

As Introduced

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Representative Combs

**Cosponsors: Representatives Adams, J., Morgan, Murray, Bulp, Stebelton,
Blair, Boose, Blessing**

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A B I L L

To amend sections 145.297, 145.298, and 145.38 of the 1
Revised Code to require an analysis of each 2
proposed retirement incentive plan for Public 3
Employees Retirement System members and to 4
prohibit a member who participates in such a 5
retirement incentive plan from being re-employed 6
by the same employer. 7

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

Section 1. That sections 145.297, 145.298, and 145.38 of the 8
Revised Code be amended to read as follows: 9

Sec. 145.297. (A) As used in this section, "employing unit" 10
means: 11

(1) A municipal corporation, agency of a municipal 12
corporation designated by the legislative authority, park 13
district, conservancy district, sanitary district, health 14
district, township, department of a township designated by the 15
board of township trustees, metropolitan housing authority, public 16
library, county law library, union cemetery, joint hospital, or 17
other political subdivision or unit of local government. 18

(2) With respect to state employees, any entity of the state including any department, agency, institution of higher education, board, bureau, commission, council, office, or administrative body or any part of such entity that is designated by the entity as an employing unit.

(3)(a) With respect to employees of a board of alcohol, drug addiction, and mental health services, that board.

(b) With respect to employees of a county board of mental retardation and developmental disabilities, that board.

(c) With respect to other county employees, the county or any county agency designated by the board of county commissioners.

(4) In the case of an employee whose employing unit is in question, the employing unit is the unit through whose payroll the employee is paid.

(B) ~~An~~ Subject to division (C) of this section, an employing unit may establish a retirement incentive plan for its eligible employees. In the case of a county or county agency, decisions on whether to establish a retirement incentive plan for any employees other than employees of a board of alcohol, drug addiction, and mental health services or county board of mental retardation and developmental disabilities and on the terms of the plan shall be made by the board of county commissioners. In the case of a municipal corporation or an agency of a municipal corporation, decisions on whether to establish a retirement incentive plan and on the terms of the plan shall be made by the legislative authority.

All terms of a retirement incentive plan shall be in writing.

A retirement incentive plan shall provide for purchase by the employing unit of service credit for eligible employees who elect to participate in the plan and for payment by the employing unit of the entire cost of the service credit purchased.

Every retirement incentive plan shall remain in effect for at least one year. The employing unit shall give employees at least thirty days' notice before terminating the plan.

Every retirement incentive plan shall include provisions for the timely and impartial resolution of grievances and disputes arising under the plan.

No employing unit shall have more than one retirement incentive plan in effect at any time.

(C)(1) Prior to implementing a retirement incentive plan under this section, the employing unit that proposes to establish the plan shall have the proposed plan analyzed in accordance with division (C)(2) of this section by a state university.

The university conducting the analysis shall be determined as follows:

(a) If the employing unit is a state agency or, if not a state agency, the employing unit's chief administrative office is located in Delaware, Fairfield, Fayette, Franklin, Hocking, Knox, Licking, Madison, Marion, Morrow, Muskingum, Perry, Pickaway, or Union county, a department of the Ohio state university selected by the university president;

(b) If the employing unit is not a state agency and the employing unit's chief administrative office is located in Allen, Crawford, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood, or Wyandot county, a department of the university of Toledo selected by the university president;

(c) If the employing unit is not a state agency and the employing unit's chief administrative office is located in Ashland, Ashtabula, Carroll, Columbiana, Coshocton, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Richland, Stark, Summit, Trumbull,

Tuscarawas, or Wayne county, a department of Cleveland state 81
university selected by the university president; 82

(d) If the employing unit is not a state agency and the 83
employing unit's chief administrative office is located in Athens, 84
Belmont, Gallia, Guernsey, Jackson, Lawrence, Meigs, Monroe, 85
Morgan, Noble, Scioto, Vinton, or Washington county, a department 86
of Ohio university selected by the university president; 87

(e) If the employing unit is not a state agency and the 88
employing unit's chief administrative office is located in Adams, 89
Auglaize, Brown, Butler, Champaign, Clark, Clermont, Clinton, 90
Darke, Greene, Hamilton, Highland, Logan, Mercer, Miami, 91
Montgomery, Pike, Preble, Ross, Shelby, or Warren county, a 92
department of the university of Cincinnati selected by the 93
university president. 94

(2) The analysis shall be completed not later than ninety 95
days after submission to the university determined under division 96
(C)(1) of this section and shall include both of the following: 97

(a) A cost-benefit analysis of the proposed retirement 98
incentive plan that compares the projected long-term savings of 99
the plan with the projected cost to the employing unit of 100
purchasing the credit for participants; 101

(b) A recommendation, consistent with the findings under 102
division (C)(2)(a) of this section, to the employing unit on the 103
advisability of establishing the retirement incentive plan. 104

(3) The employing unit shall cooperate with the university 105
conducting the analysis to the extent necessary for the university 106
to complete the analysis. 107

(4) The employing unit is not required to follow the 108
recommendation made under division (C)(2) of this section. 109

(5) Any analysis conducted under this division is a public 110

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| <u>record.</u> | 111 |
| (D) Any classified or unclassified employee of the employing unit who is a member of the public employees retirement system shall be eligible to participate in the retirement incentive plan established by the employee's employing unit if the employee meets the following criteria: | 112 113 114 115 116 |
| (1) The employee is not any of the following: | 117 |
| (a) An elected official; | 118 |
| (b) A member of a board or commission; | 119 |
| (c) A person elected to serve a term of fixed length; | 120 |
| (d) A person appointed to serve a term of fixed length, other than a person appointed and employed by the person's employing unit. | 121 122 123 |
| (2) The employee is or will be eligible to retire under section 145.32, 145.34, 145.37, or division (A) of section 145.33 of the Revised Code on or before the date of termination of the retirement incentive plan. Service credit to be purchased for the employee under the retirement incentive plan shall be included in making such determination. | 124 125 126 127 128 129 |
| (3) The employee agrees to retire under section 145.32, 145.34, 145.37, or division (A) of section 145.33 of the Revised Code within ninety days after receiving notice from the public employees retirement system that service credit has been purchased for the employee under this section. | 130 131 132 133 134 |
| <u>(4) The employee agrees not to be re-employed by the employing unit for which the retirement incentive plan was established.</u> | 135 136 137 |
| Participation in the plan shall be available to all eligible employees except that the employing unit may limit the number of participants in the plan to a specified percentage of its | 138 139 140 |

employees who are members of the public employees retirement 141
system on the date the plan goes into effect. The percentage shall 142
not be less than five per cent of such employees. If participation 143
is limited, employees with more total service credit have the 144
right to elect to participate before employees with less total 145
service credit. In the case of employees with the same total 146
service credit, employees with a greater length of service with 147
the employing unit have the right to elect to participate before 148
employees with less service with the employing unit. Employees 149
with less than eighteen months of service with the employing unit 150
have the right to elect to participate only after all other 151
eligible employees have been given the opportunity to elect to 152
participate. For the purpose of determining which employees may 153
participate in a plan, total service credit includes service 154
credit purchased by the employee under this chapter after the date 155
on which the plan is established. 156

A retirement incentive plan that limits participation may 157
provide that an employee who does not notify the employing unit of 158
the employee's decision to participate in the plan within a 159
specified period of time will lose priority to participate in the 160
plan ahead of other employees with less seniority. The time given 161
to an employee to elect to participate ahead of other employees 162
shall not be less than thirty days after the employee receives 163
written notice that the employee may participate in the plan. 164

~~(D)~~(E) A retirement incentive plan shall provide for purchase 165
of the same amount of service credit for each participating 166
employee, except that the employer may not purchase more service 167
credit for any employee than the lesser of the following: 168

(1) Five years of service credit; 169

(2) An amount of service credit equal to one-fifth of the 170
total service credited to the participant under this chapter, 171
exclusive of service credit purchased under this section. 172

For each year of service credit purchased under this section, 173
the employing unit shall pay an amount equal to the additional 174
liability resulting from the purchase of that year of service 175
credit, as determined by an actuary employed by the public 176
employees retirement board. 177

~~(E)~~(F) Upon the election by an eligible employee to 178
participate in the retirement incentive plan, the employee and the 179
employing unit shall agree upon a date for payment or contracting 180
for payment in installments to the public employees retirement 181
system of the cost of the service credit to be purchased. The 182
employing unit shall submit to the public employees retirement 183
system a written request for a determination of the cost of the 184
service credit, and within forty-five days after receiving the 185
request, the board shall give the employing unit written notice of 186
the cost. 187

The employing unit shall pay or contract to pay in 188
installments the cost of the service credit to be purchased to the 189
public employees retirement system on the date agreed to by the 190
employee and the employing unit. The payment shall be made in 191
accordance with rules adopted by the public employees retirement 192
board. The rules may provide for payment in installments and for 193
crediting the purchased credit to the employee's account upon the 194
employer's contracting to pay the cost in installments. The board 195
shall notify the member when the member is credited with service 196
purchased under this section. If the employee does not retire 197
within ninety days after receiving notice that the employee has 198
been credited with the purchased service credit, the system shall 199
refund to the employing unit the amount paid for the service 200
credit. 201

No payment made to the public employees retirement system 202
under this section shall affect any payment required by section 203
145.48 of the Revised Code. 204

(G) An employee who participates in a retirement incentive plan may not be employed after retirement by the employing unit for which the plan was established. 205
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Sec. 145.298. (A) As used in this section: 208

(1) "State employing unit" means an employing unit described in division (A)(2) of section 145.297 of the Revised Code. 209
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(2) "State institution" means a state correctional facility, a state institution for the mentally ill, or a state institution for the care, treatment, and training of the mentally retarded. 211
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(B) In the event of a proposal to close a state institution or lay off, within a six-month period, a number of persons employed at an institution that equals or exceeds the lesser of fifty or ten per cent of the persons employed at the institution, the employing unit responsible for the institution's operation shall establish a retirement incentive plan for persons employed at the institution. 214
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(C) In the event of a proposal, other than a proposal described in division (B) of this section, to lay off, within a six-month period, a number of employees of a state employing unit that equals or exceeds the lesser of fifty or ten per cent of the employing unit's employees, the employing unit shall establish a retirement incentive plan for employees of the employing unit. 221
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(D)(1) A retirement incentive plan established under this section shall be consistent with the requirements of section 145.297 of the Revised Code, except as provided in division (D)(2) of this section and except that the plan shall go into effect at the time the layoffs or proposed closings are announced and shall remain in effect until the date of the layoffs or closings. 227
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(2) A retirement incentive plan established under this section due to the proposed closing of a state institution by the 233
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department of mental health prior to July 1, 1997, shall be 235
consistent with the requirements of section 145.297 of the Revised 236
Code, except as follows: 237

(a) The employing unit shall purchase at least three years of 238
service credit for each participating employee, except that it 239
shall not purchase more service credit than the amount allowed by 240
division ~~(D)~~(E) of section 145.297 of the Revised Code; 241

(b) The plan shall go into effect at the time the proposed 242
closing is announced and shall remain in effect at least until the 243
date of the closing. 244

(3) If the employing unit already has a retirement incentive 245
plan in effect, the plan shall remain in effect at least until the 246
date of the layoffs or closings. The employing unit may revise the 247
existing plan to provide greater benefits, but if it revises the 248
plan, it shall give written notice of the changes to all employees 249
who have elected to participate in the original plan, and it shall 250
provide the greater benefits to all employees who participate in 251
the plan, whether their elections to participate were made before 252
or after the date of the revision. 253

Sec. 145.38. (A) As used in this section and sections 145.381 254
and 145.384 of the Revised Code: 255

(1) "PERS retirant" means a former member of the public 256
employees retirement system who is receiving one of the following: 257

(a) Age and service retirement benefits under section 145.32, 258
145.33, 145.331, 145.34, or 145.46 of the Revised Code; 259

(b) Age and service retirement benefits paid by the public 260
employees retirement system under section 145.37 of the Revised 261
Code; 262

(c) Any benefit paid under a PERS defined contribution plan. 263

(2) "Other system retirant" means both of the following: 264

(a) A member or former member of the Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, state highway patrol retirement system, or Cincinnati retirement system who is receiving age and service or commuted age and service retirement benefits or a disability benefit from a system of which the person is a member or former member;

(b) A member or former member of the public employees retirement system who is receiving age and service retirement benefits or a disability benefit under section 145.37 of the Revised Code paid by the school employees retirement system or the state teachers retirement system.

(B)(1) Subject to this section ~~and~~, section 145.381 of the Revised Code, and division (G) of section 145.297 of the Revised Code, a PERS retirant or other system retirant may be employed by a public employer. If so employed, the PERS retirant or other system retirant shall contribute to the public employees retirement system in accordance with section 145.47 of the Revised Code, and the employer shall make contributions in accordance with section 145.48 of the Revised Code.

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

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

(4)(a) A PERS retirant who has received a retirement allowance for less than two months when employment subject to this section commences shall forfeit the retirement allowance for any month the PERS retirant is employed prior to the expiration of the two-month period. Service and contributions for that period shall not be included in calculation of any benefits payable to the PERS retirant, and those contributions shall be refunded on the retirant's death or termination of the employment.

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

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

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

(6) A PERS retirant who enters into a contract to provide services as an independent contractor to the employer by which the retirant was employed at the time of retirement or, less than two months after the retirement allowance commences, begins providing

services as an independent contractor pursuant to a contract with 329
another public employer, shall forfeit the pension portion of the 330
retirement benefit for the period beginning the first day of the 331
month following the month in which the services begin and ending 332
on the first day of the month following the month in which the 333
services end. The annuity portion of the retirement allowance 334
shall be suspended on the day services under the contract begin 335
and shall accumulate to the credit of the retirant to be paid in a 336
single payment after services provided under the contract 337
terminate. A PERS retirant subject to division (B)(6) of this 338
section shall not contribute to the retirement system and shall 339
not become a member of the system. 340

(7) As used in this division, "employment" includes service 341
for which a PERS retirant or other system retirant, the retirant's 342
employer, or both, have waived any earnable salary for the 343
service. 344

(C)(1) Except as provided in division (C)(3) of this section, 345
this division applies to both of the following: 346

(a) A PERS retirant who, prior to September 14, 2000, was 347
subject to division (C)(1)(b) of this section as that division 348
existed immediately prior to September 14, 2000, and has not 349
elected pursuant to Am. Sub. S.B. 144 of the 123rd general 350
assembly to cease to be subject to that division; 351

(b) A PERS retirant to whom both of the following apply: 352

(i) The retirant held elective office in this state, or in 353
any municipal corporation, county, or other political subdivision 354
of this state at the time of retirement under this chapter. 355

(ii) The retirant was elected or appointed to the same office 356
for the remainder of the term or the term immediately following 357
the term during which the retirement occurred. 358

(2) A PERS retirant who is subject to this division is a 359

member of the public employees retirement system with all the 360
rights, privileges, and obligations of membership, except that the 361
membership does not include survivor benefits provided pursuant to 362
section 145.45 of the Revised Code or, beginning on the ninetieth 363
day after September 14, 2000, any amount calculated under section 364
145.401 of the Revised Code. The pension portion of the PERS 365
retirant's retirement allowance shall be forfeited until the first 366
day of the first month following termination of the employment. 367
The annuity portion of the retirement allowance shall accumulate 368
to the credit of the PERS retirant to be paid in a single payment 369
after termination of the employment. The retirement allowance 370
shall resume on the first day of the first month following 371
termination of the employment. On termination of the employment, 372
the PERS retirant shall elect to receive either a refund of the 373
retirant's contributions to the retirement system during the 374
period of employment subject to this section or a supplemental 375
retirement allowance based on the retirant's contributions and 376
service credit for that period of employment. 377

(3) This division does not apply to any of the following: 378

(a) A PERS retirant elected to office who, at the time of the 379
election for the retirant's current term, was not retired but, not 380
less than ninety days prior to the primary election for the term 381
or the date on which a primary for the term would have been held, 382
filed a written declaration of intent to retire before the end of 383
the term with the director of the board of elections of the county 384
in which petitions for nomination or election to the office are 385
filed; 386

(b) A PERS retirant elected to office who, at the time of the 387
election for the retirant's current term, was a retirant and had 388
been retired for not less than ninety days; 389

(c) A PERS retirant appointed to office who, at the time of 390
appointment to the retirant's current term, notified the person or 391

entity making the appointment that the retirant was already 392
retired or intended to retire before the end of the term. 393

(D)(1) Except as provided in division (C) of this section, a 394
PERS retirant or other system retirant subject to this section is 395
not a member of the public employees retirement system, and, 396
except as specified in this section does not have any of the 397
rights, privileges, or obligations of membership. Except as 398
specified in division (D)(2) of this section, the retirant is not 399
eligible to receive health, medical, hospital, or surgical 400
benefits under section 145.58 of the Revised Code for employment 401
subject to this section. 402

(2) A PERS retirant subject to this section shall receive 403
primary health, medical, hospital, or surgical insurance coverage 404
from the retirant's employer, if the employer provides coverage to 405
other employees performing comparable work. Neither the employer 406
nor the PERS retirant may waive the employer's coverage, except 407
that the PERS retirant may waive the employer's coverage if the 408
retirant has coverage comparable to that provided by the employer 409
from a source other than the employer or the public employees 410
retirement system. If a claim is made, the employer's coverage 411
shall be the primary coverage and shall pay first. The benefits 412
provided under section 145.58 of the Revised Code shall pay only 413
those medical expenses not paid through the employer's coverage or 414
coverage the PERS retirant receives through a source other than 415
the retirement system. 416

(E) If the disability benefit of an other system retirant 417
employed under this section is terminated, the retirant shall 418
become a member of the public employees retirement system, 419
effective on the first day of the month next following the 420
termination with all the rights, privileges, and obligations of 421
membership. If such person, after the termination of the 422
disability benefit, earns two years of service credit under this 423

system or under the Ohio police and fire pension fund, state 424
teachers retirement system, school employees retirement system, or 425
state highway patrol retirement system, the person's prior 426
contributions as an other system retirant under this section shall 427
be included in the person's total service credit as a public 428
employees retirement system member, and the person shall forfeit 429
all rights and benefits of this section. Not more than one year of 430
credit may be given for any period of twelve months. 431

(F) This section does not affect the receipt of benefits by 432
or eligibility for benefits of any person who on August 20, 1976, 433
was receiving a disability benefit or service retirement pension 434
or allowance from a state or municipal retirement system in Ohio 435
and was a member of any other state or municipal retirement system 436
of this state. 437

(G) The public employees retirement board may adopt rules to 438
carry out this section. 439

Section 2. That existing sections 145.297, 145.298, and 440
145.38 of the Revised Code are hereby repealed. 441