

As Introduced

129th General Assembly
Regular Session
2011-2012

H. B. No. 388

Representative Damschroder

Cosponsors: Representatives Thompson, Pelanda

—

A BILL

To amend sections 145.01, 145.191, 145.38, 145.384, 1
145.471, 145.473, 145.58, 145.82, 742.26, 3307.35, 2
3307.352, 3309.341, 3309.344, and 3501.13; to 3
enact sections 145.386, 742.261, 3307.354, and 4
3309.346; and to repeal section 5505.161 of the 5
Revised Code to suspend, during the period of 6
employment, the retirement benefit of a public 7
retirement system retiree who returns to public 8
employment. 9

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

Section 1. That sections 145.01, 145.191, 145.38, 145.384, 10
145.471, 145.473, 145.58, 145.82, 742.26, 3307.35, 3307.352, 11
3309.341, 3309.344, and 3501.13 be amended and sections 145.386, 12
742.261, 3307.354, and 3309.346 of the Revised Code be enacted to 13
read as follows: 14

Sec. 145.01. As used in this chapter: 15

(A) "Public employee" means: 16

(1) Any person holding an office, not elective, under the 17
state or any county, township, municipal corporation, park 18
district, conservancy district, sanitary district, health 19

district, metropolitan housing authority, state retirement board, 20
Ohio historical society, public library, county law library, union 21
cemetery, joint hospital, institutional commissary, state 22
university, or board, bureau, commission, council, committee, 23
authority, or administrative body as the same are, or have been, 24
created by action of the general assembly or by the legislative 25
authority of any of the units of local government named in 26
division (A)(1) of this section, or employed and paid in whole or 27
in part by the state or any of the authorities named in division 28
(A)(1) of this section in any capacity not covered by section 29
742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. 30

(2) A person who is a member of the public employees 31
retirement system and who continues to perform the same or similar 32
duties under the direction of a contractor who has contracted to 33
take over what before the date of the contract was a publicly 34
operated function. The governmental unit with which the contract 35
has been made shall be deemed the employer for the purposes of 36
administering this chapter. 37

(3) Any person who is an employee of a public employer, 38
notwithstanding that the person's compensation for that employment 39
is derived from funds of a person or entity other than the 40
employer. Credit for such service shall be included as total 41
service credit, provided that the employee makes the payments 42
required by this chapter, and the employer makes the payments 43
required by sections 145.48 and 145.51 of the Revised Code. 44

(4) A person who elects in accordance with section 145.015 of 45
the Revised Code to remain a contributing member of the public 46
employees retirement system. 47

In all cases of doubt, the public employees retirement board 48
shall determine whether any person is a public employee, and its 49
decision is final. 50

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

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

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

(E) "Prior service" means all service as a public employee rendered before January 1, 1935, and all service as an employee of any employer who comes within the state teachers retirement system or of the school employees retirement system or of any other retirement system established under the laws of this state rendered prior to January 1, 1935, provided that if the employee

claiming the service was employed in any capacity covered by that 83
other system after that other system was established, credit for 84
the service may be allowed by the public employees retirement 85
system only when the employee has made payment, to be computed on 86
the salary earned from the date of appointment to the date 87
membership was established in the public employees retirement 88
system, at the rate in effect at the time of payment, and the 89
employer has made payment of the corresponding full liability as 90
provided by section 145.44 of the Revised Code. "Prior service" 91
also means all service credited for active duty with the armed 92
forces of the United States as provided in section 145.30 of the 93
Revised Code. 94

If an employee who has been granted prior service credit by 95
the public employees retirement system for service rendered prior 96
to January 1, 1935, as an employee of a board of education 97
establishes, before retirement, one year or more of contributing 98
service in the state teachers retirement system or school 99
employees retirement system, then the prior service ceases to be 100
the liability of this system. 101

If the board determines that a position of any member in any 102
calendar year prior to January 1, 1935, was a part-time position, 103
the board shall determine what fractional part of a year's credit 104
shall be allowed by the following formula: 105

(1) When the member has been either elected or appointed to 106
an office the term of which was two or more years and for which an 107
annual salary is established, the fractional part of the year's 108
credit shall be computed as follows: 109

First, when the member's annual salary is one thousand 110
dollars or less, the service credit for each such calendar year 111
shall be forty per cent of a year. 112

Second, for each full one hundred dollars of annual salary 113

above one thousand dollars, the member's service credit for each 114
such calendar year shall be increased by two and one-half per 115
cent. 116

(2) When the member is paid on a per diem basis, the service 117
credit for any single year of the service shall be determined by 118
using the number of days of service for which the compensation was 119
received in any such year as a numerator and using two hundred 120
fifty days as a denominator. 121

(3) When the member is paid on an hourly basis, the service 122
credit for any single year of the service shall be determined by 123
using the number of hours of service for which the compensation 124
was received in any such year as a numerator and using two 125
thousand hours as a denominator. 126

(F) "Contributor" means any person who has an account in the 127
employees' savings fund created by section 145.23 of the Revised 128
Code. When used in the sections listed in division (B) of section 129
145.82 of the Revised Code, "contributor" includes any person 130
participating in a PERS defined contribution plan. 131

(G) "Beneficiary" or "beneficiaries" means the estate or a 132
person or persons who, as the result of the death of a member, 133
contributor, or retirant, qualify for or are receiving some right 134
or benefit under this chapter. 135

(H)(1) "Total service credit," except as provided in section 136
145.37 of the Revised Code, means all service credited to a member 137
of the retirement system since last becoming a member, including 138
restored service credit as provided by section 145.31 of the 139
Revised Code; credit purchased under sections 145.293 and 145.299 140
of the Revised Code; all the member's prior service credit; all 141
the member's military service credit computed as provided in this 142
chapter; all service credit established pursuant to section 143
145.297 of the Revised Code; and any other service credited under 144

this chapter. In addition, "total service credit" includes any 145
period, not in excess of three years, during which a member was 146
out of service and receiving benefits under Chapters 4121. and 147
4123. of the Revised Code. For the exclusive purpose of satisfying 148
the service credit requirement and of determining eligibility for 149
benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, 150
and 145.361 of the Revised Code, "five or more years of total 151
service credit" means sixty or more calendar months of 152
contributing service in this system. 153

(2) "One and one-half years of contributing service credit," 154
as used in division (B) of section 145.45 of the Revised Code, 155
also means eighteen or more calendar months of employment by a 156
municipal corporation that formerly operated its own retirement 157
plan for its employees or a part of its employees, provided that 158
all employees of that municipal retirement plan who have eighteen 159
or more months of such employment, upon establishing membership in 160
the public employees retirement system, shall make a payment of 161
the contributions they would have paid had they been members of 162
this system for the eighteen months of employment preceding the 163
date membership was established. When that payment has been made 164
by all such employee members, a corresponding payment shall be 165
paid into the employers' accumulation fund by that municipal 166
corporation as the employer of the employees. 167

(3) Where a member also is a member of the state teachers 168
retirement system or the school employees retirement system, or 169
both, except in cases of retirement on a combined basis pursuant 170
to section 145.37 of the Revised Code or as provided in section 171
145.383 of the Revised Code, service credit for any period shall 172
be credited on the basis of the ratio that contributions to the 173
public employees retirement system bear to total contributions in 174
all state retirement systems. 175

(4) Not more than one year of credit may be given for any 176

period of twelve months. 177

(5) "Ohio service credit" means credit for service that was 178
rendered to the state or any of its political subdivisions or any 179
employer. 180

(I) "Regular interest" means interest at any rates for the 181
respective funds and accounts as the public employees retirement 182
board may determine from time to time. 183

(J) "Accumulated contributions" means the sum of all amounts 184
credited to a contributor's individual account in the employees' 185
savings fund together with any interest credited to the 186
contributor's account under section 145.471 or 145.472 of the 187
Revised Code. 188

(K)(1) "Final average salary" means the quotient obtained by 189
dividing by three the sum of the three full calendar years of 190
contributing service in which the member's earnable salary was 191
highest, except that if the member has a partial year of 192
contributing service in the year the member's employment 193
terminates and the member's earnable salary for the partial year 194
is higher than for any comparable period in the three years, the 195
member's earnable salary for the partial year shall be substituted 196
for the member's earnable salary for the comparable period during 197
the three years in which the member's earnable salary was lowest. 198

(2) If a member has less than three years of contributing 199
service, the member's final average salary shall be the member's 200
total earnable salary divided by the total number of years, 201
including any fraction of a year, of the member's contributing 202
service. 203

(3) For the purpose of calculating benefits payable to a 204
member qualifying for service credit under division (Z) of this 205
section, "final average salary" means the total earnable salary on 206
which contributions were made divided by the total number of years 207

during which contributions were made, including any fraction of a	208
year. If contributions were made for less than twelve months,	209
"final average salary" means the member's total earnable salary.	210
(L) "Annuity" means payments for life derived from	211
contributions made by a contributor and paid from the annuity and	212
pension reserve fund as provided in this chapter. All annuities	213
shall be paid in twelve equal monthly installments.	214
(M) "Annuity reserve" means the present value, computed upon	215
the basis of the mortality and other tables adopted by the board,	216
of all payments to be made on account of any annuity, or benefit	217
in lieu of any annuity, granted to a retirant as provided in this	218
chapter.	219
(N)(1) "Disability retirement" means retirement as provided	220
in section 145.36 of the Revised Code.	221
(2) "Disability allowance" means an allowance paid on account	222
of disability under section 145.361 of the Revised Code.	223
(3) "Disability benefit" means a benefit paid as disability	224
retirement under section 145.36 of the Revised Code, as a	225
disability allowance under section 145.361 of the Revised Code, or	226
as a disability benefit under section 145.37 of the Revised Code.	227
(4) "Disability benefit recipient" means a member who is	228
receiving a disability benefit.	229
(O) "Age and service retirement" means retirement as provided	230
in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of	231
the Revised Code.	232
(P) "Pensions" means annual payments for life derived from	233
contributions made by the employer that at the time of retirement	234
are credited into the annuity and pension reserve fund from the	235
employers' accumulation fund and paid from the annuity and pension	236
reserve fund as provided in this chapter. All pensions shall be	237

paid in twelve equal monthly installments.	238
(Q) "Retirement allowance" means the pension plus that	239
portion of the benefit derived from contributions made by the	240
member.	241
(R)(1) Except as otherwise provided in division (R) of this	242
section, "earnable salary" means all salary, wages, and other	243
earnings paid to a contributor by reason of employment in a	244
position covered by the retirement system. The salary, wages, and	245
other earnings shall be determined prior to determination of the	246
amount required to be contributed to the employees' savings fund	247
under section 145.47 of the Revised Code and without regard to	248
whether any of the salary, wages, or other earnings are treated as	249
deferred income for federal income tax purposes. "Earnable salary"	250
includes the following:	251
(a) Payments made by the employer in lieu of salary, wages,	252
or other earnings for sick leave, personal leave, or vacation used	253
by the contributor;	254
(b) Payments made by the employer for the conversion of sick	255
leave, personal leave, and vacation leave accrued, but not used if	256
the payment is made during the year in which the leave is accrued,	257
except that payments made pursuant to section 124.383 or 124.386	258
of the Revised Code are not earnable salary;	259
(c) Allowances paid by the employer for full maintenance,	260
consisting of housing, laundry, and meals, as certified to the	261
retirement board by the employer or the head of the department	262
that employs the contributor;	263
(d) Fees and commissions paid under section 507.09 of the	264
Revised Code;	265
(e) Payments that are made under a disability leave program	266
sponsored by the employer and for which the employer is required	267
by section 145.296 of the Revised Code to make periodic employer	268

and employee contributions;	269
(f) Amounts included pursuant to divisions (K)(3) and (Y) of this section.	270 271
(2) "Earnable salary" does not include any of the following:	272
(a) Fees and commissions, other than those paid under section 507.09 of the Revised Code, paid as sole compensation for personal services and fees and commissions for special services over and above services for which the contributor receives a salary;	273 274 275 276
(b) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance;	277 278 279 280 281
(c) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, or use of the employer's property or equipment, or amounts paid by the employer to the contributor in lieu of providing the incidental benefits;	282 283 284 285
(d) Reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;	286 287 288
(e) Payments for accrued but unused sick leave, personal leave, or vacation that are made at any time other than in the year in which the sick leave, personal leave, or vacation was accrued;	289 290 291 292
(f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended;	293 294 295 296 297
(g) Payments made under division (B), (C), or (E) of section	298

5923.05 of the Revised Code, Section 4 of Substitute Senate Bill 299
No. 3 of the 119th general assembly, Section 3 of Amended 300
Substitute Senate Bill No. 164 of the 124th general assembly, or 301
Amended Substitute House Bill No. 405 of the 124th general 302
assembly; 303

(h) Anything of value received by the contributor that is 304
based on or attributable to retirement or an agreement to retire, 305
except that payments made on or before January 1, 1989, that are 306
based on or attributable to an agreement to retire shall be 307
included in earnable salary if both of the following apply: 308

(i) The payments are made in accordance with contract 309
provisions that were in effect prior to January 1, 1986; 310

(ii) The employer pays the retirement system an amount 311
specified by the retirement board equal to the additional 312
liability resulting from the payments. 313

(3) The retirement board shall determine by rule whether any 314
compensation not enumerated in division (R) of this section is 315
earnable salary, and its decision shall be final. 316

(S) "Pension reserve" means the present value, computed upon 317
the basis of the mortality and other tables adopted by the board, 318
of all payments to be made on account of any retirement allowance 319
or benefit in lieu of any retirement allowance, granted to a 320
member or beneficiary under this chapter. 321

(T)(1) "Contributing service" means all service credited to a 322
member of the system since January 1, 1935, for which 323
contributions are made as required by sections 145.47, 145.48, and 324
145.483 of the Revised Code. In any year subsequent to 1934, 325
credit for any service shall be allowed by the following formula: 326

(a) For each month for which the member's earnable salary is 327
two hundred fifty dollars or more, allow one month's credit. 328

(b) For each month for which the member's earnable salary is 329
less than two hundred fifty dollars, allow a fraction of a month's 330
credit. The numerator of this fraction shall be the earnable 331
salary during the month, and the denominator shall be two hundred 332
fifty dollars, except that if the member's annual earnable salary 333
is less than six hundred dollars, the member's credit shall not be 334
reduced below twenty per cent of a year for a calendar year of 335
employment during which the member worked each month. Division 336
(T)(1)(b) of this section shall not reduce any credit earned 337
before January 1, 1985. 338

(2) Notwithstanding division (T)(1) of this section, an 339
elected official who prior to January 1, 1980, was granted a full 340
year of credit for each year of service as an elected official 341
shall be considered to have earned a full year of credit for each 342
year of service regardless of whether the service was full-time or 343
part-time. The public employees retirement board has no authority 344
to reduce the credit. 345

(U) "State retirement board" means the public employees 346
retirement board, the school employees retirement board, or the 347
state teachers retirement board. 348

(V) "Retirant" means any former member who retires and is 349
receiving a monthly allowance as provided in sections 145.32, 350
145.33, 145.331, 145.34, and 145.46 of the Revised Code. 351

(W) "Employer contribution" means the amount paid by an 352
employer as determined under section 145.48 of the Revised Code. 353

(X) "Public service terminates" means the last day for which 354
a public employee is compensated for services performed for an 355
employer or the date of the employee's death, whichever occurs 356
first. 357

(Y) When a member has been elected or appointed to an office, 358
the term of which is two or more years, for which an annual salary 359

is established, and in the event that the salary of the office is 360
increased and the member is denied the additional salary by reason 361
of any constitutional provision prohibiting an increase in salary 362
during a term of office, the member may elect to have the amount 363
of the member's contributions calculated upon the basis of the 364
increased salary for the office. At the member's request, the 365
board shall compute the total additional amount the member would 366
have contributed, or the amount by which each of the member's 367
contributions would have increased, had the member received the 368
increased salary for the office the member holds. If the member 369
elects to have the amount by which the member's contribution would 370
have increased withheld from the member's salary, the member shall 371
notify the employer, and the employer shall make the withholding 372
and transmit it to the retirement system. A member who has not 373
elected to have that amount withheld may elect at any time to make 374
a payment to the retirement system equal to the additional amount 375
the member's contribution would have increased, plus interest on 376
that contribution, compounded annually at a rate established by 377
the board and computed from the date on which the last 378
contribution would have been withheld from the member's salary to 379
the date of payment. A member may make a payment for part of the 380
period for which the increased contribution was not withheld, in 381
which case the interest shall be computed from the date the last 382
contribution would have been withheld for the period for which the 383
payment is made. Upon the payment of the increased contributions 384
as provided in this division, the increased annual salary as 385
provided by law for the office for the period for which the member 386
paid increased contributions thereon shall be used in determining 387
the member's earnable salary for the purpose of computing the 388
member's final average salary. 389

(Z) "Five years of service credit," for the exclusive purpose 390
of satisfying the service credit requirements and of determining 391
eligibility for benefits under section 145.33 of the Revised Code, 392

means employment covered under this chapter or under a former 393
retirement plan operated, recognized, or endorsed by the employer 394
prior to coverage under this chapter or under a combination of the 395
coverage. 396

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

(BB) "Township constable or police officer in a township 410
police department or district" means any person who is 411
commissioned and employed as a full-time peace officer pursuant to 412
Chapter 505. or 509. of the Revised Code, who has received a 413
certificate attesting to the person's satisfactory completion of 414
the peace officer training school as required by section 109.77 of 415
the Revised Code. 416

(CC) "Drug agent" means any person who is either of the 417
following: 418

(1) Employed full time as a narcotics agent by a county 419
narcotics agency created pursuant to section 307.15 of the Revised 420
Code and has received a certificate attesting to the satisfactory 421
completion of the peace officer training school as required by 422
section 109.77 of the Revised Code; 423

(2) Employed full time as an undercover drug agent as defined 424
in section 109.79 of the Revised Code and is in compliance with 425
section 109.77 of the Revised Code. 426

(DD) "Department of public safety enforcement agent" means a 427
full-time employee of the department of public safety who is 428
designated under section 5502.14 of the Revised Code as an 429
enforcement agent and who is in compliance with section 109.77 of 430
the Revised Code. 431

(EE) "Natural resources law enforcement staff officer" means 432
a full-time employee of the department of natural resources who is 433
designated a natural resources law enforcement staff officer under 434
section 1501.013 of the Revised Code and is in compliance with 435
section 109.77 of the Revised Code. 436

(FF) "Park officer" means a full-time employee of the 437
department of natural resources who is designated a park officer 438
under section 1541.10 of the Revised Code and is in compliance 439
with section 109.77 of the Revised Code. 440

(GG) "Forest officer" means a full-time employee of the 441
department of natural resources who is designated a forest officer 442
under section 1503.29 of the Revised Code and is in compliance 443
with section 109.77 of the Revised Code. 444

(HH) "Preserve officer" means a full-time employee of the 445
department of natural resources who is designated a preserve 446
officer under section 1517.10 of the Revised Code and is in 447
compliance with section 109.77 of the Revised Code. 448

(II) "Wildlife officer" means a full-time employee of the 449
department of natural resources who is designated a wildlife 450
officer under section 1531.13 of the Revised Code and is in 451
compliance with section 109.77 of the Revised Code. 452

(JJ) "State watercraft officer" means a full-time employee of 453
the department of natural resources who is designated a state 454

watercraft officer under section 1547.521 of the Revised Code and 455
is in compliance with section 109.77 of the Revised Code. 456

(KK) "Park district police officer" means a full-time 457
employee of a park district who is designated pursuant to section 458
511.232 or 1545.13 of the Revised Code and is in compliance with 459
section 109.77 of the Revised Code. 460

(LL) "Conservancy district officer" means a full-time 461
employee of a conservancy district who is designated pursuant to 462
section 6101.75 of the Revised Code and is in compliance with 463
section 109.77 of the Revised Code. 464

(MM) "Municipal police officer" means a member of the 465
organized police department of a municipal corporation who is 466
employed full time, is in compliance with section 109.77 of the 467
Revised Code, and is not a member of the Ohio police and fire 468
pension fund. 469

(NN) "Veterans' home police officer" means any person who is 470
employed at a veterans' home as a police officer pursuant to 471
section 5907.02 of the Revised Code and is in compliance with 472
section 109.77 of the Revised Code. 473

(OO) "Special police officer for a mental health institution" 474
means any person who is designated as such pursuant to section 475
5119.14 of the Revised Code and is in compliance with section 476
109.77 of the Revised Code. 477

(PP) "Special police officer for an institution for the 478
mentally retarded and developmentally disabled" means any person 479
who is designated as such pursuant to section 5123.13 of the 480
Revised Code and is in compliance with section 109.77 of the 481
Revised Code. 482

(QQ) "State university law enforcement officer" means any 483
person who is employed full time as a state university law 484
enforcement officer pursuant to section 3345.04 of the Revised 485

Code and who is in compliance with section 109.77 of the Revised Code. 486
487

(RR) "House sergeant at arms" means any person appointed by 488
the speaker of the house of representatives under division (B)(1) 489
of section 101.311 of the Revised Code who has arrest authority 490
under division (E)(1) of that section. 491

(SS) "Assistant house sergeant at arms" means any person 492
appointed by the house sergeant at arms under division (C)(1) of 493
section 101.311 of the Revised Code. 494

(TT) "Regional transit authority police officer" means a 495
person who is employed full time as a regional transit authority 496
police officer under division (Y) of section 306.35 of the Revised 497
Code and is in compliance with section 109.77 of the Revised Code. 498

(UU) "State highway patrol police officer" means a special 499
police officer employed full time and designated by the 500
superintendent of the state highway patrol pursuant to section 501
5503.09 of the Revised Code or a person serving full time as a 502
special police officer pursuant to that section on a permanent 503
basis on October 21, 1997, who is in compliance with section 504
109.77 of the Revised Code. 505

(VV) "Municipal public safety director" means a person who 506
serves full time as the public safety director of a municipal 507
corporation with the duty of directing the activities of the 508
municipal corporation's police department and fire department. 509

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

officer, park officer, forest officer, preserve officer, wildlife 517
officer, state watercraft officer, park district police officer, 518
conservancy district officer, veterans' home police officer, 519
special police officer for a mental health institution, special 520
police officer for an institution for the mentally retarded and 521
developmentally disabled, state university law enforcement 522
officer, municipal police officer, house sergeant at arms, 523
assistant house sergeant at arms, regional transit authority 524
police officer, or state highway patrol police officer. PERS law 525
enforcement officer also includes a person serving as a municipal 526
public safety director at any time during the period from 527
September 29, 2005, to March 24, 2009, if the duties of that 528
service were to preserve the peace, protect life and property, and 529
enforce the laws of this 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 March 24, 2009, if the duties of that 556
service were other than to preserve the peace, protect life and 557
property, and enforce the laws of this state. 558

(ZZ) "Fiduciary" means a person who does any of the 559
following: 560

(1) Exercises any discretionary authority or control with 561
respect to the management of the system or with respect to the 562
management or disposition of its assets; 563

(2) Renders investment advice for a fee, direct or indirect, 564
with respect to money or property of the system; 565

(3) Has any discretionary authority or responsibility in the 566
administration of the system. 567

(AAA) "Actuary" means an individual who satisfies all of the 568
following requirements: 569

(1) Is a member of the American academy of actuaries; 570

(2) Is an associate or fellow of the society of actuaries; 571

(3) Has a minimum of five years' experience in providing 572
actuarial services to public retirement plans. 573

(BBB) "PERS defined benefit plan" means the plan described in 574
sections 145.201 to 145.79 of the Revised Code. 575

(CCC) "PERS defined contribution plans" means the plan or 576
plans established under section 145.81 of the Revised Code. 577

Sec. 145.191. (A) Except as provided in division (E) of this 578
section, a public employees retirement system member or 579
contributor who, as of the last day of the month immediately 580
preceding the date on which the public employees retirement board 581
first establishes a PERS defined contribution plan, has less than 582
five years of total service credit is eligible to make an election 583
under this section. A member or contributor who is employed in 584
more than one position subject to this chapter is eligible to make 585
only one election. The election applies to all positions subject 586
to this chapter. 587

Not later than one hundred eighty days after the day the 588
board first establishes a PERS defined contribution plan, an 589
eligible member or contributor may elect to participate in a PERS 590
defined contribution plan. If a form evidencing an election is not 591
received by the system not later than the last day of the 592
one-hundred-eighty-day period, a member or contributor to whom 593
this section applies is deemed to have elected to continue 594
participating in the PERS defined benefit plan. 595

(B) An election under this section shall be made in writing 596
on a form provided by the system and filed with the system. 597

(C) On receipt of an election under this section, the system 598
shall do both of the following: 599

(1) Credit to the plan elected both of the following: 600

(a) Any employer contributions attributable to the member for 601
the period beginning on the day the board first established a PERS 602
defined contribution plan; 603

(b) All accumulated contributions attributable to the member 604
or contributor. 605

(2) Cancel all service credit and eligibility for any 606
payment, benefit, or right under the PERS defined benefit plan. 607

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

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

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

~~(2) A a PERS law enforcement officer or a PERS public safety officer.~~

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

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

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

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

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

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

(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 637
retirement system who is receiving age and service retirement 638
benefits or a disability benefit under section 145.37 of the 639
Revised Code paid by the school employees retirement system or the 640
state teachers retirement system. 641

(3) "Employed" includes providing services to an employer as 642
an independent contractor and service for which a PERS retirant or 643
other system retirant, the retirant's employer, or both, have 644
waived any earnable salary for the service. 645

(B)(1) Subject to this section and section 145.381 of the 646
Revised Code, a PERS retirant or other system retirant may be 647
employed by a public employer. If so employed, ~~the~~ a PERS retirant 648
or other system retirant shall contribute to the public employees 649
retirement system in accordance with section 145.47 of the Revised 650
Code, and the employer shall make contributions in accordance with 651
section 145.48 of the Revised Code. During the period of 652
employment, the retirement allowance for the period beginning on 653
the first day of the month following the month in which employment 654
commences and ending on the first day of the month following the 655
month the employment ends shall be suspended and placed in an 656
account maintained by the retirement system for the retirant. 657

Payment of the retirement allowance shall resume on the first 658
day of the month following termination of the employment. In 659
addition to the retirement allowance and any amount paid under 660
section 145.384 of the Revised Code, the retirant shall receive a 661
monthly annuity or lump sum payment under section 145.386 of the 662
Revised Code. 663

(2) A public employer that employs a PERS retirant or other 664
system retirant, or enters into a contract for services as an 665
independent contractor with a PERS retirant, shall notify the 666
retirement board of the employment or contract not later than the 667
end of the month in which the employment or contract commences. 668

Any overpayment of benefits to a PERS retirant by the retirement 669
system resulting from delay or failure of the employer to give the 670
notice shall be repaid to the retirement system by the employer. 671

(3) On receipt of notice from a public employer that a person 672
who is an other system retirant has been employed, the retirement 673
system shall notify the retirement system of which the other 674
system retirant was a member of such employment. 675

~~(4)(a) A PERS retirant who has received a retirement 676
allowance for less than two months when employment subject to this 677
section commences shall forfeit the retirement allowance for any 678
month the PERS retirant is employed prior to the expiration of the 679
two month period. Service and contributions for that period shall 680
not be included in calculation of any benefits payable to the PERS 681
retirant, and those contributions shall be refunded on the 682
retirant's death or termination of the employment. 683~~

~~(b) An other system retirant who has received a retirement 684
allowance or disability benefit for less than two months when 685
employment subject to this section commences shall forfeit the 686
retirement allowance or disability benefit for any month the other 687
system retirant is employed prior to the expiration of the 688
two month period. Service and contributions for that period shall 689
not be included in the calculation of any benefits payable to the 690
other system retirant, and those contributions shall be refunded 691
on the retirant's death or termination of the employment. 692~~

~~(c) Contributions made on compensation earned after the 693
expiration of the two month period shall be used in the 694
calculation of the benefit or payment due under section 145.384 of 695
the Revised Code. 696~~

~~(5) On receipt of notice from the Ohio police and fire 697
pension fund, school employees retirement system, or state 698
teachers retirement system of the re-employment of a PERS 699~~

~~retirant, the public employees retirement system shall not pay, or 700
if paid, shall recover, the amount to be forfeited by the PERS 701
retirant in accordance with section 742.26, 3307.35, or 3309.341 702
of the Revised Code. 703~~

~~(6) A PERS retirant who enters into a contract to provide 704
services as an independent contractor to the employer by which the 705
retirant was employed at the time of retirement or, less than two 706
months after the retirement allowance commences, begins providing 707
services as an independent contractor pursuant to a contract with 708
another public employer, shall forfeit the pension portion of the 709
retirement benefit for the period beginning the first day of the 710
month following the month in which the services begin and ending 711
on the first day of the month following the month in which the 712
services end. The annuity portion of the retirement allowance 713
shall be suspended on the day services under the contract begin 714
and shall accumulate to the credit of the retirant to be paid in a 715
single payment after services provided under the contract 716
terminate. A PERS retirant subject to division (B)(6)(4) of this 717
section shall not contribute to the retirement system and shall 718
not become a member of the system. 719~~

~~(7) As used in this division, "employment" includes service 720
for which a PERS retirant or other system retirant, the retirant's 721
employer, or both, have waived any earnable salary for the 722
service. 723~~

~~(C)(1) Except as provided in division (C)(3) of this section, 724
this division applies to both of the following: 725~~

~~(a) A PERS retirant who, prior to September 14, 2000, was 726
subject to division (C)(1)(b) of this section as that division 727
existed immediately prior to September 14, 2000, and has not 728
elected pursuant to Am. Sub. S.B. 144 of the 123rd general 729
assembly to cease to be subject to that division; 730~~

~~(b) A PERS retirant to whom both of the following apply:~~ 731

~~(i) The retirant held elective office in this state, or in 732
any municipal corporation, county, or other political subdivision 733
of this state at the time of retirement under this chapter. 734~~

~~(ii) The retirant was elected or appointed to the same office 735
for the remainder of the term or the term immediately following 736
the term during which the retirement occurred. 737~~

~~(2) A PERS retirant who is subject to this division is a 738
member of the public employees retirement system with all the 739
rights, privileges, and obligations of membership, except that the 740
membership does not include survivor benefits provided pursuant to 741
section 145.45 of the Revised Code or, beginning on the ninetieth 742
day after September 14, 2000, any amount calculated under section 743
145.401 of the Revised Code. The pension portion of the PERS 744
retirant's retirement allowance shall be forfeited until the first 745
day of the first month following termination of the employment. 746
The annuity portion of the retirement allowance shall accumulate 747
to the credit of the PERS retirant to be paid in a single payment 748
after termination of the employment. The retirement allowance 749
shall resume on the first day of the first month following 750
termination of the employment. On termination of the employment, 751
the PERS retirant shall elect to receive either a refund of the 752
retirant's contributions to the retirement system during the 753
period of employment subject to this section or a supplemental 754
retirement allowance based on the retirant's contributions and 755
service credit for that period of employment. 756~~

~~(3) This division does not apply to any of the following:~~ 757

~~(a) A PERS retirant elected to office who, at the time of the 758
election for the retirant's current term, was not retired but, not 759
less than ninety days prior to the primary election for the term 760
or the date on which a primary for the term would have been held, 761~~

~~filed a written declaration of intent to retire before the end of 762
the term with the director of the board of elections of the county 763
in which petitions for nomination or election to the office are 764
filed; 765~~

~~(b) A PERS retirant elected to office who, at the time of the 766
election for the retirant's current term, was a retirant and had 767
been retired for not less than ninety days; 768~~

~~(c) A PERS retirant appointed to office who, at the time of 769
appointment to the retirant's current term, notified the person or 770
entity making the appointment that the retirant was already 771
retired or intended to retire before the end of the term. 772~~

~~(D)(1) Except as provided in division (C) of this section, a 773
A PERS retirant or other system retirant subject to this section 774
is not a member of the public employees retirement system, and, 775
except as specified in this section does not have any of the 776
rights, privileges, or obligations of membership. Except as 777
specified in division ~~(D)~~(C)(2) of this section, the retirant is 778
not eligible to receive health, medical, hospital, or surgical 779
benefits under section 145.58 of the Revised Code for employment 780
subject to this section. 781~~

(2) A PERS retirant subject to this section shall receive 782
primary health, medical, hospital, or surgical insurance coverage 783
from the retirant's employer, if the employer provides coverage to 784
other employees performing comparable work. Neither the employer 785
nor the PERS retirant may waive the employer's coverage, except 786
that the PERS retirant may waive the employer's coverage if the 787
retirant has coverage comparable to that provided by the employer 788
from a source other than the employer or the public employees 789
retirement system. If a claim is made, the employer's coverage 790
shall be the primary coverage and shall pay first. The benefits 791
provided under section 145.58 of the Revised Code shall pay only 792
those medical expenses not paid through the employer's coverage or 793

coverage the PERS retirant receives through a source other than 794
the retirement system. 795

~~(E)~~(D) If the disability benefit of an other system retirant 796
employed under this section is terminated, the retirant shall 797
become a member of the public employees retirement system, 798
effective on the first day of the month next following the 799
termination with all the rights, privileges, and obligations of 800
membership. If such person, after the termination of the 801
disability benefit, earns two years of service credit under this 802
system or under the Ohio police and fire pension fund, state 803
teachers retirement system, school employees retirement system, or 804
state highway patrol retirement system, the person's prior 805
contributions as an other system retirant under this section shall 806
be included in the person's total service credit as a public 807
employees retirement system member, and the person shall forfeit 808
all rights and benefits of this section. Not more than one year of 809
credit may be given for any period of twelve months. 810

~~(F)~~(E) This section does not affect the receipt of benefits 811
by or eligibility for benefits of any person who on August 20, 812
1976, was receiving a disability benefit or service retirement 813
pension or allowance from a state or municipal retirement system 814
in Ohio and was a member of any other state or municipal 815
retirement system of this state. 816

~~(G)~~(F) The public employees retirement board may adopt rules 817
to carry out this section. 818

Sec. 145.384. (A) As used in this section, "PERS retirant" 819
~~means a PERS retirant who is not subject to division (C) of has~~ 820
~~the same meaning as in section 145.38 of the Revised Code. ~~For~~~~ 821
~~purposes of this section, "PERS retirant", except that, it also~~ 822
includes both of the following: 823

(1) A member who retired under section 145.383 of the Revised 824

Code; 825

(2) A retirant whose retirement allowance resumed under 826
section 145.385 of the Revised Code. 827

(B)(1) An other system retirant or PERS retirant who has made 828
contributions under section 145.38 or 145.383 of the Revised Code 829
or, in the case of a retirant described in division (A)(2) of this 830
section, section 145.47 of the Revised Code may file an 831
application with the public employees retirement system to receive 832
either a benefit, as provided in division (B)(2) of this section, 833
or payment of the retirant's contributions made under those 834
sections, as provided in division (H) of this section. 835

(2) A benefit under this section shall consist of an annuity 836
having a reserve equal to the amount of the retirant's accumulated 837
contributions for the period of employment, ~~other than the~~ 838
~~contributions excluded pursuant to division (B)(4)(a) or (b) of~~ 839
~~section 145.38 of the Revised Code,~~ and an amount of the 840
employer's contributions determined by the board. 841

(a) Unless, as described in division (I) of this section, the 842
application is accompanied by a statement of the spouse's consent 843
to another form of payment or the board waives the requirement of 844
spousal consent, a PERS retirant or other system retirant who is 845
married at the time of application for a benefit under this 846
section shall receive a monthly annuity under which the actuarial 847
equivalent of the retirant's single life annuity is paid in a 848
lesser amount for life and one-half of the lesser amount continues 849
after the retirant's death to the surviving spouse. 850

(b) A PERS retirant or other system retirant who is not 851
subject to division (B)(2)(a) of this section shall elect either 852
to receive the benefit as a monthly annuity or a lump sum payment 853
discounted to the present value using a rate of interest 854
determined by the board. A retirant who elects to receive a 855

monthly annuity shall select one of the following as the plan of 856
payment: 857

(i) The retirant's single life annuity; 858

(ii) The actuarial equivalent of the retirant's single life 859
annuity in an equal or lesser amount for life and continuing after 860
death to a surviving beneficiary designated at the time the plan 861
of payment is selected. 862

If a retirant who is eligible to select a plan of payment 863
under division (B)(2)(b) of this section fails to do so, the 864
benefit shall be paid as a monthly annuity under the plan of 865
payment specified in rules adopted by the public employees 866
retirement board. 867

(c) Notwithstanding divisions (B)(2)(a) and (b) of this 868
section, if a monthly annuity would be less than twenty-five 869
dollars per month, the retirant shall receive a lump sum payment. 870

(C)(1) The death of a spouse or other designated beneficiary 871
under a plan of payment described in division (B)(2) of this 872
section cancels that plan of payment. The PERS retirant or other 873
system retirant shall receive the equivalent of the retirant's 874
single life annuity, as determined by the board, effective the 875
first day of the month following receipt by the board of notice of 876
the death. 877

(2) On divorce, annulment, or marriage dissolution, a PERS 878
retirant or other system retirant receiving a benefit described in 879
division (B)(2) of this section under which the beneficiary is the 880
spouse may, with the written consent of the spouse or pursuant to 881
an order of the court with jurisdiction over the termination of 882
the marriage, elect to cancel the plan and receive the equivalent 883
of the retirant's single life annuity as determined by the board. 884
The election shall be made on a form provided by the board and 885
shall be effective the month following its receipt by the board. 886

(D) Following a marriage or remarriage, a PERS retirant or 887
other system retirant who is receiving a benefit described in 888
division (B)(2)(b)(i) of this section may elect a new plan of 889
payment under division (B)(2)(b) of this section based on the 890
actuarial equivalent of the retirant's single life annuity as 891
determined by the board. 892

If the marriage or remarriage occurs on or after ~~the~~ 893
~~effective date of this amendment~~ June 6, 2005, the election must 894
be made not later than one year after the date of the marriage or 895
remarriage. 896

The plan elected under this division shall be effective on 897
the date of receipt by the board of an application on a form 898
approved by the board, but any change in the amount of the benefit 899
shall commence on the first day of the month following the 900
effective date of the plan. 901

(E) A benefit payable under division (B)(2) of this section 902
shall commence on the latest of the following: 903

(1) The last day for which compensation for all employment 904
subject to section 145.38, 145.383, or 145.385 of the Revised Code 905
was paid; 906

(2) Attainment by the PERS retirant or other system retirant 907
of age sixty-five; 908

(3) If the PERS retirant or other system retirant was 909
previously employed under section 145.38, 145.383, or 145.385 of 910
the Revised Code and is receiving or previously received a benefit 911
under this section, completion of a period of twelve months since 912
the effective date of the last benefit under this section; 913

(4) A date specified by the retirant. 914

(F)(1) If a PERS retirant or other system retirant dies while 915
employed in employment subject to section 145.38, 145.383, or 916

145.385 of the Revised Code, a lump sum payment calculated in 917
accordance with division (B)(2) of this section shall be paid to 918
the retirant's beneficiary under division (G) of this section. 919

(2) If at the time of death a PERS retirant or other system 920
retirant receiving a monthly annuity under division (B)(2)(b)(i) 921
of this section has received less than the retirant would have 922
received as a lump sum payment, the difference between the amount 923
received and the amount that would have been received as a lump 924
sum payment shall be paid to the retirant's beneficiary under 925
division (G) of this section. 926

(3) If a beneficiary receiving a monthly annuity under 927
division (B)(2) of this section dies and, at the time of the 928
beneficiary's death, the total of the amounts paid to the retirant 929
and beneficiary are less than the amount the retirant would have 930
received as a lump sum payment, the difference between the total 931
of the amounts received by the retirant and beneficiary and the 932
amount that the retirant would have received as a lump sum payment 933
shall be paid to the beneficiary's estate. 934

(G) A PERS retirant or other system retirant employed under 935
section 145.38, 145.383, or 145.385 of the Revised Code may 936
designate one or more persons as beneficiary to receive any 937
benefits payable under division (B)(2)(b) of this section due to 938
death. The designation shall be in writing duly executed on a form 939
provided by the public employees retirement board, signed by the 940
PERS retirant or other system retirant, and filed with the board 941
prior to death. The last designation of a beneficiary revokes all 942
previous designations. The PERS retirant's or other system 943
retirant's marriage, divorce, marriage dissolution, legal 944
separation, withdrawal of account, birth of a child, or adoption 945
of a child revokes all previous designations. If there is no 946
designated beneficiary, the beneficiary is the beneficiary 947
determined under division (D) of section 145.43 of the Revised 948

Code. If any benefit payable under this section due to the death 949
of a PERS retirant or other system retirant is not claimed by a 950
beneficiary within five years after the death, the amount payable 951
shall be transferred to the income fund and thereafter paid to the 952
beneficiary or the estate of the PERS retirant or other system 953
retirant on application to the board. 954

(H)(1) A PERS retirant or other system retirant who applies 955
under division (B)(1) of this section for payment of the 956
retirant's contributions and is unmarried or is married and, 957
unless the board has waived the requirement of spousal consent, 958
includes with the application a statement of the spouse's consent 959
to the payment, shall be paid the contributions made under section 960
145.38 or 145.383 of the Revised Code or, in the case of a 961
retirant described in division (A)(2) of this section, section 962
145.47 of the Revised Code, plus interest as provided in section 963
145.471 of the Revised Code, if the following conditions are met: 964

(a) The retirant has not attained sixty-five years of age and 965
has terminated employment subject to section 145.38, 145.383, or 966
145.385 of the Revised Code for any cause other than death or the 967
receipt of a benefit under this section. 968

(b) Three months have elapsed since the termination of the 969
retirant's employment subject to section 145.38, 145.383, or 970
145.385 of the Revised Code, other than employment exempted from 971
contribution pursuant to section 145.03 of the Revised Code. 972

(c) The retirant has not returned to public service, other 973
than service exempted from contribution pursuant to section 145.03 974
of the Revised Code, during the three-month period. 975

(2) Payment of a retirant's contributions cancels the 976
retirant's right to a benefit under division (B)(2) of this 977
section. 978

(I) A statement of a spouse's consent under division (B)(2) 979

of this section to the form of a benefit or under division (H) of 980
this section to a payment of contributions is valid only if signed 981
by the spouse and witnessed by a notary public. The board may 982
waive the requirement of spousal consent if the spouse is 983
incapacitated or cannot be located, or for any other reason 984
specified by the board. Consent or waiver is effective only with 985
regard to the spouse who is the subject of the consent or waiver. 986

(J) No amount received under this section shall be included 987
in determining an additional benefit under section 145.323 of the 988
Revised Code or any other post-retirement benefit increase. 989

Sec. 145.386. (A) The annuity paid by the public employees 990
retirement system under this section shall have a reserve equal to 991
the amount placed in the PERS retirant's account under division 992
(B)(1) of section 145.38 of the Revised Code, except that if the 993
annuity would be less than twenty-five dollars per month, the 994
retirant shall receive as a lump sum payment an amount equal to 995
the reserve. 996

(1) If the retirant is married at the time of application, 997
the annuity shall consist of the actuarial equivalent of a single 998
life annuity paid in a lesser amount for life and one-half of the 999
lesser amount continuing after the retirant's death to the 1000
surviving spouse unless, as described in division (G) of this 1001
section, the retirant's application is accompanied by a statement 1002
of the spouse's consent to another form of payment or the public 1003
employees retirement board waives the requirement of spousal 1004
consent. 1005

(2) A retirant who is not subject to division (A)(1) of this 1006
section shall elect one of the following as the annuity plan of 1007
payment: 1008

(a) A single life annuity; 1009

(b) The actuarial equivalent of a single life annuity in an equal or lesser amount for life and continuing after death to a surviving beneficiary designated at the time the plan of payment is selected. 1010
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If the retirant fails to select a plan of payment, the annuity shall be paid under the plan of payment specified in rules adopted by the board. 1014
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(B)(1) The death of a spouse or other designated beneficiary under a plan of payment described in division (A) of this section cancels that plan of payment. The retirant shall receive the equivalent of the single life annuity, as determined by the board, effective the first day of the first month following the date of death. 1017
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(2) On divorce, annulment, or marriage dissolution, a retirant receiving an annuity under which the beneficiary is the spouse may, with the written consent of the spouse or pursuant to an order of the court with jurisdiction over termination of the marriage, elect to cancel the plan and receive the equivalent of the single life annuity as determined by the board. The election shall be made on a form provided by the board and shall be effective the month following its receipt by the board. 1023
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(C) Following a marriage or remarriage, a retirant who is receiving an annuity under division (A)(2)(a) of this section may elect a new plan of payment under division (A)(2)(b) based on the actuarial equivalent of the single life annuity as determined by the board. The election must be made not later than one year after the date of the marriage or remarriage. 1031
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The plan elected under this division shall be effective on the date of receipt by the board of an application on a form approved by the board, but any change in the annuity amount shall commence on the first day of the month following the effective 1037
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date of the plan. 1041

(D) Payment of the annuity shall commence on the first day of 1042
the month following termination of employment as described in 1043
division (B)(1) of section 145.38 of the Revised Code. 1044

(E) If a retirant dies while in employment described in 1045
division (B)(1) of section 145.38 of the Revised Code, a lump sum 1046
payment calculated by the retirement system shall be paid to the 1047
retirant's beneficiary under division (F) of this section. 1048

If at the time of death, a retirant receiving a monthly 1049
annuity under this section has received less than an amount equal 1050
to the annuity reserve, the difference between the amount received 1051
and the reserve shall be paid to the retirant's beneficiary under 1052
division (F) of this section. 1053

If a beneficiary receiving a monthly annuity under this 1054
section dies, and at the time of the beneficiary's death, the 1055
total of the amounts paid to the retirant and beneficiary are less 1056
than an amount equal to the annuity reserve, the difference 1057
between the total amounts received and the reserve shall be paid 1058
to the beneficiary's estate. 1059

(F) A retirant may designate one or more persons as 1060
beneficiary to receive any amount payable under division (E) of 1061
this section. The designation shall be in writing duly executed on 1062
a form provided by the board, signed by the retirant, and filed 1063
with the board prior to the retirant's death. The last designation 1064
revokes all previous designations. The retirant's marriage, 1065
divorce, marriage dissolution, legal separation, withdrawal of 1066
account, birth of a child, or adoption of a child revokes all 1067
previous designations. If there is no designated beneficiary, the 1068
beneficiary is the beneficiary determined under division (D) of 1069
section 145.43 of the Revised Code. If any amount payable under 1070
division (E) of this section is not claimed by a beneficiary 1071

within five years after the retirant's death, that amount shall 1072
remain in the employees' savings fund or may be transferred to the 1073
income fund and thereafter shall be paid to the beneficiary or the 1074
estate of the retirant on application to the board. 1075

(G) A statement of a spouse's consent under division (A) of 1076
this section to a plan of payment is valid only if signed by the 1077
spouse and witnessed by a notary public. The board may waive the 1078
requirement of spousal consent if the spouse is incapacitated or 1079
cannot be located, or for any other reason specified by the board. 1080
Consent or waiver is effective only with regard to the spouse who 1081
is the subject of the consent or waiver. 1082

(H) No amount received under this section shall be included 1083
in determining an additional benefit under section 145.323 of the 1084
Revised Code or any other post-retirement benefit increase. 1085

Sec. 145.471. (A)(1) On and after December 13, 2000, the 1086
public employees retirement board shall credit interest to the 1087
individual accounts of contributors, except that interest shall 1088
not be credited to the individual account of a PERS or other 1089
system retirant, as defined in section 145.38 of the Revised Code, 1090
for ~~contributions received during the period described in the~~ 1091
amount placed in the retirant's account under division (B)~~(4)(a)~~ 1092
~~or (b)(1)~~ of section 145.38 of the Revised Code. For amounts 1093
deposited by a contributor under section 145.62 or the version of 1094
division (C) of section 145.23 of the Revised Code as it existed 1095
immediately prior to ~~the effective date of this amendment~~ April 6, 1096
2007, interest or earnings shall be credited in accordance with 1097
that section and former division. 1098

(2) Except as provided in section 145.472 of the Revised 1099
Code, the board shall not credit interest to individual accounts 1100
for the period beginning December 31, 1958, and ending on December 1101
13, 2000. 1102

(B) For contributions received in a calendar year, interest 1103
shall be earned beginning on the first day of the calendar year 1104
next following and ending on the last day of that year, except 1105
that interest shall be earned, in the case of an application for 1106
retirement or payment under section 145.40 or 145.43 of the 1107
Revised Code, ending on the last day of the month prior to 1108
retirement or payment under those sections. The board shall credit 1109
interest at the end of the calendar year in which it is earned. 1110

Sec. 145.473. (A) Except as provided in division (C) of this 1111
section, the rate of interest credited to individual accounts of 1112
contributors under sections 145.471 and 145.472 of the Revised 1113
Code shall be as follows: 1114

(1) Four per cent per annum, compounded annually, to and 1115
including December 31, 1955; 1116

(2) Three per cent per annum, compounded annually, from 1117
January 1, 1956, to and including December 31, 1963; 1118

(3) Three and one-quarter per cent per annum, compounded 1119
annually, from January 1, 1964, to and including December 31, 1120
1969; 1121

(4) Four per cent per annum, compounded annually, from 1122
January 1, 1970, to and including the day before December 13, 1123
2000; 1124

(5) An amount determined by the public employees retirement 1125
board that is not greater than six per cent per annum, compounded 1126
annually, on and after December 13, 2000. 1127

(B) Except as provided in division (C) of this section, for 1128
the purpose of determining the reserve value of a contributor's 1129
annuity, the rate of interest shall be as follows: 1130

(1) Four per cent per annum, compounded annually, for 1131
contributors retiring before October 1, 1956; 1132

(2) Three per cent per annum, compounded annually, for 1133
contributors retiring on or after October 1, 1956, but before 1134
January 1, 1964; 1135

(3) Three and one-quarter per cent per annum, compounded 1136
annually, for contributors retiring on or after January 1, 1964, 1137
but before January 1, 1970; 1138

(4) Four per cent per annum, compounded annually, for 1139
contributors retiring on or after January 1, 1970, but before 1140
December 13, 2000; 1141

(5) An amount determined by the board based on the 1142
recommendation of the board's actuary, compounded annually, for 1143
contributors retiring on or after December 13, 2000. 1144

(C) For a PERS retirant ~~who is not subject to division (C) of~~ 1145
~~section 145.38 of the Revised Code~~ or an other system retirant, as 1146
those terms are defined in section 145.38 of the Revised Code, or 1147
a member of the public employees retirement system who retires in 1148
accordance with section 145.383 of the Revised Code, the rate of 1149
interest shall be the current actuarial assumption rate of 1150
interest, as determined by the board's actuary, for the purposes 1151
described in divisions (A) and (B) of this section. 1152

Sec. 145.58. (A) As used in this section, "ineligible 1153
individual" means all of the following: 1154

(1) A former member receiving benefits pursuant to section 1155
145.32, 145.33, 145.331, 145.34, or 145.46 of the Revised Code for 1156
whom eligibility is established more than five years after June 1157
13, 1981, and who, at the time of establishing eligibility, has 1158
accrued less than ten years' service credit, exclusive of credit 1159
obtained pursuant to section 145.297 or 145.298 of the Revised 1160
Code, credit obtained after January 29, 1981, pursuant to section 1161
145.293 or 145.301 of the Revised Code, and credit obtained after 1162

May 4, 1992, pursuant to section 145.28 of the Revised Code; 1163

(2) The spouse of the former member; 1164

(3) The beneficiary of the former member receiving benefits 1165
pursuant to section 145.46 of the Revised Code. 1166

(B) The public employees retirement board may enter into 1167
agreements with insurance companies, health insuring corporations, 1168
or government agencies authorized to do business in the state for 1169
issuance of a policy or contract of health, medical, hospital, or 1170
surgical benefits, or any combination thereof, for those 1171
individuals receiving age and service retirement or a disability 1172
or survivor benefit subscribing to the plan, or for PERS retirants 1173
employed under section 145.38 of the Revised Code, for coverage of 1174
benefits in accordance with division ~~(D)~~(C)(2) of section 145.38 1175
of the Revised Code. Notwithstanding any other provision of this 1176
chapter, the policy or contract may also include coverage for any 1177
eligible individual's spouse and dependent children and for any of 1178
the individual's sponsored dependents as the board determines 1179
appropriate. If all or any portion of the policy or contract 1180
premium is to be paid by any individual receiving age and service 1181
retirement or a disability or survivor benefit, the individual 1182
shall, by written authorization, instruct the board to deduct the 1183
premium agreed to be paid by the individual to the company, 1184
corporation, or agency. 1185

The board may contract for coverage on the basis of part or 1186
all of the cost of the coverage to be paid from appropriate funds 1187
of the public employees retirement system. The cost paid from the 1188
funds of the system shall be included in the employer's 1189
contribution rate provided by sections 145.48 and 145.51 of the 1190
Revised Code. The board may by rule provide coverage to ineligible 1191
individuals if the coverage is provided at no cost to the 1192
retirement system. The board shall not pay or reimburse the cost 1193
for coverage under this section or section 145.325 of the Revised 1194

Code for any ineligible individual. 1195

The board may provide for self-insurance of risk or level of 1196
risk as set forth in the contract with the companies, 1197
corporations, or agencies, and may provide through the 1198
self-insurance method specific benefits as authorized by rules of 1199
the board. 1200

(C) The board shall, beginning the month following receipt of 1201
satisfactory evidence of the payment for coverage, pay monthly to 1202
each recipient of service retirement, or a disability or survivor 1203
benefit under the public employees retirement system who is 1204
eligible for medical insurance coverage under part B of Title 1205
XVIII of "The Social Security Act," 79 Stat. 301 (1965), 42 1206
U.S.C.A. 1395j, as amended, an amount determined by the board for 1207
such coverage that is not less than ninety-six dollars and forty 1208
cents, except that the board shall make no such payment to any 1209
ineligible individual or pay an amount that exceeds the amount 1210
paid by the recipient for the coverage. 1211

At the request of the board, the recipient shall certify to 1212
the retirement system the amount paid by the recipient for 1213
coverage described in this division. 1214

(D) The board shall establish by rule requirements for the 1215
coordination of any coverage, payment, or benefit provided under 1216
this section or section 145.325 of the Revised Code with any 1217
similar coverage, payment, or benefit made available to the same 1218
individual by the Ohio police and fire pension fund, state 1219
teachers retirement system, school employees retirement system, or 1220
state highway patrol retirement system. 1221

(E) The board shall make all other necessary rules pursuant 1222
to the purpose and intent of this section. 1223

Sec. 145.82. (A) Except as provided in divisions (B) and (C) 1224

of this section, sections 145.201 to 145.70 of the Revised Code do 1225
not apply to a PERS defined contribution plan, except that a PERS 1226
defined contribution plan may incorporate provisions of those 1227
sections as specified in the plan document. 1228

(B) The following sections of Chapter 145. of the Revised 1229
Code apply to a PERS defined contribution plan: 145.22, 145.221, 1230
145.23, 145.25, 145.26, 145.27, 145.296, 145.38, 145.382, 145.383, 1231
145.384, 145.386, 145.391, 145.47, 145.48, 145.483, 145.51, 1232
145.52, 145.53, 145.54, 145.55, 145.56, 145.563, 145.57, 145.571, 1233
145.572, 145.573, 145.69, and 145.70 of the Revised Code. 1234

(C) A PERS defined contribution plan that includes definitely 1235
determinable benefits may incorporate by reference all or part of 1236
sections 145.201 to 145.79 of the Revised Code to allow a member 1237
participating in the plan to purchase service credit or to be 1238
eligible for any of the following: 1239

(1) Retirement, disability, survivor, or death benefits; 1240

(2) Health or long-term care insurance or any other type of 1241
health care benefit; 1242

(3) Additional increases under section 145.323 of the Revised 1243
Code; 1244

(4) A refund of contributions made by or on behalf of a 1245
member. 1246

With respect to the benefits described in division (C)(1) of 1247
this section, the public employees retirement board may establish 1248
eligibility requirements and benefit formulas or amounts that 1249
differ from those of members participating in the PERS defined 1250
benefit plan. With respect to the purchase of service credit by a 1251
member participating in a PERS defined contribution plan, the 1252
board may reduce the cost of the service credit to reflect the 1253
different benefit formula established for the member. 1254

Sec. 742.26. (A) As used in this section: 1255

(1) "Actuarial present value" means the calculation under 1256
which the probability of occurrence, based on a specified 1257
mortality table, and the discount for future monetary growth at a 1258
specified interest rate are considered by an actuary to determine 1259
the value of an annuity. 1260

(2) "Other system retirant" means a former member of the 1261
public employees retirement system, state teachers retirement 1262
system, school employees retirement system, state highway patrol 1263
retirement system, or Cincinnati retirement system who is 1264
receiving a disability benefit or an age and service or commuted 1265
age and service retirement benefit or allowance from a system of 1266
which the person is a former member. 1267

(3) "OPFPF retirant" means any person who is receiving a 1268
retirement allowance, other than a disability benefit, from the 1269
Ohio police and fire pension fund. 1270

(B) The mortality table and interest rate used in determining 1271
actuarial present value shall be determined by the board of 1272
trustees of the fund based on the recommendations of an actuary 1273
employed by the board. 1274

(C)(1) An OPFPF retirant or other system retirant may be 1275
employed as a member of a police or fire department. If so 1276
employed, ~~the~~ a retirant shall make contributions to the fund in 1277
accordance with section 742.31 of the Revised Code, and the 1278
employer shall make contributions in accordance with sections 1279
742.33 and 742.34 of the Revised Code. During the period of 1280
employment, the retirement allowance for the period beginning on 1281
the first day of the month following the month in which employment 1282
commences and ending on the first day of the month following the 1283
month the employment ends shall be suspended and placed in an 1284
account maintained by the fund for the retirant. 1285

Payment of the retirement allowance shall resume on the first day of the month following termination of the employment. In addition to the retirement allowance and any amount paid under division (E) of this section, the retirant shall receive a monthly annuity or lump sum payment under section 742.261 of the Revised Code.

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

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

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

~~(F)(1) On termination of employment under this section, an~~

OPFPF retirant or other system retirant may file an application 1318
with the board of trustees of the fund to receive either a 1319
benefit, as provided in division ~~(F)~~(D)(2) of this section, or 1320
payment of the retirant's contributions made under this section, 1321
as provided in division ~~(H)~~(F) of this section. 1322

(2) A benefit under this section shall consist of an annuity 1323
the actuarial present value of which is equal to two times the sum 1324
of all amounts deducted from the salary of the OPFPF retirant or 1325
other system retirant and credited to the retirant's individual 1326
account in the fund, ~~other than contributions excluded pursuant to~~ 1327
~~division (D) of this section,~~ together with interest credited 1328
thereon at the rate determined by the board. 1329

(a) Unless, as described in division ~~(I)~~(G) of this section, 1330
the application is accompanied by a statement of the spouse's 1331
consent to another form of payment or the board of trustees waives 1332
the requirement of spousal consent, a retirant who is married at 1333
the time of application under this division shall receive a 1334
monthly annuity under which the actuarial equivalent of the 1335
retirant's single life annuity is paid in a lesser amount for life 1336
and one-half of the lesser amount continues after the retirant's 1337
death to the surviving spouse. 1338

(b) A retirant who is not subject to division ~~(F)~~(D)(2)(a) of 1339
this section shall elect to receive either a monthly annuity or a 1340
~~lump sum~~ lump sum payment. If the retirant fails to elect a plan 1341
of payment, the annuity shall be paid as a monthly annuity under 1342
the plan of payment specified in rules adopted by the board of 1343
trustees of the fund. 1344

A retirant who elects to receive a monthly annuity shall 1345
select one of the following as the plan of payment: 1346

(i) The retirant's single life annuity; 1347

(ii) The actuarial equivalent of the retirant's single life 1348

annuity in an equal or lesser amount for life and continuing after 1349
death to a surviving beneficiary designated at the time the plan 1350
of payment is selected. 1351

(c) Notwithstanding divisions ~~(F)~~(D)(2)(a) and (b) of this 1352
section, if a monthly annuity would be less than twenty-five 1353
dollars per month, the retirant shall receive a lump sum payment. 1354

(3) Interest shall be credited to accounts only at the time 1355
of calculation of a benefit payable under division ~~(F)~~(D)(2) of 1356
this section. 1357

(4) A benefit payable under this division shall commence on 1358
the first day of the month immediately after the latest of the 1359
following: 1360

(a) The last day for which compensation for employment 1361
subject to this section was paid; 1362

(b) Attainment by the OPFPF retirant or other system retirant 1363
of age sixty; 1364

(c) If the OPFPF retirant or other system retirant was 1365
previously employed under this section and is receiving or 1366
previously received a benefit under this division, completion of a 1367
period of twelve months since the last benefit paid under this 1368
section commenced. 1369

(5) No amount received under this division shall be included 1370
in determining an additional benefit under section 742.3711, 1371
742.3716, or 742.3717 of the Revised Code or any other 1372
post-retirement benefit increase. 1373

~~(G)~~(E)(1) If an OPFPF retirant or other system retirant dies 1374
while employed in employment subject to this section, a ~~lump sum~~ 1375
lump sum payment calculated in accordance with division ~~(F)~~(D)(2) 1376
of this section shall be paid to the retirant's surviving spouse, 1377
or if there is no surviving spouse, to the retirant's estate. 1378

(2) If at the time of death an OPFPF retirant or other system 1379
retirant receiving a monthly annuity under division ~~(F)~~(D)(2) of 1380
this section has received less than would have been received as a 1381
~~lump sum~~ lump sum payment under division ~~(F)~~(D)(2) of this 1382
section, the difference between the amount received and the amount 1383
that would have been received as a ~~lump sum~~ lump sum payment shall 1384
be paid to the retirant's surviving spouse, or if there is no 1385
surviving spouse, to the retirant's estate. 1386

(3) If a beneficiary receiving a monthly annuity under 1387
division ~~(F)~~(D)(2) of this section dies and, at the time of the 1388
beneficiary's death, the total of the amounts paid to the retirant 1389
and beneficiary are less than the amount the retirant would have 1390
received as a lump sum payment, the difference between the total 1391
of the amounts received by the retirant and beneficiary and the 1392
amount that the retirant would have received as a lump sum payment 1393
shall be paid to the beneficiary's estate. 1394

~~(H)~~(F)(1) An OPFPF retirant or other system retirant who 1395
applies under division ~~(F)~~(D)(1) of this section for payment of 1396
the retirant's contributions and is unmarried or is married and, 1397
unless the board of trustees has waived the requirement of spousal 1398
consent, includes with the application a statement of the spouse's 1399
consent to the payment shall be paid the contributions made under 1400
division (C) of this section, plus interest, if the following 1401
conditions are met: 1402

(a) The retirant has not attained sixty years of age and has 1403
terminated employment subject to this section for any cause other 1404
than death or the receipt of a benefit under division ~~(F)~~(D) of 1405
this section. 1406

(b) Three months have elapsed since the termination of 1407
employment subject to this section. 1408

(c) The retirant has not returned to service subject to this 1409

chapter or Chapter 145., 3307., or 3309. of the Revised Code, 1410
other than service exempted from contribution to the public 1411
employees retirement system pursuant to section 145.03 of the 1412
Revised Code, during the three-month period. 1413

(2) Payment of a retirant's contributions cancels the 1414
retirant's right to a benefit under division ~~(F)~~(D) of this 1415
section. 1416

~~(I)~~(G) A statement of a spouse's consent under division 1417
~~(F)~~(D) of this section to the form of a benefit or under division 1418
~~(H)~~(F) of this section to a payment of contributions is valid only 1419
if signed by the spouse and witnessed by a notary public. The 1420
board of trustees may waive the requirement of spousal consent if 1421
the spouse is incapacitated or cannot be located, or for any other 1422
reason specified by the board. Consent or waiver is effective only 1423
with regard to the spouse who is the subject of the consent or 1424
waiver. 1425

~~(J)~~(H) An other system retirant subject to this section is 1426
not a member of the Ohio police and fire pension fund, does not 1427
have any of the rights, privileges, or obligations of membership, 1428
except as specified in this section, and is not eligible to 1429
receive health, medical, hospital, or surgical benefits under 1430
section 742.45 of the Revised Code for employment subject to this 1431
section. 1432

~~(K)~~(I) If any payment is made by the Ohio police and fire 1433
pension fund to an OPFPF retirant or other system retirant to 1434
which the retirant is not entitled, the retirant shall repay it to 1435
the fund. If the retirant fails to make the repayment, the fund 1436
shall withhold the amount due from any allowances or other amounts 1437
due the OPFPF retirant or other system retirant. 1438

~~(L)~~(J) An OPFPF retirant who is employed under this section 1439
is not eligible to receive any benefits under section 742.37 of 1440

the Revised Code for the employment under this section. 1441

~~(M)~~(K) This section does not affect the receipt of benefits 1442
by or eligibility for benefits of any person who on August 20, 1443
1976, was receiving a disability benefit or service retirement 1444
pension or allowance from a state or municipal retirement system 1445
in Ohio and was a member of any other state or municipal 1446
retirement system of this state. 1447

~~(N)~~(L) The board of trustees of the fund may adopt rules to 1448
carry out this section. 1449

Sec. 742.261. (A) The annuity paid by the Ohio police and 1450
fire pension fund under this section shall have a reserve equal to 1451
the amount placed in the retirant's account under division (C)(1) 1452
of section 742.26 of the Revised Code, except that if the annuity 1453
would be less than twenty-five dollars per month, the retirant 1454
shall receive as a lump sum payment an amount equal to the 1455
reserve. 1456

(1) If the retirant is married at the time of application, 1457
the annuity shall consist of the actuarial equivalent of a single 1458
life annuity paid in a lesser amount for life and one-half of the 1459
lesser amount continuing after the retirant's death to the 1460
surviving spouse unless, as described in division (D) of this 1461
section, the retirant's application is accompanied by a statement 1462
of the spouse's consent to another form of payment or the Ohio 1463
police and fire pension fund board of trustees waives the 1464
requirement of spousal consent. 1465

(2) A retirant who is not subject to division (A)(1) of this 1466
section shall elect one of the following as the annuity plan of 1467
payment: 1468

(a) A retirant's single life annuity; 1469

(b) The actuarial equivalent of a single life annuity in an 1470

equal or lesser amount for life and continuing after death to a 1471
surviving beneficiary at the time the plan of payment is selected. 1472

If the retirant fails to select a plan of payment, the 1473
annuity shall be paid under the plan of payment specified in rules 1474
adopted by the board of trustees. 1475

(B) Payment of the annuity shall commence on the first day of 1476
the month following termination of employment as described in 1477
division (C)(1) of section 742.26 of the Revised Code. 1478

(C) If a retirant dies while in employment described in 1479
division (C)(1) of section 742.26 of the Revised Code, a lump sum 1480
payment calculated by the board of trustees shall be paid to the 1481
retirant's surviving spouse, or if there is no surviving spouse, 1482
to the retirant's estate. 1483

If at the time of death, a retirant receiving a monthly 1484
annuity under this section has received less than an amount equal 1485
to the annuity reserve, the difference between the amount received 1486
and the reserve shall be paid to the retirant's surviving spouse, 1487
or if there is no surviving spouse, to the retirant's estate. 1488

If a beneficiary receiving a monthly annuity under this 1489
section dies, and at the time of the beneficiary's death, the 1490
total of the amounts paid to the retirant and beneficiary are less 1491
than an amount equal to the annuity reserve, the difference 1492
between the total amounts received and the reserve shall be paid 1493
to the beneficiary's estate. 1494

(D) A statement of a spouse's consent under division (A) of 1495
this section to a plan of payment is valid only if signed by the 1496
spouse and witnessed by a notary public. The board of trustees may 1497
waive the requirement of spousal consent if the spouse is 1498
incapacitated or cannot be located, or for any other reason 1499
specified by the board. Consent or waiver is effective only with 1500
regard to the spouse who is the subject of the consent or waiver. 1501

(E) No amount received under this section shall be included 1502
in determining an additional benefit under section 742.3711, 1503
742.3716, or 742.3717 of the Revised Code or any other 1504
post-retirement benefit increase. 1505

Sec. 3307.35. (A) As used in this section and section 1506
3307.352 of the Revised Code, "other system retirant" means a 1507
member or former member of the public employees retirement system, 1508
Ohio police and fire pension fund, school employees retirement 1509
system, state highway patrol retirement system, or Cincinnati 1510
retirement system who is receiving age and service or commuted age 1511
and service retirement, or a disability benefit from a system of 1512
which the retirant is a member or former member. 1513

(B) Subject to this section and section 3307.353 of the 1514
Revised Code, a superannuate or other system retirant may be 1515
employed as a teacher- 1516

~~(C)~~. A superannuate or other system retirant employed in 1517
accordance with this section shall contribute to the state 1518
teachers retirement system in accordance with section 3307.26 of 1519
the Revised Code and the employer shall contribute in accordance 1520
with sections 3307.28 and 3307.31 of the Revised Code. Such 1521
contributions shall be received as specified in section 3307.14 of 1522
the Revised Code. A During the period of employment, the 1523
retirement allowance for the period beginning on the first day of 1524
the month following the month in which employment commences and 1525
ending on the first day of the month following the month the 1526
employment ends shall be suspended and placed in an account 1527
maintained by the retirement system for the superannuate. 1528

Payment of the retirement allowance shall resume on the first 1529
day of the month following termination of the employment. In 1530
addition to the retirement allowance and any amount paid under 1531
section 3307.352 of the Revised Code, the superannuate shall 1532

receive a monthly annuity or lump sum payment under section 1533
3307.354 of the Revised Code. 1534

(C) A superannuate or other system retirant employed as a 1535
teacher under this section is not a member of the state teachers 1536
retirement system, does not have any of the rights, privileges, or 1537
obligations of membership, except as provided in this section, and 1538
is not eligible to receive health, medical, hospital, or surgical 1539
benefits under section 3307.39 of the Revised Code for employment 1540
subject to this section. 1541

(D) The employer that employs a superannuate or other system 1542
retirant shall notify the state teachers retirement board of the 1543
employment not later than the end of the month in which the 1544
employment commences. Any overpayment of benefits to a 1545
superannuate by the retirement system resulting from an employer's 1546
failure to give timely notice may be charged to the employer and 1547
may be certified and deducted as provided in section 3307.31 of 1548
the Revised Code. 1549

(E) On receipt of notice from an employer that a person who 1550
is an other system retirant has been employed, the state teachers 1551
retirement system shall notify the state retirement system of 1552
which the other system retirant was a member of such employment. 1553

~~(F) A superannuate or other system retirant who has received~~ 1554
~~an allowance or benefit for less than two months when employment~~ 1555
~~subject to this section commences shall forfeit the allowance or~~ 1556
~~benefit for any month the superannuate or retirant is employed~~ 1557
~~prior to the expiration of such period. Contributions shall be~~ 1558
~~made to the retirement system from the first day of such~~ 1559
~~employment, but service and contributions for that period shall~~ 1560
~~not be used in the calculation of any benefit payable to the~~ 1561
~~superannuate or other system retirant, and those contributions~~ 1562
~~shall be refunded on the superannuate's or retirant's death or~~ 1563
~~termination of the employment. Contributions made on compensation~~ 1564

~~earned after the expiration of such period shall be used in 1565
calculation of the benefit or payment due under section 3307.352 1566
of the Revised Code. 1567~~

~~(G) On receipt of notice from the Ohio police and fire 1568
pension fund, public employees retirement system, or school 1569
employees retirement system of the re-employment of a 1570
superannuate, the state teachers retirement system shall not pay, 1571
or if paid shall recover, the amount to be forfeited by the 1572
superannuate in accordance with section 145.38, 742.26, or 1573
3309.341 of the Revised Code. 1574~~

~~(H) If the disability benefit of an other system retirant 1575
employed under this section is terminated, the retirant shall 1576
become a member of the state teachers retirement system, effective 1577
on the first day of the month next following the termination, with 1578
all the rights, privileges, and obligations of membership. If such 1579
person, after the termination of the retirant's disability 1580
benefit, earns two years of service credit under this retirement 1581
system or under the public employees retirement system, Ohio 1582
police and fire pension fund, school employees retirement system, 1583
or state highway patrol retirement system, the retirant's prior 1584
contributions as an other system retirant under this section shall 1585
be included in the retirant's total service credit, as defined in 1586
section 3307.50 of the Revised Code, as a state teachers 1587
retirement system member, and the retirant shall forfeit all 1588
rights and benefits of this section. Not more than one year of 1589
credit may be given for any period of twelve months. 1590~~

~~(I)(G) This section does not affect the receipt of benefits 1591
by or eligibility for benefits of any person who on August 20, 1592
1976, was receiving a disability benefit or service retirement 1593
pension or allowance from a state or municipal retirement system 1594
in Ohio and was a member of any other state or municipal 1595
retirement system of this state. 1596~~

~~(J)~~(H) The state teachers retirement board may make the 1597
necessary rules to carry into effect this section and to prevent 1598
the abuse of the rights and privileges thereunder. 1599

Sec. 3307.352. For purposes of this section, "superannuate" 1600
includes a member who retired under section 3307.351 of the 1601
Revised Code. 1602

(A) Except as provided in division (B)(3) of this section, a 1603
superannuate or other system retirant who has made contributions 1604
under section 3307.35 or 3307.351 of the Revised Code may file an 1605
application with the state teachers retirement system for a 1606
benefit consisting of a single life annuity. The annuity shall 1607
have a reserve equal to the amount of the superannuate's or 1608
retirant's accumulated contributions, as defined in section 1609
3307.50 of the Revised Code, for the period of employment, ~~other~~ 1610
~~than the contributions excluded pursuant to division (F) of~~ 1611
~~section 3307.35 of the Revised Code,~~ and an amount determined by 1612
the state teachers retirement board from the employers' trust 1613
created by section 3307.14 of the Revised Code, plus interest 1614
credited to the date of retirement at a rate of interest 1615
determined by the board. The superannuate or other system retirant 1616
shall elect either to receive the benefit as a monthly annuity for 1617
life or a lump sum payment discounted to the present value using a 1618
rate of interest determined by the board, except that if the 1619
monthly annuity would be less than twenty-five dollars per month 1620
the superannuate or retirant shall receive a lump sum payment. 1621

A benefit payable under this division shall commence on the 1622
latest of the following: 1623

(1) The last day for which compensation for all employment as 1624
a teacher was paid; 1625

(2) Attainment by the superannuate or other system retirant 1626
of age sixty-five; 1627

(3) If the superannuate or other system retirant was 1628
previously employed under section 3307.35 or 3307.351 of the 1629
Revised Code and previously received or is receiving a benefit 1630
under this division, completion of a period of twelve months since 1631
the effective date of the last benefit under this division. 1632

(B)(1) A superannuate or other system retirant under age 1633
sixty-five who has made contributions under section 3307.35 or 1634
3307.351 of the Revised Code may file an application with the 1635
state teachers retirement system for a return of those 1636
contributions if both of the following conditions are met: 1637

(a) The superannuate or retirant has terminated, for any 1638
reason other than death, the employment for which the 1639
contributions were made. 1640

(b) If the superannuate or retirant received a return of 1641
contributions under this division for a previous period of 1642
employment under section 3307.35 or 3307.351 of the Revised Code, 1643
twelve months have passed since the date the retirement system 1644
returned the contributions. 1645

(2) A return of contributions under this division shall 1646
consist of the sum of the following: 1647

(a) The contributions the superannuate or other system 1648
retirant made under section 3307.35 or 3307.351 of the Revised 1649
Code; 1650

(b) Interest at a rate determined by the state teachers 1651
retirement board credited to the date that the superannuate or 1652
retirant terminated the employment for which the contributions are 1653
made. 1654

(3) Payment of a return of contributions under this division 1655
cancels the superannuate or retirant's right to a benefit under 1656
division (A) of this section for the service for which the 1657
contributions were made. 1658

(C)(1) If a superannuate or other system retirant who made 1659
contributions under section 3307.35 or 3307.351 of the Revised 1660
Code dies before receiving a benefit under division (A) of this 1661
section or a return of contributions under division (B) of this 1662
section, a lump sum payment shall be paid to the beneficiary 1663
designated under division (D) of section 3307.562 of the Revised 1664
Code. The lump sum shall be calculated in accordance with division 1665
(A) of this section, except that the interest shall be credited as 1666
follows: 1667

(a) If the superannuate or retirant was under age sixty-five 1668
at the time of death, the interest shall be credited through the 1669
month of death. 1670

(b) If the superannuate or retirant was age sixty-five or 1671
older at the time of death, the interest shall be credited through 1672
the later of the month in which the superannuate or retirant 1673
terminated the employment for which the contributions are made or 1674
the month the superannuate or retirant attained age sixty-five. 1675

(2) If at the time of death a superannuate or other system 1676
retirant receiving a monthly annuity under division (A) of this 1677
section has received less than the superannuate or retirant would 1678
have received as a lump sum payment, the difference between the 1679
amount received and the amount that would have been received as a 1680
lump sum payment shall be paid to the superannuate's or retirant's 1681
beneficiary designated under division (D) of section 3307.562 of 1682
the Revised Code. 1683

(D) No amount received under this section shall be included 1684
in determining an additional benefit under section 3307.67 of the 1685
Revised Code or any other post-retirement benefit increase. 1686

Sec. 3307.354. (A) The annuity paid by the state teachers 1687
retirement system under this section shall have a reserve equal to 1688
the amount placed in the superannuate's account under division (B) 1689

of section 3307.35 of the Revised Code except that if the annuity 1690
would be less than twenty-five dollars per month, the superannuate 1691
shall receive as a lump sum payment an amount equal to the 1692
reserve. 1693

(B) Payment of the annuity shall commence on the first day of 1694
the month following termination of employment as described in 1695
division (B) of section 3307.35 of the Revised Code. 1696

(C) If a superannuate dies while in employment described in 1697
division (B) of section 3307.35 of the Revised Code, a lump sum 1698
payment calculated by the retirement system shall be paid to the 1699
superannuate's beneficiary under division (B) of section 3307.562 1700
of the Revised Code. 1701

If at the time of death, a superannuate receiving a monthly 1702
annuity under this section has received less than an amount equal 1703
to the annuity reserve, the difference between the amount received 1704
and the reserve shall be paid to the superannuate's beneficiary 1705
under division (D) of section 3307.562 of the Revised Code. 1706

(D) No amount received under this section shall be included 1707
in determining an additional benefit under section 3307.67 of the 1708
Revised Code or any other post-retirement benefit increase. 1709

Sec. 3309.341. (A) As used in this section and section 1710
3309.344 of the Revised Code: 1711

(1) "SERS retirant" means any person who is receiving a 1712
retirement allowance from the school employees retirement system 1713
under section 3309.36, 3309.38, or 3309.381 of the Revised Code or 1714
any benefit paid under a plan established under section 3309.81 of 1715
the Revised Code. 1716

(2) "Other system retirant" means a member or former member 1717
of the public employees retirement system, Ohio police and fire 1718
pension fund, state teachers retirement system, state highway 1719

patrol retirement system, or Cincinnati retirement system who is 1720
receiving age and service or commuted age and service retirement, 1721
or a disability benefit from a system of which the retirant is a 1722
member or former member. 1723

(B)(1) Subject to this section and section 3309.345 of the 1724
Revised Code, an SERS retirant or other system retirant may be 1725
employed by a public employer. If so employed, ~~the~~ an SERS 1726
retirant or other system retirant shall contribute to the school 1727
employees retirement system in accordance with section 3309.47 of 1728
the Revised Code, and the employer shall make contributions in 1729
accordance with section 3309.49 of the Revised Code. During the 1730
period of employment, the retirement allowance for the period 1731
beginning on the first day of the month following the month in 1732
which employment commences and ending on the first day of the 1733
month following the month the employment ends shall be suspended 1734
and placed in an account maintained by the retirement system for 1735
the retirant. 1736

Payment of the retirement allowance shall resume on the first 1737
day of the month following termination of the employment. In 1738
addition to the retirement allowance and any amount paid under 1739
section 3309.344 of the Revised Code, the retirant shall receive a 1740
monthly annuity or lump sum payment under section 3309.346 of the 1741
Revised Code. 1742

(2) An employer that employs an SERS retirant or other system 1743
retirant shall notify the retirement board of the employment not 1744
later than the end of the month in which the employment commences. 1745
On receipt of notice from an employer that a person who is an 1746
other system retirant has been employed, the school employees 1747
retirement system shall notify the state retirement system of 1748
which the other system retirant was a member of such employment. 1749

(C) ~~An SERS retirant or other system retirant who has~~ 1750
~~received a retirement allowance or disability benefit for less~~ 1751

~~than two months when employment subject to this section commences 1752
shall forfeit the retirement allowance or disability benefit for 1753
any month the SERS retirant or other system retirant is employed 1754
prior to the expiration of the two month period. Service and 1755
contributions for that period shall not be included in the 1756
calculation of any benefits payable to the SERS retirant or other 1757
system retirant, and those contributions shall be refunded on 1758
death or termination of the employment. Contributions made on 1759
compensation earned after the expiration of such period shall be 1760
used in the calculation of the benefit or payment due under 1761
section 3309.344 of the Revised Code. 1762~~

~~(D) On receipt of notice from the Ohio police and fire 1763
pension fund, public employees retirement system, or state 1764
teachers retirement system of the re-employment of an SERS 1765
retirant, the school employees retirement system shall not pay, or 1766
if paid shall recover, the amount to be forfeited by the SERS 1767
retirant in accordance with section 145.38, 742.26, or 3307.35 of 1768
the Revised Code. 1769~~

~~(E) An SERS retirant or other system retirant subject to this 1770
section is not a member of the school employees retirement system; 1771
does not have any of the rights, privileges, or obligations of 1772
membership, except as specified in this section; and is not 1773
eligible to receive health, medical, hospital, or surgical 1774
benefits under section 3309.69 of the Revised Code for employment 1775
subject to this section. 1776~~

~~(F)(D) If the disability benefit of an other system retirant 1777
employed under this section is terminated, the retirant shall 1778
become a member of the school employees retirement system, 1779
effective on the first day of the month next following the 1780
termination, with all the rights, privileges, and obligations of 1781
membership. If the retirant, after the termination of the 1782
disability benefit, earns two years of service credit under this 1783~~

retirement system or under the public employees retirement system, 1784
Ohio police and fire pension fund, state teachers retirement 1785
system, or state highway patrol retirement system, the retirant's 1786
prior contributions as an other system retirant under this section 1787
shall be included in the retirant's total service credit as a 1788
school employees retirement system member, and the retirant shall 1789
forfeit all rights and benefits of this section. Not more than one 1790
year of credit may be given for any period of twelve months. 1791

~~(G)~~(E) This section does not affect the receipt of benefits 1792
by or eligibility for benefits of any person who on August 29, 1793
1976, was receiving a disability benefit or service retirement 1794
pension or allowance from a state or municipal retirement system 1795
in Ohio and was a member of any other state or municipal 1796
retirement system of this state. 1797

~~(H)~~(F) The school employees retirement board may adopt rules 1798
to carry out this section. 1799

Sec. 3309.344. For purposes of this section, "SERS retirant" 1800
includes a member who retired under section 3309.343 of the 1801
Revised Code. 1802

(A) Except as provided in division (B)(3) of this section, an 1803
SERS retirant or other system retirant who has made contributions 1804
under section 3309.341 or 3309.343 of the Revised Code may file an 1805
application with the school employees retirement system for a 1806
benefit consisting of a single life annuity. The annuity shall 1807
have a reserve equal to the amount of the retirant's accumulated 1808
contributions for the period of employment, ~~other than the~~ 1809
~~contributions excluded pursuant to division (C) of section~~ 1810
~~3309.341 of the Revised Code,~~ and an amount of the employer's 1811
contributions determined by the board, plus interest credited to 1812
the date of retirement at a rate determined by the board. The SERS 1813
retirant or other system retirant shall elect either to receive 1814

the benefit as a monthly annuity for life or a lump sum payment 1815
discounted to the present value using a rate of interest 1816
determined by the board, except that if the monthly annuity would 1817
be less than twenty-five dollars per month, the retirant shall 1818
receive a lump sum payment. 1819

A benefit payable under this division shall commence on the 1820
first day of the month after the latest of the following: 1821

(1) The last day for which compensation for all employment 1822
subject to sections 3309.341 and 3309.343 of the Revised Code was 1823
paid; 1824

(2) Attainment by the SERS retirant or other system retirant 1825
of age sixty-five; 1826

(3) If the SERS retirant or other system retirant was 1827
previously employed under section 3309.341 or 3309.343 of the 1828
Revised Code and is receiving or previously received a benefit 1829
under this division, completion of a period of twelve months since 1830
the effective date of that benefit. 1831

(B)(1) An SERS or other system retirant under age sixty-five 1832
who has made contributions under section 3309.341 or 3309.343 of 1833
the Revised Code may file an application with the school employees 1834
retirement system for a return of those contributions if both of 1835
the following conditions are met: 1836

(a) The retirant has terminated, for any reason other than 1837
death, the employment for which the contributions were made. 1838

(b) If the retirant received a return of contributions under 1839
this division for a previous period of employment under section 1840
3309.341 or 3309.343 of the Revised Code, twelve months have 1841
passed since the date the retirement system returned the 1842
contributions. 1843

(2) A return of contributions under this division shall 1844

consist of all of the contributions the SERS or other system 1845
retirant made under section 3309.341 or 3309.343 of the Revised 1846
Code. 1847

(3) Payment of a return of contributions under this division 1848
cancels the SERS or other system retirant's right to a benefit 1849
under division (A) of this section for the service for which the 1850
contributions were made. 1851

(C)(1) If an SERS retirant or other system retirant who made 1852
contributions under section 3309.341 or 3309.343 of the Revised 1853
Code dies before receiving a benefit under division (A) of this 1854
section or a return of contributions under division (B) of this 1855
section, a lump sum payment shall be paid to the beneficiary under 1856
division (D) of this section. The lump sum shall be calculated in 1857
accordance with division (A) of this section. 1858

(2) If at the time of death an SERS retirant or other system 1859
retirant receiving a monthly annuity under division (A) of this 1860
section has received less than the retirant would have received as 1861
a lump sum payment, the difference between the amount received and 1862
the amount that would have been received as a lump sum payment 1863
shall be paid to the retirant's beneficiary under division (D) of 1864
this section. 1865

(D) An SERS retirant or other system retirant employed under 1866
section 3309.341 or 3309.343 of the Revised Code may designate one 1867
or more persons as beneficiary to receive any benefits payable 1868
under this section due to death. The designation shall be in 1869
writing duly executed on a form provided by the school employees 1870
retirement board, signed by the SERS retirant or other system 1871
retirant, and filed with the board prior to death. The last 1872
designation of a beneficiary revokes all previous designations. 1873
The SERS retirant's or other system retirant's marriage, divorce, 1874
marriage dissolution, legal separation, withdrawal of account, 1875
birth of the retirant's child, or adoption of a child revokes all 1876

previous designations. If there is no designated beneficiary, the
beneficiary is the beneficiary designated under division (D) of
section 3309.44 of the Revised Code. If any benefit payable under
this section due to the death of an SERS retirant or other system
retirant is not claimed by a beneficiary within five years after
the death, the amount payable shall be transferred to the
guarantee fund and thereafter paid to the beneficiary or the
estate of the SERS retirant or other system retirant on
application to the board.

(E) No amount received under this section shall be included
in determining an additional benefit under section 3309.374 of the
Revised Code or any other post-retirement benefit increases.

Sec. 3309.346. (A) The annuity paid by the school employees
retirement system under this section shall have a reserve equal to
the amount placed in the retirant's account under division (B)(1)
of section 3309.341 of the Revised Code, except that if the
annuity would be less than twenty-five dollars per month, the
retirant shall receive as a lump sum payment an amount equal to
the reserve.

(B) Payment of the annuity shall commence on the first day of
the month following termination of employment as described in
division (B)(1) of section 3309.341 of the Revised Code.

(C) If a retirant dies while in employment described in
division (B)(1) of section 3309.341 of the Revised Code, a lump
sum payment calculated by the retirement system shall be paid to
the retirant's beneficiary under division (D) of this section.

If at the time of death, a retirant receiving a monthly
annuity under this section has received less than an amount equal
to the annuity reserve, the difference between the amount received
and the reserve shall be paid to the retirant's beneficiary under
division (D) of this section.

(D) A retirant may designate one or more persons as 1908
beneficiary to receive any amount payable under division (C) of 1909
this section. The designation shall be in writing duly executed on 1910
a form provided by the school employees retirement board, signed 1911
by the retirant, and filed with the board prior to the retirant's 1912
death. The last designation revokes all previous designations. The 1913
retirant's marriage, divorce, marriage dissolution, legal 1914
separation, withdrawal of account, birth of a child, or adoption 1915
of a child revokes all previous designations. If there is no 1916
designated beneficiary, the beneficiary is the beneficiary 1917
determined under division (D) of section 3309.44 of the Revised 1918
Code. If any amount payable under division (C) of this section is 1919
not claimed by a beneficiary within five years after the 1920
retirant's death, that amount shall be transferred to the 1921
guarantee fund and thereafter paid to the beneficiary or the 1922
estate of the retirant on application to the board. 1923

(E) No amount received under this section shall be included 1924
in determining an additional benefit under section 3309.374 of the 1925
Revised Code or any other post-retirement benefit increase. 1926

Sec. 3501.13. (A) The director of the board of elections 1927
shall keep a full and true record of the proceedings of the board 1928
and of all moneys received and expended; file and preserve in the 1929
board's office all orders and records pertaining to the 1930
administration of registrations, primaries, and elections; receive 1931
and have the custody of all books, papers, and property belonging 1932
to the board; and perform other duties in connection with the 1933
office of director and the proper conduct of elections as the 1934
board determines. 1935

(B) Before entering upon the duties of the office, the 1936
director shall subscribe to an oath that the director will support 1937
the Constitution of the United States and the Ohio Constitution, 1938

perform all the duties of the office to the best of the director's 1939
ability, enforce the election laws, and preserve all records, 1940
documents, and other property pertaining to the conduct of 1941
elections placed in the director's custody. 1942

(C) The director may administer oaths to persons required by 1943
law to file certificates or other papers with the board, to 1944
precinct election officials, to witnesses who are called to 1945
testify before the board, and to voters filling out blanks at the 1946
board's offices. Except as otherwise provided by state or federal 1947
law, the records of the board and papers and books filed in its 1948
office are public records and open to inspection under such 1949
reasonable regulations as shall be established by the board. The 1950
social security number or any part thereof of any elector or of 1951
any applicant for voter registration is not a public record. The 1952
board shall redact any such number from any record that it makes 1953
open to public inspection or copying under this section. 1954

The following notice shall be posted in a prominent place at 1955
each board office: 1956

"Except as otherwise provided by state or federal law, 1957
records filed in this office of the board of elections are open to 1958
public inspection during normal office hours, pursuant to the 1959
following reasonable regulations: (the board shall here list its 1960
regulations). Whoever prohibits any person from inspecting the 1961
public records of this board is subject to the penalties of 1962
section 3599.161 of the Revised Code." 1963

~~(D) Upon receipt of a written declaration of intent to retire 1964
as provided for in section 145.38 of the Revised Code, the 1965
director shall provide a copy to each member of the board of 1966
elections. 1967~~

Section 2. That existing sections 145.01, 145.191, 145.38, 1968
145.384, 145.471, 145.473, 145.58, 145.82, 742.26, 3307.35, 1969

3307.352, 3309.341, 3309.344, and 3501.13 and section 5505.161 of 1970
the Revised Code are hereby repealed. 1971