death 961  
of a PERS retirant or other system retirant is not claimed by a 962  
beneficiary within five years after the death, the amount payable 963  
shall be transferred to the income fund and thereafter paid to the 964  
beneficiary or the estate of the PERS retirant or other system 965  
retirant on application to the board. 966

(H)(1) A PERS retirant or other system retirant who applies 967  
under division (B)(1) of this section for payment of the 968  
retirant's contributions and is unmarried or is married and, 969  
unless the board has waived the requirement of spousal consent, 970  
includes with the application a statement of the spouse's consent 971  
to the payment, shall be paid the contributions made under section 972  
145.38 or 145.383 of the Revised Code or, in the case of a 973  
retirant described in division (A)(2) of this section, section 974  
145.47 of the Revised Code, plus interest as provided in section 975  
145.471 of the Revised Code, if the following conditions are met: 976

(a) The retirant has not attained sixty-five years of age and 977  
has terminated employment subject to section 145.38, 145.383, or 978  
145.385 of the Revised Code for any cause other than death or the 979  
receipt of a benefit under this section. 980



(b) Three months have elapsed since the termination of the 981  
retirant's employment subject to section 145.38, 145.383, or 982  
145.385 of the Revised Code, other than employment exempted from 983  
contribution pursuant to section 145.03 of the Revised Code. 984

(c) The retirant has not returned to public service, other 985  
than service exempted from contribution pursuant to section 145.03 986  
of the Revised Code, during the three-month period. 987

(2) Payment of a retirant's contributions cancels the 988  
retirant's right to a benefit under division (B)(2) of this 989  
section. 990

(I) A statement of a spouse's consent under division (B)(2) 991  
of this section to the form of a benefit or under division (H) of 992  
this section to a payment of contributions is valid only if signed 993  
by the spouse and witnessed by a notary public. The board may 994  
waive the requirement of spousal consent if the spouse is 995  
incapacitated or cannot be located, or for any other reason 996  
specified by the board. Consent or waiver is effective only with 997  
regard to the spouse who is the subject of the consent or waiver. 998

(J) No amount received under this section shall be included 999  
in determining an additional benefit under section 145.323 of the 1000  
Revised Code or any other post-retirement benefit increase. 1001

**Sec. 145.473.** (A) Except as provided in division (C) of this 1002  
section, the rate of interest credited to individual accounts of 1003  
contributors under sections 145.471 and 145.472 of the Revised 1004  
Code shall be as follows: 1005

(1) Four per cent per annum, compounded annually, to and 1006  
including December 31, 1955; 1007

(2) Three per cent per annum, compounded annually, from 1008  
January 1, 1956, to and including December 31, 1963; 1009

(3) Three and one-quarter per cent per annum, compounded 1010

annually, from January 1, 1964, to and including December 31, 1969; 1011  
1012

(4) Four per cent per annum, compounded annually, from January 1, 1970, to and including the day before December 13, 2000; 1013  
1014  
1015

(5) An amount determined by the public employees retirement board that is not greater than six per cent per annum, compounded annually, on and after December 13, 2000. 1016  
1017  
1018

(B) Except as provided in division (C) of this section, for the purpose of determining the reserve value of a contributor's annuity, the rate of interest shall be as follows: 1019  
1020  
1021

(1) Four per cent per annum, compounded annually, for contributors retiring before October 1, 1956; 1022  
1023

(2) Three per cent per annum, compounded annually, for contributors retiring on or after October 1, 1956, but before January 1, 1964; 1024  
1025  
1026

(3) Three and one-quarter per cent per annum, compounded annually, for contributors retiring on or after January 1, 1964, but before January 1, 1970; 1027  
1028  
1029

(4) Four per cent per annum, compounded annually, for contributors retiring on or after January 1, 1970, but before December 13, 2000; 1030  
1031  
1032

(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. 1033  
1034  
1035

(C) ~~For a PERS retirant who is not subject to division (C) of section 145.38 of the Revised Code or an other system retirant, as those terms are~~ that term is 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 1036  
1037  
1038  
1039  
1040

Revised Code, the rate of interest shall be the current actuarial 1041  
assumption rate of interest, as determined by the board's actuary, 1042  
for the purposes described in divisions (A) and (B) of this 1043  
section. 1044

**Sec. 145.58.** (A) As used in this section, "ineligible 1045  
individual" means all of the following: 1046

(1) A former member receiving benefits pursuant to section 1047  
145.32, 145.33, 145.331, 145.34, or 145.46 of the Revised Code for 1048  
whom eligibility is established more than five years after June 1049  
13, 1981, and who, at the time of establishing eligibility, has 1050  
accrued less than ten years' service credit, exclusive of credit 1051  
obtained pursuant to section 145.297 or 145.298 of the Revised 1052  
Code, credit obtained after January 29, 1981, pursuant to section 1053  
145.293 or 145.301 of the Revised Code, and credit obtained after 1054  
May 4, 1992, pursuant to section 145.28 of the Revised Code; 1055

(2) The spouse of the former member; 1056

(3) The beneficiary of the former member receiving benefits 1057  
pursuant to section 145.46 of the Revised Code. 1058

(B) The public employees retirement board may enter into 1059  
agreements with insurance companies, health insuring corporations, 1060  
or government agencies authorized to do business in the state for 1061  
issuance of a policy or contract of health, medical, hospital, or 1062  
surgical benefits, or any combination thereof, for those 1063  
individuals receiving age and service retirement or a disability 1064  
or survivor benefit subscribing to the plan, or for PERS retirants 1065  
employed under section 145.38 of the Revised Code, for coverage of 1066  
benefits in accordance with division ~~(D)~~(C)(2) of section 145.38 1067  
of the Revised Code. Notwithstanding any other provision of this 1068  
chapter, the policy or contract may also include coverage for any 1069  
eligible individual's spouse and dependent children and for any of 1070  
the individual's sponsored dependents as the board determines 1071

appropriate. If all or any portion of the policy or contract 1072  
premium is to be paid by any individual receiving age and service 1073  
retirement or a disability or survivor benefit, the individual 1074  
shall, by written authorization, instruct the board to deduct the 1075  
premium agreed to be paid by the individual to the company, 1076  
corporation, or agency. 1077

The board may contract for coverage on the basis of part or 1078  
all of the cost of the coverage to be paid from appropriate funds 1079  
of the public employees retirement system. The cost paid from the 1080  
funds of the system shall be included in the employer's 1081  
contribution rate provided by sections 145.48 and 145.51 of the 1082  
Revised Code. The board may by rule provide coverage to ineligible 1083  
individuals if the coverage is provided at no cost to the 1084  
retirement system. The board shall not pay or reimburse the cost 1085  
for coverage under this section or section 145.325 of the Revised 1086  
Code for any ineligible individual. 1087

The board may provide for self-insurance of risk or level of 1088  
risk as set forth in the contract with the companies, 1089  
corporations, or agencies, and may provide through the 1090  
self-insurance method specific benefits as authorized by rules of 1091  
the board. 1092

(C) The board shall, beginning the month following receipt of 1093  
satisfactory evidence of the payment for coverage, pay monthly to 1094  
each recipient of service retirement, or a disability or survivor 1095  
benefit under the public employees retirement system who is 1096  
eligible for medical insurance coverage under part B of Title 1097  
XVIII of "The Social Security Act," 79 Stat. 301 (1965), 42 1098  
U.S.C.A. 1395j, as amended, an amount equal to the basic premium 1099  
for such coverage, except that the board shall make no such 1100  
payment to any ineligible individual. 1101

(D) The board shall establish by rule requirements for the 1102  
coordination of any coverage, payment, or benefit provided under 1103

this section or section 145.325 of the Revised Code with any 1104  
similar coverage, payment, or benefit made available to the same 1105  
individual by the Ohio police and fire pension fund, state 1106  
teachers retirement system, school employees retirement system, or 1107  
state highway patrol retirement system. 1108

(E) The board shall make all other necessary rules pursuant 1109  
to the purpose and intent of this section. 1110

**Sec. 742.26.** (A) As used in this section: 1111

(1) "Actuarial present value" means the calculation under 1112  
which the probability of occurrence, based on a specified 1113  
mortality table, and the discount for future monetary growth at a 1114  
specified interest rate are considered by an actuary to determine 1115  
the value of an annuity. 1116

(2) "Other system retirant" means a former member of the 1117  
public employees retirement system, state teachers retirement 1118  
system, school employees retirement system, state highway patrol 1119  
retirement system, or Cincinnati retirement system who is 1120  
receiving a disability benefit or an age and service or commuted 1121  
age and service retirement benefit or allowance from a system of 1122  
which the person is a former member. 1123

(3) "OPFPF retirant" means any person who is receiving a 1124  
retirement allowance, other than a disability benefit, from the 1125  
Ohio police and fire pension fund. 1126

(4) "Annuity portion of a retirement allowance" means the 1127  
portion of a retirement allowance that is derived from 1128  
contributions made by the retirant and is paid in monthly or less 1129  
frequent installments; 1130

(5) "Pension portion of a retirement allowance" means the 1131  
portion of a retirement allowance that is derived from 1132  
contributions made by the employer and is paid in monthly or less 1133

frequent installments. 1134

(B) The mortality table and interest rate used in determining 1135  
actuarial present value shall be determined by the board of 1136  
trustees of the fund based on the recommendations of an actuary 1137  
employed by the board. 1138

(C)(1) An OPFPF retirant or other system retirant may be 1139  
employed as a member of a police or fire department. If so 1140  
employed, the retirant shall make contributions to the fund in 1141  
accordance with section 742.31 of the Revised Code, and the 1142  
employer shall make contributions in accordance with sections 1143  
742.33 and 742.34 of the Revised Code. 1144

(2) An employer that employs an OPFPF retirant or other 1145  
system retirant shall notify the board of trustees of the fund of 1146  
the employment not later than the end of the month in which the 1147  
employment commences. On receipt of notice from an employer that a 1148  
person who is an other system retirant has been employed, the fund 1149  
shall notify the retirement system of which the other system 1150  
retirant was a member of such employment. 1151

(D)(1) An OPFPF retirant or other system retirant who has 1152  
received a retirement allowance or benefit for less than two 1153  
months when employment subject to this section commences shall 1154  
forfeit the retirement allowance or benefit for the period that 1155  
begins on the date the employment commences and ends on the 1156  
earlier of the date the employment terminates or the date that is 1157  
two months after the date on which the retirement allowance or 1158  
benefit commenced. Service and contributions for that period shall 1159  
not be included in the calculation of any benefits payable under 1160  
this section, and those contributions shall be refunded on the 1161  
retirant's death or termination of the employment. 1162

(2) An OPFPF retirant who, less than one hundred eighty days 1163  
after the retirement allowance commences, returns to employment in 1164

the same position or a position in which the duties are the same 1165  
or substantially equivalent with the police or fire department by 1166  
which the retirant was employed at the time of retirement shall 1167  
forfeit the pension portion of the retirement allowance for the 1168  
period beginning on the day on which the employment commences and 1169  
ending on the first day of the month following the month in which 1170  
the employment ends. The annuity portion of the retirement 1171  
allowance shall be suspended on the day the employment under this 1172  
section commences and shall accumulate to the credit of the 1173  
retirant to be paid in a single payment following termination of 1174  
the employment. 1175

In all cases of doubt, the board of trustees of the fund 1176  
shall determine whether the duties of the position are the same or 1177  
substantially equivalent. Its decision is final. 1178

Payment of the retirement allowance shall resume on the first 1179  
day of the month following termination of the employment. On 1180  
termination of the employment, the OPFPF retirant shall receive a 1181  
refund of the retirant's contributions to the pension fund during 1182  
the period of employment subject to this section. 1183

(E) On receipt of notice from the public employees retirement 1184  
system, school employees retirement system, or state teachers 1185  
retirement system of the re-employment of an OPFPF retirant, the 1186  
Ohio police and fire pension fund shall not pay, or if paid shall 1187  
recover, the amount to be forfeited by the OPFPF retirant in 1188  
accordance with section 145.38, 3307.35, or 3309.341 of the 1189  
Revised Code. 1190

(F)(1) On termination of employment under this section, an 1191  
OPFPF retirant or other system retirant may file an application 1192  
with the board of trustees of the fund to receive either a 1193  
benefit, as provided in division (F)(2) of this section, or 1194  
payment of the retirant's contributions made under this section, 1195  
as provided in division (H) of this section. 1196

(2) A benefit under this section shall consist of an annuity 1197  
the actuarial present value of which is equal to two times the sum 1198  
of all amounts deducted from the salary of the OPFPF retirant or 1199  
other system retirant and credited to the retirant's individual 1200  
account in the fund, other than contributions excluded pursuant to 1201  
division (D) of this section, together with interest credited 1202  
thereon at the rate determined by the board. 1203

(a) Unless, as described in division (I) of this section, the 1204  
application is accompanied by a statement of the spouse's consent 1205  
to another form of payment or the board of trustees waives the 1206  
requirement of spousal consent, a retirant who is married at the 1207  
time of application under this division shall receive a monthly 1208  
annuity under which the actuarial equivalent of the retirant's 1209  
single life annuity is paid in a lesser amount for life and 1210  
one-half of the lesser amount continues after the retirant's death 1211  
to the surviving spouse. 1212

(b) A retirant who is not subject to division (F)(2)(a) of 1213  
this section shall elect to receive either a monthly annuity or a 1214  
~~lump sum~~ lump sum payment. If the retirant fails to elect a plan 1215  
of payment, the annuity shall be paid as a monthly annuity under 1216  
the plan of payment specified in rules adopted by the board of 1217  
trustees of the fund. 1218

A retirant who elects to receive a monthly annuity shall 1219  
select one of the following as the plan of payment: 1220

(i) The retirant's single life annuity; 1221

(ii) The actuarial equivalent of the retirant's single life 1222  
annuity in an equal or lesser amount for life and continuing after 1223  
death to a surviving beneficiary designated at the time the plan 1224  
of payment is selected. 1225

(c) Notwithstanding divisions (F)(2)(a) and (b) of this 1226  
section, if a monthly annuity would be less than twenty-five 1227



dollars per month, the retirant shall receive a lump sum payment. 1228

(3) Interest shall be credited to accounts only at the time 1229  
of calculation of a benefit payable under division (F)(2) of this 1230  
section. 1231

(4) A benefit payable under this division shall commence on 1232  
the first day of the month immediately after the latest of the 1233  
following: 1234

(a) The last day for which compensation for employment 1235  
subject to this section was paid; 1236

(b) Attainment by the OPFPF retirant or other system retirant 1237  
of age sixty; 1238

(c) If the OPFPF retirant or other system retirant was 1239  
previously employed under this section and is receiving or 1240  
previously received a benefit under this division, completion of a 1241  
period of twelve months since the last benefit paid under this 1242  
section commenced. 1243

(5) No amount received under this division shall be included 1244  
in determining an additional benefit under section 742.3711, 1245  
742.3716, or 742.3717 of the Revised Code or any other 1246  
post-retirement benefit increase. 1247

(G)(1) If an OPFPF retirant or other system retirant dies 1248  
while employed in employment subject to this section, a ~~lump sum~~ 1249  
lump sum payment calculated in accordance with division (F)(2) of 1250  
this section shall be paid to the retirant's surviving spouse, or 1251  
if there is no surviving spouse, to the retirant's estate. 1252

(2) If at the time of death an OPFPF retirant or other system 1253  
retirant receiving a monthly annuity under division (F)(2) of this 1254  
section has received less than would have been received as a 1255  
~~lump sum~~ lump sum payment under division (F)(2) of this section, 1256  
the difference between the amount received and the amount that 1257

would have been received as a ~~lump sum~~ lump sum payment shall be 1258  
paid to the retirant's surviving spouse, or if there is no 1259  
surviving spouse, to the retirant's estate. 1260

(3) If a beneficiary receiving a monthly annuity under 1261  
division (F)(2) of this section dies and, at the time of the 1262  
beneficiary's death, the total of the amounts paid to the retirant 1263  
and beneficiary are less than the amount the retirant would have 1264  
received as a lump sum payment, the difference between the total 1265  
of the amounts received by the retirant and beneficiary and the 1266  
amount that the retirant would have received as a lump sum payment 1267  
shall be paid to the beneficiary's estate. 1268

(H)(1) An OPFPF retirant or other system retirant who applies 1269  
under division (F)(1) of this section for payment of the 1270  
retirant's contributions and is unmarried or is married and, 1271  
unless the board of trustees has waived the requirement of spousal 1272  
consent, includes with the application a statement of the spouse's 1273  
consent to the payment shall be paid the contributions made under 1274  
division (C) of this section, plus interest, if the following 1275  
conditions are met: 1276

(a) The retirant has not attained sixty years of age and has 1277  
terminated employment subject to this section for any cause other 1278  
than death or the receipt of a benefit under division (F) of this 1279  
section. 1280

(b) Three months have elapsed since the termination of 1281  
employment subject to this section. 1282

(c) The retirant has not returned to service subject to this 1283  
chapter or Chapter 145., 3307., or 3309. of the Revised Code, 1284  
other than service exempted from contribution to the public 1285  
employees retirement system pursuant to section 145.03 of the 1286  
Revised Code, during the three-month period. 1287

(2) Payment of a retirant's contributions cancels the 1288

retirant's right to a benefit under division (F) of this section. 1289

(I) A statement of a spouse's consent under division (F) of 1290  
this section to the form of a benefit or under division (H) of 1291  
this section to a payment of contributions is valid only if signed 1292  
by the spouse and witnessed by a notary public. The board of 1293  
trustees may waive the requirement of spousal consent if the 1294  
spouse is incapacitated or cannot be located, or for any other 1295  
reason specified by the board. Consent or waiver is effective only 1296  
with regard to the spouse who is the subject of the consent or 1297  
waiver. 1298

(J) An other system retirant subject to this section is not a 1299  
member of the Ohio police and fire pension fund, does not have any 1300  
of the rights, privileges, or obligations of membership, except as 1301  
specified in this section, and is not eligible to receive health, 1302  
medical, hospital, or surgical benefits under section 742.45 of 1303  
the Revised Code for employment subject to this section. 1304

(K) If any payment is made by the Ohio police and fire 1305  
pension fund to an OPFPF retirant or other system retirant to 1306  
which the retirant is not entitled, the retirant shall repay it to 1307  
the fund. If the retirant fails to make the repayment, the fund 1308  
shall withhold the amount due from any allowances or other amounts 1309  
due the OPFPF retirant or other system retirant. 1310

(L) An OPFPF retirant who is employed under this section is 1311  
not eligible to receive any benefits under section 742.37 of the 1312  
Revised Code for the employment under this section. 1313

(M) This section does not affect the receipt of benefits by 1314  
or eligibility for benefits of any person who on August 20, 1976, 1315  
was receiving a disability benefit or service retirement pension 1316  
or allowance from a state or municipal retirement system in Ohio 1317  
and was a member of any other state or municipal retirement system 1318  
of this state. 1319

(N) The board of trustees of the fund may adopt rules to 1320  
carry out this section. 1321

**Sec. 3307.35.** (A) As used in this section and section 1322  
3307.352 of the Revised Code, ~~"other:~~ 1323

(1) "Other system retirant" means a member or former member 1324  
of the public employees retirement system, Ohio police and fire 1325  
pension fund, school employees retirement system, state highway 1326  
patrol retirement system, or Cincinnati retirement system who is 1327  
receiving age and service or commuted age and service retirement, 1328  
or a disability benefit from a system of which the retirant is a 1329  
member or former member. 1330

(2) Notwithstanding the definitions of "annuity" and 1331  
"pension" in section 3307.50 of the Revised Code, in the case of a 1332  
superannuate employed under this section: 1333

(a) "Annuity portion" means the portion of a retirement 1334  
allowance or benefit that is derived from contributions made by 1335  
the superannuate or retirant and is paid in monthly or less 1336  
frequent installments; 1337

(b) "Pension portion" means the portion of a retirement 1338  
allowance or benefit that is derived from contributions made by 1339  
the employer and is paid in monthly or less frequent installments. 1340

(B) Subject to this section and section 3307.353 of the 1341  
Revised Code, a superannuate or other system retirant may be 1342  
employed as a teacher. 1343

(C) A superannuate or other system retirant employed in 1344  
accordance with this section shall contribute to the state 1345  
teachers retirement system in accordance with section 3307.26 of 1346  
the Revised Code and the employer shall contribute in accordance 1347  
with sections 3307.28 and 3307.31 of the Revised Code. Such 1348  
contributions shall be received as specified in section 3307.14 of 1349

the Revised Code. A superannuate or other system retirant employed 1350  
as a teacher is not a member of the state teachers retirement 1351  
system, does not have any of the rights, privileges, or 1352  
obligations of membership, except as provided in this section, and 1353  
is not eligible to receive health, medical, hospital, or surgical 1354  
benefits under section 3307.39 of the Revised Code for employment 1355  
subject to this section. 1356

(D) The employer that employs a superannuate or other system 1357  
retirant shall notify the state teachers retirement board of the 1358  
employment not later than the end of the month in which the 1359  
employment commences. Any overpayment of benefits to a 1360  
superannuate by the retirement system resulting from an employer's 1361  
failure to give timely notice may be charged to the employer and 1362  
may be certified and deducted as provided in section 3307.31 of 1363  
the Revised Code. 1364

(E) On receipt of notice from an employer that a person who 1365  
is an other system retirant has been employed, the state teachers 1366  
retirement system shall notify the state retirement system of 1367  
which the other system retirant was a member of such employment. 1368

(F)(1) A superannuate or other system retirant who has 1369  
received an allowance or benefit for less than two months when 1370  
employment subject to this section commences shall forfeit the 1371  
allowance or benefit for any month the superannuate or retirant is 1372  
employed prior to the expiration of such period. Contributions 1373  
shall be made to the retirement system from the first day of such 1374  
employment, but service and contributions for that period shall 1375  
not be used in the calculation of any benefit payable to the 1376  
superannuate or other system retirant, and those contributions 1377  
shall be refunded on the superannuate's or retirant's death or 1378  
termination of the employment. Contributions made on compensation 1379  
earned after the expiration of such period shall be used in 1380  
calculation of the benefit or payment due under section 3307.352 1381

of the Revised Code. 1382

(2) A superannuate who, less than one hundred eighty days 1383  
after the retirement allowance or benefit commences, returns to 1384  
employment in the same position or a position in which the duties 1385  
are the same or substantially equivalent with the employer by 1386  
which the retirant was employed at the time of retirement shall 1387  
forfeit the pension portion of the superannuate's retirement 1388  
allowance or benefit for the period beginning on the day on which 1389  
the employment commences and ending on the first day of the month 1390  
following the month in which the employment ends. The annuity 1391  
portion of the retirement allowance or benefit shall be suspended 1392  
on the day the employment under this section commences and shall 1393  
accumulate to the credit of the superannuate to be paid in a 1394  
single payment following termination of the employment. 1395

In all cases of doubt, the state teachers retirement board 1396  
shall determine whether the duties of the position are the same or 1397  
substantially equivalent. Its decision is final. 1398

Payment of the retirement allowance or benefit shall resume 1399  
on the first day of the month following termination of the 1400  
employment. On termination of the employment, the superannuate 1401  
shall receive a refund of the superannuate's contributions to the 1402  
retirement system during the period of employment subject to this 1403  
section. 1404

(G) On receipt of notice from the Ohio police and fire 1405  
pension fund, public employees retirement system, or school 1406  
employees retirement system of the re-employment of a 1407  
superannuate, the state teachers retirement system shall not pay, 1408  
or if paid shall recover, the amount to be forfeited by the 1409  
superannuate in accordance with section 145.38, 742.26, or 1410  
3309.341 of the Revised Code. 1411

(H) If the disability benefit of an other system retirant 1412

employed under this section is terminated, the retirant shall 1413  
become a member of the state teachers retirement system, effective 1414  
on the first day of the month next following the termination, with 1415  
all the rights, privileges, and obligations of membership. If such 1416  
person, after the termination of the retirant's disability 1417  
benefit, earns two years of service credit under this retirement 1418  
system or under the public employees retirement system, Ohio 1419  
police and fire pension fund, school employees retirement system, 1420  
or state highway patrol retirement system, the retirant's prior 1421  
contributions as an other system retirant under this section shall 1422  
be included in the retirant's total service credit, as defined in 1423  
section 3307.50 of the Revised Code, as a state teachers 1424  
retirement system member, and the retirant shall forfeit all 1425  
rights and benefits of this section. Not more than one year of 1426  
credit may be given for any period of twelve months. 1427

(I) This section does not affect the receipt of benefits by 1428  
or eligibility for benefits of any person who on August 20, 1976, 1429  
was receiving a disability benefit or service retirement pension 1430  
or allowance from a state or municipal retirement system in Ohio 1431  
and was a member of any other state or municipal retirement system 1432  
of this state. 1433

(J) The state teachers retirement board may make the 1434  
necessary rules to carry into effect this section and to prevent 1435  
the abuse of the rights and privileges thereunder. 1436

**Sec. 3309.341.** (A) As used in this section and section 1437  
3309.344 of the Revised Code: 1438

(1) "SERS retirant" means any person who is receiving a 1439  
retirement allowance from the school employees retirement system 1440  
under section 3309.36, 3309.38, or 3309.381 of the Revised Code or 1441  
any benefit paid under a plan established under section 3309.81 of 1442  
the Revised Code. 1443

(2) "Other system retirant" means a member or former member of the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, state highway patrol retirement system, or Cincinnati retirement system who is receiving age and service or commuted age and service retirement, or a disability benefit from a system of which the retirant is a member or former member.

(3) "Annuity portion of a retirement allowance" means the portion of a retirement allowance that is derived from contributions made by the retirant and is paid in monthly or less frequent installments.

(4) "Pension portion of a retirement allowance" means the portion of a retirement allowance that is derived from contributions made by the employer and is paid in monthly or less frequent installments.

(B)(1) Subject to this section and section 3309.345 of the Revised Code, an SERS retirant or other system retirant may be employed by a public employer. If so employed, the SERS retirant or other system retirant shall contribute to the school employees retirement system in accordance with section 3309.47 of the Revised Code, and the employer shall make contributions in accordance with section 3309.49 of the Revised Code.

(2) An employer that employs an SERS retirant or other system retirant shall notify the retirement board of the employment not later than the end of the month in which the employment commences. On receipt of notice from an employer that a person who is an other system retirant has been employed, the school employees retirement system shall notify the state retirement system of which the other system retirant was a member of such employment.

(C)(1) An SERS retirant or other system retirant who has received a retirement allowance or disability benefit for less



than two months when employment subject to this section commences 1475  
shall forfeit the retirement allowance or disability benefit for 1476  
any month the SERS retirant or other system retirant is employed 1477  
prior to the expiration of the two-month period. Service and 1478  
contributions for that period shall not be included in the 1479  
calculation of any benefits payable to the SERS retirant or other 1480  
system retirant, and those contributions shall be refunded on 1481  
death or termination of the employment. Contributions made on 1482  
compensation earned after the expiration of such period shall be 1483  
used in the calculation of the benefit or payment due under 1484  
section 3309.344 of the Revised Code. 1485

(2) An SERS retirant who, less than one hundred eighty days 1486  
after the retirement allowance commences, returns to employment in 1487  
the same position or a position in which the duties are the same 1488  
or substantially equivalent with the public employer by which the 1489  
retirant was employed at the time of retirement shall forfeit the 1490  
pension portion of the retirement allowance for the period 1491  
beginning on the day on which the employment commences and ending 1492  
on the first day of the month following the month in which the 1493  
employment ends. The annuity portion of the retirement allowance 1494  
shall be suspended on the day the employment under this section 1495  
commences and shall accumulate to the credit of the retirant to be 1496  
paid in a single payment following termination of the employment. 1497

In all cases of doubt, the school employees retirement board 1498  
shall determine whether the duties of the position are the same or 1499  
substantially equivalent. Its decision is final. 1500

Payment of the retirement allowance shall resume on the first 1501  
day of the month following termination of the employment. On 1502  
termination of the employment, the SERS retirant shall receive a 1503  
refund of the retirant's contributions to the retirement system 1504  
during the period of employment subject to this section. 1505

(D) On receipt of notice from the Ohio police and fire 1506

pension fund, public employees retirement system, or state 1507  
teachers retirement system of the re-employment of an SERS 1508  
retirant, the school employees retirement system shall not pay, or 1509  
if paid shall recover, the amount to be forfeited by the SERS 1510  
retirant in accordance with section 145.38, 742.26, or 3307.35 of 1511  
the Revised Code. 1512

(E) An SERS retirant or other system retirant subject to this 1513  
section is not a member of the school employees retirement system; 1514  
does not have any of the rights, privileges, or obligations of 1515  
membership, except as specified in this section; and is not 1516  
eligible to receive health, medical, hospital, or surgical 1517  
benefits under section 3309.69 of the Revised Code for employment 1518  
subject to this section. 1519

(F) If the disability benefit of an other system retirant 1520  
employed under this section is terminated, the retirant shall 1521  
become a member of the school employees retirement system, 1522  
effective on the first day of the month next following the 1523  
termination, with all the rights, privileges, and obligations of 1524  
membership. If the retirant, after the termination of the 1525  
disability benefit, earns two years of service credit under this 1526  
retirement system or under the public employees retirement system, 1527  
Ohio police and fire pension fund, state teachers retirement 1528  
system, or state highway patrol retirement system, the retirant's 1529  
prior contributions as an other system retirant under this section 1530  
shall be included in the retirant's total service credit as a 1531  
school employees retirement system member, and the retirant shall 1532  
forfeit all rights and benefits of this section. Not more than one 1533  
year of credit may be given for any period of twelve months. 1534

(G) This section does not affect the receipt of benefits by 1535  
or eligibility for benefits of any person who on August 29, 1976, 1536  
was receiving a disability benefit or service retirement pension 1537  
or allowance from a state or municipal retirement system in Ohio 1538

and was a member of any other state or municipal retirement system 1539  
of this state. 1540

(H) The school employees retirement board may adopt rules to 1541  
carry out this section. 1542

**Section 2.** That existing sections 145.01, 145.191, 145.38, 1543  
145.384, 145.473, 145.58, 742.26, 3307.35, and 3309.341 of the 1544  
Revised Code are hereby repealed. 1545