

OHIO

House

of

Representatives

JOURNAL

TUESDAY, MARCH 1, 2005

TWENTY-SECOND DAY

Hall of the House of Representatives, Columbus, Ohio
Tuesday, March 1, 2005 at 11:00 o'clock a.m.

The House met pursuant to adjournment.

Pursuant to House Rule No. 23, the Clerk called the House to order.

Representative Raga was selected to preside under the Rule.

The journal of the previous legislative day was read and approved.

INTRODUCTION OF BILLS

The following bills were introduced:

H. B. No. 90-Representatives Chandler, Barrett, Brown, Combs, Miller, Skindell, Williams.

To amend sections 4507.05, 4507.071, and 4513.263 of the Revised Code to make a seat belt violation a primary offense that is enforceable in the same manner as any other traffic offense.

H. B. No. 91-Representatives Brinkman, Hood, Blasdel, Bulp, Buehrer, Collier, Daniels, Faber, Fessler, Gibbs, Gilb, Hagan, Hoops, Law, Raga, Raussen, Reidelbach, Schaffer, Schneider, Seaver, Seitz, J. Stewart, Taylor, Uecker, Willamowski.

To amend sections 1547.69, 2923.12, 2923.122, 2923.123, 2923.124, 2923.125, 2923.126, 2923.129, 2923.1212, and 2923.16 of the Revised Code to authorize a person to carry a concealed handgun without obtaining a license to the same extent as if the person had obtained such a license if the person qualifies for a concealed carry license and is legally permitted to purchase a handgun; to remove the requirements that a concealed carry licensee must be carrying the license in order to carry a concealed handgun, must inform approaching law enforcement officers that the person has a license and is carrying the handgun when the person is carrying a concealed handgun, and must submit a new or renewed competency certification when renewing the license; to eliminate as premises in which a concealed carry licensee may not carry a concealed handgun public or private institutions of higher education, places of worship, day-care centers and homes, and government buildings other than schools, courthouses, law enforcement offices, and correctional facilities; to replace the prohibitions that apply only to a concealed carry licensee who is carrying a handgun in a motor vehicle with a prohibition against a licensee who is in a motor vehicle that is stopped by a law enforcement officer knowingly menacing or threatening an officer with a loaded handgun or knowingly pointing a loaded handgun at an officer; to remove the "in plain sight or secure encasement" criterion that a concealed

carry licensee must satisfy to legally possess a handgun in a motor vehicle; to provide a self-defense exemption from the prohibitions against discharging a firearm in or on a vessel or motor vehicle; and to repeal the "Journalist exception" to the provision that otherwise makes confidential the records a sheriff possesses regarding concealed handgun licenses and applications for such licenses.

H. B. No. 92-Representatives Sayre, Williams, Domenick, Hartnett, Brown, Hood, Boccieri, Chandler, Healy, Perry, Garrison.

To enact section 323.123 of the Revised Code to grant to owners of properties that have been damaged by floods an extension of time in which to pay taxes charged against the property.

H. B. No. 93-Representatives Taylor, Aslanides, Beatty, Brinkman, Chandler, Collier, Combs, C. Evans, D. Evans, Fessler, Gibbs, Gilb, Hartnett, Harwood, Kearns, Latta, Law, S. Patton, Raussen, Reidelbach, Seaver, Willamowski, Wolpert.

To amend section 117.10 and to enact section 117.102 of the Revised Code regarding audits of Medicaid providers and a performance audit of the Medicaid program.

H. B. No. 94-Representatives Taylor, Brinkman, Buehrer, Carano, Collier, Combs, C. Evans, D. Evans, Fessler, Gilb, Hood, Kearns, Martin, Perry, Reidelbach, J. Stewart, Yates.

To amend section 5739.01 of the Revised Code to exempt from the sales tax massage therapy that is provided by an individual who holds a certificate to practice massage therapy.

H. B. No. 95-Representatives Seitz, McGregor, C. Evans, Allen, Widener, Wolpert, Combs, Latta, T. Patton, Schaffer, Raussen, Wagoner, Faber, Webster, Hoops, Taylor, Gilb, Raga, Brinkman, Hagan, Reidelbach, White, Willamowski, Harwood, Uecker, G. Smith, Gibbs, Schneider, Hartnett, Carmichael, Buehrer, Seaver, Hughes, Collier, Trakas, Flowers, Oelslager.

To amend sections 2929.01, 2929.13, 2929.14, 2941.149, and 2953.08 of the Revised Code relative to the sentences imposed on repeat violent offenders and the appeal of repeat violent offender sentences.

H. B. No. 96-Representatives Seitz, McGregor, C. Evans, Combs, Hartnett, Latta, Schaffer, Webster, Taylor, Gilb, Otterman, White, D. Evans, Willamowski, Uecker, Koziura.

To enact section 2911.23 of the Revised Code to create the offense of

criminal trespass on a place of public amusement.

H. B. No. 97-Representatives Barrett, Chandler, DeBose, Hoops, Kearns, Key, McGregor, Miller, Reidelbach, Skindell, G. Smith, Sykes, Taylor, Ujvagi, White, Willamowski, Collier, Williams.

To enact section 5.223 of the Revised Code to designate March as "2nd Chance of Life: Saving Babies, Supporting Families Month."

H. B. No. 98-Representatives Setzer, Blessing, Kearns, Ujvagi, Otterman, Carano, Seaver, Uecker, Schaffer.

To amend section 2903.13 of the Revised Code to increase the penalty for assault when the victim is performing services in an emergency facility.

H. B. No. 99-Representatives DeGeeter, Domenick, Cassell, Hartnett, Distel, C. Evans, S. Patton, Ujvagi, Barrett, Koziura, Reidelbach.

To amend sections 2151.031, 2919.22, 2925.01, 2925.04, and 2925.041 and to enact sections 2925.15 and 3719.48 of the Revised Code to impose restrictions on the sale of ephedrine, phenylpropanolamine, and pseudoephedrine products; to provide that a child exposed to methamphetamine or the "manufacture of drugs" involving methamphetamine or to a specified amount of an ephedrine, phenylpropanolamine, or pseudoephedrine product or "illegal assembly or possession of chemicals for the manufacture of drugs" involving such a product is an abused child; to expand the offense of "endangering children"; to specifically include in the offense of "illegal assembly or possession of chemicals for the manufacture of drugs" the assembly or possession of any such product to manufacture methamphetamine or any other schedule I or II controlled substance and provide what constitutes prima-facie evidence of intent to use the product to commit that offense; and to require retailers, terminal distributors of dangerous drugs, pharmacies, prescribers, and wholesalers to report the theft or significant loss of more than six grams of any ephedrine, phenylpropanolamine, or pseudoephedrine product or products.

H. B. No. 100-Representatives Taylor, Carano, Collier, C. Evans, McGregor, Otterman, Reidelbach, Seitz, White, Willamowski.

To enact section 3734.576 of the Revised Code to authorize a solid waste management district to exempt automotive shredder residue from the district's generation fee.

H. B. No. 101-Representatives Wolpert, Wagner, Latta, McGregor, Kearns, Aslanides, C. Evans, Seaver, Perry, Carano.

To create the Local Government Public Notice Task Force to study local government public notice requirements and to issue a report including recommendations for meeting those requirements in economic and efficient alternative ways.

H. B. No. 102-Representatives Wolpert, Faber, Core, Seaver, Willamowski.

To amend section 3111.03 and to enact section 3111.97 of the Revised Code to clarify the parentage of children born as a result of embryo donation.

H. B. No. 103-Representatives Reinhard, Aslanides, Collier, Distel, Faber, Fessler, Flowers, Hartnett, Hood, Latta, Perry, Reidelbach, Seaver, Taylor, Webster, White, Willamowski, Wolpert.

To amend section 5747.01 of the Revised Code to exclude from adjusted gross income for income tax purposes interest from deposits in certain bank accounts.

H. B. No. 104-Representatives Martin, McGregor, Trakas, Wagoner, C. Evans, Perry.

To amend section 1347.01 and to enact sections 1347.12 and 1349.19 of the Revised Code to require a state agency, person, or business to contact individuals if unencrypted personal information about those individuals that is maintained on the computers of the agency, person, or business is obtained by unauthorized persons.

Said bills were considered the first time.

REPORTS OF STANDING AND SELECT COMMITTEES AND BILLS FOR SECOND CONSIDERATION

Representative D. Stewart submitted the following report:

The standing committee on State Government to which was referred **H. R. No. 16**-Representative Flowers, et al., having had the same under consideration, reports it back and recommends its adoption.

RE: DEFENSE SUPPLY CENTER REALIGNMENT

Representative Buehrer moved to amend the title as follows:

Add the names: "Walcher, Book, Carmichael, Uecker, Setzer."

STEPHEN BUEHRER
JIM CARMICHAEL
KATHY L. WALCHER
T. TODD BOOK
CHARLES R. BLASDEL

JOSEPH W. UECKER
LARRY L. FLOWERS
ARLENE J. SETZER
DAN STEWART
THOMAS F. PATTON

WILLIAM J. HARTNETT

MIKE MITCHELL

The report was agreed to.

The resolution was ordered to be engrossed and placed on the calendar.

Representative D. Stewart submitted the following report:

The standing committee on State Government to which was referred **H. B. No. 12**-Representative Carano, et al., having had the same under consideration, reports it back and recommends its passage.

RE: COLLEGES AND UNIVERSITIES CREATE LIQUOR PERMIT

JIM CARMICHAEL
ARLENE J. SETZER
DAN STEWART
T. TODD BOOK
THOMAS F. PATTON
JOSEPH W. UECKER

CHARLES R. BLASDEL
LARRY L. FLOWERS
MIKE MITCHELL
STEPHEN BUEHRER
WILLIAM J. HARTNETT

The following member voted "NO"

KATHY L. WALCHER

The report was agreed to.

The bill was ordered to be engrossed and placed on the calendar.

Representative Yates submitted the following report:

The standing committee on Ways and Means to which was referred **H. B. No. 13**-Representative Wagner, having had the same under consideration, reports it back and recommends its passage.

RE: COUNTY PIGGY BACK SALES TAX FOR EMS

Representative Kilbane moved to amend the title as follows:

Add the names: "Latta, Seitz."

BARBARA A. SYKES
JOHN P. HAGAN
THOM COLLIER
WILLIAM J. SEITZ
MARY TAYLOR
SALLY CONWAY KILBANE
WILLIAM J. HARTNETT
PETER S. UJVAGI

MICHAEL J. SKINDELL
LOUIS W. BLESSING
ROBERT E. LATTA
TIMOTHY O. SCHAFFER
CHARLES R. BLASDEL
MIKE GILB
STEVE L. DRIEHAUS

The following member voted "NO"

TYRONE K. YATES

The report was agreed to.

The bill was ordered to be engrossed and placed on the calendar.

Representative Williams submitted the following report:

The standing committee on Finance and Appropriations to which was referred **H. B. No. 68**-Representative T. Patton, having had the same under consideration, reports it back as a substitute bill and recommends its passage.

RE: 06-07 TRANSPORTATION BUDGET

Representative Calvert moved to amend the title as follows:

Add the names: "Calvert, Flowers, Martin, S. Patton."

CHARLES E. CALVERT
JON M. PETERSON
KEVIN DEWINE
KEITH L. FABER
TYRONE K. YATES
SHAWN N. WEBSTER
SYLVESTER D. PATTON
JOHN SCHLICHTER
JIM MCGREGOR
DALE MILLER
JIMMY STEWART
BARBARA A. SYKES
JAMES M. HOOPS
WILLIAM J. HARTNETT
BRIAN G. WILLIAMS

TOM RAGA
MATTHEW J. DOLAN
CLYDE EVANS
ANTHONY CORE
MICHELLE G. SCHNEIDER
EARL MARTIN
THOMAS F. PATTON
LARRY L. FLOWERS
MARK D. WAGONER
JAMES PETER TRAKAS
MERLE GRACE KEARNS
FRED STRAHORN
BILL COLEY
MICHAEL J. SKINDELL
PETER S. UJVAGI

The report was agreed to.

The bill was ordered to be engrossed and placed on the calendar.

Representative DeGeeter submitted the following report:

The standing committee on Criminal Justice to which was referred **H. B. No. 48**-Representative Hughes, et al., having had the same under consideration, reports it back and recommends its passage.

RE: IDENTITY FRAUD PASSPORT

Representative Latta moved to amend the title as follows:

Add the names: "Gilb, Seaver, Willamowski, D. Stewart."

ROBERT E. LATTA
MIKE GILB
WILLIAM J. SEITZ

DAVID R. EVANS
JIM HUGHES
DAN STEWART

TIMOTHY J. DEGEETER
DERRICK SEAVER
WILLIAM J. HEALY
JOHN R. WILLAMOWSKI
SALLY CONWAY KILBANE

KENNY YUKO
RONALD HOOD
JEANINE PERRY
STEPHEN BUEHRER

The following members voted "NO"

ANNIE L. KEY

TYRONE K. YATES

The report was agreed to.

The bill was ordered to be engrossed and placed on the calendar.

BILLS FOR THIRD CONSIDERATION

H. B. No. 12-Representatives Carano, S. Patton, J. Stewart, Seitz, Perry, Blasdel, Skindell, McGregor, Trakas, Chandler.

To amend section 4301.62 and to enact section 4303.232 of the Revised Code to create the T-1 permit to authorize certain colleges and universities and professional athletic teams to allow the consumption of beer and intoxicating liquor brought into restricted areas on the property they own or lease, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Carmichael moved that **H. B. No. 12**-Representative Carano, et al., be informally passed and retain its place on the calendar.

The motion was agreed to.

H. B. No. 13-Representatives Wagner, Latta, Seitz.

To amend section 5739.026 of the Revised Code to permit the levy by a board of county commissioners of a sales and use tax for the purpose of providing emergency medical services, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Carmichael moved that **H. B. No. 13**-Representative Wagner, et al., be informally passed and retain its place on the calendar.

The motion was agreed to.

Message from the Senate

Mr. Speaker:

I am directed to inform the House of Representatives that the Senate has passed the following bill in which the concurrence of the House is requested:

S. B. No. 19 - Senators Schuler, Wachtmann, Mumper, Clancy, Hagan, Goodman, Austria, Roberts, Padgett, Niehaus

To amend section 2317.02 and to enact section 2305.2341 of the Revised Code to make the testimonial privilege against disclosure of certain communications applicable to critical incident stress management (CISM) team members and to provide CISM team members with immunity against tort or other civil liability arising from actions or omissions during debriefing sessions.

Attest:

Matthew T. Schuler,
Clerk.

Said bill was considered the first time.

Message from the Senate

Mr. Speaker:

I am directed to inform the House of Representatives that the Senate has concurred in the passage of the following bill:

Am. H. B. No. 10 - Representatives Schneider, Seitz, Setzer, C. Evans, Allen, Book, Daniels, Gibbs, Hagan, Mason, S. Patton, G. Smith, S. Smith, J. Stewart, White, Barrett, Beatty, Blasdel, Blessing, Bubp, Buehrer, Calvert, Carano, Carmichael, Cassell, Chandler, Coley, Collier, Combs, Core, DeBose, Distel, Dolan, Domenick, Driehaus, D. Evans, Faber, Fende, Fessler, Flowers, Gilb, Hartnett, Hoops, Hughes, Kearns, Key, Koziura, Law, Martin, Mitchell, Oelslager, Otterman, T. Patton, Perry, Peterson, Raussen, Redfern, Reidelbach, Reinhard, Schaffer, Schlichter, Seaver, Skindell, D. Stewart, Sykes, Taylor, Uecker, Ujvagi, Wagoner, Walcher, Widener, Willamowski, Williams, Wolpert Senators Wachtmann, Clancy, Hottinger, Niehaus, Schuring, Cates

To amend sections 145.384, 145.46, 742.3711, 3307.60, 3309.46, and 5505.162 of the Revised Code regarding an election by a retirant of one of the state's public retirement systems who has married or remarried to change the

plan under which a retirement benefit is paid, to amend the versions of sections 145.46, 742.3711, 3307.60, 3309.46, and 5505.162 of the Revised Code that are scheduled to take effect on October 27, 2006, to continue provisions of this act on and after that effective date, and to declare an emergency.

With the following additional amendments, in which the concurrence of the House is requested:

Delete lines 10 through 116 and insert:

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

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

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

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

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

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

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

(i) The retirant's single life annuity;

(ii) The actuarial equivalent of the retirant's 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.

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

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

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

(2) On divorce, annulment, or marriage dissolution, a PERS retirant or other system retirant receiving a benefit described in division (B)(2) of this section 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 the termination of the marriage, elect to cancel the plan and receive the equivalent of the retirant's 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.

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

If the marriage or remarriage occurs on or after the effective date of this amendment, the election must be made not later than one year after the date of the marriage or remarriage.

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

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

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

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

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

(4) A date specified by the retiree.

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

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

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

(G) A PERS retiree or other system retiree employed under section 145.38, 145.383, or 145.385 of the Revised Code may designate one or more persons as beneficiary to receive any benefits payable under division (B)(2)(b) of this section due to death. The designation shall be in writing duly executed on a form provided by the public employees retirement board, signed by the PERS retiree or other system retiree, and filed with the board prior to death. The last designation of a beneficiary revokes all previous designations. The PERS retiree's or other system retiree's marriage, divorce, marriage dissolution, legal separation, withdrawal of account, birth of a child, or adoption of a child revokes all previous designations. If there is no designated beneficiary, the beneficiary is the beneficiary determined under division (D) of section 145.43 of the Revised Code. If any benefit payable under this section due to the death of a PERS retiree or other system retiree is not claimed by a beneficiary within five years after the death, the amount payable shall be transferred to the income fund and thereafter paid to the beneficiary or the estate of the PERS retiree or other system retiree on application to the board.

(H)(1) A PERS retiree or other system retiree who applies under division (B)(1) of this section for payment of the retiree's contributions and is unmarried or is married and, unless the board has waived the requirement of spousal consent, includes with the application a statement of the spouse's consent

to the payment, shall be paid the contributions made under section 145.38 or 145.383 of the Revised Code or, in the case of a retirant described in division (A)(2) of this section, section 145.47 of the Revised Code, plus interest as provided in section 145.471 of the Revised Code, if the following conditions are met:

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

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

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

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

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

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

After line 869, insert:

"**Section 3.** That the versions of sections 145.46, 742.3711, 3307.60, 3309.46, and 5505.162 of the Revised Code that are scheduled to take effect on October 27, 2006, be amended to read as follows:

"**Sec. 145.46.** (A) A retirement allowance calculated under section 145.33, 145.331, or 145.34 of the Revised Code shall be paid as provided in this section. If the member is eligible to elect a plan of payment under this section, the election shall be made on a form provided by the public employees retirement board. A plan of payment elected under this section shall be effective only if approved by the board, which shall approve it only if it is certified by an actuary engaged by the board to be the actuarial equivalent of the retirement allowance calculated under section 145.33, 145.331, or 145.34 of the Revised Code.

(B)(1)(a) Except as provided in divisions (B)(1)(b) and (c) of this section,

a member who retires under section 145.32, 145.331, or 145.34 of the Revised Code shall receive a retirement allowance under "plan A," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 145.33, 145.331, or 145.34 of the Revised Code in a lesser amount payable for life and one-half of such allowance continuing after death to the member's surviving spouse for the life of the spouse.

(b) A member may receive a retirement allowance under a plan of payment other than "plan A" if either of the following is the case:

(i) The member is not married or either the member's spouse consents in writing to the member's election of a plan of payment other than "plan A" or the board waives the requirement that the spouse consent;

(ii) A plan of payment providing for payment in a specified portion of the allowance continuing after the member's death to a former spouse is required by a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding division of marital property prior to the effective date of the member's retirement.

(c) If a member is subject to division (B)(1)(b)(ii) of this section and the board has received a copy of the order described in that division, the board shall accept the member's election of a plan of payment under this section only if the member complies with both of the following:

(i) The member elects a plan of payment that is in accordance with the order described in division (B)(1)(b)(ii) of this section.

(ii) If the member is married, the member elects "plan F" and designates the member's current spouse as a beneficiary under that plan unless that spouse consents in writing to not being designated a beneficiary under any plan of payment or the board waives the requirement that the current spouse consent.

(2) An application for retirement shall include an explanation of all of the following:

(a) That, if the member is married, unless the spouse consents to another plan of payment or there is a court order dividing marital property issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property that provides for payment in a specified amount, the member's retirement allowance will be paid under "plan A," which consists of the actuarial equivalent of the member's retirement allowance in a lesser amount payable for life and one-half of the allowance continuing after death to the surviving spouse for the life of the spouse;

(b) A description of the alternative plans of payment, including all plans described in divisions (B)(2) and (3) of this section, available with the consent of the spouse;

(c) That the spouse may consent to another plan of payment and the procedure for giving consent;

(d) That consent is irrevocable once notice of consent is filed with the board.

Consent shall be valid only if it is signed, in writing, and witnessed by a notary public. The board may waive the requirement of consent if the spouse is incapacitated or cannot be located or for any other reason specified by the board. Consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.

(3) A member eligible to elect to receive the member's retirement allowance under a plan of payment other than "plan A" shall receive the member's retirement allowance under the plan described in division (B)(4) of this section or one of the following plans:

(a) "Plan B," which shall consist of an allowance determined under section 145.33, 145.331, or 145.34 of the Revised Code;

(b) "Plan C," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 145.33, 145.331, or 145.34 of the Revised Code in a lesser amount payable for life and one-half or some other portion of the allowance continuing after death to the member's sole surviving beneficiary designated at the time of the member's retirement, provided that the amount payable to the beneficiary does not exceed the amount payable to the member;

(c) "Plan D," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 145.33, 145.331, or 145.34 of the Revised Code in a lesser amount payable for life and continuing after death to a surviving beneficiary designated at the time of the member's retirement;

(d) "Plan E," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 145.33, 145.331, or 145.34 of the Revised Code in a lesser amount payable for a certain period from the member's retirement date as elected by the member and approved by the retirement board, and on the member's death before the expiration of that certain period the member's lesser retirement allowance payable for the remainder of that period to the member's surviving designated beneficiary nominated by written designation filed with the retirement board.

Should the nominated beneficiary designated in writing die prior to the expiration of the guarantee period, then for the purpose of completing payment for the remainder of the guarantee period, the present value of such payments shall be paid to the estate of the beneficiary last receiving.

(e) "Plan F," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 145.33, 145.331, or 145.34 of the Revised Code in a lesser amount payable to the retirant for life and some portion of the lesser amount continuing after death to two, three, or four surviving beneficiaries designated at the time of the member's retirement. The

portion of the lesser allowance that continues after the member's death shall be allocated among the beneficiaries at the time of the member's retirement. If the member elects this plan as required by a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property and compliance with the court order requires the allocation of a portion less than ten per cent to any beneficiary, the member shall allocate a portion less than ten per cent to that beneficiary in accordance with that order. In all other circumstances, no portion allocated under this plan of payment shall be less than ten per cent. The total of the portions allocated shall not exceed one hundred per cent of the member's lesser allowance.

(4)(a) Beginning on a date selected by the retirement board, which shall be not later than July 1, 2004, a member may elect to receive a retirement allowance under a plan of payment consisting of both a lump sum in an amount the member designates that constitutes a portion of the member's retirement allowance under a plan described in division (B) of this section and the remainder as a monthly allowance under that plan.

The total amount paid as a lump sum and a monthly benefit shall be the actuarial equivalent of the amount that would have been paid had the lump sum not been selected.

(b) The lump sum designated by a member shall be not less than six times and not more than thirty-six times the monthly amount that would be payable to the member under the plan of payment elected under division (B)(4)(a) of this section had the lump sum not been elected and shall not result in a monthly allowance that is less than fifty per cent of that monthly amount.

(5) An election under division (B)(3) or (4) of this section shall be made at the time the member makes application for retirement.

(6) A member eligible to elect to receive the member's retirement allowance under a plan of payment other than "plan A" because the member is unmarried who fails to make an election on retirement shall receive the member's retirement allowance under "plan B."

(C) If the retirement allowances, as a single life annuity or payment plan as provided in this section, due and paid are in a total amount less than (1) the accumulated contributions, and (2) other deposits made by the member as provided by this chapter, standing to the credit of the member at the time of retirement, then the difference between the total amount of the allowances paid and the accumulated contributions and other deposits shall be paid to the beneficiary provided under division (D) of section 145.43 of the Revised Code.

(D)(1) The death of a spouse or any designated beneficiary following retirement shall cancel the portion of the plan of payment providing continuing lifetime benefits to the deceased spouse or deceased designated beneficiary. The retirant shall receive the actuarial equivalent of the retirant's single lifetime benefit, as determined by the board, based on the number of remaining beneficiaries, with no change in the amount payable to any remaining

beneficiary. The change shall be effective the month following receipt by the board of notice of the death.

(2) On divorce, annulment, or marriage dissolution, a retirant receiving a retirement allowance under a plan that provides for continuation of all or part of the allowance after death for the lifetime of the retirant's surviving spouse may, with the written consent of the spouse or pursuant to an order of the court with jurisdiction over the termination of the marriage, elect to cancel the portion of the plan providing continuing lifetime benefits to that spouse. The retirant shall receive the actuarial equivalent of the retirant's single lifetime benefit as determined by the retirement board based on the number of remaining beneficiaries, with no change in amount payable to any remaining beneficiary. The election shall be made on a form provided by the board and shall be effective the month following its receipt by the board.

(E)(1) Following a marriage or remarriage, both of the following apply:

~~(1)(a)~~ A retirant who is receiving the retirant's retirement allowance under "plan B" may elect a new plan of payment under division (B)(1), (3)(b), or (3)(c) of this section based on the actuarial equivalent of the retirant's single lifetime benefit as determined by the board.

~~(2)(b)~~ A retirant who is receiving a ~~benefit~~ retirement allowance pursuant to a plan of payment providing for payment to a former spouse pursuant to a court order described in division (B)(1)(b)(ii) of this section may elect a new plan of payment under "plan F" based on the actuarial equivalent of the retirant's single lifetime retirement allowance as determined by the board if the new plan of payment elected does not reduce the payment to the former spouse.

~~The (2) If the marriage or remarriage occurs on or after the effective date of this amendment, the election must be made not later than one year after the date of the marriage or remarriage.~~

~~The plan elected under this division shall become effective the first day of the month following on the date of receipt by the board of an application on a form approved by the board, but any change in the amount of the retirement allowance shall commence on the first day of the month following the effective date of the plan.~~

(F) Any person who, prior to July 24, 1990, selected an optional plan of payment at retirement that provided for a return to the single life benefit after the designated beneficiary's death shall have the retirant's benefit adjusted to the optional plan equivalent without such provision.

(G) A retirant's receipt of the first month's retirement allowance constitutes the retirant's final acceptance of the plan of payment and may be changed only as provided in this chapter.

Sec. 742.3711. (A) On application for retirement as provided in section 742.37 of the Revised Code, a member of the fund may elect to receive a retirement allowance payable throughout the member's life, or may elect, on the

application for retirement, to receive the actuarial equivalent of the member's retirement allowance in a lesser amount payable for life and continuing after death to a surviving designated beneficiary under one of the following optional plans, provided the amount payable to the beneficiary shall not exceed the amount payable to the retiring member of the fund, and is certified by the actuary engaged by the board of trustees of the Ohio police and fire pension fund to be the actuarial equivalent of the member's retirement allowance and is approved by the board.

(1) Option 1. The member's lesser retirement allowance shall be paid for life to the sole beneficiary designated at the time of the member's retirement.

(2) Option 2. One-half or some other portion of the member's lesser retirement allowance shall be paid for life to the sole beneficiary designated at the time of the member's retirement.

(3) Option 3. Upon the member's death before the expiration of a certain period from the retirement date and elected by the member and approved by the retirement board, the member's lesser retirement allowance shall be continued for the remainder of that period to the beneficiary the member has nominated by written designation and filed with the retirement board.

Should the nominated beneficiary designated in writing become deceased prior to the expiration of the guarantee period, then for the purpose of completing payment for the remainder of the guarantee period, the present value of such payments shall be paid to the estate of the beneficiary last receiving.

(4) Option 4. The member's lesser retirement allowance or a portion of the lesser retirement allowance shall be paid for life to two, three, or four surviving beneficiaries designated at the time of the member's retirement, in such portions as specified at retirement. If the member elects this plan as required by a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property and compliance with the court order requires the allocation of a portion less than ten per cent to any beneficiary, the member shall allocate a portion less than ten per cent to that beneficiary in accordance with that order. In all other circumstances, no portion allocated under this plan of payment shall be less than ten per cent. The total of the portions allocated shall not exceed one hundred per cent of the member's lesser allowance.

(B)(1) The death of a spouse nominated as beneficiary or the death of any other nominated beneficiary following a member's retirement or election under section 742.44 of the Revised Code to participate in the deferred retirement option plan shall cancel the portion of the optional plan of payment providing continuing lifetime benefits to the deceased nominated beneficiary. The member of the fund shall receive the actuarial equivalent of the member's single lifetime benefit, as determined by the board, based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary. The change shall be effective the month following receipt by the board of notice of the death.

(2) On divorce, annulment, or marriage dissolution, a member receiving a retirement allowance under a plan that provides for continuation of all or part of the allowance after death for the lifetime of the member's surviving spouse may, with the written consent of the spouse or pursuant to an order of the court with jurisdiction over the termination of the marriage, elect to cancel the portion of the plan providing continuing lifetime benefits to that spouse. The member shall receive the actuarial equivalent of the member's single lifetime benefit as determined by the board based on the number of remaining beneficiaries, with no change in amount payable to any remaining beneficiary. The election shall be made on a form provided by the board and shall be effective the month following its receipt by the board.

(C)(1) Following marriage or remarriage, both of the following apply:

~~(1)~~(a) A member of the fund receiving a ~~pension~~retirement allowance under section 742.37 or 742.39 of the Revised Code may elect not later than one year after the date of marriage or remarriage a new optional plan of payment based on the actuarial equivalent of the member's single lifetime benefit as determined by the board.

~~(2)~~(b) If a member is receiving a ~~benefit~~retirement allowance pursuant to a plan of payment providing for payment to a former spouse pursuant to a court order described in division (D)(1)(c) of this section and the board has received a copy of the order described in that division, the member may elect a new plan of payment under "option 4" based on the actuarial equivalent of the retirant's single lifetime retirement allowance as determined by the board if the new plan of payment elected does not reduce the payment to the former spouse.

~~The~~(2) A plan elected under this division and the member's lesser retirement allowance shall become effective on the date ~~the election is made~~of receipt by the board of an application on a form approved by the board.

(D)(1) Unless one of the following occurs, an application for retirement by a married person shall be considered an election of a benefit under option 2 as provided for in division (A)(2) of this section under which one-half of the lesser retirement allowance payable during the life of the retirant will be paid after death to the retirant's spouse for life as sole beneficiary:

(a) The retirant selects an optional plan under division (A) of this section providing for payment after death to the retirant's spouse for life as sole beneficiary of more than one-half of the lesser retirement allowance payable during the life of the retirant;

(b) The retirant submits to the retirement board a written statement signed by the spouse attesting that the spouse consents to the retirant's election to receive a single lifetime retirement allowance or a payment under an optional benefit plan under which after the death of the retirant the surviving spouse will receive less than one-half of the lesser retirement allowance payable during the life of the retirant;

(c) A plan of payment providing for payment in a specified amount continuing after the retirant's death to a former spouse is required by a court order issued prior to the effective date of the retirant's retirement under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding division of marital property.

(d) If a retirant is subject to division (D)(1)(c) of this section and the board has received a copy of the order described in that division, the board shall accept the retirant's election of a plan of payment under this section only if the retirant complies with both of the following:

(i) The retirant elects a plan of payment that is in accordance with the order described in division (D)(1)(c) of this section.

(ii) If the retirant is married, the retirant elects "option 4" and designates the retirant's current spouse as a beneficiary under that plan unless that spouse consents in writing to not being designated a beneficiary under any plan of payment or the board waives the requirement that the current spouse consent.

(2) An application for retirement shall include an explanation of all of the following:

(a) That, if the member is married, unless the spouse consents to another plan of payment or there is a court order dividing marital property issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property that provides for payment in a specified amount, the member's retirement allowance will be paid under "option 2" and consist of the actuarial equivalent of the member's retirement allowance in a lesser amount payable for life and one-half of the lesser allowance continuing after death to the surviving spouse for the life of the spouse;

(b) A description of the alternative plans of payment available with the consent of the spouse;

(c) That the spouse may consent to another plan of payment and the procedure for giving consent;

(d) That consent is irrevocable once notice of consent is filed with the board.

Consent shall be valid only if it is signed, in writing, and witnessed by an employee of the board or a notary public.

(3) If the retirant does not select an optional plan as described in division (D)(1)(a) of this section and the board does not receive the written statement provided for in division (D)(1)(b) of this section, it shall determine and pay the retirement allowance in accordance with division (A)(2) of this section, except that the board may provide by rule for waiver by the board of the statement and payment of the allowance other than in accordance with division (A)(2) of this section if the retirant is unable to obtain the statement due to absence or incapacity of the spouse or other cause specified by the board.

(E) A member of the fund who has elected an optional plan under this section or section 742.3715 of the Revised Code may, with the consent of the designated beneficiary, cancel the optional plan and receive the retirement allowance payable throughout life the member would have received had the member not elected the optional plan, if the member makes a request to cancel the optional plan not later than one year after the later of September 9, 1988, or the date on which the member first receives a payment under this section or section 742.3715 of the Revised Code. Cancellation of the optional plan shall be effective the month after acceptance of the request by the trustees of the fund. No payment or adjustment shall be made in the retirement allowance payable throughout the member's life to compensate for the lesser allowance the member received under the optional plan.

The request to cancel the optional plan shall be made on a form provided by the fund and shall be valid only if the completed form includes a signed statement of the designated beneficiary's understanding of and consent to the cancellation. The signature shall be verified by the trustees of the fund prior to their acceptance of the cancellation.

(F) Any option elected and payments made under this section shall be in addition to any benefit payable under divisions (D), (E), and (F) of section 742.37 of the Revised Code.

(G) A person is eligible to receive a benefit increase under this division if the person is receiving a retirement allowance or benefit under an optional plan elected under this section or section 742.3715 of the Revised Code based on an award made prior to July 24, 1986. A person is not eligible to receive an increase under this division if the person is receiving a pension or benefit in accordance with rules in force on April 1, 1947, that govern the granting of pensions and benefits and that provide an increase in the original pension or benefit from time to time pursuant to changes in the salaries of active members.

The board shall annually increase all benefits payable under this section or section 742.3715 of the Revised Code to eligible persons by the actuarial equivalent of three hundred sixty dollars, except that no benefit shall exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

The first increase is payable to all eligible persons on July 1, 1988. The increase is payable for the ensuing twelve-month period or until the next increase is granted under this section, whichever is later.

The date of the first increase payable under this section shall be the anniversary date for future increases.

If payment of a portion of a benefit is made to an alternate payee under section 742.462 of the Revised Code, increases under this division granted while the order is in effect shall be apportioned between the alternate payee and the benefit recipient in the same proportion that the amount being paid to the alternate payee bears to the amount paid to the benefit recipient.

If payment of a portion of a retirement allowance is made to one or more beneficiaries under "option 4" under division (A)(4) of section 742.3711 of the Revised Code, each increase under this division granted while the plan of payment is in effect shall be divided among the designated beneficiaries in accordance with the portion each beneficiary has been allocated.

Sec. 3307.60. (A) Upon application for retirement as provided in section 3307.58 or 3307.59 of the Revised Code, the retirant may elect a plan of payment under this division or, on and after the date specified in division (B) of this section, a plan of payment under that division. Under this division, the retirant may elect to receive a single lifetime benefit, or may elect to receive the actuarial equivalent of the retirant's benefit in a lesser amount, payable for life, and continuing after death to a beneficiary under one of the following optional plans:

(1) Option 1. The retirant's lesser benefit shall be paid for life to the sole beneficiary named at retirement.

(2) Option 2. Some other portion of the retirant's benefit shall be paid for life to the sole beneficiary named at retirement. The beneficiary's monthly amount shall not exceed the monthly amount payable to the retirant during the retirant's lifetime.

(3) Option 3. The retirant's lesser benefit established as provided under option 1 or option 2 shall be paid for life to the sole beneficiary named at retirement, except that in the event of the death of the sole beneficiary or termination of a marital relationship between the retirant and the sole beneficiary the retirant may elect to return to a single lifetime benefit equivalent as determined by the state teachers retirement board, if, in the case of termination of a marital relationship, the election is made with the written consent of the beneficiary or pursuant to an order of the court with jurisdiction over termination of the marital relationship.

(4) Option 4. The retirant's lesser benefit or a portion of the retirant's lesser benefit shall be paid for life to two, three, or four surviving beneficiaries named at retirement. The portion of the allowance that continues after the member's death shall be allocated among the beneficiaries at the time of the member's retirement. If the retirant elects this plan as required by a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property and compliance with the court order requires the allocation of a portion less than ten per cent to any person, the retirant shall allocate a portion less than ten per cent to that beneficiary in accordance with that order. In all other circumstances, no portion allocated under this plan of payment shall be less than ten per cent. The total of the portions allocated shall not exceed one hundred per cent of the retirant's lesser allowance.

(5) Option 5. Upon the retirant's death before the expiration of a certain period from the retirement date and elected by the retirant, and approved by the

board, the retirant's benefit shall be continued for the remainder of such period to the beneficiary. Monthly benefits shall not be paid to joint beneficiaries, but they may receive the present value of any remaining payments in a lump sum settlement. If all beneficiaries die before the expiration of the certain period, the present value of all payments yet remaining in such period shall be paid to the estate of the beneficiary last receiving.

(6) Option 6. A plan of payment established by the state teachers retirement board combining any of the features of options 1, 2, and 5.

(B) Beginning on a date selected by the state teachers retirement board, which shall be not later than July 1, 2004, a retirant may elect, in lieu of a plan of payment under division (A) of this section, a plan consisting of both of the following:

(1) A lump sum in an amount the member designates that constitutes a portion of the member's single lifetime benefit;

(2) Either of the following:

(a) The remainder of the retirant's single lifetime benefit;

(b) The actuarial equivalent of the remainder of the retirant's benefit in a lesser amount, payable for life, and continuing after death to a beneficiary under one of the options described in divisions (A)(1) to (6) of this section.

In the event of the death of a beneficiary or termination of a marital relationship between the retirant and a beneficiary, the retirant may elect to cancel the portion of the plan of payment providing continuing lifetime benefits to that beneficiary. The retirant shall receive the actuarial equivalent of the remainder of the retirant's single lifetime benefit based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary. In the case of termination of a marital relationship, the election may be made only with the written consent of the beneficiary or pursuant to an order of the court with jurisdiction over termination of the marital relationship.

The amount designated by the member under division (B)(1) of this section shall be not less than six times and not more than thirty-six times the monthly amount that would be payable to the member as a single lifetime benefit and shall not result in a monthly allowance that is less than fifty per cent of that amount.

(C) Until the first payment is made to a former member under section 3307.58 or 3307.59 of the Revised Code, the former member may change the selection of a plan of payment.

(D)(1) If a deceased member was eligible for but had not yet been awarded a service retirement benefit under section 3307.58 or 3307.59 of the Revised Code at the time of death, option 1 as provided for in division (A)(1) of this section shall be paid to the spouse or other sole dependent beneficiary.

(2) Beginning on a date selected by the board, which shall be not later

than July 1, 2004, the spouse or sole beneficiary may elect, in lieu of option 1, a plan of payment consisting of both of the following:

(a) A lump sum in an amount the spouse or other sole dependent beneficiary designates that constitutes a portion of the retirant's single life annuity;

(b) The actuarial equivalent of the remainder of the retirant's single life annuity paid in a lesser amount for life to the spouse or other sole dependent beneficiary.

The amount designated by the spouse or other sole dependent beneficiary under division (D)(2)(a) of this section shall be not less than six times and not more than thirty-six times the monthly amount that would be payable as the retirant's single life annuity and shall not result in a monthly allowance that is less than fifty per cent of that monthly amount.

(E) If the total benefit paid under this section is less than the balance in the teachers' savings fund, the difference shall be paid to the beneficiary provided under division (D) of section 3307.562 of the Revised Code.

(F) In the case of a retirant who elected an optional plan prior to September 15, 1989:

(1) The death of the spouse or other designated beneficiary following retirement shall, at the election of the retirant, cancel any optional plan selected at retirement to provide continuing lifetime benefits to the spouse or other beneficiary and return the retirant to a single lifetime benefit equivalent as determined by the board.

(2) A divorce, annulment, or marriage dissolution shall, at the election of the retirant, cancel any optional plan selected at retirement to provide continuing lifetime benefits to the spouse as designated beneficiary and return the retirant to a single lifetime benefit equivalent as determined by the board if the election is made with the written consent of the beneficiary or pursuant to an order of a court of common pleas or the court of another state with jurisdiction over the termination of the marriage.

(G)(1) Following marriage or remarriage, both of the following apply:

~~(1)~~(a) A retirant may elect a new optional plan of payment based on the actuarial equivalent of the retirant's single lifetime benefit, as determined by the board, except that if the retirant is receiving a retirement allowance under an optional plan that provides for continuation of benefits after death to a former spouse, the retirant may elect a new optional plan of payment only with the written consent of the former spouse or pursuant to an order of the court with jurisdiction over the termination of the marriage.

~~(2)~~(b) A retirant who is receiving a benefit pursuant to a plan of payment providing for payment to a former spouse pursuant to a court order described in division (H)(1)(b) of this section may elect a new plan of payment under "option

4" based on the actuarial equivalent of the retirant's single lifetime retirement allowance as determined by the board if the new plan of payment elected does not reduce the payment to the former spouse.

The (2) If the marriage or remarriage occurs on or after the effective date of this amendment, the election must be made not later than one year after the date of the marriage or remarriage.

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

(H)(1) Except as otherwise provided in this division and division (H)(2) of this section, an application for service retirement made pursuant to section 3307.58 or 3307.59 of the Revised Code by a married person shall be considered an election of a benefit under option 2 as provided for in division (A)(2) of this section under which one-half of the lesser benefit payable during the life of the retirant will be paid after death to the retirant's spouse for life as sole beneficiary. The exceptions are as follows:

(a) The retirant selects an optional plan under division (A) of this section providing for payment after death to the retirant's spouse for life as sole beneficiary of more than one-half of the lesser benefit payable during the life of the retirant.

(b) A plan of payment providing for payment in a specified amount continuing after the retirant's death to a former spouse is required by a court order issued prior to the effective date of retirement under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding division of marital property.

(c) The retirant submits to the retirement board a written statement signed by the spouse attesting that the spouse consents to the retirant's election to receive a single lifetime annuity or a payment under an optional benefit plan under which after the death of the retirant the surviving spouse will receive less than one-half of the lesser benefit payable during the life of the retirant.

(2) If a retirant is subject to division (H)(1)(b) of this section and the board has received a copy of the order described in that division, the board shall accept the retirant's election of a plan of payment under this section only if the retirant complies with both of the following:

(i) The retirant elects a plan of payment that is in accordance with the order described in division (H)(1)(b) of this section.

(ii) If the retirant is married, the retirant elects "option 4" and designates the retirant's current spouse as a beneficiary under that plan unless that spouse consents in writing to not being designated a beneficiary under any plan of payment or the board waives the requirement that the current spouse consent.

(3) An application for retirement shall include an explanation of all of the

following:

(a) That, if the member is married, unless the spouse consents to another plan of payment or there is a court order dividing marital property issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property that provides for payment in a specified amount, the member's retirement allowance will be paid under "option 2" as provided for in division (A)(2) of this section and consist of the actuarial equivalent of the member's retirement allowance in a lesser amount payable for life and one-half of the lesser allowance continuing after death to the surviving spouse for the life of the spouse;

(b) A description of the alternative plans of payment available with the consent of the spouse;

(c) That the spouse may consent to another plan of payment and the procedure for giving consent;

(d) That consent is irrevocable once notice of consent is filed with the board.

Consent shall be valid only if it is signed, in writing, and witnessed by a notary public.

(4) If the retirant does not select an optional plan of payment as described in division (H)(1)(a) of this section, no court has ordered a plan of payment described in division (H)(1)(b) of this section, and the board does not receive the written statement provided for in division (H)(1)(c) of this section, the board shall determine and pay the retirement allowance in accordance with this division, except that the board may provide by rule for waiver by the board of the statement and payment of the benefits other than in accordance with this division or payment under section 3307.56 of the Revised Code if the retirant is unable to obtain the statement due to absence or incapacity of the spouse or other cause specified by the board.

(I) For the purpose of determining actuarial equivalence under this section, on the advice of an actuary employed by the board, the board shall adopt mortality tables that may take into consideration the membership experience of the state teachers retirement system and may also include the membership experience of the public employees retirement system and the school employees retirement system.

Sec. 3309.46. (A) The retirement allowance calculated under section 3309.36, 3309.38, or 3309.381 of the Revised Code shall be paid as provided in this section. If the member is eligible to elect a plan of payment under this section, the election shall be made on the application for retirement. A plan of payment elected under this section shall be effective only if it is certified by the actuary engaged by the school employees retirement board to be the actuarial equivalent of the member's retirement allowance and is approved by the retirement board.

(B)(1)(a) Except as provided in divisions (B)(1)(b) and (c) of this section, a member who retires under section 3309.36, 3309.38, or 3309.381 of the Revised Code shall receive a retirement allowance under "plan A," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser amount payable for life and one-half of such allowance continuing after death to the member's surviving spouse for the life of the spouse.

(b) A member may receive a retirement allowance under a plan of payment other than "plan A" if either of the following is the case:

(i) The member is not married or either the member's spouse consents in writing to the member's election to a plan of payment other than "plan A" or the board waives the requirement that the spouse consent;

(ii) A plan of payment providing for payment in a specified amount continuing after the member's death to a former spouse is required by a court order issued prior to the effective date of the member's retirement under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding division of marital property.

(c) If a member is subject to division (B)(1)(b)(ii) of this section and the board has received a copy of the order described in that division, the board shall accept the member's election of a plan of payment under this section only if the member complies with both of the following:

(i) The member elects a plan of payment that is in accordance with the order described in division (B)(1)(b)(ii) of this section.

(ii) If the member is married, the member elects "plan F" and designates the member's current spouse as a beneficiary under that plan unless that spouse consents in writing to not being designated a beneficiary under any plan of payment or the board waives the requirement that the current spouse consent.

(2) An application for retirement shall include an explanation of all of the following:

(a) That, if the member is married, unless the spouse consents to another plan of payment or there is a court order dividing marital property issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property that provides for payment in a specified amount, the member's retirement allowance will be paid under "plan A," which consists of the actuarial equivalent of the member's retirement allowance in a lesser amount payable for life and one-half of the allowance continuing after death to the surviving spouse for the life of the spouse;

(b) A description of the alternative plans of payment, including all plans described in divisions (B)(3) and (4) of this section, available with the consent of the spouse;

(c) That the spouse may consent to another plan of payment and the

procedure for giving consent;

(d) That consent is irrevocable once notice of consent is filed with the board.

Consent shall be valid only if it is in writing, signed by the spouse, and witnessed by an employee of the school employees retirement system or a notary public. The board may waive the requirement of consent if the spouse is incapacitated or cannot be located or for any other reason specified by the board. Consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.

(3)(a) A member eligible to elect to receive a retirement allowance under a plan of payment other than "plan A" shall receive the retirement allowance under the plan described in division (B)(4) of this section or one of the following plans:

(a) "Plan B," which shall consist of an allowance determined under section 3309.36, 3309.38, or 3309.381 of the Revised Code;

(b) "Plan C," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser amount payable for life and one-half or some other portion of the allowance continuing after death to the member's sole surviving beneficiary designated at the time of the member's retirement, provided that the amount payable to the beneficiary does not exceed the amount payable to the member;

(c) "Plan D," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser amount payable for life and continuing after death to a surviving designated beneficiary designated at the time of the member's retirement;

(d) "Plan E," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser amount payable for a certain period from the member's retirement date as elected by the member and approved by the retirement board, and on the member's death before the expiration of that certain period, the member's lesser retirement allowance continued for the remainder of that period to, and in such order, the beneficiaries as the member has nominated by written designation and filed with the retirement board.

Monthly benefits shall not be paid to joint beneficiaries, but they may receive the present value of any remaining payments in a lump sum settlement. If all beneficiaries die before the expiration of the certain period, the present value of all such payments yet remaining in such period shall be paid to the estate of the beneficiary last receiving.

(e) "Plan F," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 3309.36, 3309.38, or

3309.381 of the Revised Code in a lesser amount payable to the member for life and some portion of the lesser amount continuing after death to two, three, or four surviving beneficiaries designated at the time of the member's retirement. The portion of the lesser amount that continues after the member's death shall be allocated among the beneficiaries at the time of the member's retirement. If the member elects this plan as required by a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property and compliance with the court order requires the allocation of a portion less than ten per cent to any person, the member shall allocate a portion less than ten per cent to that beneficiary in accordance with that order. In all other circumstances, no portion allocated under this plan of payment shall be less than ten per cent. The total of the portions allocated shall not exceed one hundred per cent of the member's lesser allowance.

(4)(a) Beginning on a date selected by the board, which shall be not later than July 1, 2004, a member may elect, in lieu of a plan of payment under division (B)(1) or (3) of this section, a plan consisting of both a lump sum in an amount the member designates that constitutes a portion of the retirement allowance payable under a plan described in division (B)(1) or (3) of this section and the remainder of the allowance payable under that plan in monthly payments.

The total amount paid as a lump sum and a monthly benefit shall be the actuarial equivalent of the amount that would have been paid had the lump sum not been selected.

(b) The lump sum amount designated by the member shall be not less than six times and not more than thirty-six times the monthly amount that would be payable to the member under the plan of payment elected under this section had the lump sum not been elected and shall not result in a monthly benefit that is less than fifty per cent of that amount.

(5) An election under division (B)(3) or (4) of this section shall be made at the time the member makes application for retirement.

(6) A member eligible to elect to receive a retirement allowance under a plan of payment other than "plan A" because the member is unmarried who fails to make an election on retirement shall receive a retirement allowance under "plan B."

(C) Until the first payment of any retirement allowance is made, as provided in sections 3309.36, 3309.38, or 3309.381 of the Revised Code, a member may change the member's election of a payment plan if the election is made in accordance with and is consistent with division (B) of this section.

(D) If the retirement allowances due and paid under the above provisions of this section are in a total amount less than (1) the accumulated contributions, (2) the deposits for additional credit as provided by section 3309.31 of the Revised Code, (3) the deposits for additional annuities as provided by section 3309.47 of the Revised Code, (4) the deposits for repurchase of service credit as

provided by section 3309.26 of the Revised Code, (5) the accumulated contributions provided by section 3309.65 of the Revised Code, (6) the deposits for purchase of military service credit provided by section 3309.021 or 3309.022 of the Revised Code, and (7) the deposits for the purchase of service credit provided by section 3309.73 of the Revised Code, standing to the credit of the member at the time of retirement, then the difference between the total amount of the allowances paid and the accumulated contributions and other deposits shall be paid to the beneficiary provided under division (D) of section 3309.44 of the Revised Code.

(E)(1) The death of a spouse or any other designated beneficiary following the member's retirement shall cancel the portion of the plan of payment providing continuing lifetime benefits to the deceased spouse or deceased designated beneficiary. The retirant shall receive the actuarial equivalent of the retirant's single lifetime retirement allowance as determined by the board based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary.

(2) On divorce, annulment, or marriage dissolution, a retirant receiving a retirement allowance under a plan of payment that provides for continuation of all or part of the allowance after death for the lifetime of the retirant's surviving spouse may elect to cancel the portion of the plan providing continuing lifetime benefits to that spouse. The retirant shall receive the actuarial equivalent of the retirant's single lifetime retirement allowance as determined by the retirement board based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary. In the case of a member who retires on or after July 24, 1990, the election may be made only with the written consent of the spouse or pursuant to an order of the court with jurisdiction over the termination of the marriage. The election shall be made on a form provided by the board and shall be effective the month following its receipt by the board.

(3)(a) Following marriage or remarriage, both of the following apply:

~~(a)(i)~~ A retirant who is receiving a benefit pursuant to "plan B" may elect a new plan of payment under division (B)(1), (3)(b), or (3)(c) of this section based on the actuarial equivalent of the retirant's single lifetime retirement allowance as determined by the board.

~~(b)(ii)~~ A retirant who is receiving a benefit pursuant to a plan of payment providing for payment to a former spouse pursuant to a court order described in division (B)(1)(b)(ii) of this section may elect a new plan of payment under division (B)(3)(e) of this section based on the actuarial equivalent of the retirant's single lifetime retirement allowance as determined by the board if the new plan of payment elected does not reduce the payment to the former spouse.

~~The(b) If the marriage or remarriage occurs on or after the effective date of this amendment, the election must be made not later than one year after the date of the marriage or remarriage.~~

The plan elected under division (E)(3) of this section shall become

effective ~~on the first day~~~~date of the month following~~ receipt by the board of an application on a form approved by the board, but any change in the amount of the retirement allowance shall commence on the first day of the month following the effective date of the plan.

Sec. 5505.162. (A) On application for retirement as provided in section 5505.16 of the Revised Code, a member of the state highway patrol retirement system may elect, on a form provided by the state highway patrol retirement board, to receive the pension that the member is eligible to receive on retirement under that section in one of the following forms:

(1) A single lifetime pension;

(2) The actuarial equivalent of the single lifetime pension that the member may elect under division (A)(1) of this section in a lesser annual amount payable for the member's life and continuing after the member's death to a surviving designated beneficiary under one of the following optional plans, provided the annual amount payable to the designated beneficiary shall not exceed the annual amount payable to such retiring member, the amount is certified by the actuary employed by the system to be the actuarial equivalent of the member's pension, and the amount is approved by the board:

(a) Option 1. The member's lesser pension shall be paid for life to the member's sole beneficiary designated at the time of retirement.

(b) Option 2. One-half or some other portion of the member's lesser pension shall be paid for life to the member's sole beneficiary designated at the time of retirement.

(c) Option 3. Upon death before the expiration of a certain period from the member's retirement date as elected by the member and approved by the board, the member's lesser pension shall be continued for the remainder of such period to the beneficiaries, and in such order, as designated by the member in writing and filed with the board. No monthly payments shall be paid to joint beneficiaries, but they may jointly receive the present value of any remaining payments in a lump sum settlement. If all designated beneficiaries die before the expiration of such period, the present value of all the payments yet remaining in the period shall be paid to the estate of the beneficiary last receiving such payments.

(d) Option 4. The member's lesser pension or portion of the lesser pension shall be paid for life to two, three, or four surviving beneficiaries designated at the time of the member's retirement, in such portions as specified at retirement. If the member elects this plan as required by a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property and compliance with the court order requires the allocation of a portion less than ten per cent to any person, the member shall allocate a portion less than ten per cent to that person in accordance with that order. In all other circumstances, no portion allocated under this plan of payment shall be less than ten per cent. The total of the portions

allocated shall not exceed one hundred per cent of the member's lesser pension.

(3) If the member has attained age fifty-one with at least twenty-five years' total service or fifty-two with at least twenty years' total service, a pension consisting of both a partial benefit lump sum in an amount the member designates that constitutes a portion of the single lifetime pension the member may elect under division (A)(1) of this section and the actuarial equivalent of the remainder of the single lifetime pension payable for the member's life, provided an actuary employed by the system certifies the actuarial equivalent and the board approves the partial benefit lump sum payment and the amount to be paid as the actuarial equivalent.

The amount designated by a member shall be not less than six times the monthly amount that would be payable to the member as a single lifetime pension under division (A)(1) of this section and not more than sixty times that amount.

A member who has attained the age of fifty-one with twenty-five years of service who elects a partial benefit lump sum may designate an amount that does not exceed an amount equal to one month's pension for each month of service beyond twenty-five years. A member who has attained the age of fifty-two with twenty years of service who elects a partial benefit lump sum may designate an amount that does not exceed an amount equal to one month's pension for each month of service beyond twenty years.

(4) If a plan of payment providing for payment in a specified portion of the pension continuing after the member's death to a former spouse is required by a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding division of marital property prior to the effective date of the member's retirement and the board has received a copy of the order, the board shall accept the member's election of a plan of payment under this section only if the member elects a plan of payment that is in accordance with the order.

(B)(1) The death of a spouse designated as beneficiary or the death of any other designated beneficiary following retirement shall cancel the portion of the optional plan of payment selected under division (A)(2) of this section providing continuing lifetime benefits to the deceased designated beneficiary. The member shall receive the actuarial equivalent of the member's single lifetime pension, as determined by the board based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary. The change shall be effective the month following receipt by the board of notice of the death.

(2) On divorce, annulment, or marriage dissolution, a member receiving a pension under a plan that provides for continuation of all or part of the pension after death for the lifetime of the member's surviving spouse may, with the written consent of the spouse or pursuant to an order of the court with jurisdiction over the termination of the marriage, elect to cancel the portion of the plan providing continuing lifetime benefits to that spouse. The member shall

receive the actuarial equivalent of the member's single lifetime pension as determined by the board based on the number of remaining beneficiaries, with no change in amount payable to any remaining beneficiary. The election shall be made on a form provided by the board and shall be effective the month following its receipt by the board.

(C)(1) Following marriage or remarriage, both of the following apply:

~~(1)(a)~~ A member may elect a new optional plan of payment under division (A)(2) of this section based on the actuarial equivalent of the member's single lifetime pension as determined by the board.

~~(2)(b)~~ A member who is receiving a pension pursuant to a plan of payment providing for payment to a former spouse pursuant to a court order described in division (A)(4) of this section may elect a new plan of payment under "option 4" based on the actuarial equivalent of the retirant's single lifetime pension as determined by the board if the new plan of payment elected does not reduce the payment to the former spouse.

The (2) If the marriage or remarriage occurs on or after the effective date of this amendment, the election must be made not later than one year after the date of the marriage or remarriage.

The plan elected under this section shall become effective on the first day of the month following receipt by the board of an application on a form approved by the board, but any change in the amount of the pension shall commence on the first day of the month following the effective date of the plan.

(D) A member who has elected an optional plan under division (A)(2) of this section may, with the written consent of the designated beneficiary, cancel the optional plan and receive the single lifetime pension that the member would have received had the member elected the single lifetime pension under division (A)(1) of this section, if the member makes a request to cancel the optional plan not later than one year after the date on which the member first receives a payment under the plan. Cancellation of the optional plan shall be effective the month after acceptance of the request by the board. No payment or adjustment shall be made in the single lifetime pension to compensate for the lesser pension the member received under the optional plan.

The request to cancel the optional plan shall be made on a form provided by the board and shall be valid only if the completed form includes a signed statement of the designated beneficiary's understanding of and consent to the cancellation. The designated beneficiary's signature shall be verified by the board prior to its acceptance of the cancellation.

(E) Any option elected and payments made under division (A)(2) of this section shall be in addition to any pension payable to the member's surviving spouse, children, or parents under section 5505.17 of the Revised Code.

Section 4. That the existing versions of sections 145.46, 742.3711, 3307.60, 3309.46, and 5505.162 of the Revised Code that are scheduled to take

effect on October 27, 2006, are hereby repealed.

Section 5. Sections 3 and 4 of this act shall take effect October 27, 2006.

Section 6. The individual appointed by the Governor pursuant to Section 5 of Sub. S.B. 133 of the 125th General Assembly to serve as the additional retirant member of the Board of the School Employees Retirement System shall hold office through June 30, 2005.

With regard to the vacancy left on the School Employees Retirement Board by the employee member whose term would have ended on June 5, 2005, the individual elected by the Board to fill the vacant employee member seat shall hold office through June 30, 2005.

Section 7. Sections 1 and 2 of this act shall take effect on the ninety-first day after the effective date of this act.

Section 8. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that, to provide consistent governance of the School Employees Retirement System, the continuity of the membership of the School Employees Retirement Board must be maintained. Therefore, this act shall go into immediate effect."

In line 6 of the title, after "paid" insert ", to amend the versions of sections 145.46, 742.3711, 3307.60, 3309.46, and 5505.162 of the Revised Code that are scheduled to take effect on October 27, 2006, to continue provisions of this act on and after that effective date, and to declare an emergency"

Attest:

Matthew T. Schuler,
Clerk.

The Senate amendments were laid over under the Rule.

MESSAGE FROM THE SPEAKER

Pursuant to Ohio Revised Code section 164.02(A) and Section 4, the Speaker hereby appoints Todd Kelchner to the Ohio Public Works Commission.

On motion of Representative Carmichael, the House adjourned until Wednesday, March 2, 2005 at 1:30 o'clock p.m.

Attest:

LAURA P. CLEMENS,
Clerk.