

As Introduced

**128th General Assembly
Regular Session
2009-2010**

S. B. No. 83

Senator Faber

—

A B I L L

To amend section 145.01 and to enact section 145.016 1
of the Revised Code to exclude certain 2
compensation when determining retirement benefits 3
under the Public Employees Retirement System. 4

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

Section 1. That section 145.01 be amended and section 145.016 5
of the Revised Code be enacted to read as follows: 6

Sec. 145.01. As used in this chapter: 7

(A) "Public employee" means: 8

(1) Any person holding an office, not elective, under the 9
state or any county, township, municipal corporation, park 10
district, conservancy district, sanitary district, health 11
district, metropolitan housing authority, state retirement board, 12
Ohio historical society, public library, county law library, union 13
cemetery, joint hospital, institutional commissary, state 14
university, or board, bureau, commission, council, committee, 15
authority, or administrative body as the same are, or have been, 16
created by action of the general assembly or by the legislative 17
authority of any of the units of local government named in 18
division (A)(1) of this section, or employed and paid in whole or 19
in part by the state or any of the authorities named in division 20

(A)(1) of this section in any capacity not covered by section 21
742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. 22

(2) A person who is a member of the public employees 23
retirement system and who continues to perform the same or similar 24
duties under the direction of a contractor who has contracted to 25
take over what before the date of the contract was a publicly 26
operated function. The governmental unit with which the contract 27
has been made shall be deemed the employer for the purposes of 28
administering this chapter. 29

(3) Any person who is an employee of a public employer, 30
notwithstanding that the person's compensation for that employment 31
is derived from funds of a person or entity other than the 32
employer. Credit for such service shall be included as total 33
service credit, provided that the employee makes the payments 34
required by this chapter, and the employer makes the payments 35
required by sections 145.48 and 145.51 of the Revised Code. 36

(4) A person who elects in accordance with section 145.015 of 37
the Revised Code to remain a contributing member of the public 38
employees retirement system. 39

In all cases of doubt, the public employees retirement board 40
shall determine whether any person is a public employee, and its 41
decision is final. 42

(B) "Member" means any public employee, other than a public 43
employee excluded or exempted from membership in the retirement 44
system by section 145.03, 145.031, 145.032, 145.033, 145.034, 45
145.035, or 145.38 of the Revised Code. "Member" includes a PERS 46
retirant who becomes a member under division (C) of section 145.38 47
of the Revised Code. "Member" also includes a disability benefit 48
recipient. 49

(C) "Head of the department" means the elective or appointive 50
head of the several executive, judicial, and administrative 51

departments, institutions, boards, and commissions of the state 52
and local government as the same are created and defined by the 53
laws of this state or, in case of a charter government, by that 54
charter. 55

(D) "Employer" or "public employer" means the state or any 56
county, township, municipal corporation, park district, 57
conservancy district, sanitary district, health district, 58
metropolitan housing authority, state retirement board, Ohio 59
historical society, public library, county law library, union 60
cemetery, joint hospital, institutional commissary, state medical 61
college, state university, or board, bureau, commission, council, 62
committee, authority, or administrative body as the same are, or 63
have been, created by action of the general assembly or by the 64
legislative authority of any of the units of local government 65
named in this division not covered by section 742.01, 3307.01, 66
3309.01, or 5505.01 of the Revised Code. In addition, "employer" 67
means the employer of any public employee. 68

(E) "Prior service" means all service as a public employee 69
rendered before January 1, 1935, and all service as an employee of 70
any employer who comes within the state teachers retirement system 71
or of the school employees retirement system or of any other 72
retirement system established under the laws of this state 73
rendered prior to January 1, 1935, provided that if the employee 74
claiming the service was employed in any capacity covered by that 75
other system after that other system was established, credit for 76
the service may be allowed by the public employees retirement 77
system only when the employee has made payment, to be computed on 78
the salary earned from the date of appointment to the date 79
membership was established in the public employees retirement 80
system, at the rate in effect at the time of payment, and the 81
employer has made payment of the corresponding full liability as 82
provided by section 145.44 of the Revised Code. "Prior service" 83

also means all service credited for active duty with the armed 84
forces of the United States as provided in section 145.30 of the 85
Revised Code. 86

If an employee who has been granted prior service credit by 87
the public employees retirement system for service rendered prior 88
to January 1, 1935, as an employee of a board of education 89
establishes, before retirement, one year or more of contributing 90
service in the state teachers retirement system or school 91
employees retirement system, then the prior service ceases to be 92
the liability of this system. 93

If the board determines that a position of any member in any 94
calendar year prior to January 1, 1935, was a part-time position, 95
the board shall determine what fractional part of a year's credit 96
shall be allowed by the following formula: 97

(1) When the member has been either elected or appointed to 98
an office the term of which was two or more years and for which an 99
annual salary is established, the fractional part of the year's 100
credit shall be computed as follows: 101

First, when the member's annual salary is one thousand 102
dollars or less, the service credit for each such calendar year 103
shall be forty per cent of a year. 104

Second, for each full one hundred dollars of annual salary 105
above one thousand dollars, the member's service credit for each 106
such calendar year shall be increased by two and one-half per 107
cent. 108

(2) When the member is paid on a per diem basis, the service 109
credit for any single year of the service shall be determined by 110
using the number of days of service for which the compensation was 111
received in any such year as a numerator and using two hundred 112
fifty days as a denominator. 113

(3) When the member is paid on an hourly basis, the service 114

credit for any single year of the service shall be determined by 115
using the number of hours of service for which the compensation 116
was received in any such year as a numerator and using two 117
thousand hours as a denominator. 118

(F) "Contributor" means any person who has an account in the 119
employees' savings fund created by section 145.23 of the Revised 120
Code. When used in the sections listed in division (B) of section 121
145.82 of the Revised Code, "contributor" includes any person 122
participating in a PERS defined contribution plan. 123

(G) "Beneficiary" or "beneficiaries" means the estate or a 124
person or persons who, as the result of the death of a member, 125
contributor, or retirant, qualify for or are receiving some right 126
or benefit under this chapter. 127

(H)(1) "Total service credit," except as provided in section 128
145.37 of the Revised Code, means all service credited to a member 129
of the retirement system since last becoming a member, including 130
restored service credit as provided by section 145.31 of the 131
Revised Code; credit purchased under sections 145.293 and 145.299 132
of the Revised Code; all the member's prior service credit; all 133
the member's military service credit computed as provided in this 134
chapter; all service credit established pursuant to section 135
145.297 of the Revised Code; and any other service credited under 136
this chapter. In addition, "total service credit" includes any 137
period, not in excess of three years, during which a member was 138
out of service and receiving benefits under Chapters 4121. and 139
4123. of the Revised Code. For the exclusive purpose of satisfying 140
the service credit requirement and of determining eligibility for 141
benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, 142
and 145.361 of the Revised Code, "five or more years of total 143
service credit" means sixty or more calendar months of 144
contributing service in this system. 145

(2) "One and one-half years of contributing service credit," 146

as used in division (B) of section 145.45 of the Revised Code, 147
also means eighteen or more calendar months of employment by a 148
municipal corporation that formerly operated its own retirement 149
plan for its employees or a part of its employees, provided that 150
all employees of that municipal retirement plan who have eighteen 151
or more months of such employment, upon establishing membership in 152
the public employees retirement system, shall make a payment of 153
the contributions they would have paid had they been members of 154
this system for the eighteen months of employment preceding the 155
date membership was established. When that payment has been made 156
by all such employee members, a corresponding payment shall be 157
paid into the employers' accumulation fund by that municipal 158
corporation as the employer of the employees. 159

(3) Where a member also is a member of the state teachers 160
retirement system or the school employees retirement system, or 161
both, except in cases of retirement on a combined basis pursuant 162
to section 145.37 of the Revised Code or as provided in section 163
145.383 of the Revised Code, service credit for any period shall 164
be credited on the basis of the ratio that contributions to the 165
public employees retirement system bear to total contributions in 166
all state retirement systems. 167

(4) Not more than one year of credit may be given for any 168
period of twelve months. 169

(5) "Ohio service credit" means credit for service that was 170
rendered to the state or any of its political subdivisions or any 171
employer. 172

(I) "Regular interest" means interest at any rates for the 173
respective funds and accounts as the public employees retirement 174
board may determine from time to time. 175

(J) "Accumulated contributions" means the sum of all amounts 176
credited to a contributor's individual account in the employees' 177

savings fund together with any interest credited to the 178
contributor's account under section 145.471 or 145.472 of the 179
Revised Code. 180

(K)(1) "Final average salary" means the quotient obtained by 181
dividing by three the sum of the three full calendar years of 182
contributing service in which the member's earnable salary, with 183
any adjustment required by section 145.016 of the Revised Code, 184
was highest, except that if the member has a partial year of 185
contributing service in the year the member's employment 186
terminates and the member's earnable salary for the partial year 187
is higher than for any comparable period in the three years, the 188
member's earnable salary for the partial year shall be substituted 189
for the member's earnable salary for the comparable period during 190
the three years in which the member's earnable salary was lowest. 191

(2) If a member has less than three years of contributing 192
service, the member's final average salary shall be the member's 193
total earnable salary divided by the total number of years, 194
including any fraction of a year, of the member's contributing 195
service. 196

(3) For the purpose of calculating benefits payable to a 197
member qualifying for service credit under division (Z) of this 198
section, "final average salary" means the total earnable salary, 199
with any adjustment required by section 145.016 of the Revised 200
Code, on which contributions were made divided by the total number 201
of years during which contributions were made, including any 202
fraction of a year. If contributions were made for less than 203
twelve months, "final average salary" means the member's total 204
earnable salary. 205

(L) "Annuity" means payments for life derived from 206
contributions made by a contributor and paid from the annuity and 207
pension reserve fund as provided in this chapter. All annuities 208
shall be paid in twelve equal monthly installments. 209

(M) "Annuity reserve" means the present value, computed upon 210
the basis of the mortality and other tables adopted by the board, 211
of all payments to be made on account of any annuity, or benefit 212
in lieu of any annuity, granted to a retirant as provided in this 213
chapter. 214

(N)(1) "Disability retirement" means retirement as provided 215
in section 145.36 of the Revised Code. 216

(2) "Disability allowance" means an allowance paid on account 217
of disability under section 145.361 of the Revised Code. 218

(3) "Disability benefit" means a benefit paid as disability 219
retirement under section 145.36 of the Revised Code, as a 220
disability allowance under section 145.361 of the Revised Code, or 221
as a disability benefit under section 145.37 of the Revised Code. 222

(4) "Disability benefit recipient" means a member who is 223
receiving a disability benefit. 224

(O) "Age and service retirement" means retirement as provided 225
in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of 226
the Revised Code. 227

(P) "Pensions" means annual payments for life derived from 228
contributions made by the employer that at the time of retirement 229
are credited into the annuity and pension reserve fund from the 230
employers' accumulation fund and paid from the annuity and pension 231
reserve fund as provided in this chapter. All pensions shall be 232
paid in twelve equal monthly installments. 233

(Q) "Retirement allowance" means the pension plus that 234
portion of the benefit derived from contributions made by the 235
member. 236

(R)(1) Except as ~~otherwise~~ provided in division (R)(2) of 237
this section, "earnable salary" means all salary, wages, and other 238
earnings paid to a contributor by reason of employment in a 239

position covered by the retirement system. The salary, wages, and 240
other earnings shall be determined prior to determination of the 241
amount required to be contributed to the employees' savings fund 242
under section 145.47 of the Revised Code and without regard to 243
whether any of the salary, wages, or other earnings are treated as 244
deferred income for federal income tax purposes. "Earnable salary" 245
includes the following: 246

(a) Payments made by the employer in lieu of salary, wages, 247
or other earnings for sick leave, personal leave, or vacation used 248
by the contributor; 249

(b) Payments made by the employer for the conversion of sick 250
leave, personal leave, and vacation leave accrued, but not used if 251
the payment is made during the year in which the leave is accrued, 252
except that payments made pursuant to section 124.383 or 124.386 253
of the Revised Code are not earnable salary; 254

(c) Allowances paid by the employer for full maintenance, 255
consisting of housing, laundry, and meals, as certified to the 256
retirement board by the employer or the head of the department 257
that employs the contributor; 258

(d) Fees and commissions paid under section 507.09 of the 259
Revised Code; 260

(e) Payments that are made under a disability leave program 261
sponsored by the employer and for which the employer is required 262
by section 145.296 of the Revised Code to make periodic employer 263
and employee contributions; 264

(f) Amounts included pursuant to divisions (K)(3) and (Y) of 265
this section. 266

(2) "Earnable salary" does not include any of the following: 267

(a) Fees and commissions, other than those paid under section 268
507.09 of the Revised Code, paid as sole compensation for personal 269

services and fees and commissions for special services over and	270
above services for which the contributor receives a salary;	271
(b) Amounts paid by the employer to provide life insurance,	272
sickness, accident, endowment, health, medical, hospital, dental,	273
or surgical coverage, or other insurance for the contributor or	274
the contributor's family, or amounts paid by the employer to the	275
contributor in lieu of providing the insurance;	276
(c) Incidental benefits, including lodging, food, laundry,	277
parking, or services furnished by the employer, or use of the	278
employer's property or equipment, or amounts paid by the employer	279
to the contributor in lieu of providing the incidental benefits;	280
(d) Reimbursement for job-related expenses authorized by the	281
employer, including moving and travel expenses and expenses	282
related to professional development;	283
(e) Payments for accrued but unused sick leave, personal	284
leave, or vacation that are made at any time other than in the	285
year in which the sick leave, personal leave, or vacation was	286
accrued;	287
(f) Payments made to or on behalf of a contributor that are	288
in excess of the annual compensation that may be taken into	289
account by the retirement system under division (a)(17) of section	290
401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26	291
U.S.C.A. 401(a)(17), as amended;	292
(g) <u>Payments made to or on behalf of a contributor that are</u>	293
<u>in excess of the amount determined for that year under division</u>	294
<u>(A)(1)(4) of section 141.011 of the Revised Code as the annual</u>	295
<u>salary of the governor;</u>	296
(h) Payments made under division (B), (C), or (E) of section	297
5923.05 of the Revised Code, Section 4 of Substitute Senate Bill	298
No. 3 of the 119th general assembly, Section 3 of Amended	299
Substitute Senate Bill No. 164 of the 124th general assembly, or	300

Amended Substitute House Bill No. 405 of the 124th general assembly; 301
302

~~(h)~~(i) Anything of value received by the contributor that is based on or attributable to retirement or an agreement to retire, except that payments made on or before January 1, 1989, that are based on or attributable to an agreement to retire shall be included in earnable salary if both of the following apply: 303
304
305
306
307

(i) The payments are made in accordance with contract provisions that were in effect prior to January 1, 1986; 308
309

(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability resulting from the payments. 310
311
312

(3) The retirement board shall determine by rule whether any compensation not enumerated in division (R) of this section is earnable salary, and its decision shall be final. 313
314
315

(S) "Pension reserve" means the present value, computed upon the basis of the mortality and other tables adopted by the board, of all payments to be made on account of any retirement allowance or benefit in lieu of any retirement allowance, granted to a member or beneficiary under this chapter. 316
317
318
319
320

(T)(1) "Contributing service" means all service credited to a member of the system since January 1, 1935, for which contributions are made as required by sections 145.47, 145.48, and 145.483 of the Revised Code. In any year subsequent to 1934, credit for any service shall be allowed by the following formula: 321
322
323
324
325

(a) For each month for which the member's earnable salary is two hundred fifty dollars or more, allow one month's credit. 326
327

(b) For each month for which the member's earnable salary is less than two hundred fifty dollars, allow a fraction of a month's credit. The numerator of this fraction shall be the earnable 328
329
330

salary during the month, and the denominator shall be two hundred 331
fifty dollars, except that if the member's annual earnable salary 332
is less than six hundred dollars, the member's credit shall not be 333
reduced below twenty per cent of a year for a calendar year of 334
employment during which the member worked each month. Division 335
(T)(1)(b) of this section shall not reduce any credit earned 336
before January 1, 1985. 337

(2) Notwithstanding division (T)(1) of this section, an 338
elected official who prior to January 1, 1980, was granted a full 339
year of credit for each year of service as an elected official 340
shall be considered to have earned a full year of credit for each 341
year of service regardless of whether the service was full-time or 342
part-time. The public employees retirement board has no authority 343
to reduce the credit. 344

(U) "State retirement board" means the public employees 345
retirement board, the school employees retirement board, or the 346
state teachers retirement board. 347

(V) "Retirant" means any former member who retires and is 348
receiving a monthly allowance as provided in sections 145.32, 349
145.33, 145.331, 145.34, and 145.46 of the Revised Code. 350

(W) "Employer contribution" means the amount paid by an 351
employer as determined under section 145.48 of the Revised Code. 352

(X) "Public service terminates" means the last day for which 353
a public employee is compensated for services performed for an 354
employer or the date of the employee's death, whichever occurs 355
first. 356

(Y) When a member has been elected or appointed to an office, 357
the term of which is two or more years, for which an annual salary 358
is established, and in the event that the salary of the office is 359
increased and the member is denied the additional salary by reason 360
of any constitutional provision prohibiting an increase in salary 361

during a term of office, the member may elect to have the amount 362
of the member's contributions calculated upon the basis of the 363
increased salary for the office. At the member's request, the 364
board shall compute the total additional amount the member would 365
have contributed, or the amount by which each of the member's 366
contributions would have increased, had the member received the 367
increased salary for the office the member holds. If the member 368
elects to have the amount by which the member's contribution would 369
have increased withheld from the member's salary, the member shall 370
notify the employer, and the employer shall make the withholding 371
and transmit it to the retirement system. A member who has not 372
elected to have that amount withheld may elect at any time to make 373
a payment to the retirement system equal to the additional amount 374
the member's contribution would have increased, plus interest on 375
that contribution, compounded annually at a rate established by 376
the board and computed from the date on which the last 377
contribution would have been withheld from the member's salary to 378
the date of payment. A member may make a payment for part of the 379
period for which the increased contribution was not withheld, in 380
which case the interest shall be computed from the date the last 381
contribution would have been withheld for the period for which the 382
payment is made. Upon the payment of the increased contributions 383
as provided in this division, the increased annual salary as 384
provided by law for the office for the period for which the member 385
paid increased contributions thereon shall be used in determining 386
the member's earnable salary for the purpose of computing the 387
member's final average salary. 388

(Z) "Five years of service credit," for the exclusive purpose 389
of satisfying the service credit requirements and of determining 390
eligibility for benefits under section 145.33 of the Revised Code, 391
means employment covered under this chapter or under a former 392
retirement plan operated, recognized, or endorsed by the employer 393
prior to coverage under this chapter or under a combination of the 394

coverage. 395

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

(BB) "Township constable or police officer in a township 409
police department or district" means any person who is 410
commissioned and employed as a full-time peace officer pursuant to 411
Chapter 505. or 509. of the Revised Code, who has received a 412
certificate attesting to the person's satisfactory completion of 413
the peace officer training school as required by section 109.77 of 414
the Revised Code. 415

(CC) "Drug agent" means any person who is either of the 416
following: 417

(1) Employed full time as a narcotics agent by a county 418
narcotics agency created pursuant to section 307.15 of the Revised 419
Code and has received a certificate attesting to the satisfactory 420
completion of the peace officer training school as required by 421
section 109.77 of the Revised Code; 422

(2) Employed full time as an undercover drug agent as defined 423
in section 109.79 of the Revised Code and is in compliance with 424
section 109.77 of the Revised Code. 425

(DD) "Department of public safety enforcement agent" means a 426
full-time employee of the department of public safety who is 427
designated under section 5502.14 of the Revised Code as an 428
enforcement agent and who is in compliance with section 109.77 of 429
the Revised Code. 430

(EE) "Natural resources law enforcement staff officer" means 431
a full-time employee of the department of natural resources who is 432
designated a natural resources law enforcement staff officer under 433
section 1501.013 of the Revised Code and is in compliance with 434
section 109.77 of the Revised Code. 435

(FF) "Park officer" means a full-time employee of the 436
department of natural resources who is designated a park officer 437
under section 1541.10 of the Revised Code and is in compliance 438
with section 109.77 of the Revised Code. 439

(GG) "Forest officer" means a full-time employee of the 440
department of natural resources who is designated a forest officer 441
under section 1503.29 of the Revised Code and is in compliance 442
with section 109.77 of the Revised Code. 443

(HH) "Preserve officer" means a full-time employee of the 444
department of natural resources who is designated a preserve 445
officer under section 1517.10 of the Revised Code and is in 446
compliance with section 109.77 of the Revised Code. 447

(II) "Wildlife officer" means a full-time employee of the 448
department of natural resources who is designated a wildlife 449
officer under section 1531.13 of the Revised Code and is in 450
compliance with section 109.77 of the Revised Code. 451

(JJ) "State watercraft officer" means a full-time employee of 452
the department of natural resources who is designated a state 453
watercraft officer under section 1547.521 of the Revised Code and 454
is in compliance with section 109.77 of the Revised Code. 455

(KK) "Park district police officer" means a full-time 456

employee of a park district who is designated pursuant to section 457
511.232 or 1545.13 of the Revised Code and is in compliance with 458
section 109.77 of the Revised Code. 459

(LL) "Conservancy district officer" means a full-time 460
employee of a conservancy district who is designated pursuant to 461
section 6101.75 of the Revised Code and is in compliance with 462
section 109.77 of the Revised Code. 463

(MM) "Municipal police officer" means a member of the 464
organized police department of a municipal corporation who is 465
employed full time, is in compliance with section 109.77 of the 466
Revised Code, and is not a member of the Ohio police and fire 467
pension fund. 468

(NN) "Veterans' home police officer" means any person who is 469
employed at a veterans' home as a police officer pursuant to 470
section 5907.02 of the Revised Code and is in compliance with 471
section 109.77 of the Revised Code. 472

(OO) "Special police officer for a mental health institution" 473
means any person who is designated as such pursuant to section 474
5119.14 of the Revised Code and is in compliance with section 475
109.77 of the Revised Code. 476

(PP) "Special police officer for an institution for the 477
mentally retarded and developmentally disabled" means any person 478
who is designated as such pursuant to section 5123.13 of the 479
Revised Code and is in compliance with section 109.77 of the 480
Revised Code. 481

(QQ) "State university law enforcement officer" means any 482
person who is employed full time as a state university law 483
enforcement officer pursuant to section 3345.04 of the Revised 484
Code and who is in compliance with section 109.77 of the Revised 485
Code. 486

(RR) "House sergeant at arms" means any person appointed by 487

the speaker of the house of representatives under division (B)(1) 488
of section 101.311 of the Revised Code who has arrest authority 489
under division (E)(1) of that section. 490

(SS) "Assistant house sergeant at arms" means any person 491
appointed by the house sergeant at arms under division (C)(1) of 492
section 101.311 of the Revised Code. 493

(TT) "Regional transit authority police officer" means a 494
person who is employed full time as a regional transit authority 495
police officer under division (Y) of section 306.35 of the Revised 496
Code and is in compliance with section 109.77 of the Revised Code. 497

(UU) "State highway patrol police officer" means a special 498
police officer employed full time and designated by the 499
superintendent of the state highway patrol pursuant to section 500
5503.09 of the Revised Code or a person serving full time as a 501
special police officer pursuant to that section on a permanent 502
basis on October 21, 1997, who is in compliance with section 503
109.77 of the Revised Code. 504

(VV) "Municipal public safety director" means a person who 505
serves full time as the public safety director of a municipal 506
corporation with the duty of directing the activities of the 507
municipal corporation's police department and fire department. 508

(WW) Notwithstanding section 2901.01 of the Revised Code, 509
"PERS law enforcement officer" means a sheriff or any of the 510
following whose primary duties are to preserve the peace, protect 511
life and property, and enforce the laws of this state: a deputy 512
sheriff, township constable or police officer in a township police 513
department or district, drug agent, department of public safety 514
enforcement agent, natural resources law enforcement staff 515
officer, park officer, forest officer, preserve officer, wildlife 516
officer, state watercraft officer, park district police officer, 517
conservancy district officer, veterans' home police officer, 518

special police officer for a mental health institution, special 519
police officer for an institution for the mentally retarded and 520
developmentally disabled, state university law enforcement 521
officer, municipal police officer, house sergeant at arms, 522
assistant house sergeant at arms, regional transit authority 523
police officer, or state highway patrol police officer. PERS law 524
enforcement officer also includes a person serving as a municipal 525
public safety director at any time during the period from 526
September 29, 2005, to ~~the effective date of this amendment~~ March 527
24, 2009, if the duties of that service were to preserve the 528
peace, protect life and property, and enforce the laws of this 529
state. 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. 537

(YY) "PERS public safety officer" means a Hamilton county 538
municipal court bailiff, or any of the following whose primary 539
duties are other than to preserve the peace, protect life and 540
property, and enforce the laws of this state: a deputy sheriff, 541
township constable or police officer in a township police 542
department or district, drug agent, department of public safety 543
enforcement agent, natural resources law enforcement staff 544
officer, park officer, forest officer, preserve officer, wildlife 545
officer, state watercraft officer, park district police officer, 546
conservancy district officer, veterans' home police officer, 547
special police officer for a mental health institution, special 548
police officer for an institution for the mentally retarded and 549
developmentally disabled, state university law enforcement 550

officer, municipal police officer, house sergeant at arms, 551
assistant house sergeant at arms, regional transit authority 552
police officer, or state highway patrol police officer. PERS 553
public safety officer also includes a person serving as a 554
municipal public safety director at any time during the period 555
from September 29, 2005, to ~~the effective date of this amendment~~ 556
March 24, 2009, if the duties of that service were other than to 557
preserve the peace, protect life and property, and enforce the 558
laws of this state. 559

(ZZ) "Fiduciary" means a person who does any of the 560
following: 561

(1) Exercises any discretionary authority or control with 562
respect to the management of the system or with respect to the 563
management or disposition of its assets; 564

(2) Renders investment advice for a fee, direct or indirect, 565
with respect to money or property of the system; 566

(3) Has any discretionary authority or responsibility in the 567
administration of the system. 568

(AAA) "Actuary" means an individual who satisfies all of the 569
following requirements: 570

(1) Is a member of the American academy of actuaries; 571

(2) Is an associate or fellow of the society of actuaries; 572

(3) Has a minimum of five years' experience in providing 573
actuarial services to public retirement plans. 574

(BBB) "PERS defined benefit plan" means the plan described in 575
sections 145.201 to 145.79 of the Revised Code. 576

(CCC) "PERS defined contribution plans" means the plan or 577
plans established under section 145.81 of the Revised Code. 578

Sec. 145.016. (A) For the purposes of determining final 579

average salary under division (K) of section 145.01 of the Revised 580
Code, "earnable salary" does not include amounts attributable to 581
either of the following: 582

(1) Overtime service that exceeds the greater of the 583
following: 584

(a) The member's overtime service during any of the three 585
years immediately preceding the two years of contributing service 586
in which the member's earnable salary was highest; 587

(b) The member's overtime service that is considered 588
generally applicable to members employed by same employer because 589
it was assigned in accordance with uniform criteria applicable to 590
all such members. 591

(2) A percentage increase in earnable salary paid the member 592
during the two years of contributing service in which the member's 593
earnable salary was highest that exceeds the greater of the 594
following: 595

(a) The highest percentage increase in earnable salary paid 596
the member during any of the three years immediately preceding the 597
two years of contributing service in which the member's earnable 598
salary was highest; 599

(b) A percentage increase in earnable salary paid the member 600
as part of an increase that is considered generally applicable to 601
members employed by the employer because the increase is in 602
accordance with uniform criteria applicable to all such members. 603

(B) Contributions made by a member and an employer on amounts 604
that pursuant to division (A) of this section are not earnable 605
salary shall be treated as additional deposits to the member's 606
account under section 145.62 of the Revised Code and used to 607
provide additional annuity income. 608

(C) The public employees retirement board shall notify each 609

member who applies for a retirement allowance of any amount 610
excluded from the member's earnable salary in accordance with 611
division (A) of this section and the procedure for requesting a 612
hearing. 613

The board shall hold a hearing at the member's request. 614
Following the hearing, the board shall determine in accordance 615
with the criteria it has established whether, for good cause as 616
determined by the board, all or any portion of the excluded 617
amount, up to a maximum of seven thousand five hundred dollars, is 618
to be included in determining the member's final average salary. 619
The board's determination is final. 620

The board shall adopt rules under Chapter 119. of the Revised 621
Code establishing procedures for requesting a hearing and criteria 622
for making determinations under this division. 623

Section 2. That existing section 145.01 of the Revised Code 624
is hereby repealed. 625