



**Am. H.B. 10**

126th General Assembly  
(As Passed by the General Assembly)

**Reps.** Schneider, Seitz, Setzer, C. Evans, Allen, Book, Daniels, Gibbs, Hagan, Mason, S. Patton, G. Smith, S. Smith, J. Stewart, White, Barrett, Beatty, Blasdel, Blessing, Bulp, 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

**Sens.** Wachtmann, Clancy, Hottinger, Niehaus, Schuring, Cates

**Effective date:** Emergency, March 7, 2005; Sections 1 and 2 effective June 6, 2005; Sections 3 and 4 effective October 27, 2006

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**ACT SUMMARY**

- Requires a retirant receiving a retirement benefit from the Public Employees Retirement System, State Teachers Retirement System, School Employees Retirement System, or State Highway Patrol Retirement System who marries or remarries and wishes to change the plan of payment of the benefit to do so within one year of the marriage or remarriage.
- Provides that a change in a state retirement system retirement benefit plan of payment that is based on marriage or remarriage takes effect on the date the retirement board receives the application to change the plan.
- Specifies that the individual appointed by the Governor pursuant to S.B. 133 of the 125th General Assembly to serve as the additional retirant member of the School Employees Retirement System (SERS) Board holds office through June 30, 2005.
- Specifies that, with regard to the vacancy left on the SERS Board by the employee member whose term would have ended on June 5, 2005, the

individual elected by the SERS Board to fill the vacancy holds office through June 30, 2005.

- Declares an emergency so that the provisions regarding SERS Board membership take immediate effect on the act's effective date.

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## CONTENT AND OPERATION

### **Background--retirement benefit payment plans**

(R.C. 145.384(B), 145.46(B) and (E), 742.3711(A), 3307.60(A), 3309.46(B), and 5505.162(A))

On application for retirement, a member of a state retirement system<sup>1</sup> may choose to receive a retirement allowance as (1) a single lifetime annuity, (2) a joint and survivor benefit, or (3) a combination of a partial lump sum payment and either a single lifetime annuity or a joint and survivor benefit.<sup>2</sup> The joint and survivor benefit payable to a retirant is the actuarial equivalent of the single lifetime annuity in a lesser amount, payable for the member's life and continuing after the member's death to a surviving beneficiary under one of several benefit payment plans.<sup>3</sup> The benefit payment plans vary by retirement system, but generally provide for the continuation of benefits as follows:

(1) The member's lesser benefit to the member's sole beneficiary;

(2) A portion of the member's lesser benefit to the member's sole beneficiary;

(3) On death before the expiration of a specified period from the member's retirement date, the member's lesser benefit continued for the remainder of that period to the member's beneficiaries;

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<sup>1</sup> *The state retirement systems are the Public Employees Retirement System (PERS), State Teachers Retirement System (STRS), School Employees Retirement System (SERS), Ohio Police and Fire Pension Fund (OP&F), and the State Highway Patrol Retirement System (SHPRS).*

<sup>2</sup> *This last option is available only to PERS, STRS, SERS, and SHPRS members.*

<sup>3</sup> *Under PERS, OP&F, STRS, and SERS, a member who is married at the time of retirement may choose a plan of payment other than a joint and survivor benefit only if the spouse consents to the other plan of payment (R.C. 145.46(B)(1), 742.3711(D)(1), 3307.60(H), and 3309.46(B)(1)).*

(4) A payment plan combining any of the features of options 1, 2, or 3.<sup>4</sup>

A retirant receiving a single life annuity who marries or remarries may elect to change the benefit payment plan to a joint and survivor plan.

For retirants re-employed under PERS law, on termination of the re-employment, the retirant may apply for a benefit in connection with the re-employment in the form of a lump sum payment, a single life annuity, or the actuarial equivalent of the single lifetime annuity in a lesser amount for life and continuing after death to a surviving beneficiary.

### **The act**

#### **PERS, STRS, SERS, and SHPRS**

(R.C. 145.384(D), 145.46(E), 3307.60(G), 3309.46(E)(3), and 5505.162(C))

A retirant receiving a retirement benefit as a single life annuity from PERS, STRS, SERS, or SHPRS who marries or remarries may elect to change the plan of payment for the benefit. Under prior law the new plan took effect on the first day of the first month following receipt by the retirement board of an application. Previously, the law did not limit the amount of time allowed a retirant after the marriage or remarriage to change the plan of payment. However, if the retirant died before the new plan took effect, the surviving spouse would not receive a benefit under the payment plan the retirant attempted to elect.<sup>5</sup>

Under the act, a retirant may apply to change the plan of payment after marriage or remarriage, but must do so within one year of the date of the marriage or remarriage. (This limitation applies only to retirants who marry or remarry on or after the act's effective date.) The act also provides that the member's new plan of payment takes effect on the date of receipt of the application to change the plan. Any change in the amount of the benefit commences on the first day of the first month following the new plan's effective date. In the case of PERS, the changes regarding retirement benefits also apply to annuities payable to PERS retirants based on service following retirement.

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<sup>4</sup> Available only to STRS members.

<sup>5</sup> The surviving spouse may receive a single payment on account of the retirant's death, the amount of which depends on the length of the retirant's total service credit. In PERS, for example, the payment ranges from \$500 for five years of service to \$2,500 for 25 or more years of service (R.C. 145.451).

## **OP&F**

(R.C. 742.3711(C))

Continuing law permits an Ohio Police and Fire Pension Fund (OP&F) retirant to elect to change the plan of payment for a retirement allowance following marriage or remarriage, but requires the election to be made within a year of the marriage or remarriage. Formerly, the new plan took effect on the date the election was made. The act amends the effective date so that the new plan takes effect on the date that the OP&F Board of Trustees receives the member's application to change the plan.

## **SERS Board membership**

(Sections 6, 7, and 8)

### **Background--Sub. S.B. 133**

Sub. S.B 133 of the 125th General Assembly altered the composition of the School Employees Retirement (SERS) Board. Previously, the Board had seven members: two ex officio members (the Attorney General and State Auditor), four employee members, and one retirant member. S.B. 133 removed both the Attorney General and the Auditor from the Board and added an individual appointed by the Treasurer of State and two investment expert members. S.B. 133 also added an additional retirant member, bringing the total number of SERS Board members to nine.

### **The act**

The act requires the individual appointed by the Governor to serve as the additional retirant member of the School Employees Retirement System (SERS) Board to hold office through June 30, 2005. The act also requires that, with regard to the vacancy left on the SERS Board by the employee member whose term would have ended on June 5, 2005, the individual elected by the SERS Board to fill the vacancy holds office through June 30, 2005.

### **Emergency declaration**

The act declares an emergency so that the provisions regarding SERS Board membership take immediate effect on the act's effective date. The act's other provisions take effect on the 91st day following the act's effective date (with the exception of the amendments to the future versions of several Revised Code sections, which will not take effect until October 27, 2006).<sup>6</sup>

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<sup>6</sup> Please see "**Technical changes**," below.

### **Technical changes**

(R.C. 145.46, 742.3711, 3307.60, 3309.46, and 5505.162; Sections 3, 4, and 5)

The act amends future versions of several Revised Code sections scheduled to take effect on October 27, 2006, to reflect the changes made by the act.<sup>7</sup>

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## **COMMENT**

The Revised Code includes a number of rules of statutory construction to be used in interpreting Ohio law. One of these rules is that "a statute is presumed to be prospective in its operation unless expressly made retrospective." (Revised Code section 1.48.) This means that, unless the legislation that changes an established procedure specifically provides for the change to be applied to existing cases, a change will apply only to cases arising on or after the date the legislation takes effect. Since the act contains no indication of a legislative intent that it be applied to applications already filed, the rule requires that its provisions be applied only to applications filed on or after its effective date.

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## **HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	01-24-05	p. 80
Reported, H. Financial Institutions, Real Estate, and Securities	01-26-05	p. 91
Passed House (96-0)	01-26-05	pp. 125-126
Reported, S. Health, Human Services & Aging	02-24-05	p. 213
Passed Senate (32-0)	03-01-05	pp. 224-250
House concurred in Senate amendments (94-0)	03-02-05	pp. 272-274

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<sup>7</sup> The changes scheduled to take effect 10-27-2006 were made by Sub. H.B. 98 of the 125th General Assembly.