

**As Introduced**

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

**H. B. No. 8**

**Representative Hagan, R.**

—

**A B I L L**

To amend sections 145.56, 145.82, 145.95, 742.47, 1  
3305.07, 3307.41, 3309.66, 3309.82, 3309.95, and 2  
5505.22 and to enact sections 145.572, 742.463, 3  
2907.151, 3305.11, 3307.372, 3309.672, and 4  
5505.262 of the Revised Code to provide that a 5  
member of a state retirement system, on conviction 6  
of a felony committed in the course of official 7  
duties, will forfeit the portion of any state 8  
retirement benefit that is based on employer 9  
contributions. 10

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

**Section 1.** That sections 145.56, 145.82, 145.95, 742.47, 11  
3305.07, 3307.41, 3309.66, 3309.82, 3309.95, and 5505.22 be 12  
amended and sections 145.572, 742.463, 2907.151, 3305.11, 13  
3307.372, 3309.672, and 5505.262 of the Revised Code be enacted to 14  
read as follows: 15

**Sec. 145.56.** The right of an individual to a pension, an 16  
annuity, or a retirement allowance itself, the right of an 17  
individual to any optional benefit, any other right accrued or 18  
accruing to any individual, under this chapter, or under any 19  
municipal retirement system established subject to this chapter 20

under the laws of this state or any charter, the various funds 21  
created by this chapter, or under such municipal retirement 22  
system, and all moneys, investments, and income from moneys or 23  
investments are exempt from any state tax, except the tax imposed 24  
by section 5747.02 of the Revised Code and are exempt from any 25  
county, municipal, or other local tax, except taxes imposed 26  
pursuant to section 5748.02 or 5748.08 of the Revised Code and, 27  
except as provided in sections 145.57, 145.572, 3105.171, 3105.65, 28  
and 3115.32 and Chapters 3119., 3121., 3123., and 3125. of the 29  
Revised Code, shall not be subject to execution, garnishment, 30  
attachment, the operation of bankruptcy or insolvency laws, or 31  
other process of law whatsoever, and shall be unassignable except 32  
as specifically provided in this chapter and sections 3105.171, 33  
3105.65, and 3115.32 and Chapters 3119., 3121., 3123., and 3125. 34  
of the Revised Code. 35

**Sec. 145.572.** (A) As used in this section: 36

(1) "Accumulated contributions" has the same meaning as in 37  
section 145.01 of the Revised Code, but also includes employee 38  
contributions made under section 145.85 of the Revised Code and 39  
any earnings on those contributions. 40

(2) "Public employment" means service as an employee of an 41  
employer that is subject to any of the following: the public 42  
employees retirement system, Ohio police and fire pension fund, 43  
state teachers retirement system, school employees retirement 44  
system, state highway patrol retirement system, an alternative 45  
retirement plan established under Chapter 3305. of the Revised 46  
Code, or the city of Cincinnati retirement system. 47

(B) A public employees retirement system member who pleads 48  
guilty to or is convicted of a felony under the laws of any 49  
jurisdiction committed while engaged in the performance of duties 50  
related to public employment shall forfeit to the public employees 51

retirement system the right to a retirement allowance or 52  
disability benefit or any other right or benefit under this 53  
chapter earned by reason of being a member of the retirement 54  
system other than the right to a refund of the member's 55  
accumulated contributions. In the case of a member subject to 56  
withholding under section 145.57 of the Revised Code for the 57  
purpose of restitution, forfeiture shall commence immediately 58  
following the completion of restitution. 59

(C) If the public employees retirement board receives notice 60  
pursuant to section 2907.151 of the Revised Code or has knowledge 61  
that a member is charged with a felony committed while the member 62  
was engaged in the performance of duties related to public 63  
employment, the board shall make no payment of any allowance, 64  
benefit, or accumulated contributions under this chapter prior to 65  
the final disposition of the felony charge. Payments suspended 66  
under this division shall not resume unless the charge is 67  
dismissed or the member is found not guilty or not guilty by 68  
reason of insanity. 69

(D) If the board receives notice pursuant to section 2907.151 70  
of the Revised Code that an individual who would be a member of 71  
the retirement system if the individual were not participating in 72  
an alternative retirement plan established under Chapter 3305. of 73  
the Revised Code is charged with a felony committed while the 74  
individual was engaged in the performance of duties related to 75  
public employment, the board shall notify the administrator of the 76  
alternative retirement plan in which the individual is 77  
participating of the notice. 78

**Sec. 145.82.** (A) Except as provided in divisions (B) and (C) 79  
of this section, sections 145.201 to 145.70 of the Revised Code do 80  
not apply to a PERS defined contribution plan, except that a PERS 81  
defined contribution plan may incorporate provisions of those 82

sections as specified in the plan document. 83

(B) The following sections of Chapter 145. of the Revised 84  
Code apply to a PERS defined contribution plan: 145.22, 145.221, 85  
145.23, 145.25, 145.26, 145.27, 145.296, 145.38, 145.382, 145.383, 86  
145.384, 145.391, 145.47, 145.48, 145.483, 145.51, 145.54, 145.55, 87  
145.56, 145.563, 145.57, 145.571, 145.572, 145.69, and 145.70 of 88  
the Revised Code. 89

(C) A PERS defined contribution plan that includes definitely 90  
determinable benefits may incorporate by reference all or part of 91  
sections 145.201 to 145.79 of the Revised Code to allow a member 92  
participating in the plan to purchase service credit or to be 93  
eligible for any of the following: 94

(1) Retirement, disability, survivor, or death benefits; 95

(2) Health or long-term care insurance or any other type of 96  
health care benefit; 97

(3) Additional increases under section 145.323 of the Revised 98  
Code; 99

(4) A refund of contributions made by or on behalf of a 100  
member. 101

With respect to the benefits described in division (C)(1) of 102  
this section, the public employees retirement board may establish 103  
eligibility requirements and benefit formulas or amounts that 104  
differ from those of members participating in the PERS defined 105  
benefit plan. With respect to the purchase of service credit by a 106  
member participating in a PERS defined contribution plan, the 107  
board may reduce the cost of the service credit to reflect the 108  
different benefit formula established for the member. 109

**Sec. 145.95.** Subject to sections 145.38, 145.56, ~~and~~ 145.57, 110  
and 145.572 of the Revised Code, the right of a member 111  
participating in a PERS defined contribution plan to any payment 112

or benefit accruing from contributions made by or on behalf of the member under sections 145.85 and 145.86 of the Revised Code shall vest in accordance with this section.

A member's right to any payment or benefit that is based on the member's contributions is nonforfeitable.

A member's right to any payment or benefit that is based on contributions by the member's employer is nonforfeitable as specified by the plan selected by the member.

**Sec. 742.463.** (A) As used in this section:

(1) "Accumulated contributions" means the amount payable to a member under division (G) of section 742.37 of the Revised Code.

(2) "Public employment" means service as an employee of an employer that is subject to any of the following: the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, state highway patrol retirement system, an alternative retirement plan established under Chapter 3305. of the Revised Code, or the city of Cincinnati retirement system.

(B) An Ohio police and fire pension fund member who pleads guilty to or is convicted of a felony under the laws of any jurisdiction committed while engaged in the performance of duties related to public employment shall forfeit to the Ohio police and fire pension fund the right to a pension or disability benefit or any other right or benefit under this chapter earned by reason of being a member of the fund other than the right to a refund of the member's accumulated contributions. In the case of a member subject to withholding under section 742.461 of the Revised Code for the purpose of restitution, forfeiture shall commence immediately following the completion of restitution.

(C) If the Ohio police and fire pension fund board receives

notice pursuant to section 2907.151 of the Revised Code or has 143  
knowledge that a member is charged with a felony committed while 144  
the member was engaged in the performance of duties related to 145  
public employment, the board shall make no payment of any pension, 146  
benefit, or accumulated contributions under this chapter prior to 147  
the final disposition of the felony charge. Payments suspended 148  
under this division shall not resume unless the charge is 149  
dismissed or the member is found not guilty or not guilty by 150  
reason of insanity. 151

**Sec. 742.47.** Except as provided in ~~section~~ sections 742.461, 152  
742.463, 3105.171, 3105.65,<sup>7</sup> and 3115.32 and Chapters 3119., 153  
3121., 3123., and 3125. of the Revised Code, sums of money due or 154  
to become due to any individual from the Ohio police and fire 155  
pension fund are not liable to attachment, garnishment, levy, or 156  
seizure under any legal or equitable process or any other process 157  
of law whatsoever, whether those sums remain with the treasurer of 158  
the fund or any officer or agent of the board of trustees of the 159  
fund or are in the course of transmission to the individual 160  
entitled to them, but shall inure wholly to the benefit of that 161  
individual. 162

**Sec. 2907.151.** "Public retirement system" and "prosecutor" 163  
have the same meanings as in section 2907.15 of the Revised Code. 164

"Public employment" means service as an employee of an 165  
employer that is subject to a public retirement system. 166

If the prosecutor of a felony case has knowledge that a 167  
person charged with a felony is alleged to have committed the 168  
felony while engaged in the performance of duties related to 169  
public employment, the prosecutor shall notify the board of any 170  
public retirement system of which the person is a member. 171

The notice shall be made on a form prescribed and provided by 172

the applicable public retirement system board. The report shall 173  
include the name and address of the person charged, the charge, 174  
and the certified court documents recording the action. 175

**Sec. 3305.07.** (A) Neither the state nor a public institution 176  
of higher education shall be a party to any contract purchased in 177  
whole or in part with contributions to an alternative retirement 178  
plan made under section 3305.06 of the Revised Code. No 179  
retirement, death, or other benefits shall be payable by the state 180  
or by any public institution of higher education under any 181  
alternative retirement plan elected pursuant to this chapter. 182

(B)(1) Except as provided under division (B)(2) of this 183  
section and sections 3305.08 ~~and~~, 3305.09, and 3305.11 of the 184  
Revised Code, benefits shall be paid to an electing employee or 185  
the employee's beneficiaries in accordance with the alternative 186  
retirement plan adopted by the public institution of higher 187  
education at which the employee is employed. 188

(2) A benefit or payment shall not be paid under an 189  
investment option prior to the time an electing employee dies, 190  
terminates employment with the public institution of higher 191  
education, or, if provided under the alternative retirement plan 192  
or investment option, becomes disabled, except that the provider 193  
of the investment option shall transfer the employee's account 194  
balance to another provider as provided under section 3305.053 of 195  
the Revised Code. 196

**Sec. 3305.11.** (A) As used in this section: 197

(1) "Accumulated contributions" means the amounts contributed 198  
to an alternative retirement plan participant's account by the 199  
plan participant pursuant to section 3305.06 of the Revised Code 200  
and any earnings on those contributions. 201

(2) "Public employment" means service as an employee of an 202

employer that is subject to any of the following: the public 203  
employees retirement system, Ohio police and fire pension fund, 204  
state teachers retirement system, school employees retirement 205  
system, state highway patrol retirement system, an alternative 206  
retirement plan established under this chapter, or the city of 207  
Cincinnati retirement system. 208

(B) An alternative retirement plan participant who pleads 209  
guilty to or is convicted of a felony under the laws of any 210  
jurisdiction committed while engaged in the performance of duties 211  
related to public employment shall forfeit to the retirement 212  
system to which the participant's employment would be subject, if 213  
the participant were not participating in an alternative 214  
retirement plan, the right to a retirement allowance or disability 215  
benefit or any other right or benefit under this chapter earned by 216  
reason of participating in the alternative retirement plan other 217  
than the right to a refund of the participant's accumulated 218  
contributions. In the case of a participant subject to withholding 219  
under section 3305.09 of the Revised Code for the purpose of 220  
restitution, forfeiture shall commence immediately following the 221  
completion of restitution. 222

(C) If the provider of an alternative retirement plan 223  
receives notice pursuant to section 145.572, 3307.372, or 3309.672 224  
of the Revised Code or has knowledge that a participant is charged 225  
with a felony committed while the participant was engaged in the 226  
performance of duties related to public employment, the provider 227  
shall make no payment of any allowance, benefit, or accumulated 228  
contributions under this chapter prior to the final disposition of 229  
the felony charge. Payments suspended under this division shall 230  
not resume unless the charge is dismissed or the participant is 231  
found not guilty or not guilty by reason of insanity. 232

**Sec. 3307.372. (A) As used in this section:** 233



(1) "Accumulated contributions" has the same meaning as in 234  
section 3307.50 of the Revised Code, but also includes employee 235  
contributions made under section 3307.26 of the Revised Code to 236  
participate in a plan established under section 3307.81 of the 237  
Revised Code and any earnings on those contributions. 238

(2) "Public employment" means service as an employee of an 239  
employer that is subject to any of the following: the public 240  
employees retirement system, Ohio police and fire pension fund, 241  
state teachers retirement system, school employees retirement 242  
system, state highway patrol retirement system, an alternative 243  
retirement plan established under Chapter 3305. of the Revised 244  
Code, or the city of Cincinnati retirement system. 245

(B) A state teachers retirement system member who pleads 246  
guilty to or is convicted of a felony under the laws of any 247  
jurisdiction committed while engaged in the performance of duties 248  
related to public employment shall forfeit to the state teachers 249  
retirement system the right to a retirement allowance or 250  
disability benefit or any other right or benefit under this 251  
chapter earned by reason of being a member of the retirement 252  
system other than the right to a refund of the member's 253  
accumulated contributions. In the case of a member subject to 254  
withholding under section 3307.37 of the Revised Code for the 255  
purpose of restitution, forfeiture shall commence immediately 256  
following the completion of restitution. 257

(C) If the state teachers retirement board receives notice 258  
pursuant to section 2907.151 of the Revised Code or has knowledge 259  
that a member is charged with a felony committed while the member 260  
was engaged in the performance of duties related to public 261  
employment, the board shall make no payment of any allowance, 262  
benefit, or accumulated contributions under this chapter prior to 263  
the final disposition of the felony charge. Payments suspended 264  
under this division shall not resume unless the charge is 265

dismissed or the member is found not guilty or not guilty by 266  
reason of insanity. 267

(D) If the state teachers retirement board receives notice 268  
pursuant to section 2907.151 of the Revised Code that an 269  
individual who would be a member of the retirement system if the 270  
individual were not participating in an alternative retirement 271  
plan established under Chapter 3305. of the Revised Code is 272  
charged with a felony committed while the individual was engaged 273  
in the performance of duties related to public employment, the 274  
board shall notify the provider of the alternative retirement plan 275  
in which the individual is participating of the notice. 276

**Sec. 3307.41.** The right of an individual to a pension, an 277  
annuity, or a retirement allowance itself, the right of an 278  
individual to any optional benefit, or any other right or benefit 279  
accrued or accruing to any individual under this chapter, the 280  
various funds created by section 3307.14 of the Revised Code, and 281  
all moneys, investments, and income from moneys or investments are 282  
exempt from any state tax, except the tax imposed by section 283  
5747.02 of the Revised Code, and are exempt from any county, 284  
municipal, or other local tax, except taxes imposed pursuant to 285  
section 5748.02 or 5748.08 of the Revised Code, and, except as 286  
provided in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 287  
3121.02, 3121.03, 3123.06, ~~and~~ 3307.37, and 3307.372 of the 288  
Revised Code, shall not be subject to execution, garnishment, 289  
attachment, the operation of bankruptcy or insolvency laws, or any 290  
other process of law whatsoever, and shall be unassignable except 291  
as specifically provided in this chapter or sections 3105.171, 292  
3105.65, ~~and~~ 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, and 293  
3123.06 of the Revised Code. 294

**Sec. 3309.66.** The right of an individual to a pension, an 295  
annuity, or a retirement allowance itself, the right of an 296

individual to any optional benefit, any other right accrued or 297  
accruing to any individual under this chapter, the various funds 298  
created by section 3309.60 of the Revised Code, and all moneys, 299  
investments, and income from moneys and investments are exempt 300  
from any state tax, except the tax imposed by section 5747.02 of 301  
the Revised Code, and are exempt from any county, municipal, or 302  
other local tax, except taxes imposed pursuant to section 5748.02 303  
or 5748.08 of the Revised Code, and, except as provided in 304  
sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 305  
3121.03, 3123.06, ~~and~~ 3309.67, and 3309.672 of the Revised Code, 306  
shall not be subject to execution, garnishment, attachment, the 307  
operation of bankruptcy or insolvency laws, or any other process 308  
of law whatsoever, and shall be unassignable except as 309  
specifically provided in this chapter ~~or~~ and in sections ~~and~~ 310  
3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 311  
and 3123.06 of the Revised Code. 312

**Sec. 3309.672.** (A) As used in this section: 313

(1) "Accumulated contributions" has the same meaning as in 314  
section 3309.01 of the Revised Code, but also includes employee 315  
contributions made under section 3309.85 of the Revised Code and 316  
any earnings on those contributions. 317

(2) "Public employment" means service as an employee of an 318  
employer that is subject to any of the following: the public 319  
employees retirement system, Ohio police and fire pension fund, 320  
state teachers retirement system, school employees retirement 321  
system, state highway patrol retirement system, an alternative 322  
retirement plan established under Chapter 3305. of the Revised 323  
Code, or the city of Cincinnati retirement system. 324

(B) A school employees retirement system member who pleads 325  
guilty to or is convicted of a felony under the laws of any 326

jurisdiction committed while engaged in the performance of duties 327  
related to public employment shall forfeit to the school employees 328  
retirement system the right to a retirement allowance or 329  
disability benefit or any other right or benefit under this 330  
chapter earned by reason of being a member of the retirement 331  
system other than the right to a refund of the member's 332  
accumulated contributions. In the case of a member subject to 333  
withholding under section 3309.67 of the Revised Code for the 334  
purpose of restitution, forfeiture shall commence immediately 335  
following the completion of restitution. 336

(C) If the school employees retirement board receives notice 337  
pursuant to section 2907.151 of the Revised Code or has knowledge 338  
that a member is charged with a felony committed while the member 339  
was engaged in the performance of duties related to public 340  
employment, the board shall make no payment of any allowance, 341  
benefit, or accumulated contributions under this chapter prior to 342  
the final disposition of the felony charge. Payments suspended 343  
under this division shall not resume unless the charge is 344  
dismissed or the member is found not guilty or not guilty by 345  
reason of insanity. 346

(D) If the school employees retirement board receives notice 347  
pursuant to section 2907.151 of the Revised Code that an 348  
individual who would be a member of the retirement system if the 349  
individual were not participating in an alternative retirement 350  
plan established under Chapter 3305. of the Revised Code is 351  
charged with a felony committed while the individual was engaged 352  
in the performance of duties related to public employment, the 353  
board shall notify the provider of the alternative retirement plan 354  
in which the individual is participating of the notice. 355

**Sec. 3309.82.** (A) Except as provided in division (B) of this 356  
section, sections 3309.02, 3309.021, and 3309.022 and sections 357

3309.18 to 3309.70 of the Revised Code do not apply to a plan 358  
established under section 3309.81 of the Revised Code, except that 359  
a plan may incorporate provisions of those sections as specified 360  
in the plan document. 361

(B) The following sections of Chapter 3309. of the Revised 362  
Code apply to a plan established under section 3309.81 of the 363  
Revised Code: sections 3309.19, 3309.21, 3309.22, 3309.23, 364  
3309.24, 3309.25, 3309.251, 3309.252, 3309.253, 3309.28, 3309.29, 365  
3309.341, 3309.3712, 3309.47, 3309.471, 3309.49, 3309.51, 3309.53, 366  
3309.54, 3309.55, 3309.56, 3309.57, 3309.571, 3309.58, 3309.59, 367  
3309.60, 3309.61, 3309.62, 3309.66, 3309.661, 3309.67, 3309.672, 368  
3309.68, and 3309.70 of the Revised Code. 369

**Sec. 3309.95.** Subject to sections 3309.341, 3309.66, ~~and~~ 370  
3309.67, and 3309.672 of the Revised Code, the right of a member 371  
participating in a plan established under section 3309.81 of the 372  
Revised Code to any payment or benefit accruing from contributions 373  
made by or on behalf of the member under sections 3309.85 and 374  
3309.86 of the Revised Code shall vest in accordance with this 375  
section. 376

A member's right to any payment or benefit that is based on 377  
the member's contributions is nonforfeitable. 378

A member's right to any payment or benefit that is based on 379  
contributions by the member's employer is nonforfeitable as 380  
specified by the plan selected by the member. 381

**Sec. 5505.22.** The right of any individual to a pension, or to 382  
the return of accumulated contributions, payable as provided under 383  
this chapter, and all moneys and investments of the state highway 384  
patrol retirement system and income from moneys or investments are 385  
exempt from any state tax, except the tax imposed by section 386  
5747.02 of the Revised Code, and are exempt from any county, 387

municipal, or other local tax, except taxes imposed pursuant to 388  
section 5748.02 or 5748.08 of the Revised Code, and, except as 389  
provided in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 390  
3121.02, 3121.03, 3123.06, ~~and~~ 5505.26, and 5505.262 of the 391  
Revised Code, shall not be subject to execution, garnishment, 392  
attachment, the operation of bankruptcy or insolvency laws, or any 393  
other process of law whatsoever, and shall be unassignable except 394  
as specifically provided in this chapter. 395

Sec. 5505.262. (A) As used in this section: 396

(1) "Accumulated contributions" means the amount payable to a 397  
member who withdraws contributions under division (A)(2) of 398  
section 5505.17 of the Revised Code. 399

(2) "Public employment" means service as an employee of an 400  
employer that is subject to any of the following: the public 401  
employees retirement system, Ohio police and fire pension fund, 402  
state teachers retirement system, school employees retirement 403  
system, state highway patrol retirement system, an alternative 404  
retirement plan established under Chapter 3305. of the Revised 405  
Code, or the city of Cincinnati retirement system. 406

(B) A state highway patrol retirement system member who 407  
pleads guilty to or is convicted of a felony under the laws of any 408  
jurisdiction committed while engaged in the performance of duties 409  
related to public employment shall forfeit to the state highway 410  
patrol retirement system the right to a pension or disability 411  
benefit or any other right or benefit under this chapter earned by 412  
reason of being a member of the retirement system other than the 413  
right to a refund of the member's accumulated contributions. In 414  
the case of a member subject to withholding under section 5505.26 415  
of the Revised Code for the purpose of restitution, forfeiture 416  
shall commence immediately following the completion of 417  
restitution. 418

(C) If the state highway patrol retirement board receives 419  
notice pursuant to section 2907.151 of the Revised Code or has 420  
knowledge that a member is charged with a felony committed while 421  
the member was engaged in the performance of duties related to 422  
public employment, the board shall make no payment of any pension, 423  
benefit, or accumulated contributions under this chapter prior to 424  
the final disposition of the felony charge. Payments suspended 425  
under this division shall not resume unless the charge is 426  
dismissed or the member is found not guilty or not guilty by 427  
reason of insanity. 428

**Section 2.** That existing sections 145.56, 145.82, 145.95, 429  
742.47, 3305.07, 3307.41, 3309.66, 3309.82, 3309.95, and 5505.22 430  
of the Revised Code are hereby repealed. 431

**Section 3.** The General Assembly, applying the principle 432  
stated in division (B) of section 1.52 of the Revised Code that 433  
amendments are to be harmonized if reasonably capable of 434  
simultaneous operation, finds that the following sections, 435  
presented in this act as composites of the sections as amended by 436  
the acts indicated, are the resulting versions of the sections in 437  
effect prior to the effective date of the sections as presented in 438  
this act: 439

Section 742.47 of the Revised Code as amended by both Sub. 440  
H.B. 535 and Am. Sub. S.B. 180 of the 123rd General Assembly. 441

Section 3307.41 of the Revised Code as amended by both Sub. 442  
H.B. 535 and Am. Sub. S.B. 180 of the 123rd General Assembly. 443

Section 3309.66 of the Revised Code as amended by Sub. H.B. 444  
535, Am. Sub. S.B. 180, and Sub. S.B. 270 of the 123rd General 445  
Assembly. 446

Section 5505.22 of the Revised Code as amended by both Sub. 447  
H.B. 535 and Am. Sub. S.B. 180 of the 123rd General Assembly. 448