

# **OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM**

## **Chapter 145 Ohio Revised Code**

**2025**



Includes amendments adopted through January 1, 2025

PUBLIC EMPLOYEES RETIREMENT BOARD  
277 East Town Street Columbus, Ohio 43215-4642

VACANT  
State University and College Employees

STEWART SMITH  
Miscellaneous Employees

CHRISTOPHER MABE  
State Employees

JULIE ALBERS  
County Employees

STEVE TOTH  
Retirees

KEN THOMAS  
Municipal Employees

TIM STEITZ  
Retirees

**Statutory Member**

KATHLEEN MADDEN  
Director, Ohio Department of Administrative Services

**Appointed Members**

JIM TILLING  
General Assembly Appointed Investment Expert

SCOTT RICHTER  
Treasurer Appointed Investment Expert

JAMES KUNK  
Governor Appointed Investment Expert

KAREN CARRAHER  
Executive Director



**Chapter 145**  
**Ohio Revised Code**

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## Chapter 145 Ohio Revised Code

### Sec. 145.01 Definitions

As used in this chapter:

(A) "Public employee" means:

(1) Any person holding an office, not elective, under the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio history connection, public library, county law library, union cemetery, joint hospital, institutional commissary, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in division (A)(1) of this section, or employed and paid in whole or in part by the state or any of the authorities named in division (A)(1) of this section in any capacity not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code.

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

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

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

(5) A person who is an employee of the legal rights service on September 30, 2012, and continues to be employed by the nonprofit entity established under Section 319.20 of Am. Sub. H.B. 153 of the 129<sup>th</sup> general assembly. The nonprofit entity is the employer for the purpose of this chapter.

In all cases of doubt, the public employees retirement board shall determine under section 145.036, 145.037, or 145.038 of the Revised Code whether any person is a public employee, and its decision is final.

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

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

(D) "Employer" or "public employer" means the state or any county, township, municipal



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

(E) “Prior military service” also means all service credited for active duty with the armed forces of the United States as provided in section 145.30 of the Revised Code.

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

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

(H)(1) “Total service credit,” except as provided in sections 145.016 and 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including restored service credit as provided by section 145.31 of the Revised Code; credit purchased under sections 145.293 and 145.299 of the Revised Code; all the member’s military service credit computed as provided in this chapter; all service credit established pursuant to section 145.297 of the Revised Code; and any other service credited under this chapter.

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

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

(4) “Ohio service credit” means credit for service that was rendered to the state or any of its political subdivisions or any employer.

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

(J) “Accumulated contributions” means the sum of all amounts credited to a contributor’s individual account in the employees’ savings fund together with any interest credited to the contributor’s account under section 145.471 or 145.472 of the Revised Code.

(K)(1) “Final average salary” means the greater of the following:

(a) The sum of the member’s earnable salaries for the appropriate number of calendar years of contributing service, determined under section 145.017 of the Revised Code, in which the member’s earnable salary was highest, divided by the same number of calendar years or, if the member has fewer than the appropriate number of calendar years of contributing service, the total

of the member's earnable salary for all years of contributing service divided by the number of calendar years of the member's contributing service;

(b) The sum of a member's earnable salaries for the appropriate number of consecutive months, determined under section 145.017 of the Revised Code, that were the member's last months of service, up to and including the last month, divided by the appropriate number of years or, if the time between the first and final months of service is less than the appropriate number of consecutive months, the total of the member's earnable salary for all months of contributing service divided by the number of years between the first and final months of contributing service, including any fraction of a year, except that the member's final average salary shall not exceed the member's highest earnable salary for any twelve consecutive months.

(2) If contributions were made in only one calendar year, "final average salary" means the member's total earnable salary.

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

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

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

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

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

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

(O) "Age and service retirement" means retirement as provided in sections 145.32, 145.33, 145.331, 145.332, 145.37, and 145.46 and former section 145.34 of the Revised Code.

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

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

(R)(1) Except as otherwise provided in division (R) of this section, "earnable salary" means all salary, wages, and other earnings paid to a contributor by reason of employment in a position covered by the retirement system. The salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the employees' savings fund under section 145.47 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes. "Earnable salary" includes the following:

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

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

are not earnable salary;

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

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

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

(f) Amounts included pursuant to former division (K)(3) and former division (Y) of this section and section 145.2916 of the Revised Code.

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

(a) Fees and commissions, other than those paid under section 507.09 of the Revised Code, paid as sole compensation for personal services and fees and commissions for special services over and above services for which the contributor receives a salary;

(b) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance;

(c) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, or use of the employer's property or equipment, or amounts paid by the employer to the contributor in lieu of providing the incidental benefits;

(d) Reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;

(e) Payments for accrued, but unused sick leave, personal leave, or vacation that are made at any time other than in the year in which the sick leave, personal leave, or vacation was accrued;

(f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended;

(g) Payments made under division (B), (C) or (E) of section 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly, Section 3 of Amended Substitute Senate Bill No. 164 of the 124th general assembly, or Amended Substitute House Bill No. 405 of the 124th general assembly;

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

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

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

(i) The portion of any amount included in section 145.2916 of the Revised Code that represents employer contributions.

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

(S) "Pension reserve" means the present value, computed upon the basis of the mortality

and other tables adopted by the board, of all payments to be made on account of any retirement allowance or benefit in lieu of any retirement allowance, granted to a member or beneficiary under this chapter.

(T) “Contributing service” means both of the following:

(1) All service credited to a member of the system since January 1, 1935, for which contributions are made as required by sections 145.47, 145.48, and 145.483 of the Revised Code. In any year subsequent to 1934, credit for any service shall be allowed in accordance with section 145.016 of the Revised Code.

(2) Service credit received by election of the member under section 145.814 of the Revised Code.

(U) “State retirement board” means the public employees retirement board, the school employees retirement board, or the state teachers retirement board.

(V) “Retirant” means any former member who retires and is receiving a monthly allowance as provided in sections 145.32, 145.33, 145.331, 145.332, 145.335, and 145.46 and former section 145.34 of the Revised Code.

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

(X) “Public service terminates” means the last day for which a public employee is compensated for services performed for an employer or the date of the employee’s death, whichever occurs first.

(Y) “Five years of service credit,” for the exclusive purpose of satisfying the service credit requirements and of determining eligibility under section 145.33 or 145.332 of the Revised Code, means employment covered under this chapter or under a former retirement plan operated, recognized, or endorsed by the employer prior to coverage under this chapter or under a combination of such coverage.

(Z) “Deputy sheriff” means any person who is commissioned and employed as a full-time peace officer by the sheriff of any county, and has been so employed since on or before December 31, 1965; any person who is or has been commissioned and employed as a peace officer by the sheriff of any county since January 1, 1966, and who has received a certificate attesting to the person’s satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code; or any person deputized by the sheriff of any county and employed pursuant to section 2301.12 of the Revised Code as a criminal bailiff or court constable who has received a certificate attesting to the person’s satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code.

(AA) “Township constable or police officer in a township police department or district” means any person who is commissioned and employed as a full-time peace officer pursuant to Chapter 505. or 509. of the Revised Code, who has received a certificate attesting to the person’s satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code.

(BB) “Drug agent” means any person who is either of the following:

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

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

(CC) “Department of public safety enforcement agent” means a full-time employee of the

department of public safety who is designated under section 5502.14 of the Revised Code as an enforcement agent and who is in compliance with section 109.77 of the Revised Code.

(DD) “Natural resources law enforcement staff officer” means a full-time employee of the department of natural resources who is designated a natural resources law enforcement staff officer under section 1501.013 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(EE) “Forest-fire investigator” means a full-time employee of the department of natural resources who is appointed a forest-fire investigator under section 1503.09 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(FF) “Natural resources officer” means a full-time employee of the department of natural resources who is appointed as a natural resources officer under section 1501.24 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(GG) “Wildlife officer” means a full-time employee of the department of natural resources who is designated a wildlife officer under section 1531.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(HH) “Park district police officer” means a full-time employee of a park district who is designated pursuant to section 511.232 or 1545.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(II) “Conservancy district officer” means a full-time employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(JJ) “Municipal police officer” means a member of the organized police department of a municipal corporation who is employed full-time, is in compliance with section 109.77 of the Revised Code, and is not a member of the Ohio police and fire pension fund.

(KK) “Veterans’ home police officer” means any person who is employed at a veterans’ home as a police officer pursuant to section 5907.02 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(LL) “Special police officer for a mental health institution” means any person who is designated as such pursuant to section 5119.08 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(MM) “Special police officer for an institution for persons with intellectual disabilities” means any person who is designated as such pursuant to section 5123.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(NN) “State university law enforcement officer” means any person who is employed full time as a state university law enforcement officer pursuant to section 3345.04 of the Revised Code and who is in compliance with section 109.77 of the Revised Code.

(OO) “House sergeant at arms” means any person appointed by the speaker of the house of representatives under division (B) (1) of section 101.311 of the Revised Code who has arrest authority under division (E)(1) of that section.

(PP) “Assistant house sergeant at arms” means any person appointed by the house sergeant at arms under division (C)(1) of section 101.311 of the Revised Code.

(QQ) “Regional transit authority police officer” means a person who is employed full time as a regional transit authority police officer under division (Y) of section 306.35 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(RR) “State highway patrol police officer” means a special police officer employed full time and designated by the superintendent of the state highway patrol pursuant to section 5503.09

of the Revised Code or a person serving full time as a special police officer pursuant to that section on a permanent basis on October 21, 1997, who is in compliance with section 109.77 of the Revised Code.

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

(TT) "Bureau of criminal identification and investigation investigator" means a person who is in compliance with section 109.77 of the Revised Code and is employed full time as an investigator, as defined in section 109.541 of the Revised Code, of the bureau of criminal identification and investigation commissioned by the superintendent of the bureau as a special agent for the purpose of assisting law enforcement officers or providing emergency assistance to peace officers pursuant to authority granted under that section.

(UU) "Gaming agent" means a person who is in compliance with section 109.77 of the Revised Code and is employed full time as a gaming agent with the Ohio casino control commission pursuant to section 3772.03 of the Revised Code.

(VV) "Department of taxation investigator" means a person employed full time with the department of taxation to whom both of the following apply:

(1) The person has been delegated investigation powers pursuant to section 5743.45 of the Revised Code for the enforcement of Chapters 5728., 5735., 5739., 5741., 5743., and 5747. of the Revised Code.

(2) The person is in compliance with section 109.77 of the Revised Code.

(WW) "Special police officer for a port authority" means a person who is in compliance with section 109.77 of the Revised Code and is employed full time as a special police officer with a port authority under section 4582.04 or 4582.28 of the Revised Code.

(XX) "Special police officer for a municipal airport" means a person to whom both of the following apply:

(1) The person is employed full time as a special police officer with a municipal corporation at a municipal airport or other municipal air navigation facility that meets both of the following requirements:

(a) The airport or navigation facility has scheduled operations, as defined in 14 C.F.R. 110.2, as amended.

(b) The airport or navigation facility is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States department of transportation as provided in 49 C.F.R. parts 1542 and 1544, as amended.

(2) The person is in compliance with section 109.77 of the Revised Code.

(YY) Notwithstanding section 2901.01 of the Revised Code, "PERS law enforcement officer" means a sheriff or any of the following whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state: a deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, wildlife officer, forest-fire investigator, natural resources officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for persons with developmental disabilities, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer.

"PERS law enforcement officer" also includes a person employed as a bureau of criminal

identification and investigation investigator, gaming agent, department of taxation investigator, special police officer for a port authority, or special police officer for a municipal airport who commences employment in any of those positions on or after April 6, 2017, or makes the election described in section 145.334 of the Revised Code.

“PERS law enforcement officer” also includes a person serving as a municipal public safety director at any time during the period from September 29, 2005, to March 24, 2009, if the duties of that service were to preserve the peace, protect life and property, and enforce the laws of this state.

(ZZ) “Hamilton county municipal court bailiff” means a person appointed by the clerk of courts of the Hamilton county municipal court under division (A)(3) of section 1901.32 of the Revised Code who is employed full time as a bailiff or deputy bailiff, who has received a certificate attesting to the person’s satisfactory completion of the peace officer basic training described in division (D)(1) of section 109.77 of the Revised Code.

(AAA) “PERS public safety officer” means a Hamilton county municipal court bailiff, or any of the following whose primary duties are other than to preserve the peace, protect life and property, and enforce the laws of this state: a deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, wildlife officer, forest-fire investigator, natural resources officer, park district police officer, conservancy district officer, veterans’ home police officer, special police officer for a mental health institution, special police officer for an institution for persons with developmental disabilities, state university law enforcement officer, municipal police officer, house sergeant at arms assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer.

“PERS public safety officer” also includes a person employed as a bureau of criminal identification and investigation investigator, gaming agent, department of taxation investigator, special police officer for a port authority, or special police officer for a municipal airport who commences employment in any of those positions on or after April 6, 2017, or makes the election described in section 145.334 of the Revised Code.

“PERS public safety officer” also includes a person serving as a municipal public safety director at any time during the period from September 29, 2005, to March 24, 2009, if the duties of that service were other than to preserve the peace, protect life and preserve and enforce the laws of this state.

(BBB) “Fiduciary” means a person who does any of the following:

- (1) Exercises any discretionary authority or control with respect to the management of the system or with respect to the management or disposition of its assets;
- (2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;
- (3) Has any discretionary authority or responsibility in the administration of the system.

(CCC) “Actuary” means an individual who satisfies all of the following requirements:

- (1) Is a member of the American academy of actuaries;
- (2) Is an associate or fellow of the society of actuaries;
- (3) Has a minimum of five years’ experience in providing actuarial services to public retirement plans.

(DDD) “PERS defined benefit plan” means the plan described in sections 145.201 to 145.79 of the Revised Code.

(EEE) “PERS defined contribution plans” means the plan or plans established under

section 145.81 of the Revised Code.

*(ENACTED: SB 85, Eff. 10/2/53; HB 551, Eff. 10/26/53; HB 744, Eff. 6/29/55; SB 324, Eff. 9/7/57; SB 386, Eff. 9/16/57; SB 160, Eff. 8/1/59; SB 368, Eff. 11/11/59; HB 957, Eff. 10/27/61; HB 1, Eff. 1/23/63; HB 590, Eff. 10/14/63; HB 225, Eff. 11/13/65; SB 409, Eff. 11/21/69; SB 502, Eff. 9/4/70; HB 100, Eff. 12/31/71; HB 165, Eff. 6/29/72; HB 430, Eff. 11/20/73; HB 1034, Eff. 9/26/74; HB 1139, Eff. 9/30/74; HB 1312, Eff. 3/4/75; HB 268, Eff. 8/20/76; HB 509, Eff. 12/27/79; HB 113, Eff. 11/5/81; HB 548, Eff. 10/8/82; HB 232, Eff. 2/16/84; SB 243, Eff. 9/26/84; HB 434, Eff. 10/17/85; HB 502, Eff. 4/24/86; HB 706, Eff. 12/16/86; HB 647, Eff. 3/11/87; HB 708, Eff. 4/19/88; SB 138, Eff. 7/20/88; HB 552, Eff. 12/15/88; SB 240, Eff. 7/24/90; SB 3, Eff. 4/17/91; HB 382, Eff. 6/30/91; SB 346, Eff. 7/29/92; SB 124, Eff. 4/16/93; SB 182, Eff. 10/20/94; SB 162, Eff. 10/25/95; HB 566, Eff. 10/16/96; HB 379, Eff. 11/6/96; SB 82, Eff. 3/6/97; SB 130, Eff. 9/18/97; SB 187, Eff. 3/18/99; HB 163, Eff. 7/1/99; HB 222, Eff. 11/2/99; HB 640, Eff. 6/15/00; SB 144, Eff. 9/14/00; HB 628, Eff. 9/21/00; HB 94, Eff. 9/5/01; HB 405, Eff. 12/13/01; HB 158, Eff. 2/1/02; SB 247, Eff. 10/1/02; HB675, Eff. 3/14/03; HB 66, Eff. 9/29/05; SB267, Eff. 3/24/09; HB 139, Eff. 4/29/11; HB 487, Eff. 6/11/12; SB 343, Eff. 1/7/13; HB 59, Eff. 9/29/13; HB 141, Eff. 9/29/15; SB 293, Eff. 9/14/16; HB 158, Eff. 10/12/16; HB 520, Eff. 4/6/17; HB 572, Eff. 3/22/19; HB 33, Eff. 10/3/23)*

### **Sec. 145.011 Other public employees included**

In addition to the membership of the public employees retirement system as prescribed in division (A) of section 145.01 of the Revised Code, and notwithstanding Chapter 3309 of the Revised Code, there shall be included in such membership all of the following:

(A) The nonteaching employees of the Cleveland state university and the northeast Ohio medical university;

(B) Any person who elects to transfer from the school employees retirement system to the public employees retirement system under Section 3309.312 of the Revised Code;

(C) Any person who is employed full-time on or after September 16, 1998, pursuant to section 3345.04 of the Revised Code by the university of Akron as a state university law enforcement officer.

(D) Any person who is employed by the university of Akron in a position not covered by the state teachers retirement system and to whom either of the following applies:

(1) The person is initially employed by the university on or after the effective date of this amendment;

(2) The person is employed by the university on the effective date of this amendment, the employment terminates after that date, and the person is reemployed by the university not less than twelve months after the date of termination.

Such employees are included in the definition of member as used in Chapter 145. of the Revised Code. The universities and colleges shall be subject to the obligations imposed by Chapter 145. of the Revised Code.

*(ENACTED: HB 225, Eff. 11/13/65; SB 72, Eff. 11/23/73; HB 813, Eff. 1/4/79; HB 648, Eff. 9/16/98; HB 16, Eff. 5/6/05; HN 478, Eff. 6/30/06; HB 139, Eff. 4/29/11; HB 305, Eff. 9/28/16)*



## **Sec. 145.012 Persons excluded from public employee status**

(A) "Public employee," as defined in division (A) of section 145.01 of the Revised Code, does not include any person:

(1) Who is employed by a private, temporary-help service and performs services under the direction of a public employer or is employed on a contractual basis as an independent contractor under a personal service contract with a public employer;

(2) Who is an emergency employee serving on a temporary basis in case of fire, snow, earthquake, flood, or other similar emergency;

(3) Who is employed in a program established pursuant to the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501;

(4) Who is an appointed member of either the motor vehicle salvage dealer's board or the motor vehicle dealer's board whose rate and method of payment are determined pursuant to division (J) of section 124.15 of the Revised Code;

(5) Who is employed as an election worker and paid less than six hundred dollars per calendar year for that service, except for a calendar year in which more than one primary election and one general election are held, the person is paid six hundred dollars plus an amount not to exceed four hundred dollars for that service;

(6) Who is employed as a firefighter in a position requiring satisfactory completion of a firefighter training course approved under former section 3303.07 or section 4765.55 of the Revised Code or conducted under section 3737.33 of the Revised Code except for the following:

(a) Any firefighter who has elected under section 145.013 of the Revised Code to remain a contributing member of the public employees retirement system;

(b) Any firefighter who was eligible to transfer from the public employees retirement system to the Ohio police and fire pension fund under section 742.51 or 742.515 of the Revised Code and did not elect to transfer;

(c) Any firefighter who has elected under section 742.516 of the Revised Code to transfer from the Ohio police and fire pension fund to the public employees retirement system.

(7) Who is a member of the board of health of a city or general health district, which pursuant to sections 3709.051 and 3709.07 of the Revised Code includes a combined health district, and whose compensation for attendance at meetings of the board is set forth in division (B) of section 3709.02 or division (B) of section 3709.05 of the Revised Code, as appropriate;

(8) Who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code;

(9) Who is a member of the board of directors of a sanitary district established under Chapter 6115. of the Revised Code.

(10) Who is a member of the unemployment compensation advisory council.

(11) Who is an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code.

(12) Who is employed by the nonprofit entity established to provide advocacy services and a client assistance program for people with disabilities under Section 319.20 of Am. Sub. H.B. 153 of the 129<sup>th</sup> general assembly and whose employment begins on or after October 1, 2012.

(B) No inmate of a correctional institution operated by the department of rehabilitation and correction, no patient in a hospital for the mentally ill or criminally insane operated by the department of mental health and addiction services, no resident in an institution for persons with intellectual disabilities operated by the department of developmental disabilities, no resident

admitted as a patient of a veterans' home operated under Chapter 5907. of the Revised Code, and no resident of a county home shall be considered as a public employee for the purpose of establishing membership or calculating service credit or benefits under this chapter. Nothing in this division shall be construed to affect any service credit attained by any person who was a public employee before becoming an inmate, patient, or resident at any institution listed in this division, or the payment of any benefit for which such a person or such a person's beneficiaries otherwise would be eligible.

*(ENACTED: HB 144, Eff. 11/24/67; HB 268, Eff. 8/20/76; HB 38, Eff. 8/29/79; HB 900, Eff. 7/1/80; HB 178, Eff. 6/24/87; HB 382, Eff. 6/30/91; SB 218, Eff. 10/11/91; HB 123, Eff. 11/20/91; HB 383, Eff. 8/3/92; HB 571, Eff. 10/6/94; HB 117, Eff. 9/29/95; HB 405, Eff. 10/1/96; HB 586, Eff. 3/31/97; HB 26, Eff. 5/6/98; HB 648, Eff. 9/16/98; HB 222, Eff. 11/2/99; HB 675, Eff. 3/14/03; SB79, Eff. 10/6/09; HB 1, Eff. 10/16/09; HB1, Eff. 2/18/11; HB 487, Eff. 6/11/12; HB 59, Eff. 9/29/13; SB 42, Eff. 3/23/15; HB 158, Eff. 10/12/16; HB 377, Eff. 9/27/22)*

### **Sec. 145.013 Election of firefighter to remain a contributing member**

A member of the public employees retirement system who on the effective date of this section is employed as a fireman in a position requiring satisfactory completion of a fire fighter training course approved under section 3303.07 of the Revised Code or conducted under section 3737.33 of the Revised Code may elect to remain a contributing member of the retirement system by giving notice to the system not later than ninety days after the effective date of this section.

The election once made is irrevocable.

*(ENACTED: HB 383, Eff. 5/4/92)*

### **Sec. 145.014 Employer excluded from public employer status**

(A) "Employer" or "public employer," as defined in division (D) of section 145.01 of the Revised Code, does not include a regional council created under Chapter 167. of the Revised Code that meets all of the following criteria:

(1) Membership in the council consists of political subdivisions of Ohio and at least two other states;

(2) The primary purpose of the council is regional transportation planning;

(3) The council was not contributing to the public employees retirement system on July 31, 1997.

(B) If, prior to the effective date of this section, the public employees retirement system determined that a regional council described in division (A) of this section was not a public employer, the system shall not require the council to submit employer and employee contributions for the time period following the date of the determination.

(C) An employee of a regional council described in division (A) of this section shall forever be barred from claiming or purchasing membership rights or service credit under the public employees retirement system for the period of that employee's employment with the regional council.

*(ENACTED: HB 648, Eff. 9/16/98)*

### **Sec. 145.015 County historical society option**

As used in this section, "county historical society" means a private, non-profit organization exempt from federal income taxation pursuant to section 501(a) and (c)(3) of the Internal Revenue Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, that collects, preserves, and interprets the

historical physical and intellectual resources of a county.

An administrative employee of a county historical society who is a contributor on the effective date of this section may elect to remain a contributing member of the public employees retirement system by giving notice to the system not later than ninety days after the effective date of this section. The election once made is irrevocable.

*(ENACTED: HB 640, Eff. 9/14/00)*

### **Sec. 145.016 Credit for contributing service**

Contributing service shall be allowed in accordance with the following:

(A) For service not later than December 31, 2013, credit for any contributing service shall be allowed as follows:

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

(2) For each month for which the member's earnable salary is less than two hundred fifty dollars, allow a fraction of a month's credit with a numerator of the earnable salary during the month and a denominator of two hundred fifty dollars, except that if the member's annual earnable salary is less than six hundred dollars, the member's credit shall not be reduced below twenty per cent of a year for a calendar year of employment during which the member worked each month.

Division (A)(2) of this section shall not reduce any credit earned before January 1, 1985.

(B) For service on or after January 1, 2014, credit for any contributing service shall be allowed in accordance with the following:

(1) For each month in which the member's earnable salary equals or exceeds the amount specified in division (B)(1)(a) or (b) of this section, as appropriate, allow one month's credit:

(a) For service on or after January 1, 2014, but not later than December 31, 2014, six hundred dollars;

(b) For each calendar year thereafter, the sum of the following:

(i) The prior year's amount;

(ii) The prior year's amount multiplied by the average percentage increase, if any, made to compensation under section 505.24 of the Revised Code, if that increase became effective in the prior year.

(2) For each month that the member's earnable salary is less than the appropriate amount specified in division (B)(1) of this section, allow a fraction of a month's credit with the numerator of the earnable salary during the month and a denominator of the amount specified in division (B)(1)(a) or (b) of this section, as appropriate.

Division (B) of this section shall not reduce any credit earned before January 1, 2014.

(C)(1) Except as provided in division (C)(2) of this section, for the purpose of satisfying the service credit requirement and determining eligibility for benefits under sections 145.196, 145.32, 145.33, 145.331, 145.332, 145.335, 145.35, 145.36, and 145.361 of the Revised Code, "five or more years of total service credit" means five or more years of contributing service for which credit is allowed under division (A) or (B) of this section.

(2)(a) A member who, as of March 22, 2019, has sixty or more calendar months of contributions and has attained sixty years of age shall be considered to have five or more years of total service credit for the purpose of satisfying the service credit requirement and determining eligibility for benefits under sections 145.196, 145.32, 145.33, 145.331, 145.332, 145.335, 145.35, 145.36, and 145.361 of the Revised Code.

(b) A member who, as of March 22, 2019, has sixty or more calendar months of

contributions and is receiving a benefit under section 145.35, 145.36, or 145.361 of the Revised Code shall be considered to have five or more years of total service credit for the purpose of satisfying the service credit requirement and determining eligibility for benefits under section 145.196, 145.32, 145.33, 145.331, 145.332, or 145.335 of the Revised Code.

(D) Notwithstanding any other provision of this section, an elected official who prior to January 1, 1980, was granted a full year of credit for each year of service as an elected official shall be considered to have earned a full year of credit for each year of service regardless of whether the service was full-time or part-time. The public employees retirement board has no authority to reduce the credit.

*(ENACTED: SB 343, Eff. 1/7/13; HB 572, Eff. 3/22/19; HB 33, Eff. 10/3/23)*

### **Sec. 145.017 Calculation of final average salary**

(A) For a member eligible for a retirement allowance under division (A) or (B) of section 145.32 of the Revised Code or division (A), (B), or (E)(1), (3), or (4) of section 145.332 of the Revised Code, the number of years used in the calculation of final average salary shall be three and the sum of the earnable salary for those years shall be divided by three.

(B) For a member eligible for a retirement allowance under division (C) of section 145.32 of the Revised Code or division (C) or (E) (2) or (5) of section 145.332 of the Revised Code, the number of years used in the calculation of final average salary shall be five and the sum of the earnable salary for those years shall be divided by five.

(C)(1) For a member described in division (A) or (B) of section 145.32 or division (A), (B), or (E) (1), (3), or (4) of section 145.332 of the Revised Code who is eligible for a retirement allowance under section 145.331 of the Revised Code or a benefit under section 145.36 or 145.361 of the Revised Code, the number of years used in the calculation of final average salary shall be three and the sum of the earnable salary for those years shall be divided by three.

(2) For a member described in division (C) of section 145.32 or division (C) or (E) (2) or (5) of section 145.332 of the Revised Code who is eligible for a retirement allowance under section 145.331 of the Revised Code or a benefit under section 145.36 or 145.361 of the Revised Code, the number of years used in the calculation of final average salary shall be five and the sum of the earnable salary for those years shall be divided by five.

(D) For a benefit under section 145.45 of the Revised Code:

(1) The number of years used in the calculation of the deceased member's final average salary shall be three and the sum of the earnable salary for those years shall be divided by three if the member is described in division (A) or (B) of section 145.32 of the Revised Code or division (A), (B), or (E) (1), (3), or (4) of section 145.332 of the Revised Code.

(2) The number of years used in the calculation of the deceased member's final average salary shall be five and the sum of the earnable salary for those years shall be divided by five if the member is described in division (C) of section 145.32 of the Revised Code or division (C) or (E)(2) or (5) of section 145.332 of the Revised Code.

(E) This section applies to a member described in section 145.196 of the Revised Code.

*(ENACTED: SB 343, Eff. 1/7/13; HB 33, Eff. 10/3/23)*

**Sec. 145.018 County board of developmental disabilities employees**

Notwithstanding section 145.016 of the Revised Code, the public employees retirement board shall grant a full year of service credit to a member of the retirement system if all of the following conditions are met:

(A) The member is employed by a county board of developmental disabilities.

(B) The member's employment is in a position that would be covered by Chapter 3309. of the Revised Code if the member was employed by a public employer as defined in section 3309.01 of the Revised Code.

(C) The member performs full-time services in the position for at least nine months of the year and is paid earnable salary in each month of that year.

*(ENACTED: HB 572, Eff. 3/22/19)*

**Sec. 3 H.B. 572 Uncodified law of H.B. 572 regarding county board of developmental disabilities employees**

Section 145.018 of the Revised Code, as enacted by this act, applies to a member of the Public Employees Retirement System for the period beginning January 1, 2017, and ending on the effective date of that section if both of the following apply:

(A) The member received less than a full year of service credit for employment that would have qualified the member for a full year of service credit under that section had that section taken effect January 1, 2017;

(B) Not later than ninety days after the effective date of that section, the county board of developmental disabilities that employed the member during the period beginning January 1, 2017, and ending on the effective date of that section, acting through the county auditor, reports to the Public Employees Retirement System the member's name and any additional information required by the System in the form the System requires.

*(ENACTED: HB 572, Eff. 3/22/19)*

**Sec. 145.03 Public employees retirement system; exemption from compulsory membership**

(A) A public employees retirement system is hereby created for the public employees of the state and of the several local authorities mentioned in section 145.01 of the Revised Code. Except as provided in division (B) of this section, membership in the system is compulsory upon being employed and shall continue as long as public employment continues.

(B) A student who is not a member at the time of his employment with the school, college, or university in which he is enrolled and regularly attending classes may elect to be exempted from compulsory membership and a student who is a member may elect to have his employment with the school, college, or university in which he is enrolled and regularly attending classes exempted from contribution to the retirement system. An election to be exempted from membership or contribution shall be made by signing a written application for exemption within the first month after being employed and filing the application with the public employees retirement board. All applications, when approved by the public employees retirement board and filed with the employer, shall be irrevocable while the employee is continuously employed by the school, college, or university and regularly attending classes.

*(ENACTED: HB 551, Eff. 10/26/53; SB 386, Eff. 9/16/57; SB 160, Eff. 8/1/59; HB 430, Eff. 11/20/73; HB 268, Eff. 8/20/76; HB 382, Eff. 6/30/91; HB 123, Eff. 11/20/91; HB 383, Eff. 5/4/92; SB 351, Eff. 7/1/92)*

**Sec. 145.031 Municipal court employees transferred from Cincinnati to Hamilton County; option to remain in city system and be exempt from PERS**

(A) Notwithstanding section 145.03 of the Revised Code, any employee of the Hamilton county municipal court on January 16, 1978, who was in the employ of the city of Cincinnati in the Hamilton county municipal court and was appointed or employed by the court, the clerk of courts or the Cincinnati city manager, and whose salary was paid by the city of Cincinnati and who was a contributing member of the city of Cincinnati retirement system prior to that date, may choose to be exempt from compulsory membership in the public employees retirement system and to continue contributing membership in the city of Cincinnati retirement system on and after that date, by filing a written request for exemption from the public employees retirement system, which request shall bear the signature of the employee, with the public employees retirement board, provided that exemptions permitted by this division are contingent upon the following:

(1) The adoption of an agreement between the board of county commissioners of Hamilton county and authorized representatives of the city of Cincinnati retirement system that provides such employees with the option to continue contributing membership in that retirement system on and after January 16, 1978, upon a compliance with the requirements of this section;

(2) The filing of the request for exemption within thirty days of the effective date of the agreement.

(B) No employee contributions shall be deducted from the earnable salary or compensation of, or paid to the public employees retirement system on account of, any employee of the Hamilton county municipal court who, upon compliance with division (A) of this section, is exempt from compulsory membership in the public employees retirement system.

*(ENACTED: HB 955, Eff. 12/1/77)*

**Sec. 145.032 Employees of Hamilton county department of air pollution control; PERS membership optional**

(A) Notwithstanding section 145.03 of the Revised Code, any employee of the Hamilton county department of air pollution control on January 1, 1980, who was in the employ of the city of Cincinnati in the division of air pollution control and was employed by the Cincinnati city manager, and whose salary was paid by the city of Cincinnati and who was a contributing member of the city of Cincinnati retirement system prior to that date, may choose to be exempt from compulsory membership in the public employees retirement system and to continue contributing membership in the city of Cincinnati retirement system on and after that date, by filing a written request for exemption from the public employees retirement system, which request shall bear the signature of the employee, with the public employees retirement board, provided that exemptions permitted by this division are contingent upon the following:

(1) The adoption of an agreement between the board of county commissioners of Hamilton county and authorized representatives of the city of Cincinnati retirement system that provides such employees with the option to continue contributing membership in that retirement system on and after January 1, 1980, upon a compliance with the requirements of this section;

(2) The filing of the request for exemption within thirty days of the effective date of the agreement.

(B) No employee contributions shall be deducted from the earnable salary or compensation of, or paid to the public employees retirement system on account of, any employee of the Hamilton county department of air pollution control who, upon compliance with division (A) of this section,

is exempt from compulsory membership in the public employees retirement system.  
(ENACTED: HB 509, Eff. 12/27/79)

**Sec. 145.033 Employees of Cincinnati correctional institute; agreement for employee option authorized**

(A) Notwithstanding section 145.03 of the Revised Code, any employee of the Hamilton county sheriff on July 1, 1981, who was in the employ of the city of Cincinnati in the Cincinnati correctional institute and who was a contributing member of the city of Cincinnati retirement system prior to that date may choose to be exempt from compulsory membership in the public employees retirement system and to continue contributing membership in the city of Cincinnati retirement system on and after that date by filing a written request for exemption from the public employees retirement system, which request shall bear the signature of the employee, with the public employees retirement board, provided that the:

(1) Board of commissioners of Hamilton county and authorized representatives of the city of Cincinnati retirement system adopt an agreement providing such employees with the option to continue contributing membership in that retirement system on and after July 1, 1981, upon compliance with this section;

(2) Employee files a request for his exemption within thirty days of the effective date of the agreement.

(B) No employee contributions shall be deducted from the earnable salary or compensation of, or paid to the public employees retirement system on account of, any employee of the Hamilton county sheriff who, through compliance with division (A) of this section, is exempt from compulsory membership in the public employees retirement system.

(ENACTED: HB 324, Eff. 7/9/81)

**Sec. 145.034 Persons covered by Social Security may elect to be exempted from contributions; refunds; election as to prior contributions**

A member of the public employees retirement system who is a public employee as defined in division (A)(2) of section 145.01 of the Revised Code and whose earnings from employment are or become subject to the tax on wages imposed by the "Federal Insurance Contributions Act," 68A Stat. 415 (1954), 26 U.S.C.A. 3101, as amended, may elect to have such earnings exempted from contributions to the public employees retirement system by filing with the public employees retirement board a written request bearing his signature. The request shall be filed not later than ninety days after the date the member becomes subject to such tax on wages. A request mailed to the board shall be considered to have been filed on its postmark date. On receipt of a request, the board shall notify the member's employer that the request has been made. No contributions by the person making the request or his employer shall be required for service for which earnings are made exempt from contributions pursuant to this section, and no service credit shall be granted or purchased for such service. Once granted, a request made pursuant to this section may not be withdrawn.

Public employees retirement system contributions made by a member or his employer for earnings that are made exempt from contributions pursuant to a request filed in accordance with this section shall be refunded. Any such employee contributions withheld by the employer but not paid to the system shall be refunded by the employer to the employee from whom they were withheld. Any such employer and employee contributions that have been paid to the system shall

be refunded by the system separately to the member and his employer within one hundred twenty days of the later of February 16, 1984, or the date the member becomes subject to the tax on wages described in this section. The employer shall provide the public employees retirement system with any information needed by the system to calculate the refunds.

A person who makes an election pursuant to this section may either receive a return of his accumulated contributions pursuant to section 145.40 of the Revised Code and cease to be a member of the public employees retirement system or leave his accumulated contributions on deposit with the public employees retirement board pursuant to section 145.41 of the Revised Code and, for the purposes of the public employees retirement system, be considered on a membership leave of absence.

*(ENACTED: HB 232, Eff. 2/16/84; SB 321, Eff. 1/21/88; HB 382, Eff. 6/30/91)*

### **Sec. 145.035 Employees of development department in foreign countries; PERS membership optional**

Notwithstanding section 145.03 of the Revised Code, an individual employed by, or otherwise compensated with state funds appropriated to, the department of development who is principally located outside of the United States and is or intends to become a member of a foreign government's retirement or social security system in lieu of becoming a member of the public employees retirement system may choose to be exempted from membership in the public employees retirement system by signing a written application for exemption within the first month after being employed and filing such application with the public employees retirement board. The application, when approved as to form by the board and filed with the employer, shall be irrevocable while the individual is continuously employed as described in this section and such individual shall forever be barred from claiming or purchasing membership rights or credit for the particular period covered by the exemption. Any individual who is or becomes a member of the public employees retirement system shall continue the membership as long as he is a public employee, even though he may be in or transferred to employment described in this section.

*(ENACTED: HB 647, Eff. 3/11/87; HB 382, Eff. 6/30/91)*

### **Sec. 145.036 Transmission of list of non-contributors**

On or before the last day of January of each year, each public employer shall transmit to the public employees retirement system a list of all individuals providing personal services who at any time during the preceding calendar year received compensation from the employer for which no contributions were deducted under section 145.47 of the Revised Code because the employer classified the individual as an independent contractor or another classification other than public employee or any other reason. The list shall contain the name of the individual and any other information required by the system.

If there is doubt at the time the list is compiled or at any other time regarding whether an individual providing personal services to a public employer is a public employee, the employer shall make a written request to the public employees retirement board for a determination of whether the individual is a public employee for the purposes of this chapter. On receipt of the request, the board shall determine whether the individual is a public employee with regard to the services in question. If the board determines that the individual is not a public employee, for the purposes of this chapter the individual shall be considered an independent contractor with regard to the services in question. The board's determination is final.



The board shall notify the individual and the employer of its determination. The determination shall apply to services performed before, on, or after the effective date of this section for the same employer in the same capacity.

*(ENACTED: SB 343, Eff. 1/7/13)*

### **Sec. 145.037 Membership determinations**

(A) As used in this section and section 145.038 of the Revised Code, “business entity” means an entity with five or more employees that is a corporation, association, firm, limited liability company, partnership, sole proprietorship, or other entity engaged in business.

A contract between a public employer and a business entity shall state that all individuals employed by the business entity who provide personal services to the public employer are not public employees for purposes of this chapter.

(B)(1) Except as provided in division (B)(2) of this section, an individual who provided personal services to a public employer on or before January 7, 2013, but was not classified as a public employee may request from the public employees retirement board a determination of whether the individual should have been classified as a public employee for purposes of this chapter. The request shall be made on a form provided by the board.

(2) Division (B)(1) of this section does not apply to an individual employed by a business entity under contract with a public employer to provide personal services to the employer.

(C)(1) Not later than sixty days after the effective date of this amendment, the board shall have published in at least eight newspapers of general circulation in this state notice of the right of an individual described in division (B)(1) of this section to seek the determination described in that division. The notice also shall be posted on the web site of the public employees retirement system.

(2) Except as provided in division (D) of this section, on receipt of a request for a determination on a properly completed form, the board shall determine whether the individual should have been classified as a public employee. If the board determines that the individual is not a public employee with regard to the services in question, for the purposes of this chapter, the individual shall not be considered a public employee with regard to the services in question. The board’s determination is final.

(3) The board shall notify the individual and the public employer of its determination. The determination shall apply to services performed before, on, or after January 7, 2013, for the same employer in the same capacity.

(D)(1) Regardless of whether an individual actually receives notice under this section, the request for a determination must be made not later than August 7, 2014, unless the individual can demonstrate to the board’s satisfaction through medical records that on that date the individual was physically or mentally incapacitated and unable to request a determination.

(2) The board shall deny a request received after the effective date of this amendment if the board determines that the individual has had ten or more years of contributing service since the individual last performed the services that are the subject of the request.

*(ENACTED: SB 343, Eff. 1/7/13; HB 67, Eff. 3/6/13; HB 59, Eff. 9/29/13)*

### **Sec. 145.038 Acknowledgment of non-member status**

(A) A public employer who on or after January 7, 2013, begins to receive personal services from an individual it classifies as an independent contractor or another classification other than

public employee shall inform the individual of the classification and that no contributions will be made to the public employees retirement system for the services. Not later than thirty days after the services begin, the employer to whom the personal services will be rendered shall require the individual to acknowledge, in writing on a form provided by the system, that the individual has been informed that the employer does not consider the individual a public employee and no contributions will be made to the public employees retirement system for the services. The employer shall retain the acknowledgement for a period of five years after the date the services begin and immediately transmit a copy of it to the public entity responsible for submitting to the system the reports required by section 145.47 of the Revised Code. The public entity shall transmit a copy of the acknowledgement to the system.

(B)(1) Regardless of whether the individual has made an acknowledgement under division (A) of this section and, except as provided in division (B)(2) of this section, an individual may request that the public employees retirement board determine whether the individual is a public employee for purposes of this chapter.

(2) Division (B)(1) of this section does not apply to an individual employed by a business entity under contract with a public employer to provide personal services to the employer.

(C) A request for a determination must be made not later than five years after the individual begins to provide personal services to the public employer, unless the individual demonstrates to the board's satisfaction through medical records that at the time the five-year period ended the individual was physically or mentally incapacitated and unable to request a determination.

(D) On receipt of a request under division (B)(1) of this section, the board shall determine whether the individual is a public employee for the purposes of this chapter. If the board determines that the individual is not a public employee for the services, for the purposes of this chapter, the individual shall not be considered a public employee with regard to the services in question. The board's determination is final.

The board shall notify the individual and the public employer of its determination. The determination shall apply to services performed before, on, or after January 7, 2013, for the same employer in the same capacity.

(E) The board may adopt rules under section 145.09 of the Revised Code to implement this section and sections 145.036 and 145.037 of the Revised Code.

*(ENACTED: SB 343, Eff. 1/7/13; HB 59, Eff. 9/29/13)*

#### **Sec. 145.04 Public employees retirement board**

(A) The general administration and management of the public employees retirement system and the making effective of Chapter 145. of the Revised Code, are hereby vested in a board to be known as the "public employees retirement board," which shall consist of the following members:

(1) One member, known as the treasurer of state's investment designee, who shall be appointed by the treasurer of state for a term of four years and have the following qualifications:

(a) The member is a resident of this state.

(b) Within the three years immediately preceding the appointment, the member has not been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including management, analysis, supervision, or investment of assets.

(c) The member has direct experience in the management, analysis, supervision, or

investment of assets.

(d) The member is not currently employed by the state or a political subdivision of the state.

(2) The director of administrative services;

(3) Five members, known as employee members, one of whom shall be a state employee member of the system, who shall be elected by ballot by the state employee members of the system from among their number; another of whom shall be a county employee member of the system, who shall be elected by ballot by the county employee members of the system from among their number; another of whom shall be a municipal employee member of the system, who shall be elected by ballot by the municipal employee members of the system from among their number; another of whom shall be a university or college employee member of the system, who shall be elected by ballot by the university and college employee members of the system from among their number; and another of whom shall be a park district, conservancy district, sanitary district, health district, public library, metropolitan housing authority, union cemetery, joint hospital, township or institutional commissary employee member of the system, who shall be elected by ballot by the park district, conservancy district, sanitary district, health district, metropolitan housing authority, public library, union cemetery, joint hospital, township and institutional commissary employee members of the system from among their number, in a manner to be approved by the board. Members of the system who are receiving a disability benefit under this chapter are ineligible for membership on the board as employee members.

(4) Two members known as the retirant members, who shall be former members of the public employees retirement system who reside in this state and receive age and service retirement, a disability benefit, or benefits paid under a PERS defined contribution plan. The retirant members shall be elected by ballot by former members of the system who are receiving age and service retirement, a disability benefit, or benefits paid under a PERS defined contribution plan.

(5)(a) Two members, known as the investment expert members, who shall be appointed for four-year terms and each of whom shall have the following qualifications:

(i) The member is a resident of this state.

(ii) Within the three years immediately preceding the appointment, the member has not been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(iii) The member has direct experience in the management, analysis, supervision, or investment of assets.

(b) One investment expert member be appointed by the governor, and one investment expert member shall be jointly appointed by the speaker of the house of representatives and the president of the senate.

(B) Any member appointed under this section shall hold office until the later of the end of the term for which the member is appointed or the date the member's successor takes office. *(ENACTED: HB 794, Eff. 11/2/59; SB 174, Eff. 12/4/73; HB 1006, Eff. 8/21/78; SB 346, Eff. 7/29/92; HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02; SB133, Eff. 9/15/04; SB 343, Eff. 1/7/13)*

#### **Sec. 145.041 Board member education program**

Each member of the public employees retirement board shall, not later than ninety days

after commencing service as a board member, complete the orientation program component of the retirement board member education program established under section 171.50 of the Revised Code.

Each member of the board who has served a year or longer as a board member shall, not less than twice each year, attend one or more programs that are part of the continuing education component of the retirement board member education program established under section 171.50 of the Revised Code.

*(ENACTED: SB133, Eff. 9/15/04; SB 343, Eff. 1/7/13)*

#### **Sec. 145.042 Ineligibility for board membership**

A person who served as an elected or appointed member of the public employees retirement board for one or more entire fiscal years in fiscal years 2000, 2001, or 2002 is ineligible for re-election or reappointment to the board if the board paid travel-related expenses of the person or reimbursed the person for travel-related expenses that averaged more than ten thousand dollars annually for those fiscal years.

*(ENACTED: SB133, Eff. 9/15/04)*

#### **Sec. 145.05 Terms of members; elections**

(A) The terms of office of employee members of the public employees retirement board shall be for four years each beginning on the first day of January following election. The election of the county employee member of the board and the employee member of the board representing public library, health district, park district, conservancy district, sanitary district, township, metropolitan housing authority, union cemetery, joint hospital, and institutional commissary employees shall be held on the first Monday in October, 1945, and on the first Monday in October in each fourth year thereafter. The election of the state employee member of the board and the municipal employee member of the board shall be held on the first Monday in October, 1946, and on the first Monday in October in each fourth year thereafter. The election of the initial university-college employee member of the board shall be held on the first Monday in October, 1978, and elections for subsequent university-college employee members of the board shall be held on the first Monday in October in each fourth year thereafter.

(B) The term of office of the retirant members of the public employees retirement board shall be for four years beginning on the first day of January following the election. The election of the initial retirant member for that position on the board shall be held on the first Monday in October, 1978, and subsequent elections for this retirant position shall be held on the first Monday in October in each fourth year thereafter. The initial election for the second retirant member position shall be held at the first election that occurs later than ninety days after September 15, 2004. Subsequent elections for this retirant position shall be held each fourth year thereafter.

(C) All elections for employee members of the public employees retirement board shall be held under the direction of the board in accordance with rules adopted under section 145.058 of the Revised Code. Any member of the public employees retirement system, except a member who is receiving a disability benefit under this chapter, is eligible for election as an employee member of the board to represent the employee group that includes the member, provided that the member has been nominated by a petition that is signed by a least five hundred members of the employee group to be represented, including not less than twenty such signers from each of at least ten counties of the state and certified in accordance with rules adopted under section 145.058

of the Revised Code. The name of any member so nominated shall be placed upon the ballot by the board as a regular candidate. Names of other eligible candidates may, at any election, be substituted for the regular candidates by writing such names upon the ballots. The candidate who receives the highest number of votes for a particular employee member position on the board shall be elected to that office on certification of the election results in accordance with rules adopted under section 145.058 of the Revised Code.

(D) All elections for the retirant members of the public employees retirement board shall be held under the direction of the board in accordance with rules adopted under section 145.058 of the Revised Code. Any former member of the public employees retirement system who is described in division (A)(4) of section 145.04 of the Revised Code is eligible for election as a retirant member of the board to represent recipients of age and service retirement, a disability benefit, or benefits paid under a PERS defined contribution plan, provided that such person has been nominated by a petition that is signed by any combination of at least two hundred fifty eligible, former members of the system and certified in accordance with rules adopted under section 145.058 of the Revised Code. To be eligible to sign the petition, a former member of the system must be a recipient of age and service retirement, a disability benefit, or benefits paid under a PERS defined contribution plan. The petition shall contain the signatures of at least ten such recipients from each of at least five counties wherein recipients of benefits from the system reside.

The name of any person nominated in this manner shall be placed upon the ballot by the board as a regular candidate. Names of other eligible candidates may, at any election for a retirant member of the board, be substituted for the regular candidates by writing the names of such persons upon the ballot. The candidate who receives the highest number of votes for any term as a retirant member of the board shall be elected to office on certification of the election results in accordance with rules adopted under section 145.058 of the Revised Code.

*(ENACTED: HB 551, Eff. 10/26/53; SB 160, Eff. 8/1/59; HB 1006, Eff. 8/21/78; HB 877, Eff. 5/3/82; SB 346, Eff. 7/29/92; HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02; SB133, Eff. 9/15/04; SB 343, Eff. 1/7/13)*

### **Sec. 145.051 Board member inability to assume office**

If a person elected to serve on the public employees retirement board is unable to assume office at the January meeting of the board following the person's election, a special election shall be held in accordance with the provisions of section 145.05 of the Revised Code within three months of the January meeting. On certification of the elections results, the newly elected person shall assume office at the meeting of the board immediately following the special election.

*(ENACTED: SB133, Eff. 9/15/04)*

### **Sec. 145.052 Election exception**

Notwithstanding sections 145.04 and 145.05 of the Revised Code, the Public Employees Retirement Board is not required to hold an election, including a special election under section 145.06 of the Revised Code, for a position on the board as an employee member or retirant member if only one candidate has been nominated for the position by petition in accordance with section 145.05 of the Revised Code. The candidate shall take office as if elected. The term of office shall be four years beginning on the first day of January following the date the candidate was nominated.

*(ENACTED: HB 535, Eff. 4/1/01; SB133, Eff. 9/15/04)*

## Sec. 145.053 Board election campaign finance disclosures

(A) As used in this section:

(1) "Campaign committee" means a candidate or a combination of two or more persons authorized by a candidate to receive contributions and in-kind contributions and make expenditures on behalf of the candidate.

(2) "Candidate" means an individual who has been nominated pursuant to division (C) or (D) of section 145.05 of the Revised Code for election to the public employees retirement board or who is seeking to be elected to fill a vacancy on the board pursuant to section 145.06 of the Revised Code.

(3) "Contribution" means a loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, transfer of funds or transfer of anything of value including a transfer of funds from an inter vivos or testamentary trust or decedent's estate, and the payment by any person other than the person to whom the services are rendered for the personal services of another person, which contribution is made, received, or used for the purpose of influencing the results of an election to the public employees retirement board under section 145.05 of the Revised Code, including a special election provided for by section 145.051 of the Revised Code, or the results of an election to fill a vacancy on the board pursuant to section 145.06 of the Revised Code. "Contribution" does not include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a person;

(b) Ordinary home hospitality;

(c) The personal expenses of a volunteer paid for by that volunteer campaign worker.

(4) "Election day" means the following, as appropriate to the situation:

(a) The first Monday in October of a year for which section 145.05 of the Revised Code specifies that an election for a member of the public employees retirement board be held;

(b) If, pursuant to section 145.052 of the Revised Code, no election is held, the first Monday in October of a year that the election would have been held if not for section 145.052 of the Revised Code;

(c) If the election is a special election provided for by section 145.051 of the Revised Code, a day that the board shall specify that is consistent with requirements for a special election established by section 145.051 of the Revised Code.

(5) "Expenditure" means the disbursement or use of a contribution for the purpose of influencing the results of an election to the public employees retirement board under section 145.05 of the Revised Code, including a special election provided for by section 145.051 of the Revised Code, or the results of an election to fill a vacancy on the board pursuant to section 145.06 of the Revised Code.

(6) "Independent expenditure" means an expenditure by an individual, partnership, or other entity advocating the election or defeat of an identified candidate or candidates, that is not made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of any candidate or candidates or of the campaign committee or agent of the candidate or candidates. An independent expenditure shall not be construed as being a contribution. As used in division (A)(6) of this section:

(a) "Advocating" means any communication containing a message advocating election or defeat.

(b) "Identified candidate" means that the name of the candidate appears, a photograph or

drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference.

(c) “Made in coordination, cooperation, or consultation with, or at the request or suggestion of, any candidate or the campaign committee or agent of the candidate” means made pursuant to any arrangement, coordination, or direction by the candidate, the candidate’s campaign committee, or the candidate’s agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure is presumed to be so made when it is any of the following:

(i) Based on information about the candidate’s plans, projects, or needs provided to the person making the expenditure by the candidate, or by the candidate’s campaign committee or agent, with a view toward having an expenditure made;

(ii) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of the candidate’s campaign committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate or the candidate’s campaign committee or agent;

(iii) Made by a political party in support of a candidate, unless the expenditure is made by a political party to conduct voter registration or voter education efforts.

(d) “Agent” means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position with the candidate’s campaign committee or organization such that it would reasonably appear that in the ordinary course of campaign-related activities the person may authorize expenditures.

(7) “In-kind contribution” means anything of value other than money that is used to influence the results of an election to the public employees retirement board under section 145.05 of the Revised Code, including a special election provided for by section 145.051 of the Revised Code, or the results of an election to fill a vacancy on the board pursuant to section 145.06 of the Revised Code, or is transferred to or used in support of or in opposition to a candidate and that is made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of the benefited candidate. The financing of the dissemination, distribution, or republication, in whole or part, of any broadcast or of any written, graphic, or other form of campaign materials prepared by the candidate, the candidate’s campaign committee, or their authorized agents is an in-kind contribution to the candidate and an expenditure by the candidate.

(8) “Personal expenses” includes ordinary expenses for accommodations, clothing, food, personal motor vehicle or airplane, and home telephone.

(B) Except as otherwise provided in division (D) of this section, each candidate who, or whose campaign committee, receives contributions or in-kind contributions totaling one thousand dollars or more or has expenditures totaling one thousand dollars or more in connection with the candidate’s efforts to be elected to the public employees retirement board shall file with the secretary of state two complete, accurate, and itemized statements setting forth in detail the contributions, in-kind contributions, and expenditures. The statements shall be filed regardless of whether the election is a regular election or, pursuant to section 145.051 of the Revised Code, a special election. The statements shall also be filed regardless of whether, pursuant to section 145.052 of the Revised Code, no election is held. The statements shall be made on a form prescribed under section 111.30 of the Revised Code. Every expenditure shall be vouched for by a receipted bill, stating the purpose of the expenditures, that shall be filed with the statement; a canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of this division.

The first statement shall be filed not later than four p.m. on the day that is twelve days before election day. The second statement shall be filed not sooner than the day that is eight days after election day and not later than thirty-eight days after election day. The first statement shall reflect contributions and in-kind contributions received and expenditures made to the close of business on the twentieth day before election day. The second statement shall reflect contributions and in-kind contributions received and expenditures made during the period beginning on the nineteenth day before election day and ending on the close of business on the seventh day after election day.

(C) Each individual, partnership, or other entity that makes an independent expenditure in connection with the candidate's efforts to be elected to the public employees retirement board shall file with the secretary of state two complete, accurate, and itemized statements setting forth in detail the independent expenditures. The statements shall be filed regardless of whether the election is a regular election or, pursuant to section 145.051 of the Revised Code, a special election. The statements also shall be filed regardless of whether, pursuant to section 145.052 of the Revised Code, no election is held. The statements shall be made on a form prescribed under section 111.30 of the Revised Code.

The first statement shall be filed not later than four p.m. on the day that is twelve days before election day. The second statement shall be filed not sooner than the day that is eight days after election day and not later than thirty-eight days after election day. The first statement shall reflect independent expenditures made to the close of business on the twentieth day before election day. The second statement shall reflect independent expenditures made during the period beginning on the nineteenth day before election day and ending on the close of business on the seventh day after election day.

(D) Each candidate who, or whose campaign committee, receives a contribution or in-kind contribution or makes an expenditure in connection with the candidate's efforts to be elected to fill a vacancy in the public employees retirement board pursuant to section 145.06 of the Revised Code shall file with the secretary of state a complete, accurate, and itemized statement setting forth in detail the contributions, in-kind contributions, and expenditures. The statement shall be made on a form prescribed under section 111.30 of the Revised Code. Every expenditure shall be vouched for by a receipted bill, stating the purpose of the expenditures, that shall be filed with the statement; a canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of this division.

The statement shall be filed within thirty-eight days after the day the candidate takes office. The statement shall reflect contributions and in-kind contributions received and expenditures made to the close of business on the seventh day after the day the candidate takes office.

*(ENACTED: SB133, Eff. 9/15/04)*

#### **Sec. 145.054 Prohibitions on certain board candidate statements**

(A) No person shall knowingly fail to file a complete and accurate campaign finance statement or independent expenditure statement in accordance with section 145.053 of the Revised Code.

(B) No person, during the course of a person seeking nomination for, or during any campaign for, election to the public employees retirement board, shall knowingly and with intent to affect the nomination or the outcome of the campaign do any of the following by means of campaign materials, an advertisement on radio or television or in a newspaper or periodical, a public speech, press release, or otherwise:



(1) With regard to a candidate, identify the candidate in a manner that implies that the candidate is a member of the board or use the term “re-elect” when the candidate is not currently a member of the board;

(2) Make a false statement concerning the formal schooling or training completed or attempted by a candidate; a degree, diploma, certificate, scholarship, grant, award, prize, or honor received, earned, or held by a candidate; or the period of time during which a candidate attended any school, college, community technical school, or institution;

(3) Make a false statement concerning the professional, occupational, or vocational licenses held by a candidate, or concerning any position the candidate held for which the candidate received a salary or wages;

(4) Make a false statement that a candidate or board member has been indicted or convicted of a theft offense, extortion, or other crime involving financial corruption or moral turpitude;

(5) Make a statement that a candidate has been indicted for any crime or has been the subject of a finding by the Ohio elections commission without disclosing the outcome of any legal proceedings resulting from the indictment or finding;

(6) Make a false statement that a candidate or board member has a record of treatment or confinement for mental disorder;

(7) Make a false statement that a candidate or board member has been subjected to military discipline for criminal misconduct or dishonorably discharged from the armed services;

(8) Falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a candidate by a person or publication;

(9) Make a false statement concerning the voting record of a candidate or board member;

(10) Post, publish, circulate, distribute, or otherwise disseminate a false statement concerning a candidate, either knowing the same to be false or with reckless disregard of whether it was false or not, if the statement is designed to promote the election, nomination, or defeat of the candidate.

*(ENACTED: SB133, Eff. 9/15/04)*

#### **Sec. 145.055 Alleged violations of R.C. 145.054**

The secretary of state, or any person acting on personal knowledge and subject to the penalties of perjury, may file a complaint with the Ohio elections commission alleging a violation of section 145.054 of the Revised Code. The complaint shall be made on a form prescribed and provided by the commission.

On receipt of a complaint under this section, the commission shall hold a hearing open to the public to determine whether the violation alleged in the complaint has occurred. The commission may administer oaths and issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and reports. On the refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the commission may apply to the court of common pleas of Franklin county under section 2705.03 of the Revised Code. The court shall hold contempt proceedings in accordance with Chapter 2705. of the Revised Code.

The commission shall provide the person accused of the violation at least seven days prior notice of the time, date, and place of the hearing. The accused may be represented by an attorney and shall have an opportunity to present evidence, call witnesses, and cross-examine witnesses.

At the hearing, the commission shall determine whether the violation alleged in the

complaint has occurred. If the commission determines that a violation of division (A) of section 145.054 of the Revised Code has occurred, the commission shall either impose a fine under section 145.99 of the Revised Code or enter a finding that good cause has been shown not to impose the fine. If the commission determines that a violation of division (B) of section 145.054 of the Revised Code has occurred, the commission shall impose the fine described in section 145.99 of the Revised Code, refer the matter to the appropriate prosecutor, or enter a finding that good cause has been shown not to impose a fine or refer the matter to a prosecutor.

*(ENACTED: SB133, Eff. 9/15/04)*

### **Sec. 145.057 Removal of board members**

(A) The office of a member of the public employees retirement board who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible for election or appointment to the public employees retirement board.

(B) A member of the public employees retirement board who willfully and flagrantly exercises authority or power not authorized by law, refuses or willfully neglects to enforce the law or to perform any official duty imposed by law, or is guilty of gross neglect of duty, gross immorality, drunkenness, misfeasance, malfeasance, or nonfeasance is guilty of misconduct in office. On complaint and hearing in the manner provided for in this section, the board member shall have judgment of forfeiture of the office with all its emoluments entered against the board member, creating in the office a vacancy to be filled as provided by law.

(C) Proceedings for removal of a board member on any of the grounds enumerated in division (B) of this section shall be commenced by filing with the court of common pleas of the county in which the board member resides a written complaint specifically setting forth the charge. The complaint shall be accepted if signed by the governor or signed as follows:

(1) If the complaint is against an employee member of the board, the complaint must be signed by a number of members of the employee group represented by the member that equals at least the following and must include signatures of at least twenty employee members residing in at least five different counties:

(a) If the employee member was most recently elected in accordance with section 145.05 of the Revised Code, ten per cent of the number of members of the employee group represented by the employee member who voted in that election;

(b) If the employee member was most recently elected under section 145.06 of the Revised Code or took office in accordance with section 145.051 of the Revised Code, ten per cent of the number of members of the employee group represented by the employee member who voted in the most recent election held in accordance with section 145.05 of the Revised Code for that employee member position on the board.

(2) If the complaint is against a retirant member of the board, the complaint must be signed by a number of former members of the system authorized to vote for a retirant member in an election under section 145.05 of the Revised Code that equals at least the following and must include signatures of at least twenty former members residing in at least five different counties:

(a) If the retirant member was most recently elected in accordance with section 145.05 of the Revised Code, ten per cent of the number of former members of the system who voted in that election;

(b) If the retirant member was most recently elected under section 145.06 of the Revised Code or took office in accordance with section 145.051 of the Revised Code, ten per cent of the number of former members of the system who voted in the most recent election held in accordance with section 145.05 of the Revised Code for that retirant member position on the board.

(D) The clerk of the court of common pleas in which a complaint against a member of the board is filed under division (C) of this section shall do both of the following with respect to the complaint:

(1) Submit the signatures obtained pursuant to division (C) of this section to the board for purposes of verifying the validity of the signatures. The board shall verify the validity of the signatures and report its findings to the court.

(2) Cause a copy of the complaint to be served on the board member at least ten days before the hearing on the complaint. The court shall hold a public hearing not later than thirty days after the filing of the complaint. The court may subpoena witnesses and compel their attendance in the same manner as in civil cases. Process shall be served by the sheriff of the county in which the witness resides. Witness fees and other fees in connection with the proceedings shall be the same as in civil cases. The court may suspend the board member pending the hearing.

If the court finds that one or more of the charges in the complaint are true, it shall make a finding for removal of the board member. The court's finding shall include a full detailed statement of the reasons for the removal. The finding shall be filed with the clerk of the court and be made a matter of public record.

The board member has the right to appeal to the court of appeals.

(E) No individual who has been removed from the board pursuant to this section shall be eligible to fill an elective or appointed position as a member of the board.

*(ENACTED: SB133, Eff. 9/15/04; HB272, Eff. 4/6/07; SB 343, Eff. 1/7/13)*

#### **Sec. 145.058 Conduct of elections**

(A) The public employees retirement board, following consultation with the secretary of state, shall adopt rules in accordance with Chapter 119. of the Revised Code, governing all of the following:

(1) The administration of elections of members of the board under section 145.05 of the Revised Code, special elections provided for by section 145.051 of the Revised Code, and elections held under section 145.06 of the Revised Code to fill vacancies on the board;

(2) Nominating petitions for the elections;

(3) Certification of the validity of nominating petitions for the elections;

(4) Certification of the results of the elections.

(B) The board may contract with the secretary of state or an independent firm to administer the elections, certify the validity of nominating petitions, and certify the results of the elections. The secretary of state and the independent firm shall perform these services in accordance with the rules adopted under division (A) of this section. Notwithstanding section 145.27 of the Revised Code, the board shall provide information necessary for the secretary of state or the independent firm to certify the election. If the board contracts with an independent firm to administer an election, the secretary of state may audit the election.

*(ENACTED: SB133, Eff. 9/15/04)*

## **Sec. 145.06 Vacancies on board**

(A) Except as provided in division (D) of this section, if a vacancy occurs in the term of any employee member of the public employees retirement board, the remaining members of the board shall elect a successor employee member from the employee group lacking representation because of the vacancy. On certification of the election results in accordance with rules adopted under section 145.058 of the Revised Code, the successor employee member shall hold office until the first day of the new term that follows the next board election that occurs not less than ninety days after the successor employee member's election.

Any employee member of the board who fails to attend the meetings of the board for three months or longer, without valid excuse, shall be considered as having resigned, and the board shall declare the employee member's office vacated as of the date of the adoption of a proper resolution.

If as a result of changed circumstances an employee member of the board is no longer employed in the employee group that corresponds with the employee group that elected the member, the employee member's office shall be considered vacant, and a successor employee member shall be chosen in the manner specified in this division.

(B) Except as provided in division (D) of this section, if a vacancy occurs during the term of office of a retirant member of the board, the remaining members of the board shall elect a successor retirant member who shall be a former member of the public employees retirement system who is eligible for election under section 145.04 of the Revised Code as a retirant member of the board. On certification of the election results in accordance with rules adopted under section 145.058 of the Revised Code, the successor retirant member shall hold office until the first day of the new term that follows the next board election that occurs not less than ninety days after the successor retirant member's election.

If a retirant member of the board fails to attend the meetings of the board for three months or longer, without valid excuse, the retirant member shall be considered as having resigned, and the board shall declare the member's office vacated as of the date of the adoption of a proper resolution.

If as a result of changed circumstances a retirant member would no longer qualify for membership on the board as the retirant member, the retirant member's office shall be considered vacant, and a successor retirant member shall be chosen in the manner specified in this division.

(C) Elections under this section to fill a vacancy on the board shall be conducted in accordance with rules adopted under section 145.058 of the Revised Code.

(D) A successor member need not be elected under division (A) or (B) of this section for a vacancy that occurs on or after the first day of October of the year in which the vacated term ends. *(ENACTED: HB 1006, Eff. 8/21/78; HB 877, Eff. 5/3/82; SB 346, Eff. 7/29/92; HB 628, Eff. 9/21/00; SB 133, Eff. 9/15/04; HB 25, Eff. 8/4/05; HB272, Eff. 4/6/07; SB 343, Eff. 1/7/13)*

## **Sec. 145.07 Oath of office; quorum; open meetings**

Each member of the public employees retirement board, upon assuming office, shall take an oath that the member will support the constitution of the United States and the constitution of the state, and that the member will diligently and honestly administer the affairs of the board and that the member will not knowingly violate or willfully permit to be violated any provision of this chapter. Such oath shall be subscribed to by the member making it, and certified by the officer before whom it is taken, and shall be immediately filed in the office of the secretary of state. A majority of the members of the board constitutes a quorum. All meetings of the board shall be

open to the public except executive sessions as set forth in division (G) of section 121.22 of the Revised Code, and any portions of any sessions discussing medical records or the degree of disability of a member excluded from public inspection by section 145.27 of the Revised Code.  
(ENACTED: HB 268, Eff. 8/20/76; HB 877, Eff. 5/3/82; HB 628, Eff. 9/21/00)

### **Sec. 145.071 Board policy on virtual meetings**

(A) Notwithstanding division (C) of section 121.22 of the Revised Code, the public employees retirement board may adopt a policy that allows a board member to attend a meeting of the board by means of video conference. The board shall include in the policy, if adopted, both of the following:

(1) The number of regular meetings at which each board member shall be present in person, provided that number is not less than three-quarters of the regular meetings of the board annually;

(2) All of the following requirements with respect to a meeting in which a member attends by means of video conference:

(a) That a majority of the board members attending the meeting shall be present in person at the physical location where the meeting is conducted;

(b) That all votes taken at the meeting shall be taken by roll call vote;

(c) That a board member who intends to attend a meeting by means of video conference shall notify the chairperson of that intent not less than forty-eight hours before the meeting, except in the case of an emergency as defined in the policy.

(B) Notwithstanding division (C) of section 121.22 of the Revised Code, a board member who attends a meeting by means of video conference is considered present in person at the meeting, may vote at the meeting, and is counted for purposes of determining whether a quorum is present at the meeting.

(C) At any meeting in which a board member attends by means of video conference, the board shall ensure that the public can hear and observe the discussions and deliberations of all the members of the board, whether the member is participating in person or electronically.

(D) Except as provided in this section, no person shall do any of the following:

(1) Limit the number of board members who may attend a meeting by means of video conference;

(2) Limit the total number of meetings that the board may allow members to attend by means of video conference;

(3) Limit the number of meetings at which any one board member may attend by means of video conference;

(4) Impose other limits or obligations on a board member because the board member attends a meeting by means of video conference.

(ENACTED: HB 257, Eff. 4/9/25)

### **Sec. 145.08 Reimbursement for expenses; meetings; insurance**

(A) The members of the public employees retirement board shall serve without compensation but shall suffer no loss or penalty whatsoever because of absence from their regular employment to attend meetings authorized and called by the board. The board members shall be reimbursed for all actual necessary expenses from the expense fund created under division (E) of section 145.23 of the Revised Code.

Any determination by the board that a meeting of the board, or any part of the board, is necessary shall be final.

(B) The board may secure insurance coverage designated to indemnify board members and employees for their actions or conduct in the performance of official duties, and may pay required premiums for such coverage from the expense fund.

(C) The board shall adopt rules in accordance with section 111.15 of the Revised Code

establishing a policy for reimbursement of travel expenses incurred by board members in the performance of their official duties. As part of any audit performed under Chapter 117. of the Revised Code, an inquiry shall be made into whether board members have complied with these rules.

(D) No board member shall accept payment or reimbursement for travel expenses, other than for meals and other food and beverages provided to the member, from any source other than the expense fund. Except in the case of an emergency, no out-of-state travel expenses shall be reimbursed unless approved in advance by a majority of the board at a regular board meeting. (ENACTED: HB 957, Eff. 10/27/61; SB 245, Eff. 6/28/78; HB 226, Eff. 8/25/95)

#### **Sec. 145.09 Chairman; executive director; adoption of rules; powers and duties of the board**

The public employees retirement board shall elect from its membership a chairperson. The board shall appoint an executive director who shall serve as secretary to the board, an actuary, and other employees as necessary for the transaction of the business of the public employees retirement system. The compensation of all persons so appointed shall be fixed by the board. Such persons appointed by the board are not employees of the state and are not subject to Chapter 124. of the Revised Code.

If the board provides health care coverage to employees of the retirement system, it may permit employees of the Ohio public employees deferred compensation board to participate.

Effective ninety days after September 15, 2004, the board may not employ a state retirement system investment officer, as defined in section 1707.01 of the Revised Code, who does not hold a valid state retirement system investment officer license issued by the division of securities in the department of commerce.

Every expense voucher of an employee, officer, or board member of the public employees retirement system shall itemize all purchases and expenditures.

The board shall perform other functions as required for the proper execution of this chapter, and may adopt rules in accordance with section 111.15 of the Revised Code for the proper administration and management of this chapter.

The board may take all appropriate action to avoid payment by the system or its members of federal or state income taxes on contributions to the system or amounts earned on such contributions.

Notice of proposed rules shall be given to interested parties and rules adopted by the board shall be published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the

Ohio retirement study council a copy of the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 106.024 of the Revised Code.

The board may sue and be sued, plead and be impleaded, contract and be contracted with. All of its business shall be transacted, all of its funds invested, all warrants for money drawn and payments made, and all of its cash and securities and other property shall be held in the name of the board, or in the name of its nominee, provided that nominees are authorized by retirement board resolution for the purpose of facilitating the ownership and transfer of investments.

If the Ohio retirement study council establishes a uniform format for any report the board is required to submit to the council, the board shall submit the report in that format.

(ENACTED: HB 225, Eff. 11/13/65; SB 408, Eff. 11/21/69; SB 475, Eff. 7/17/70; HB 268, Eff. 8/20/76; HB 113, Eff. 11/5/81; HB 648, Eff. 9/16/98; HB 628, Eff. 9/21/00; SB133, Eff. 9/15/04; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15; SB 221, Eff. 8/18/19)

### **Sec. 145.091 Administration of plans**

The public employees retirement system shall administer the PERS defined benefit plan and the PERS defined contribution plans.

*(ENACTED: HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02)*

### **Sec. 145.092 Travel and compensation policies**

(A) The public employees retirement board, in consultation with the Ohio ethics commission, shall review any existing policy regarding the travel and payment of travel expenses of members and employees of the public employees retirement board and adopt rules in accordance with section 145.09 of the Revised Code establishing a new or revised policy regarding travel and payment of travel expenses. Not less than sixty days before adopting a new or revised policy, the board shall submit the policy to the Ohio retirement study council for review.

(B) If the board intends to award a bonus to any employee of the board, it shall adopt rules in accordance with section 145.09 of the Revised Code establishing a policy regarding employee bonuses.

(C) The board shall provide copies of the rules adopted under divisions (A) and (B) of this section to each member of the Ohio retirement study council;

(D) The board shall submit both of the following to the Ohio retirement study council:

(1) A proposed operating budget, including an administrative budget for the board, for the next immediate fiscal year and adopt that budget not earlier than sixty days after it is submitted to the council;

(2) A plan describing how the board will improve the dissemination of public information pertaining to the board.

*(ENACTED: SB133, Eff. 9/15/04)*

### **Sec. 145.093 Ethics policy and training**

The public employees retirement board shall, in consultation with the Ohio ethics commission, develop an ethics policy to govern board members and employees in the performance of their official duties. The board shall submit this policy to the commission for approval.

The commission shall review the policy and, if the commission determines that the policy is adequate, approve the policy. If the commission determines that the policy is inadequate, it shall specify the revisions to be made and the board shall submit a revised policy. If the commission approves the revised policy, the board shall adopt it. If not, the board shall make any further revisions required by the commission and adopt the policy. Not less than sixty days before adopting the policy, the board shall submit it to the Ohio retirement study council for review.

The board periodically shall provide ethics training to members and employees of the board. The training shall include training regarding the requirements and prohibitions of Chapter 102. of the Revised Code and sections 2921.42 and 2921.43 of the Revised Code and any other training the board considers appropriate.

The board shall establish a procedure to ensure that each employee of the board is informed of the procedure for filing a complaint alleging violation of Chapter 102. of the Revised Code or section 2921.42 or 2921.43 of the Revised Code with the Ohio ethics commission or the appropriate prosecuting attorney.

*(ENACTED: SB133, Eff. 9/15/04)*

## **Sec. 145.094 Duties of chief investment officer**

(A) The public employees retirement board shall designate a person who is a licensed state retirement system investment officer to be the chief investment officer for the public employees retirement system. The board shall notify the division of securities of the department of commerce in writing of its designation and of any change in its designation within ten calendar days of the designation or change.

(B) The chief investment officer shall reasonably supervise the licensed state retirement system investment officers and other persons employed by the public employees retirement system with a view toward preventing violations of Chapter 1707. of the Revised Code, the “Commodity Exchange Act,” 42 Stat. 998, 7 U.S.C. and following, the “Securities Act of 1933,” 48 Stat. 74, 15 U.S.C. and following, and the “Securities Exchange Act of 1934,” 48 Stat. 881, 15 U.S.C. 78a, and following, and the rules and regulations promulgated under those statutes. This duty of reasonable supervision shall include the adoption, implementation, and enforcement of written policies and procedures reasonably designed to prevent persons employed by the public employees retirement system from misusing material, nonpublic information in violation of those laws, rules, and regulations.

For purposes of this division, no chief investment officer shall be considered to have failed to satisfy the officer’s duty of reasonable supervision if the officer has done all of the following:

(1) Adopted and implemented written procedures, and a system for applying the procedures, that would reasonably be expected to prevent and detect, insofar as practicable, any violation by its licensed investment officers and other persons employed by the public employees retirement system;

(2) Reasonably discharged the duties and obligations incumbent on the chief investment officer by reason of the established procedures and the system for applying the procedures when the officer had no reasonable cause to believe that there was a failure to comply with the procedures and systems;

(3) Reviewed, at least annually, the adequacy of the policies and procedures established pursuant to this section and the effectiveness of their implementation.

(C) The chief investment officer shall establish and maintain a policy to monitor and evaluate the effectiveness of securities transactions executed on behalf of the board.

No chief investment officer shall be considered to have failed to satisfy the officer’s duty under this division if the officer has done both of the following:

(1) Implemented the policy adopted by the board under section 145.114 of the Revised Code that outlines the criteria used to select agents that execute securities transactions on behalf of the public employees retirement system.

(2) Reviewed, at least annually, the performance of agents that execute securities transactions on behalf of the public employees retirement system.

*(ENACTED: SB133, Eff. 9/15/04)*



### **Sec. 145.095 Internal audit committee**

The public employees retirement board shall appoint a committee to oversee the selection of an internal auditor. The committee shall select one or more persons for employment as an internal auditor. The board shall employ the person or persons selected by the committee.

The committee shall consist of the following board members: one retirant member, one employee member, and the director of administrative services. The committee shall annually prepare and submit to the Ohio retirement study council a report of its actions during the preceding year.

*(ENACTED: SB133, Eff. 9/15/04)*

### **Sec. 145.10 Legal adviser**

The attorney general shall be the legal adviser of the public employees retirement board.

*(ENACTED: HB 1, Eff. 10/1/53)*

### **Sec. 145.101 Venue for court actions**

Any action brought against the public employees retirement system or the public employees retirement board or its officers, employees, or board members in their official capacities shall be brought in the appropriate court in Franklin county, Ohio.

*(ENACTED: SB 343, Eff. 1/7/13)*

### **Sec. 145.11 Investment powers of board; fiduciary responsibilities; general welfare of state; adoption of policies**

(A) The members of the public employees retirement board shall be the trustees of the funds created by section 145.23 of the Revised Code. The board shall have full power to invest the funds. The board and other fiduciaries shall discharge their duties with respect to the funds solely in the interest of the participants and beneficiaries; for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the public employees retirement system; with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

The board, in accordance with its fiduciary duties described under this section, shall make investment decisions with the sole purpose of maximizing the return on its investments. The board shall not make an investment decision with the primary purpose of influencing any social or environmental policy or attempting to influence the governance of any corporation.

To facilitate investment of the funds, the board may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as amended, or any other legal entity authorized to transact business in this state.

(B) In exercising its fiduciary responsibility with respect to the investment of the funds, it shall be the intent of the board to give consideration to investments that enhance the general welfare of the state and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the board. In fulfilling this intent, equal

consideration shall also be given to investments otherwise qualifying under this section that involve minority owned and controlled firms and firms owned and controlled by women, either alone or in joint venture with other firms.

The board shall adopt, in regular meeting, policies, objectives, or criteria for the operation of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines. In adopting policies and criteria for the selection of agents with whom the board may contract for the administration of the funds, the board shall comply with sections 145.114 and 145.116 of the Revised Code and shall also give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and ventures involving minority owned and controlled firms and firms owned and controlled by women that otherwise meet the policies and criteria established by the board. Amendments and additions to the policies and criteria shall be adopted in regular meeting. The board shall publish its policies, objectives, and criteria under this provision no less often than annually and shall make copies available to interested parties.

The board shall not adopt a policy, or take any action to promote a policy, under which the board makes investment decisions with the primary purpose of influencing any social or environmental policy or attempting to influence the governance of any corporation.

When reporting on the performance of investments, the board shall comply with the performance presentation standards established by the association for investment management and research.

(C) All investments shall be purchased at current market prices and the evidences of title of the investments shall be placed in the hands of the treasurer of state, who is hereby designated as custodian thereof, or in the hands of the treasurer of state's authorized agent. Evidences of title of the investments so purchased may be deposited by the treasurer of state for safekeeping with an authorized agent, selected by the treasurer of state, who is a qualified trustee under section 135.18 of the Revised Code. The treasurer of state or the agent shall collect the principal, dividends, distributions, and interest thereon as they become due and payable and place them when so collected into the custodial funds.

The treasurer of state shall pay for investments purchased by the retirement board on receipt of written or electronic instructions from the board or the board's designated agent authorizing the purchase and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent. The board may sell investments held by the board, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser on receipt of written or electronic instructions from the board or the board's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed in the custodial funds. The board and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.

(D) No purchase or sale of any investment shall be made under this section except as authorized by the public employees retirement board.

(E) Any statement of financial position distributed by the board shall include the fair value, as of the statement date, of all investments held by the board under this section.

*(ENACTED: HB 774, Eff. 6/29/55; SB 160, Eff. 8/1/59; SB 472, Eff. 9/28/61; HB 957, Eff. 10/27/61; HB 590, Eff. 10/14/63; SB 58, Eff. 9/28/65; HB 225, Eff. 11/13/65; SB 176, Eff. 10/24/69; SB 171, Eff. 11/6/69; SB 408, Eff. 11/21/69; HB 406, Eff. 11/23/73; HB 268, Eff. 8/20/76; HB 113, Eff. 11/5/81; HB 694, Eff. 11/14/81; SB 124, Eff. 10/13/83; HB 699, Eff. 3/28/85; HB 201, Eff. 7/1/85; HB 562, Eff. 3/19/87; SB 129, Eff. 10/1/87; SB 240, Eff. 7/24/90; SB 43, Eff. 10/7/93; HB 197, Eff. 10/11/94; SB 82, Eff. 3/6/97; SB133, Eff. 9/15/04' SB 6, Eff. 3/20/25)*

**Sec. 145.111 No board member or employee shall have an interest in board funds**

Except as provided in this chapter, no member or employee of the public employees retirement board shall have any interest direct or indirect in the gains or profits of any investment made by the board nor as such directly or indirectly receive any pay or emolument for the member's or employee's services. No member or person connected with the board directly or indirectly, for self or as an agent or partner of others, shall borrow any of its funds or deposits or in any manner use the same except to make such current and necessary payments as are authorized by the board. No member or employee shall become an indorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the board.

*(HB 628, Eff. 9/21/00)*

**Sec. 145.112 Transactions prohibited**

The public employees retirement system shall make no investments through or purchases from, or otherwise do any business with, any individual who is, or any partnership, association, or corporation that is owned or controlled by, a person who within the preceding three years was employed by, a board member of, or an officer of the public employees retirement system, or in which a person who within the preceding three years was employed by, a board member of, or an officer holds a fiduciary, administrative, supervisory, or trust position, or any other position in which such person would be involved, on behalf of his employer, in decisions or recommendations affecting the investment policy of the public employees retirement system, and in which such person would benefit by any monetary gain.

*(ENACTED: HB 268, Eff. 8/20/76)*

**Sec. 145.113 Duties and liabilities of fiduciaries as to certain transactions**

(A) Except as provided in division (B) of this section, a fiduciary shall not cause the public employees retirement system to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect:

- (1) Sale or exchange, or leasing, of any property between the system and a party in interest;
- (2) Lending of money or other extension of credit between the system and a party in interest;
- (3) Furnishing of goods, services, or facilities between the system and a party in interest;
- (4) Transfer to, or use by or for the benefit of a party in interest, of any assets of the system;

or

(5) Acquisition, on behalf of the system, of any employer security or employer real property.

(B) Nothing in this section shall prohibit any transaction between the public employees retirement system and any fiduciary or party in interest if:

(1) The terms and conditions of the transaction are comparable to the terms and conditions which might reasonably be expected in a similar transaction between similar parties who are not parties in interest; and

(2) The transaction is consistent with the fiduciary duties described in Chapter 145. of the Revised Code.

(C) A fiduciary shall not:

- (1) Deal with the assets of the system in his own interest or for his own account;

(2) In his individual or in any other capacity, act in any transaction involving the system on behalf of a party (or represent a party) whose interests are adverse to the interests of the system or the interests of its participants or beneficiaries; or

(3) Receive any consideration for his own personal account from any party dealing with such system in connection with a transaction involving the assets of the system.

(D) In addition to any liability which he may have under any other provision, a fiduciary with respect to the system shall be liable for a breach of fiduciary responsibility of any fiduciary with respect to the system in the following circumstances:

(1) If he participates knowingly in, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is a breach;

(2) If, by his failure to comply with Chapter 145. of the Revised Code, he has enabled such other fiduciary to commit a breach; or

(3) If he has knowledge of a breach by such other fiduciary, unless he makes reasonable efforts under the circumstances to remedy the breach.

(E) Every fiduciary of the system shall be bonded or insured to an amount of not less than one million dollars for loss by reason of acts of fraud or dishonesty.

*(ENACTED: HB 113, Eff. 11/5/81; HB 37, Eff. 6/22/84)*

**Sec. 145.114 Designation of Ohio-qualified agents; policies regarding selection and utilization of Ohio-qualified agents**

(A) As used in this section and in section 145.116 of the Revised Code:

(1) “Agent” means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.

(2) “Minority business enterprise” has the same meaning as in section 122.71 of the Revised Code.

(3) “Ohio-qualified agent” means an agent designated as such by the public employees retirement board.

(4) “Ohio-qualified investment manager” means an investment manager designated as such by the public employees retirement board.

(5) “Principal place of business” means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

(B) The public employees retirement board shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5726., 5733., 5747., or 5751. of the Revised Code;

(2) The agent is authorized to conduct business in this state;

(3) The agent maintains a principal place of business in this state and employs at least five residents of this state.

(C) The public employees retirement board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:

(1) Commissions charged by the agent, both in the aggregate and on a per share basis;

(2) The execution speed and trade settlement capabilities of the agent;

(3) The responsiveness, reliability, and integrity of the agent;

(4) The nature and value of research provided by the agent;

(5) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.

(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on behalf of the board.

(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board pursuant to division (C) of this section, and offers quality, services, and safety comparable to other agents otherwise available to the board. The board’s determination shall be final.

*(ENACTED: SB133, Eff. 9/15/04; HB 510, Eff. 3/27/13; HB 64, Eff. 9/29/15)*

**Sec. 145.115 Disclosures to Ohio ethics commission**

(A) The public employees retirement system shall disclose the following to the Ohio ethics commission:

(1) Anything of value received by the system from an agent and anything of value given on behalf of the system by an agent;

(2) The name of any employee of the system with authority over the investment of retirement system funds or any board member of the system who deals with an agent regarding amounts described in division (A)(1) of this section.

(B) The disclosures required by this section shall be made annually in a report submitted by a date prescribed by the Ohio ethics commission.

*(ENACTED: SB133, Eff. 9/15/04)*

**Sec. 145.116 Designation of Ohio-qualified investment managers; policies regarding utilization of Ohio-qualified investment managers**

(A) The public employees retirement board shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:

(1) The investment manager is subject to taxation under Chapter 5725., 5726., 5733., 5747., or 5751. of the Revised Code;

(2) The investment manager meets one of the following requirements:

(a) Has its corporate headquarters or principal place of business in this state;

(b) Employs at least five hundred individuals in this state;

(c) Has a principal place of business in this state and employs at least twenty residents of this state.

(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following:

(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products;

(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria.

(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final.

*(ENACTED: SB133, Eff. 9/15/04; HB 510, 3/27/13; HB 64, Eff. 9/29/15)*

**Sec. 145.12 Annual statement to fiscal officers; appropriation and payment to employer contribution**

The public employees retirement board shall prepare and submit to the board of county commissioners and county auditor of each county, to the executive head of each municipal corporation, park district, conservancy district, health district, and metropolitan housing authority, to the board of township trustees of each township, and to the board of trustees of each public library, and to each employer, except the state of Ohio, mentioned in division (D) of section 145.01 of the Revised Code, prior to the fifteenth day of July of each year, a certification of the rate necessary to pay the obligation of each county, municipal corporation, park district, conservancy district, health district, township, metropolitan housing authority, or public library accruing during the year beginning the first day of January of the following year, and shall submit to the budget commission of each county a copy of such statement for said county and for each municipal corporation, township, and public library within such county. The rate so certified to each county, township, public library, and municipal corporation shall be a percentage of the earnable salary of all contributors in the employ of such employer, and an amount determined by multiplying the total annual earnable salary of all such contributors employed by the employer by such rate and the amount so determined shall be included in its budget and allowed by the budget commission.

The board of county commissioners of each county, the legislative authority of each municipal corporation, the board of commissioners of any park district, the board of directors of any conservancy district, the members of any metropolitan housing authority, the fiscal officers of any health district, the board of township trustees of each township, and the board of trustees of each public library shall appropriate sufficient funds to provide for such obligations.

The board of county commissioners of each county, the legislative authority of each municipal corporation, the board of commissioners of any park district, the board of directors of any conservancy district, the members of any metropolitan housing authority, the fiscal officers of any health district, the board of township trustees of each township, and the board of trustees of each public library may reimburse the fund from which such appropriation is made by transferring to such fund from any other fund of such subdivision the proportionate amount of such appropriation that should be chargeable to such fund whether such fund is derived from taxation or otherwise.

Such payment may be made directly out of any funds, whether derived from taxation or otherwise, from which the salaries or compensation of public employees, on account of whom such payments are to be made, are payable. Upon certification by the public employees retirement board of the amount due by an employer within any county who is subject to this chapter, such payment shall be made from any fund or funds in the hands of the county auditor for distribution to such employer.

*(ENACTED: HB 744, Eff. 6/29/55; SB 386, Eff. 9/16/57; HB 502, Eff. 4/24/86; HB 382, Eff. 6/30/91; HB 628, Eff. 9/21/00)*

**Sec. 145.13 Denomination of bonds**

Bonds purchased from any taxing district of the state shall be in the denomination required by the public employees retirement board in its resolution of purchase.

*(ENACTED: HB 1, Eff. 10/1/53)*

**Sec. 145.14 Percentage of funds available for annuities and other payments; deposit**

For the purpose of meeting disbursements for annuities and other payments in excess of the receipts, there shall be kept available by the treasurer of state an amount not exceeding ten per cent of the total amount in the funds provided for by this chapter, on deposit in any bank or banks in this state, organized under the laws thereof, or under the laws of the United States, or with any trust company or trust companies incorporated by the law of this state. Said banks or trust companies shall furnish adequate security for said deposit. The sum so deposited in any one bank or trust company shall not exceed twenty-five per cent of the paid-up capital and surplus of said bank or trust company.

*(ENACTED: HB 628, Eff. 9/21/00)*

**Sec. 145.15 Employee information provided by each department**

The head of each department shall submit to the public employees retirement board a statement showing the name, sex, title, earnable salary, duties, date of birth, and length of service as a public employee of every public employee in his department.

*(ENACTED: HB 502, Eff. 4/24/86)*

**Sec. 145.16 Statement to be filed by employee member**

Each public employee shall file a detailed statement of all his previous service as a public employee and shall furnish such other information as the public employees retirement board requires for the proper operation of the system.

The employee shall file the statement within thirty days of commencing employment. If he fails to do so within that time, the board shall notify his employer's fiscal officer. On receipt of the notice, the fiscal officer shall withhold all salary payments to the employee until the statement is filed with the board.

*(ENACTED: HB 382, Eff. 6/30/91)*

**Sec. 145.17 Monthly statement to board by each department**

The head of each department shall, on the first day of each calendar month, notify the public employees retirement board of the employment or the entering into office of new public employees, and shall submit to the board a statement showing the names, sex, title, earnable salary, duties, and date of birth of the new public employees, and shall also notify the board at the same time of all removals, withdrawals, and changes in salary of any contributors to the public employees retirement system that have occurred during the preceding month.

*(ENACTED: HB 502, Eff. 4/24/86; HB 382, Eff. 6/30/91)*



### **Sec. 145.171 Notification of additional plan**

On receipt of notice under section 145.17 of the Revised Code of the employment of a new public employee, the public employees retirement system shall inform the employee of the requirements of section 145.19 of the Revised Code.

*(ENACTED: HB 628, Eff. 9/21/00)*

### **Sec. 145.18 Records kept by department heads**

Under the direction of the public employees retirement board, the head of each department shall keep such records as will enable him to furnish information in such form as the board requires in the discharge of its duties.

*(ENACTED: HB 1, Eff. 10/1/53)*

### **Sec. 145.19 Selection of additional plan by new member**

(A) Except as provided in division (D) of this section, an individual who becomes employed in a position subject to this chapter on or after January 1, 2003, shall make an election under this section. Not later than one hundred eighty days after the date on which employment begins, the individual shall elect to participate either in the PERS defined benefit plan or a PERS defined contribution plan. Unless a form evidencing an election under this section is received by the public employees retirement system on or before the last day of the one-hundred-eighty-day period, the individual is deemed to have elected to participate in the PERS defined benefit plan.

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

(C) An election under this section shall take effect on the date employment began and, except as provided in section 145.814 of the Revised Code or rules governing the PERS defined benefit plan, is irrevocable on receipt by the system.

(D) An individual is ineligible to make an election under this section if one of the following applies:

(1) The individual is a PERS retirant or other system retirant, as those terms are defined in section 145.38 of the Revised Code, or is retired under section 145.383 of the Revised Code.

(2) The individual is participating or has elected to participate in an alternative retirement plan under section 3305.05 or 3305.051 of the Revised Code and the employment is in a position that is subject to division (C)(4) of section 3305.05 or division (F) of section 3305.051 of the Revised Code.

(3) The individual has contributions standing to the individual's credit in the employees' savings fund or defined contribution fund established under section 145.23 of the Revised Code.

(4) The individual is employed in a position covered under this chapter to which section 145.193 of the Revised Code applies.

(5) The individual is a PERS law enforcement officer or PERS public safety officer.

*(ENACTED: HB 628, Eff. 9/21/00; HB 158, Eff. 2/1/02; SB 247, Eff. 10/1/02; SB133, Eff. 9/15/04; SB267 Eff. 3/24/09; SB 343, Eff. 1/7/13)*

### **Sec. 145.191 Selection of additional plan by existing member**

(A) Except as provided in division (F) of this section, a public employees retirement system member or contributor who, as of December 31, 2002, has less than five years of total service

credit is eligible to make an election under this section. A member or contributor who is employed in more than one position subject to this chapter is eligible to make only one election. The election applies to all positions subject to this chapter.

Not later than June 30, 2003, an eligible member or contributor may elect to participate in a PERS defined contribution plan. Unless a form evidencing an election is received by the system on or before that date, a member or contributor to whom this section applies is deemed to have elected to continue participating in the PERS defined benefit plan.

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

(C) On the request of a member or contributor who made an election under this section, the system shall credit to the plan elected the accumulated contributions standing to the credit of the member or contributor in the employees' savings fund and cancel all service credit and eligibility for any payment, benefit, or right under the PERS defined benefit plan.

(D) For each member or contributor who elected under this section to participate in a PERS defined contribution plan and made a request under division (C) of this section, any additional deposits that were made by the member or contributor prior to April 6, 2007, under the version of division (C) of section 145.23 of the Revised Code as it existed immediately prior to that date shall be credited to the defined contribution plan.

(E) An election under this section is effective as of January 1, 2003, and, except as provided in section 145.814 of the Revised Code or rules governing the PERS defined benefit plan, is irrevocable on receipt by the system.

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

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

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

*(ENACTED: HB 628, Eff. 9/21/00; HB 158, Eff. 2/1/02; SB 247, Eff. 10/1/02; SB267, Eff. 3/24/09; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

### **Sec. 145.192 Exclusion under additional plan**

Except as provided in section 145.195, 145.814, or in division (C) of section 145.82 of the Revised Code, a member of the public employees retirement system who elects to participate in a PERS defined contribution plan shall be ineligible for any benefit or payment under the PERS defined benefit plan and shall be forever barred from claiming or purchasing service credit with the system or any other Ohio state retirement system, as defined in section 145.30 of the Revised Code, for service covered by the election.

*(ENACTED: HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02; SB 343, Eff. 1/7/13)*

### **Sec. 145.193 Consequence of selection of additional plan**

Except as provided in section 145.194 or division (C) (4) of section 3305.05 and division (F) of section 3305.051 of the Revised Code, an election made or deemed to have been made under section 145.19 or 145.191 of the Revised Code applies to all positions subject to this chapter for which the member is contributing under section 145.47 or 145.85 of the Revised Code.

A member who terminates employment in all positions subject to this chapter, receives a refund of the member's contributions made under section 145.47 or 145.85 of the Revised

Code, and later becomes employed in a position subject to this chapter may make an election under section 145.19 of the Revised Code as provided by that section.

*(ENACTED: SB 247, Eff. 10/1/02; SB133, Eff. 9/15/04; SB 343, Eff. 1/7/13)*

#### **Sec. 145.194 Contributions to defined contribution plan for law enforcement or public safety officers**

(A) A member participating in a PERS defined contribution plan who becomes a PERS law enforcement officer or PERS public safety officer shall cease making contributions to a PERS defined contribution plan. During employment as a PERS law enforcement officer or a PERS public safety officer and any concurrent employment in a position subject to this chapter, the member shall contribute only to the PERS defined benefit plan.

(B) A member described in division (A) of this section with contributions standing to the member's credit in a PERS defined contribution plan may elect to have those contributions deposited and credited in the PERS defined benefit plan in accordance with section 145.814 of the Revised Code and rules governing the PERS defined benefit plan.

*(ENACTED: SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

#### **Sec. 145.195 Combining retirement eligibility in the defined benefit and defined contribution plans**

The public employees retirement system may, in accordance with rules it adopts under this section, permit a member who participated in both the PERS defined benefit plan and one or more PERS defined contribution plans to combine years of service as a member for the purpose of determining eligibility for a benefit under section 145.32, 145.331, 145.332 or 145.335 of the Revised Code, or a benefit under a PERS defined contribution plan.

*(ENACTED: SB 343, Eff. 1/7/13; HB 33, Eff. 10/3/23)*

#### **Sec. 145.196 Consolidating the combined plan with the defined benefit plan**

(A) As used in this section:

(1) "Individual account" means the account maintained for a member of the PERS combined plan in the defined contribution fund created in section 145.23 of the Revised Code, in which the member's contributions under section 145.85 of the Revised Code are deposited and credited.

(2) "PERS combined plan" means the hybrid plan established under section 145.81 of the Revised Code that includes a PERS defined benefit plan component and a PERS defined contribution plan component that includes definitely determinable benefits as described in section 145.82 of the Revised Code.

(B) The public employees retirement system may, in accordance with rules it adopts under this section, consolidate the PERS combined plan with the PERS defined benefit plan for the purpose of administering the definitely determinable benefits under the PERS combined plan and the allowance payable under section 145.335 of the Revised Code.

(C) If the system consolidates the PERS combined plan with the PERS defined benefit plan as permitted under division (B) of this section, all of the following apply:

(1) The PERS combined plan ceases to be a separate legal entity, and all members participating in the PERS combined plan at the time of consolidation shall be members of the PERS defined benefit plan.

(2) The system shall do all of the following regarding a member's individual account:

(a) Maintain the individual account of each member who was participating in the PERS combined plan at the time of consolidation;

(b) Deposit and credit the member's contributions under section 145.47 of the Revised Code into the member's individual account;

(c) If the system maintains the member's individual account in the defined contribution fund for purposes of investing the account's funds, treat the individual account as deposited and credited to the PERS defined benefit plan for accounting purposes;

(d) Administer the member's individual account in accordance with rules adopted by the public employees retirement board and in a manner consistent with the PERS defined contribution plan.

(3) The system shall deposit and credit the employer contributions under section 145.48 of the Revised Code for a member participating in the PERS combined plan at the time of consolidation into the employers' accumulation fund created in section 145.23 of the Revised Code to pay the definitely determinable benefits under the plan.

(4) All members participating in the PERS combined plan at the time of consolidation shall be entitled to the rights and benefits to which the member was entitled under the PERS combined plan as of the date of consolidation, subject to future amendments to the PERS defined benefit plan.

(D) The eligibility of members participating in the PERS combined plan at the time of consolidation under this section for age and service retirement, disability, survivor, or death benefits shall be determined under sections 145.32, 145.35, 145.36, 145.361, 145.45, and 145.451 of the Revised Code. A member's retirement allowance shall be an amount determined in accordance with section 145.335 of the Revised Code.

(E) The following sections of Chapter 145. of the Revised Code do not apply to the individual account of a member participating in the PERS combined plan at the time of consolidation under this section: sections 145.222, 145.297, 145.298, 145.2914, 145.31, 145.311, 145.312, 145.33, 145.332, 145.334, 145.37, 145.382, 145.383, 145.385, 145.40, 145.401, 145.472, 145.49, 145.581, 145.582, 145.62, 145.63, 145.64, and 145.65 of Revised Code.

*(ENACTED: HB 33, Eff. 10/3/23)*

## **Sec. 145.20 Elective officials may join system; credit for prior service**

(A) Any elective official of the state of Ohio or of any political subdivision thereof having employees in the public employees retirement system shall be considered as an employee of the state or such political subdivision, and may become a member of the system upon application to the public employees retirement board, with all the rights, privileges, and obligations of membership. An elective official who becomes a member of the system on or after January 1, 2003, shall make an election pursuant to section 145.19 of the Revised Code not later than one hundred eighty days after applying for membership in the system. The election is effective as of the date the official applies for membership and is irrevocable on receipt by the system. If a form evidencing an election is not received by the system not later than the last day of the one-hundred-eighty-day period, the official is deemed to have elected to participate in the PERS defined benefit plan.

(B) Credit for service between January 1, 1935, and the date that membership is established, except service as an elective official that was subject to the tax on wages imposed by the "Federal Insurance Contributions Act," 68A Stat. 415 (1954), 26 U.S.C.A. 3101, as amended, may be secured by the elective official provided the elected official does all of the following:

(1) Pays into the employees' savings fund an amount specified by the board that is equal to one hundred per cent of the additional liability resulting from the purchase of that year or portion of a year of credit as determined by an actuary employed by the board;

(2) Completes one and one-half years of contributing membership in the public employees retirement system subsequent to the date membership was established;

(3) Participates in the PERS defined benefit plan or a PERS defined contribution plan with definitely determinable benefits.

A member may choose to purchase in any one payment only part of the credit the member is eligible to purchase, subject to board rules. The public employees retirement board shall determine the amount and manner of payment. In the event of death or withdrawal from service, the payment into the employees' savings fund for such service credit shall be considered as accumulated contributions of the member.

*(ENACTED: HB 744, Eff. 6/29/55; SB 386, Eff. 9/16/57; HB 430, Eff. 11/20/73; HB 268, Eff. 8/20/76; HB 502, Eff. 4/24/86; HB 382, Eff. 6/30/91; HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02; SB 343, Eff. 1/7/13)*

## **Sec. 145.201 Purchase of additional service credit by elective officials**

(A) Subject to the limit described in division (C) of this section, any member who is or has been an elected official of the state or any political subdivision thereof or has been appointed either by the governor with the advice and consent of the senate or directly by the speaker of the house of representatives or president of the senate to serve full-time as a member of a board, commission, or other public body may at any time prior to retirement purchase additional service credit in an amount not to exceed thirty-five per cent of the service credit allowed the member for the period of service as an elected or appointed official subsequent to January 1, 1935, other than credit for military service, part-time service, and service subject to the tax on wages imposed by the "Federal Insurance Contributions Act," 68A Stat. 415 (1954), 26 U.S.C.A. 3101, as amended.

For each year of additional service credit purchased under this section, the member shall pay into the employees' savings fund an amount specified by the public employees retirement board that is equal to one hundred per cent of the additional liability resulting from the purchase of that year or portion of a year of credit as determined by an actuary employed by the board. The member shall receive full credit for such additional elective service in computing an allowance or

benefit under section 145.33, 145.331, 145.332, 145.335, 145.36, 145.361, or 145.46 of the Revised Code, notwithstanding any other provision of this chapter. The payment to the employees' saving fund, and payments made to the employers' accumulation fund prior to January 7, 2013, for such additional elective service credit shall, in the event of death or withdrawal from service, be considered as accumulated contributions of the member.

The board may determine by rule what constitutes full- or part-time service for purposes of this section.

(B) Notwithstanding division (A) of this section, a member who purchased service credit under this section prior to January 1, 1980, on the basis of part-time service shall be permitted to retain the credit and shall be given full credit for it in computing an allowance or benefit under section 145.33, 145.331, 145.332, 145.335, 145.36, 145.361, or 145.46 of the Revised Code. The public employees retirement board has no authority to cancel or rescind such credit.

(C) A purchase made under this section shall not exceed the limits established by division (n) of section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415(n), as amended.

(D) Subject to rules adopted by the public employees retirement board, a member who has purchased service credit under this section is entitled to be refunded all or a portion of the actual amount the member paid for the service credit if, in computing an age and service retirement allowance under division (A) of section 145.33 or section 145.332 or 145.335 of Revised Code, the allowance exceeds a limit established by either of those sections.

A refund under this division cancels the equivalent amount of service credit.

*(ENACTED: HB 590, Eff. 10/14/63; SB 409, Eff. 11/21/69; HB 268, Eff. 8/20/76; HB 502, Eff. 4/24/86; SB 138, Eff. 7/20/88; HB 382, Eff. 6/30/91; SB 346, Eff. 7/29/92; HB 648, Eff. 9/16/98; HB 416, Eff. 10/13/00; HB272, Eff. 4/6/07; SB 343, Eff. 1/7/13; HB 33, Eff. 10/3/23)*

## **Sec. 145.21 Individual accounts for each member; mortality tables**

The public employees retirement board shall provide for the maintenance of an individual account with each contributor showing the amount of the contributor' contributions and the interest accumulations thereon. It shall collect and keep in convenient form such data as is necessary for the preparation of the required mortality and service tables, and for an actuarial valuation of the assets and liabilities of the various funds created by this chapter. Upon the basis of the mortality and service experience of the members, contributors, retirants, and beneficiaries of the public employees retirement system, the board shall adopt from time to time such tables as are deemed necessary for valuation purposes and for determining the amount of annuities to be allowed on the basis of the contributions.

*(ENACTED: HB 744, Eff. 6/29/55; HB 382, Eff. 6/30/91; HB 628, Eff. 9/21/00)*

## Sec. 145.22 Actuarial reports

(A) The public employees retirement board shall have prepared annually by or under the supervision of an actuary an actuarial valuation of the pension assets, liabilities, and funding requirements of the public employees retirement system as established pursuant to this chapter. The actuary shall complete the valuation in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries and prepare a report of the valuation. The report shall include all of the following:

- (1) A summary of the benefit provisions evaluated;
- (2) A summary of the census data and financial information used in the valuation;
- (3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members contributing to the retirement system;
- (4) A summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities;
- (5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation;
- (6) A statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board.

The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation immediately upon its availability and not later than the first day of September following the year for which the valuation was made.

(B) At such time as the public employees retirement board determines, and at least once in each five-year period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members, retirants, contributors, and beneficiaries of the system to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following:

- (1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation;
- (2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section;
- (3) A measurement of the financial effect of the recommended changes in actuarial assumptions.

The board shall submit the report to the Ohio retirement study council and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of November following the last fiscal year of the period the report covers.

(C) The board may at any time request the actuary to make any studies or actuarial valuations to determine the adequacy of the contribution rate determined under section 145.48 of the Revised Code, and those rates may be adjusted by the board, as recommended by the actuary, effective as of the first of any year thereafter.

(D) The board shall have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the retirement system. The actuarial analysis shall be completed in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary shall prepare a report of the actuarial analysis, which shall include all of the following:

- (1) A summary of the statutory changes that are being evaluated;
- (2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;
- (3) A description of the participant group or groups included in the report;
- (4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members over a period not to exceed thirty years;
- (5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study council.

(E) The board shall have prepared annually a report giving a full accounting of the revenues and costs relating to the provision of benefits under sections 145.58 and 145.584 of the Revised Code. The report shall be made as of December 31, 1997, and the thirty-first day of December of each year thereafter. The report shall include the following:

- (1) A description of the statutory authority for the benefits provided;
- (2) A summary of the benefits;
- (3) A summary of the eligibility requirements for the benefits;
- (4) A statement of the number of participants eligible for the benefits;
- (5) A description of the accounting, asset valuation, and funding method used to provide the benefits;
- (6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;
- (7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;
- (8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits;
- (9) A description of any significant changes that affect the comparability of the report required under this division.
- (10) A statement of the amount paid under division (C) of section 145.58 of the Revised Code.



The board shall submit the report to the Ohio retirement study council, the director of budget and management, and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation immediately upon its availability and not later than the thirtieth day of June following the year for which the report was made.

*(ENACTED: HB 382, Eff. 6/30/91; SB 82, Eff. 3/6/97; HB 648, Eff. 9/16/98; HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02; SB 343, Eff. 1/7/13; HB 59, Eff. 9/29/13)*

#### **Sec. 145.221 Amortization period**

The public employees retirement board shall establish a period of not more than thirty years to amortize the public employees retirement system's unfunded actuarial accrued pension liability. If in any year the period necessary to amortize the unfunded actuarial accrued pension liability exceeds thirty years, as determined by the annual actuarial valuation required by section 145.22 of the Revised Code, the board, not later than ninety days after receipt of the valuation, shall prepare and submit to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation a report that includes the following information:

(A) The number of years needed to amortize the unfunded actuarial accrued pension liability as determined by the annual actuarial valuation;

(B) A plan approved by the board that indicates how the board will reduce the amortization period of unfunded actuarial accrued pension liability to not more than thirty years.

*(ENACTED: SB 82, Eff. 3/6/97)*

#### **Sec. 145.222 Actuarial study under R.C. 3305.06**

(A) As used in this section:

(1) "Compensation" means both of the following:

(a) In the case of a public employees retirement system member, the member's earnable salary;

(b) In the case of an electing employee, the amount that would be the electing employee's earnable salary if the electing employee was a member of the retirement system.

(2) "Compensation ratio" means the ratio for the most recent full fiscal year for which the information is available of the total compensation of all electing employees to the sum of the total compensation of all the retirement system's members in the PERS defined benefit plan and the total compensation of all electing employees.

(3) "Electing employee" means a participant in an alternative retirement plan provided pursuant to Chapter 3305. of the Revised Code who would otherwise be a member of the retirement system.

(4) "Historical liability" means the portion of the retirement system's total unfunded actuarial accrued pension liability attributed to the difference between the following:

(a) The cumulative contributions received under division (D) of section 3305.06 of the Revised Code on behalf of electing employees since the establishment of the alternative retirement plan;

(b) The cumulative contributions toward the unfunded actuarial accrued liability of the retirement system that would have been made if the electing employees had been members of the retirement system in the PERS defined benefit plan.

(B) The public employees retirement board shall contract with an independent actuary to complete an actuarial study to determine the percentage of an electing employee's compensation to be contributed by a public institution of higher education under division (D) of section 3305.06 of the Revised Code. The initial study must be completed and submitted by the board to the department of higher education not later than December 31, 2016. A subsequent study must be completed and submitted not later than the last day of December of every fifth year thereafter.

(C) For the initial study required under this section, the actuary shall determine the percentage described in division (B) of this section as follows:

(1) The actuary shall calculate a percentage necessary to amortize the historical liability over an indefinite period.

(2) The actuary shall calculate a percentage necessary to amortize over a thirty-year period the amount resulting from multiplying the compensation ratio by the difference between the following:

(a) The unfunded actuarial accrued pension liability of the PERS defined benefit plan;

(b) The historical liability.

(3) The percentage to be contributed under division (D) of section 3305.06 of the Revised Code shall be one-fourth of the sum of the percentages calculated under divisions (C)(1) and (2) of this section, not to exceed four and one-half per cent.

(4) To make the calculations and determinations required under divisions (C)(1) and (2) of this section, the actuary shall use the most recent annual actuarial valuation under section 145.22 of the Revised Code that is available at the time the study is conducted.

(D) For any study conducted after the initial study required under this section, the actuary shall determine the percentage described in division (B) of this section as follows:

(1) The actuary shall calculate a percentage necessary to amortize over a thirty-year period the amount resulting from multiplying the compensation ratio by the difference between the following:

(a) The unfunded actuarial accrued pension liability of the PERS defined benefit plan under the annual actuarial valuation under section 145.22 of the Revised Code that is most recent at the time the study is conducted;

(b) The historical liability determined under division (C) of this section.

(2) The percentage to be contributed under division (D) of section 3305.06 of the Revised Code shall be one-fourth of the sum of the percentages calculated under divisions (C)(1) and (D)(1) of this section but not less than one-fourth of the percentage determined under division (C)(1) of this section, except that the percentage shall not exceed four and one-half per cent.

*(ENACTED: HB 520, Eff. 4/6/17)*

## **Sec. 145.23 Funds**

The funds hereby created are the employees' savings fund, the employers' accumulation fund, the annuity and pension reserve fund, the income fund, the survivors' benefit fund, the defined contribution fund, and the expense fund.

(A) The employees' savings fund is the fund in which shall be accumulated contributions from the earnable salaries of contributors for the purchase of annuities or retirement allowances.

The accumulated contributions of a contributor returned to the contributor upon withdrawal, or paid to the contributor's estate or designated beneficiary in the event of death, shall be paid from the employees' savings fund. Any accumulated contributions forfeited by failure of a member, or a member's estate, to claim the same, shall remain in the employees' savings fund or may be transferred to the income fund. The accumulated contributions of a contributor shall be transferred from the employees' savings fund to the annuity and pension reserve fund in the event of the contributor's retirement.

(B) The employers' accumulation fund is the fund in which shall be accumulated the reserves for the payment of all pensions and disability benefits payable as provided in this chapter. The amounts paid by any employer under section 145.48 of the Revised Code shall be credited to the employers' accumulation fund. Amounts paid by an employer under section 145.483 of the Revised Code shall be credited to the employers' accumulation fund, except that if the amounts paid by the employer are for members participating in a PERS defined contribution plan those amounts may be credited to the defined contribution fund.

Amounts paid by an employer under section 145.86 of the Revised Code may be credited to the employers' accumulation fund.

Any payments made into the employers' accumulation fund by a member as provided in section 145.31 of the Revised Code shall be refunded to such member under the conditions specified in section 145.40 of the Revised Code.

Upon the retirement of a contributor, the full amount of the contributor's pension reserve shall be transferred from the employers' accumulation fund to the annuity and pension reserve fund.

(C) The annuity and pension reserve fund is the fund from which shall be paid all pensions, disability benefits, annuities, and benefits in lieu thereof, because of which reserves have been transferred from the employees' savings fund and the employers' accumulation fund. The annuity and pension reserve fund is also the fund from which shall be paid all pensions, disability benefits, annuities, and benefits in lieu thereof under a PERS defined contribution plan, if reserves have been transferred to the fund for that purpose.

(D) The income fund is the fund from which interest is transferred and credited on the amounts in the funds described in divisions (B), (C), and (F) of this section, and is a contingent fund from which the special requirements of the funds may be paid by transfer from this fund. All

income derived from the investment of the funds of the system, together with all gifts and requests, or the income therefrom, shall be paid into this fund.

Any deficit occurring in any other fund that will not be covered by payments to that fund, as otherwise provided in Chapter 145. of the Revised Code, shall be paid by transfers of amounts from the income fund to such fund or funds. If the amount in the income fund is insufficient at any time to meet the amounts payable to the funds described in divisions (C) and (F) of this section, the amount of the deficiency shall be transferred from the employers' accumulation fund.

The system may accept gifts and bequests. Any gifts or bequests, any funds which may be transferred from the employees' savings fund by reason of lack of claimant, any surplus in any fund created by this section, or any other funds whose disposition is not otherwise provided for, shall be credited to the income fund.

(E) Except as provided in division (G) of this section, the expense fund is the fund from which shall be paid the expenses of the administration of this chapter, exclusive of amounts payable as retirement allowances and as other benefits.

(F) The survivors' benefit fund is the fund from which shall be paid dependent survivor benefits provided by section 145.45 of the Revised Code.

(G) The defined contribution fund is the fund in which shall be accumulated the contributions deducted from the earnable salary of members participating in a PERS defined contribution plan, as provided in section 145.85 of the Revised Code, together with any earnings credited thereon. The defined contribution fund is the fund in which may be accumulated the contributions under section 145.86 of the Revised Code, together with any earnings credited thereon. Except as provided in division (C) of this section, the defined contribution fund is the fund from which shall be paid all benefits provided under a PERS defined contribution plan and from which may be paid administrative expenses of the plan.

*(ENACTED: HB 744, Eff. 6/29/55; SB 386, Eff. 9/16/57; SB 160, Eff. 8/1/59; HB 957, Eff. 10/27/61; HB 225, Eff. 11/13/65; HB 430, Eff. 11/20/73; HB 268, Eff. 8/20/76; HB 502, Eff. 4/24/86; SB 346, Eff. 7/29/92; HB 628, Eff. 9/21/00; SB 144, Eff. 12/31/00; SB 247, Eff. 10/1/02; HB272, Eff. 4/6/07; SB 343, Eff. 1/7/13)*

#### **Sec. 145.24 Inequality of contributions by employer**

Should any employer fail to contribute to the employers' accumulation fund on a basis equal to that on which other employers are contributing, the public employees retirement board shall hold all contributions from such employer in a separate fund as long as the inequality of contributions continues. During that period no funds contributed by any other employers shall be used to pay benefits to persons who were employees of such employer at the time of retirement.

*(ENACTED: HB 1, Eff. 10/1/53)*

### **Sec. 145.25 Each fund is a legal entity**

When reference is made in this chapter, to the employees' savings fund, the employers' accumulation fund, the annuity and pension reserve fund, the income fund, the survivors' benefit fund, the defined contribution fund, or the expense fund, such reference is made to each as a separate legal entity. This section does not prevent the deposit or investment of all such moneys intermingled for such purpose but such funds shall be separate and distinct legal entities for all other purposes.

*(ENACTED: HB 628, Eff. 9/21/00)*

### **Sec. 145.26 Treasurer of state custodian of funds; bond**

The treasurer of state shall be the custodian of the funds of the public employees retirement system, and all disbursements therefrom shall be paid by the treasurer of state only upon instruments authorized by the public employees retirement board and bearing the signatures of the board; provided, that such instruments may bear the names of the board members printed thereon and the signatures of the chairperson, or of the vice-chairperson in case of the absence or disability of the chairperson, and of the executive director of the board. The signatures of the chairperson and of the executive director may be affixed through the use of a mechanical check-signing device.

The treasurer of state shall give a separate and additional bond in such amount as is fixed by the governor and with sureties selected by the board and approved by the governor, conditioned for the faithful performance of the duties of the treasurer of state as custodian of the funds of the system. Such bond shall be deposited with the secretary of state and kept in the office. The governor may require the treasurer of state to give other and additional bonds, as the funds of the system increase, in such amounts and at such times as may be fixed by the governor, which additional bonds shall be conditioned, filed, and obtained as is provided for the original bond of the treasurer of state covering the funds of the system. The premium on all bonds shall be paid by the board.

The treasurer of state shall deposit any portion of the funds of the system not needed for immediate use in the same manner as state funds are deposited, and subject to all laws with respect to the deposit of state funds, by the treasurer of state, and all interest earned by such portion of the retirement funds as is deposited by the treasurer of state shall be collected by the treasurer of state and placed to the credit of the board.

The treasurer of state shall furnish annually to the board a sworn statement of the amount of the funds in the treasurer of state's custody belonging to the system.

*(ENACTED: HB 201, Eff. 7/1/85; HB 628, Eff. 9/21/00)*

### **Sec. 145.27 Records and reports**

(A)(1) As used in this division, "personal history record" means information maintained by the public employees retirement board on an individual who is a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the public employees retirement system, or other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection and may be made available in printed or electronic format, except that the following shall be excluded, except with the written authorization of the individual concerned:

(a) The individual's statement of previous service and other information as provided for in section 145.16 of the Revised Code;

(b) The amount of a monthly allowance or benefit paid to the individual;

(c) The individual's personal history record.

(B) All medical reports and recommendations required by this chapter are privileged, except as follows:

(1) Copies of medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release from the individual or the individual's agent, or when necessary for the proper administration of the fund, to the board assigned physician.

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section.

(C) Any person who is a member or contributor of the system shall be furnished with a statement of the amount to the credit of the individual's account upon written request. The board is not required to answer more than one such request of a person in any one year. The board may issue annual statements of accounts to members and contributors.

(D) Notwithstanding the exceptions to public inspection in division (A)(2) of this section, the board may furnish the following information:

(1) If a member, former member, contributor, former contributor, or retirant is subject to an order issued under section 2907.15 of the Revised Code or an order issued under division (A) or (B) of section 2929.192 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court or administrative order issued pursuant to Chapter 3119., 3121., 3123., or 3125. of the Revised Code, the board shall furnish to a court or a child support enforcement agency the information required under that section.

(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, contributors, former contributors, retirants, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person.

(4) Within fourteen days after receiving from the director of human services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The board and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with section 5101.181 of the Revised Code.

(5) The System shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the system shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the board shall make available to the person copies of all documents, including resumes, in the board's possession regarding filling a vacancy of an employee member or retirant member of the board. The person who made the request shall pay

the cost of compiling, copying, and mailing the documents. The information described in division (D)(6) of this section is a public record.

(7) The system shall provide the notice required by section 145.573 of the Revised Code to the prosecutor assigned to the case.

(8) The system may provide information requested by the United States social security administration, United States centers for medicare and medicaid, Ohio public employees deferred compensation program, Ohio police and fire pension fund, school employees retirement system, state teachers retirement system, state highway patrol retirement system, or Cincinnati retirement system.

(E) A statement that contains information obtained from the system's records that is signed by the executive director or an officer of the system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

(F) For purposes of this section, the board may maintain records in printed or electronic format.

*(ENACTED: HB 225, Eff. 11/13/65; HB 268, Eff. 8/20/76; HB 363, Eff. 6/7/79; HB 246, Eff. 8/23/82; HB 242, Eff. 1/1/87; HB 382, Eff. 6/30/91; SB 346, Eff. 7/29/92; SB 359, Eff. 12/22/92; HB 627, Eff. 12/2/96; HB 668, Eff. 12/6/96; HB 471, Eff. 7/1/00; HB 628, Eff. 9/21/00; SB 180, Eff. 3/22/01; HB 535, Eff. 1/1/02; SB 247, Eff. 10/1/02; SB133, Eff. 9/15/04; SB 3, Eff. 5/13/08; HB123, Eff. 7/29/11; HB 153, Eff. 9/29/11; SB 343, Eff. 1/7/13)*

#### **Sec. 145.28 Purchase of service credit for period of exemption**

(A) As used in this section, "paying system" and "transferring system" have the same meanings as in section 145.37 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, a member of the public employees retirement system with at least eighteen months of contributing service in the system, the state teachers retirement system, or the school employees retirement system who exempted self from membership in one or more of the systems pursuant to section 145.03 or 3309.23 of the Revised Code, or former section 3307.25 or 3309.25 of the Revised Code, or was exempt under section 3307.24 of the Revised Code, may purchase credit for each year or portion of a year of service for which the member was exempted.

(2) A member may not purchase credit under this section for exempted service if the service was exempted from contribution under section 145.03 of the Revised Code and subject to the tax on wages imposed by the "Federal Insurance Contributions Act," 68A Stat. 415 (1954), 26 U.S.C.A. 3101, as amended.

(C) Credit shall be purchased under this section in accordance with section 145.29 of the Revised Code.

(D) Credit purchasable under this section shall not exceed one year of service for any twelve-month period. If the period of service for which credit is purchasable under this section is concurrent with a period of service that will be used to calculate a retirement benefit from this system, the state teachers retirement system, or school employees retirement system, the amount of the credit shall be adjusted in accordance with rules adopted by the public employees retirement board.

A member who is also a member of the state teachers retirement system or the school employees retirement system shall purchase credit for any service for which the member exempted self under section 145.03 or 3309.23 of the Revised Code, or former section 3307.25 or 3309.25 of the Revised Code, or was exempt under section 3307.24 of the Revised Code, from the

retirement system in which the member has the greatest number of years of service credit. If the member receives benefits under section 145.37 of the Revised Code, the system that is the paying system under that section shall receive from the system or systems that are transferring systems the amounts paid by the member for purchase of credit for exempt service plus interest at the actuarial assumption rate of the transferring system. The interest shall be for the period beginning on the date of the member's last payment for purchase of the credit and ending on the date of the member's retirement.

(E) The retirement board shall adopt rules to implement this section.

*(ENACTED: SB 160, Eff. 8/1/59; HB 957, Eff. 10/27/61; HB 268, Eff. 8/20/76; HB 502, Eff. 4/24/86; HB 383, Eff. 5/4/92; SB 351, Eff. 7/1/92; SB 190, Eff. 7/13/00; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

### **Sec. 145.29 Cost of certain service purchases**

(A) A member of the public employees retirement system who elects to purchase or otherwise obtain service credit under section 145.28, 145.291, 145.292, 145.293, or 145.299 or division (G) of section 145.47 of the Revised Code shall do both of the following:

(1) Submit a request to the public employees retirement board in a manner or form approved by the board;

(2) For each year, or portion of a year, of credit purchased or otherwise obtained, pay to the employees' savings fund an amount specified by the board that is equal to one hundred per cent of the additional liability resulting from purchasing or obtaining that year or portion of a year of credit as determined by an actuary employed by the board.

(B) Subject to board rules, a member may choose to purchase or otherwise obtain in any one payment only part of any service credit listed in division (A) of this section.

(C) If a member dies or withdraws from service, any payment made by the member to purchase or obtain any service credit listed in division (A) of this section shall be considered as accumulated contributions of the member.

*(ENACTED: SB 343, Eff. 1/7/13 (former Sec. 145.29 renumbered to 145.292); SB 42, Eff. 3/23/15)*

### **Sec. 145.291 Credit for service while on leave of absence**

Any member of the public employees retirement system who subsequent to January 1, 1935, and the date membership was established was off the payroll either on a leave of absence approved by the then appointing authority or because the member resigned due to pregnancy or adoption of a child may purchase service credit for the period of absence or resignation, provided that subsequent to such leave of absence or resignation the member returned to regular contributing status in the retirement system for at least twelve calendar months. In the case of resignation, the member must submit evidence satisfactory to the retirement board documenting that the resignation was due to pregnancy or adoption of a child.

Credit shall be purchased under this section in accordance with section 145.29 of the Revised Code, except that service credit purchased under this section shall not exceed one year.

*(ENACTED: SB 386, Eff. 9/16/57; SB 160, Eff. 8/1/59; HB 268 Eff. 8/20/76; HB 502, Eff. 4/24/86; HB 673, Eff. 12/8/98; HB 628, Eff. 9/21/00; SB 343, Eff. 1/7/13)*

### **Sec. 145.292 Credit for prior service**

Credit for service between January 1, 1935, and the date of becoming a member of the



public employees retirement system except a part-time employee who claimed exemption under the provisions of section 145.03 of the Revised Code, may be purchased by any public employee for service rendered an employer. Credit shall be purchased under this section in accordance with section 145.29 of the Revised Code.

*(ENACTED: SB 324, Eff. 9/7/57; SB 386, Eff. 9/16/57; SB 160, Eff. 8/1/59; HB 957, Eff. 10/27/61; HB 268, Eff. 8/20/76; HB 502, Eff. 4/24/86; HB 628, Eff. 9/21/00; SB 343, Eff. 1/7/13 (former Sec. 145.29 renumbered to 145.292))*

### **Sec. 145.293 Purchase of credit for municipal, out of state, or federal service**

(A) Service credit may be purchased under this section for the following:

(1) Service rendered in another state, and service in any entity operated by the United States government, that, if served in a comparable position in Ohio, would be covered by the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system;

(2) Service for which contributions were made by the member or on the member's behalf to a municipal retirement system in this state, except that if the conditions specified in section 145.2910 of the Revised Code are met, service credit for this service may be purchased only in accordance with section 145.2911 of the Revised Code.

The number of years purchased under this section shall not exceed the lesser of five years or the member's total accumulated number of years of Ohio service.

(B) Credit shall be purchased under this section in accordance with section 145.29 of the Revised Code.

(C) A member is ineligible to purchase under this section credit for service under former section 145.44 of the Revised Code or service that is used in the calculation of any retirement benefit currently being paid or payable in the future to the member under any other retirement program except social security. At the time the credit is purchased the member shall certify on a form furnished by the retirement board that the member does and will conform to this requirement.

(D) Credit purchased under this section may be combined pursuant to section 145.37 with credit purchased under sections 3307.74 and 3309.31 of the Revised Code, except that not more than an aggregate total of five years' service credit purchased under this section and sections 3307.74 and 3309.31 of the Revised Code shall be used in determining retirement eligibility or calculating benefits under section 145.37 of the Revised Code.

*(ENACTED: HB 1160, Eff. 9/30/74; HB 268, Eff. 8/20/76; HB 647, Eff. 3/11/87; SB 240, Eff. 7/24/90; SB 346, Eff. 7/29/92; HB 222, Eff. 11/2/99; SB 190, Eff. 7/13/00; HB 535, Eff. 4/1/01; SB 343, Eff. 1/7/13)*

### **Sec. 145.294 Payroll deduction plan for restoring or purchasing service credit**

(A)(1) The public employees retirement board may establish by rule a payroll deduction plan for payment of the cost of restoring service credit under section 145.31 or 145.311 of the Revised Code or purchasing any service credit members of the public employees retirement system are eligible to purchase under this chapter, or for making additional deposits under section 145.583 or 145.62 of the Revised Code. In addition to any other matter considered relevant by the board, the rules shall specify all of the following:

(a) The types of service credit that may be paid for through payroll deduction, including the section of the Revised Code that authorizes the purchase of each type of service credit for which payment may be made by payroll deduction;

(b) The procedure for informing the member's employer and the system that the member

wishes to purchase service credit under this chapter or make additional deposits under section 145.583 or 145.62 of the Revised Code through payroll deduction;

(c) The procedure to be followed by the system and employers to determine for each request the amount to be deducted, the number of deductions to be made, and the interval at which deductions will be made. The rules may provide for a minimum amount for each deduction or a maximum number of deductions for the purchase of any type of credit.

(d) The procedure to be followed by employers in transmitting amounts deducted from the salaries of their employees to the system;

(e) The procedure to be followed by the system in crediting service credit to members who choose to purchase it through payroll deduction.

(2) If the board establishes a payroll deduction plan under this division, it shall certify to the member's employer for each member for whom deductions are to be made, the amount of each deduction and the payrolls from which deductions are to be made. The employer shall make the deductions as certified and transmit the amounts deducted in accordance with the rules established by the board under this section.

(3) Rules adopted under this division shall not affect any right to purchase service credit conferred by any other section of the Revised Code, including the right of a member under any such section to purchase only part of the service credit the member is eligible to purchase.

(4) No payroll deduction made pursuant to this division may exceed the amount of a member's net compensation after all other deductions and withholdings required by law.

(B) The public employees retirement board may establish by rule a payment plan for the cost of restoring service credit under section 145.31 or 145.311 of the Revised Code or purchasing any service credit members of the public employees retirement system may purchase under this chapter. The plan provide for partial payments and for payments by payroll deduction under division (A) of this section.

On receipt of a request from a member eligible to restore or purchase service credit, the system shall determine and give notice to the member of the total cost of the credit and the time period in which the payments must be made for the credit to be available at that cost. The system may specify the amount and frequency of payments for credit not purchased in a single payment. *(ENACTED: HB 58, Eff. 11/2/89; HB 15, Eff. 11/3/99; HB272, Eff. 4/6/07; SB 343, Eff. 1/7/13)*

### **Sec. 145.295 Purchase of credit for time served under other Ohio retirement systems**

(A) As used in this section and section 145.2913 of the Revised Code:

(1) "Uniform retirement system" or "uniform system" means the Ohio police and fire pension fund or state highway patrol retirement system.

(2) "Military service credit" means credit purchased or obtained under this chapter or Chapter 742. or 5505. of the Revised Code for service in the armed forces of the United States.

(B) A member of the public employees retirement system who has contributions on deposit with, but is no longer contributing to, a uniform retirement system shall, in computing years of service, be given full credit for service credit earned under Chapter 742. or 5505. of the Revised Code or for military service credit if a transfer to the public employees retirement system is made under this division. At the request of the member a transfer shall be made if all of the following conditions are met:

(1) The member's service credit in the public employees retirement system is greater than the amount of credit that would be transferred under this division.

(2) The member is eligible, or with the credit will be eligible, for a retirement or disability

benefit.

(3) The member agrees to retire or accept a disability benefit not later than ninety days after receiving notice from the public employees retirement system that the credit has been obtained.

(4) For each year of service the uniform system transfers to the public employees retirement system the sum of the following:

(a) An amount equal to the member's accumulated contributions to the uniform system making the transfer and any payments by the member for military service credit;

(b) An amount equal to the lesser of the employer's contributions to the uniform system or the appropriate employer contribution under section 145.48 or 145.49 of the Revised Code;

(c) Interest, determined as provided in division (H) of this section, on the amounts specified in divisions (B)(4)(a) and (b) of this section for the period from the last day of the year for which the service credit in the uniform system was earned or in which the military service credit was purchased or obtained to the date the transfer is made.

(C) A member of the public employees retirement system who has at least eighteen months of contributing service credit with the public employees retirement system, who is a former member of a uniform retirement system, and who has received a refund of the member's accumulated contributions to that uniform system may obtain credit for service credit earned under Chapter 742. or 5505. of the Revised Code or for military service credit if all of the following conditions are met:

(1) The member's service credit in the public employees retirement system is greater than the amount of credit that would be transferred under this division.

(2) The member is eligible, or with the credit will be eligible, for a retirement or disability benefit.

(3) The member agrees to retire or accept a disability benefit not later than ninety days after receiving notice from the public employees retirement system that the credit has been obtained.

(4) For each year of service, the public employees retirement system receives the sum of the following:

(a) An amount, which shall be paid by the member, equal to the amount refunded by the uniform system to the member for that year for accumulated contributions and payments for military service credit, with interest at a rate established by the public employees retirement board on that amount from the date of the refund to the date of the payment;

(b) Interest, which shall be transferred by the uniform system, on the amount refunded to the member that is attributable to the year of service from the last day of the year for which the service credit was earned or in which payment was made for military service credit to the date the refund was made;

(c) An amount, which shall be transferred by the uniform system, equal to the lesser of the employer's contributions to the uniform system or the appropriate employer contribution under section 145.48 or 145.49 of the Revised Code, with interest on that amount from the last day of the year for which the service credit was earned or in which payment was made for military service credit to the date of the transfer.

On receipt of payment from the member, the public employees retirement system shall notify the uniform system, which, on receipt of the notice, shall make the transfer required by this division. Interest shall be determined as provided in division (H) of this section.

(D) A member of the public employees retirement system who purchased credit under former division (A)(1) of this section, as it existed before August 25, 1995, for service as a member of a uniform retirement system may elect to have the amount the member paid for this service

credit refunded to the member under this division if the member agrees to repurchase this service credit pursuant to division (C) of this section.

(E) Service credit purchased or otherwise obtained under this section shall be considered the equivalent of Ohio service credit.

The public employees retirement system shall withdraw the credit and refund all amounts paid or transferred under this section if either of the following occurs:

(1) The member fails to retire or accept a disability benefit not later than ninety days after receiving notice from the public employees retirement system that credit has been obtained.

(2) The member's application for a disability benefit is denied.

A member may choose to purchase only part of the credit the member is eligible to purchase under division (C) of this section, subject to rules of the public employees retirement board. A member is ineligible to purchase or otherwise obtain credit under this section for service to be used in calculation of any retirement benefit currently being paid or payable to the member in the future under any other retirement program or for service credit that may be transferred under section 145.2913 of the Revised Code.

(F) If a member of the public employees retirement system who is not a current contributor elects to receive credit under section 742.21 or 5505.40 of the Revised Code for service for which the member contributed to the system or made payment for military service credit, the system shall transfer to the Ohio police and fire pension fund or the state highway patrol retirement system, as applicable, the amount specified in division (D) of section 742.21 or division (B)(2) of section 5505.40 of the Revised Code.

(G) A member of the public employees retirement system who earned service credit in the public employees retirement system for full-time service as a township or municipal police officer and received service credit in the Ohio police and fire pension fund under section 742.511 or 742.512 of the Revised Code for such service may elect to have the credit restored as public employees retirement system service credit by paying the public employees retirement system an amount equal to the accumulated contributions paid by the member to the Ohio police and fire pension fund under section 742.511 or 742.512 of the Revised Code. When such an election is made, the Ohio police and fire pension fund shall transfer to the public employees retirement system the amount previously transferred under section 742.511 or 742.512 of the Revised Code from the public employees retirement system to the Ohio police and fire pension fund.

(H) Interest charged under this section shall be calculated separately for each year of service credit. Unless otherwise specified in this section, it shall be calculated at the lesser of the actuarial assumption rate for that year of the public employees retirement system or the uniform retirement system in which the credit was earned. The interest shall be compounded annually.

(I) At the request of the public employees retirement system, the uniform retirement system shall certify to the public employees retirement system a copy of the records of the service and contributions of a public employees retirement system member who seeks service credit under this section.

*(ENACTED: HB 268, Eff. 8/20/76; HB 201, Eff. 7/1/85; HB 462, Eff. 6/20/88; HB 383, Eff. 8/3/92; HB 638, Eff. 4/16/93; HB 226, Eff. 8/25/95; HB 308, Eff. 6/5/96; SB 82, Eff. 3/6/97; HB 648, Eff. 9/16/98; HB 222, Eff. 11/2/99; HB 628, Eff. 9/21/00; HB 535, Eff. 4/1/01; SB 119, Eff. 2/20/02; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

### **Sec. 3 H.B. 520            Uncodified law of H.B. 520 regarding OP&F transfers**

(A) As used in this section:

(1) "Member of a police department" and "member of a fire department" have the same

meanings as in section 742.01 of the Revised Code.

(2) “PERS law enforcement officers” and “PERS public safety officer” have the same meanings as in section 145.01 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, a member of the Public Employees Retirement System who meets all the requirements of division (B) or (C) of section 145.295 of the Revised Code other than the requirements of division (B)(1) or (C)(1) of that section may obtain service credit under that section for one of the following:

(a) If the member on the effective date of this section, is a PERS law enforcement officer or PERS public safety officer, service for which the member contributed to the Ohio Police and Fire Pension Fund as a member of a police department;

(b) If the member was a member of the System and made an election under section 145.013 of the Revised Code to remain in the System as a firefighter, service for which the member contributed to the Fund as a member of a fire department.

(2) A member of the System is ineligible to obtain service credit under division (B) of this section if the member is eligible to obtain service credit under division (C) of this section.

(C)(1) A member of the Fund who meets all the requirements of division (C) or (D) of section 742.21 of the Revised Code or division (B) or (C) of section 742.214 of the Revised Code other than the requirement that the member be in the active service of a police or fire department may obtain service credit under those sections if both of the following apply:

(a) The member, on the effective date of this section, is a PERS law enforcement officer.

(b) The member is eligible, or with the credit will be eligible, to retire under Chapter 742. of the Revised Code.

(2) The amount to be transferred or paid to the Fund to obtain service credit under this section is the amount specified in division (C)(1), (D)(1), or (I) of section 742.21 of the Revised Code, except that the Fund shall use the appropriate employer contribution under section 742.33 or 742.34 of the Revised Code, instead of meeting the requirement of divisions (C)(1)(d), (D)(1)(b), and (I) of section 742.21 of the Revised Code to use the amount the employer would have contributed for the service had the member been employed by the member's current employer as a member of a police or fire department.

(D) To obtain service credit under this section, a member must apply to the System or the Fund not later than ninety days after the effective date of this section.

*(ENACTED: HB 520, Eff. 4/6/17, EXPIRES: 12/31/18)*

### **Sec. 145.296 Employer to make contributions for employee on disability leave**

Except as otherwise provided in section 124.385 of the Revised Code, any contributor who is granted disability leave pursuant to a program sponsored by his employer, whereby the contribution receives a percentage of his salary while on disability leave, shall not be required to make contributions for time off while on disability leave.

Except as otherwise provided in section 124.385 of the Revised Code, each employer who sponsors a disability leave program shall make the periodic employer and employee contributions, in the amounts set pursuant to sections 145.47 and 145.48 of the Revised Code, for contributors granted disability leave, based on the contributor's earnable salary in effect at the time disability leave was granted.

*(ENACTED: HB 694, Eff. 11/14/81; SB 311, Eff. 3/14/84; HB 502, Eff. 4/24/86; HB 382, Eff. 6/30/91)*

**Sec. 145.297 Retirement incentive plans; employing unit purchasing service credit for employees**

(A) As used in this section, “employing unit” means:

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

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

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

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

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

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

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

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

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

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

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

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

(C) Any classified or unclassified employee of the employing unit who is a member of the public employees retirement system shall be eligible to participate in the retirement incentive plan established by the employee’s employing unit if the employee meets the following criteria:

(1) The employee is not any of the following:

(a) An elected official;

(b) A member of a board or commission;

(c) A person elected to serve a term of fixed length;

(d) A person appointed to serve a term of fixed length, other than a person appointed and employed by the person’s employing unit.

(2) The employee is or will be eligible to retire under section 145.33 or 145.37 of the Revised Code on or before the date of termination of the retirement incentive plan. Service credit

to be purchased for the employee under the retirement incentive plan shall be included in making such determination.

(3) The employee agrees to retire under section 145.33 or 145.37 of the Revised Code within ninety days after receiving notice from the public employees retirement system that service credit has been purchased for the employee under this section.

Participation in the plan shall be available to all eligible employees except that the employing unit may limit the number of participants in the plan to a specified percentage of its employees who are members of the public employees retirement system on the date the plan goes into effect. The percentage shall not be less than five per cent of such employees. If participation is limited, employees with more total service credit have the right to elect to participate before employees with less total service credit. In the case of employees with the same total service credit, employees with a greater length of service with the employing unit have the right to elect to participate before employees with less service with the employing unit. Employees with less than eighteen months of service with the employing unit have the right to elect to participate only after all other eligible employees have been given the opportunity to elect to participate. For the purpose of determining which employees may participate in a plan, total service credit includes service credit purchased by the employee under this chapter after the date on which the plan is established.

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

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

(1) Five years of service credit;

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

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

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

The employing unit shall pay or contract to pay in installments the cost of the service credit to be purchased to the public employees retirement system on the date agreed to by the employee and the employing unit. The payment shall be made in accordance with rules adopted by the public employees retirement board. The rules may provide for payment in installments and for crediting the purchased credit to the employee's account upon the employer's contracting to pay the cost in installments. The board shall notify the member when the member is credited with service purchased under this section. If the employee does not retire within ninety days after receiving

notice that the employee has been credited with the purchased service credit, the system shall refund to the employing unit the amount paid for the service credit.

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

(F) For the purpose of determining whether the cost of a retirement incentive plan established by a county or county agency under this section is an allowable cost for the purpose of federal funding for any year, the cost shall be considered abnormal or mass severance pay only if fifteen per cent or more of the county or county agency's employees participate in the plan in that year.

Nothing in this division shall relieve a county or county agency from seeking federal approval for any early retirement incentive plan that uses federal dollars in accordance with federal law.

*(ENACTED: HB 706, Eff. 12/16/86; HB 317, Eff. 10/10/89; HB 628, Eff. 9/21/00; HB 157, Eff. 2/1/02; HB 420, Eff. 12/30/08; SB 79, Eff. 10/6/09; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

### **Sec. 145.298 State institutions; closing or layoffs; retirement incentive plans**

(A) As used in this section:

(1) "State employing unit" means an employing unit described in division (A)(2) of section 145.297 of the Revised Code, except that it does not mean an employing unit with fifty or fewer employees.

(2) "State institution" means a state correctional facility, a state institution for the mentally ill, or a state institution for the care, treatment, and training of persons with intellectual disabilities.

(B)(1) Prior to July 17, 2009, in the event of a proposal to close a state institution or lay off, within a six-month period, a number of persons employed at an institution that equals or exceeds the lesser of fifty or ten per cent of the persons employed at the institution, the employing unit responsible for the institution's operation shall establish a retirement incentive plan for persons employed at the institution.

(2) On and after July 17, 2009, in the event of a proposal to close a state institution or lay off, within a six-month period, a number of persons employed at an institution that equals or exceeds the lesser of three hundred fifty or forty per cent of the persons employed at the institution, the employing unit responsible for the institution's operation shall establish a retirement incentive plan for persons employed at the institution.

(C)(1) Prior to July 17, 2009, in the event of a proposal, other than the proposals described in division (B) of this section, to lay off, within a six-month period, a number of employees of a state employing unit that equals or exceeds the lesser of fifty or ten per cent of the employing unit's employees, the employing unit shall establish a retirement incentive plan for employees of the employing unit.

(2) On and after July 17, 2009, in the event of a proposal, other than the proposals described in division (B) of this section, to lay off, within a six-month period, a number of employees of a state employing unit that equals or exceeds the lesser of three hundred fifty or forty per cent of the employing unit's employees, the employing unit shall establish a retirement incentive plan for employees of the employing unit.

(D)(1) A retirement incentive plan established under this section shall be consistent with the requirements of section 145.297 of the Revised Code, except that the plan shall go into effect at the time the layoffs or proposed closings are announced and shall remain in effect until the date of the layoffs or closings.



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

*(ENACTED: HB 706, Eff. 12/16/86; HB 117, Eff. 9/29/95; HB 1, Eff. 7/17/09; SB 343, Eff. 1/7/13; HB 158, Eff. 10/12/16)*

### **Sec. 145.299 Credit for service as school board member**

(A) As used in this section, “school board member” means a member of a city, local, exempted village, or joint vocational school district board of education and “governing board member” means a member of an educational service center governing board.

(B) A member of the public employees retirement system may purchase credit for service as a school board member if all of the following conditions are met:

(1) The member is eligible to retire under this chapter or will become eligible to retire as a result of purchasing the credit.

(2) The member agrees to retire within ninety days after receiving notice of the additional liability under section 145.29 of the Revised Code.

(3) The retirement system receives certification of the member’s service and compensation as a school board or governing board member from the board of education or governing board of the district or educational service center in which the member served or, if that district no longer exists, the board or governing board that controls the territory, or the largest part of the territory, of the district or educational service center in which the member served.

(C) Credit shall be purchased under this section in accordance with section 145.29 of the Revised Code, except that payment for the credit or portion of credit shall be paid in full at the time of purchase.

(D) The retirement system shall calculate the amount of credit the member is eligible to purchase by dividing the compensation he received pursuant to section 3313.12 of the Revised Code for each month he served as a school board or governing board member by the amount of compensation that, for the same month, the retirement system considered equivalent to full-time service.

(E) Credit may be purchased for service as a school board or governing board member, other than service subject to the tax on wages imposed by the “Federal Insurance Contributions Act,” 68A Stat. 415 (1954), 26 U.S.C.A. 3101, as amended, between January 1, 1935, and the first day of January of the year in which the credit is purchased. A member may purchase not more than one-twelfth of a year’s credit for each month of service as a school board or governing board member.

(F) The public employees retirement board shall adopt rules in accordance with section 111.15 of the Revised Code concerning the purchase of credit under this section. In addition to any other matters considered relevant by the retirement board, the rules shall specify the procedure to be followed by a member to inform the system of the member’s desire to purchase credit for service as a school board or governing board member.

(G) If the member does not retire within ninety days after purchasing credit under this section, the system shall withdraw the credit and refund the amount paid by the member.

*(ENACTED: HB 382, Eff. 6/30/91; HB 117, Eff. 9/29/95; SB 343, Eff. 1/7/13)*

## **Sec. 145.2910 Transfer of credit between PERS and the Cincinnati retirement system**

(A) As used in this section and sections 145.2911 and 145.2912 of the Revised Code, “military service credit” means service credit purchased or obtained under the public employees retirement system or city of Cincinnati retirement system for service in the armed forces of the United States.

(B) Service credit and contributions may be transferred between the public employees retirement system and the city of Cincinnati retirement system as specified in sections 145.2911 and 145.2912 of the Revised Code if both of the following conditions are met:

(1) The Cincinnati city council and the board of trustees of the Cincinnati retirement system take all actions, including the adoption of any ordinance or resolution, necessary to authorize the transfers.

(2) The public employees retirement system and Cincinnati retirement system, through their boards of trustees, enter into an agreement governing the transfers that is consistent with the requirements of sections 145.2911 and 145.2912 of the Revised Code and includes both of the following:

(a) A provision under which the retirement systems agree to transfer the amounts specified in those sections:

(b) A provision that specifies an amount of credit the system to which the transfer is made will grant for a specific period of service earned under the transferring system.

(C) The amount of credit specified under division (B)(2) of this section may be less than the person earned for a specific period of service under the transferring system.

(D)(1) The public employees retirement system, through its board of trustees, and the Cincinnati retirement system, acting pursuant to the authority granted it by the Cincinnati city council, may do either of the following:

(a) By mutual consent, modify the agreement described in this section;

(b) Rescind the agreement described in this section.

(2) Any action taken under divisions (D)(1) of this section does not affect any transfers made between the systems and grants of credit made by the systems prior to the time action is taken.

(3) Rescinding an agreement as provided in division (D)(1)(b) of this section does not require mutual consent. The retirement system that rescinds the agreement must promptly notify the other.

(E) If either of the conditions specified in division (B) of this section is not met, a member of the public employees retirement system who meets the requirements of section 145.293 of the Revised Code may purchase credit under division (A)(2) of that section for service in the Cincinnati retirement system.

*(ENACTED: HB 535, Eff. 4/1/01)*

## **Sec. 145.2911 Credit from the Cincinnati retirement system**

(A) If the conditions described in division (B) of section 145.2910 of the Revised Code are met, a member of the public employees retirement system who is not receiving a pension or benefit from the public employees retirement system is eligible to obtain credit for service as a member of the Cincinnati retirement system under this section.

(B) A member of the public employees retirement system who has contributions on deposit

with, but is no longer contributing to, the Cincinnati retirement system shall, in computing years of service credit, be given credit for service credit earned under the Cincinnati retirement system or purchased or obtained as military service credit if all of the following conditions are met:

(1) The member's service credit in the public employees retirement system is greater than the amount of credit that would be obtained under this division.

(2) The member is eligible, or with the credit will be eligible, for a retirement or disability benefit.

(3) The member agrees to retire or accept a disability benefit not later than ninety days after receiving notice from the public employees retirement system that the credit has been obtained.

(4) For each year of service, the Cincinnati retirement system transfers to the public employees retirement system the sum of the following:

(a) The amount contributed by the member, or, in the case of military service credit, paid by the member, that is attributable to the year of service;

(b) An amount equal to the lesser of the employer's contributions to the Cincinnati retirement system or the appropriate employer contributions under section 145.48 or 145.49 of the Revised Code;

(c) Interest on the amounts specified in divisions (B)(4)(a) and (b) of this section from the last day for the year for which the service credit was earned or in which payment was made for military service credit to the date the transfer is made.

(C) A member of the public employees retirement system with at least eighteen months of contributing service credit with the public employees retirement system who has received a refund of the member's contributions to the Cincinnati retirement system may obtain credit for service credit earned under the Cincinnati retirement system or purchased or obtained as military service credit if all of the following conditions are met:

(1) The member's service credit in the public employees retirement system is greater than the amount of credit that would be obtained under this division.

(2) The member is eligible, or with the credit will be eligible, for a retirement or disability benefit.

(3) The member agrees to retire or accept a disability benefit not later than ninety days after receiving notice from the public employees retirement system that the credit has been obtained.

(4) For each year of service, the public employees retirement system receives the sum of the following:

(a) An amount, paid by the member, equal to the sum of the following:

(i) The amount refunded by the Cincinnati retirement system to the member for that year for contributions and payments for military service, with interest at a rate established by the public employees retirement board on that amount from the date of the refund to the date of the payment;

(ii) The amount of interest, if any, the member received when the refund was made that is attributable to the year of service.

(b) An amount, transferred by the Cincinnati retirement system to the public employees retirement system, equal to the sum of the following:

(i) Interest on the amount refunded to the member that is attributable to the year of service from the last day of the year for which the service credit was earned or in which payment was made for military service credit to the date the refund was made;

(ii) An amount equal to the lesser of the employer's contributions to the Cincinnati retirement system or the appropriate employer contribution under section 145.48 or 145.49 of the Revised Code, with interest on that amount from the last day of the year for which the service

credit was earned to the date of the transfer.

(D) The amount transferred under division (C)(4)(b)(i) of this section shall not include any amount of interest the Cincinnati retirement system paid to the person when it made the refund.

(E) On receipt of payment from the member under division (C)(4)(a) of this section, the public employees retirement system shall notify the Cincinnati retirement system. On receipt of the notice, the Cincinnati retirement system shall transfer the amount described in division (C)(4)(b) of this section.

(F) Interest charged under this section shall be calculated separately for each year of service credit. Unless otherwise specified in this section, it shall be calculated at the lesser of the actuarial assumption rate for that year of the public employees retirement system or the Cincinnati retirement system. The interest shall be compounded annually.

(G) At the request of the public employees retirement system, the Cincinnati retirement system shall certify to the public employees retirement system a copy of the records of the service and contributions of a member of the public employees retirement system who seeks service credit under this section.

(H) Service credit purchased or otherwise obtained under this section shall be considered the equivalent of Ohio service credit.

The public employees retirement system shall withdraw the credit and refund all amounts paid or transferred under this section if either of the following occurs:

(1) The member fails to retire or accept a disability benefit not later than ninety days after receiving notice from the public employees retirement system that credit has been obtained under this section.

(2) The member's application for a disability benefit is denied.

(I) A member may choose to purchase only part of the credit the member is eligible to purchase under division (C) of this section, subject to rules of the public employees retirement board.

(J) A member is ineligible to purchase or otherwise obtain credit under this section for the service to be used in calculation of any retirement benefit currently being paid or payable to the member in the future.

*(ENACTED: HB 535, Eff. 4/1/01; SB 343, Eff. 1/7/13; HB 520, Eff. 4/6/17)*

### **Sec. 145.2912 Credit to the Cincinnati retirement system**

(A) If the conditions described in division (B) of section 145.2910 of the Revised Code are met and a person who is a member or former member of the public employees retirement system but not a current contributor and who is not receiving a pension or benefit from the public employees retirement system elects to receive credit under the Cincinnati retirement system for service for which the person contributed to the public employees retirement system or purchased or obtained as military service credit, the public employees retirement system shall transfer the amounts specified in divisions (A)(4)(a) and (b) of this section to the Cincinnati retirement system. A person may obtain credit if all of the following conditions are met:

(1) The member's service credit in the Cincinnati retirement system is greater than the amount of credit that would be obtained under this division.

(2) The member is eligible, or with the credit will be eligible, for a retirement or disability benefit.

(3) The member agrees to retire or accept a disability benefit not later than ninety days after receiving notice from the Cincinnati retirement system that the credit has been obtained.

(4)(a) If the person has contributions on deposit with the public employees retirement system, the public employees retirement system, for each year of service credit, transfers to the Cincinnati retirement system the sum of the following:

(i) An amount equal to the person's contributions to the public employees retirement system and payments made by the member for military service credit;

(ii) An amount equal to the lesser of the employer's contributions to the public employees retirement system or the amount that would have been contributed by the employer for the service had the person been a member of the Cincinnati retirement system at the time the credit was earned;

(iii) Interest on the amounts specified in divisions (A)(4)(a)(i) and (ii) of this section for the period from the last day of the year for which the service credit was earned or in which payment was made for military service credit to the date the transfer was made.

(b) If the person has received a refund of accumulated contributions to the public employees retirement system, the public employees retirement system, for each year of service credit, transfers to the Cincinnati retirement system the sum of the following:

(i) Interest on the amount refunded to the former member that is attributable to the year of service from the last day of the year for which the service credit was earned or in which payment was made for military service credit to the date the refund was made;

(ii) An amount equal to the lesser of the employer's contributions to the public employees retirement system or the amount that would have been contributed by the employer for the service had the person been a member of the Cincinnati retirement system at the time the credit was earned, with interest on that amount from the last day of the year for which the service credit was earned to the date of the transfer.

(B) The amount transferred under division (A)(4)(b) of this section shall not include any amount of the employer's contributions or interest on employee contributions the person received under section 145.40 of the Revised Code.

(C) On receipt of notice from the Cincinnati retirement system that the Cincinnati retirement system has received payment from a person described in division (A)(4)(b) of this section, the public employees retirement system shall transfer the amount described in that division.

(D) Interest charged under this section shall be calculated separately for each year of service credit. Unless otherwise specified in this section, it shall be calculated at the lesser of the actuarial assumption rate for that year of the public employees retirement system or the Cincinnati retirement system. The interest shall be compounded annually.

(E) The transfer of any amount under this section cancels an equivalent amount of service credit.

(F) At the request of the Cincinnati retirement system, the public employees retirement system shall certify to the Cincinnati retirement system a copy of the records of the service and contributions of a member or former member of the public employees retirement system who elects to receive service credit under the Cincinnati retirement system.

*(ENACTED: HB 535, Eff. 4/1/01; SB 343, Eff. 1/7/13; HB 520, Eff. 4/6/17)*

### **Sec. 145.2913 Police and Fire and Highway Patrol transferred service credit**

(A) As used in this section, "transferred service credit" means service credit purchased or obtained under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code prior to the date a member commenced the employment covered by the public employees retirement system for which the member is currently contributing to the system.

(B) A member of the public employees retirement system who has contributions on deposit with, but is no longer contributing to, a uniform retirement system shall, in computing years of service, be given full credit for transferred service credit if a transfer to the public employees retirement system is made under this division. At the request of a member a transfer shall be made if all of the following conditions are met:

(1) The member is eligible, or with the credit will be eligible, for a retirement or disability benefit.

(2) The member agrees to retire or accept a disability benefit not later than ninety days after receiving notice from the public employees retirement system that the credit has been obtained.

(3) For each year of service, the uniform system transfers to the public employees retirement the sum of the following:

(a) An amount equal to the amounts transferred to the uniform system under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code;

(b) Interest, determined as provided in division (E) of this section, on the amount specified in division (B)(3)(a) of this section for the period from the last day of the year in which the transfer under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code was made to the date a transfer is made under this section.

(C) A member of the public employees retirement system with at least eighteen months of contributing service credit with the public employees retirement system who has received a refund of contributions to a uniform retirement system shall, in computing years of service, be given full credit for transferred service credit if all of the following conditions are met:

(1) The member is eligible, or with the credit will be eligible, for a retirement or disability benefit.

(2) The member agrees to retire or accept a disability benefit not later than ninety days after receiving notice from the public employees retirement system that the credit has been obtained.

(3) For each year of service, the public employees retirement system receives the sum of the following:

(a) An amount, which shall be paid by the member, equal to the amount refunded by the uniform system to the member for that year for transferred service credit, with interest on that amount from that date of the refund to the date a payment is made under this section;

(b) Interest, which shall be transferred by the uniform system, on the amount refunded to the member for the period from the last day of the year in which the transfer under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code was made to the date the refund was made;

(c) If the uniform system retained any portion of the amount transferred under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code, an amount, which shall be transferred by the uniform system, equal to the amount retained, with interest on that amount for the period from the last day of the year in which the transfer under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code was made to the date the transfer is made under this section.

On receipt of payment from the member, the public employees retirement system shall notify the uniform system, which, on receipt of the notice, shall make the transfer required by this division. Interest shall be determined as provided in division (E) of this section.

(D) Service credit purchased or obtained under this section shall be considered the equivalent of Ohio service credit. A member may choose to purchase only part of the credit the member is eligible to purchase under division (C) of this section, subject to rules adopted by the

public employees retirement board. A member is ineligible to purchase or obtain service credit under this section for service to be used in the calculation of any retirement benefit currently being paid or payable to the member in the future under any other retirement program or for service credit that may be purchased or obtained under section 145.295 of the Revised Code.

(E) Interest charged under this section shall be calculated separately for each year of service credit at the lesser of the actuarial assumption rate for that year of the public employees retirement system or of the uniform retirement system to which the credit was transferred under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code. The interest shall be compounded annually.

(F) Any amounts transferred or paid under divisions (B) and (C) of this section that are attributable to contributions made by the member or to amounts paid to purchase service credit shall be credited to the employees' savings fund created under section 145.23 of the Revised Code. Any remaining amounts shall be credited to one or more of the funds created under that section as determined by the board.

(G) At the request of the public employees retirement system, the uniform retirement system shall certify to the public employees retirement system a copy of the records of the service and contributions of a public employees retirement system member who seeks service credit under this section. The uniform retirement system shall specify the portions of the amounts transferred that are attributable to employee contributions, employer contributions, and interest.

(H) If a member of the public employees retirement system who is not a current contributor elects to receive service credit under section 742.214 or 5505.41 of the Revised Code for transferred service credit, as defined in those sections, the system shall transfer to the uniform retirement system, as applicable, the amount specified in division (B) or (C) of section 742.214 or division (B) or (C) of section 5505.41 of the Revised Code.

(I) The public employees retirement system shall withdraw the credit and refund all amounts paid or transferred under this section if either of the following occurs:

(1) The member fails to retire or accept a disability benefit not later than ninety days after receiving notice from the public employees retirement system that credit has been obtained under this section.

(2) The member's application for a disability benefit is denied.

(J) The board may adopt rules to implement this section.

*(ENACTED: SB 119, Eff. 2/20/02; SB 343, Eff. 1/7/13)*

#### **Sec. 145.2914 Non-law enforcement service credit as law enforcement service credit**

(A) The public employees retirement board may adopt rules in accordance with section 145.09 of the Revised Code to establish a program under which service credit earned under section 145.33 of the Revised Code or division (A)(2), (B)(1)(b), or (C)(2) of section 145.332 of the Revised Code is treated as service credit earned under division (A)(1), (B)(1)(a), or (C)(1) of section 145.332 of the Revised Code if the member elects to do one of the following:

(1) Have the amount of service credit earned under section 145.33 of the Revised Code or division (A)(2), (B)(1)(b), or (C)(2) of section 145.332 of the Revised Code reduced so there is no additional liability to the public employees retirement system;

(2) Make payment to the public employees retirement system in accordance with the rules. The number of years of service credit earned under section 145.33 of the Revised Code or division (A)(2), (B)(1)(b), or (C)(2) of section 145.332 of the Revised Code that may be treated as service

credit earned under division (A)(1), (B)(1)(a), or (C)(1) of section 145.332 of the Revised Code shall not exceed five.

(B) If the board adopts rules under division (A) of this section, all of the following apply to payments made under division (A)(2) of this section:

(1) For each year or portion of a year of service credit earned under section 145.33 of the Revised Code or division (A)(2), (B)(1)(b), or (C)(2) of section 145.332 of the Revised Code that is to be treated as service credit earned under division (A)(1), (B)(1)(a), or (C)(1) of section 145.332 of the Revised Code, the member shall pay to the retirement system an amount specified by the retirement board that is not less than one hundred per cent of the additional liability resulting from the purchase of that year, or portion of a year, of service.

(2) Any amounts paid under this section shall be credited to the employees' savings fund.

(3) The amounts paid by the member under this section are subject to the limits established by division (n) of section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 415(n), as amended.

(C) A member may make the election authorized by this section if the member is eligible to retire under this chapter or will become eligible to retire as a result of the election. The member shall agree to retire not later than ninety days after making the election under division (A)(1) of this section or receiving notice of the additional liability specified under division (B)(1) of this section. If the member makes the election under division (A)(2) of this section, payment shall be made in full for any credit earned under section 145.33 of the Revised Code or division (A)(2), (B)(1)(b), or (C)(2) of section 145.332 of the Revised Code that is to be treated as service credit earned under division (A)(1), (B)(1)(a), or (C)(1) of section 145.332 of the Revised Code, but the member may choose to make payment for only part of the credit for which the member is eligible.

(D) If the member does not retire not later than ninety days after making the election under division (A)(1) of this section or the payment under division (A)(2) of this section, the system shall refund any payment and shall not treat the credit as service credit earned under division (A)(1), (B)(1)(a), or (C)(1) of section 145.332 of the Revised Code.

(E) The board's rules may deal with any other matter necessary to implement this section.  
*(ENACTED: SB 267, Eff. 3/24/09; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

### **Sec. 145.2915 Credit for period receiving workers' compensation benefit**

(A) As used in this section, "workers' compensation" means benefits paid under chapter 4121. or 4123. of the Revised Code.

(B) A member of the public employees retirement system may purchase service credit under this section for any period during which the member was out of service with a public employer and receiving workers' compensation if the member returns to employment covered by this chapter.

(C) For credit purchased under this section:

(1) If the member is employed by one public employer, for each year of credit, the member shall pay to the system for credit to the employees' savings fund an amount equal to the employee contribution required under section 145.47 of the Revised Code that would have been paid had the member not been out of service based on the salary of the member before the member was out of service. To this amount shall be added an amount equal to compound interest at a rate established by the public employees retirement board from the first date the member was out of service to the final date of payment.

(2) If the member is employed by more than one public employer, the member is eligible



to purchase credit under this section and make payments under division (C)(1) of this section only for the position for which the member received workers' compensation. For each year of credit, the member shall pay to the system for credit to the employees' savings fund an amount equal to the employee contribution required under section 145.47 of the Revised Code that would have been paid had the member not been out of service based on the salary of the member earned for the position for which the member received workers' compensation before the member was out of service. To this amount shall be added an amount equal to compound interest at a rate established by the public employees retirement board from the first date the member was out of service to the final date of payment.

(D) The member may choose to purchase only part of such credit in any one payment, subject to board rules.

(E) If a member makes a payment under division (C) of this section, the employer to which workers' compensation benefits are attributed shall pay to the system for credit to the employers' accumulation fund an amount equal to the employer contribution required under section 145.48 or 145.49 of the Revised Code corresponding to that payment that would have been paid had the member not been out of service based on the salary of the member before the member was out of service.

Compound interest at a rate established by the board from the later of the member's date of re-employment or January 7, 2013, to the date of payment shall be added to this amount if the employer pays all or any portion of the amount after the end of the earlier of the following:

(1) A period of five years;

(2) A period that is three times the period during which the member was out of service and receiving workers' compensation.

The period described in division (E)(1) or (2) of this section begins with the later of the member's date of re-employment or January 7, 2013.

(F) The number of years purchased under this section shall not exceed three. Credit purchased under this section may be combined pursuant to section 145.37 of the Revised Code with credit purchased or obtained under Chapter 3307. or 3309. of the Revised Code for periods the member was out of service and receiving workers' compensation, but not more than a total of three years of credit may be used in determining retirement eligibility or calculating benefits under section 145.37 of the Revised Code.

*(ENACTED: SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

### **Sec. 145.2916 Denied salary for elected officials**

(A) When a member has been elected or appointed to an office, the term of which is two or more years, for which an annual salary is established, and in the event that the salary of the office is increased and the member is denied the additional salary by reason of any constitutional provision prohibiting an increase in salary during a term of office, the member may elect to have the amount of the member's and employer's contributions calculated upon the basis of the increased salary for the office.

At the member's request and on notification to the public employees retirement system, the public employees retirement board shall compute the total additional amount the member and employer would have contributed, or the amount by which each of the member's and employer's contributions would have increased, had the member received the increased salary for the office the member holds. If the member elects to have the combined amount by which the member's and employer's contribution would have increased withheld from the member's salary, the member

shall notify the employer, and the employer shall make the withholding commensurate with the period of denied salary and transmit it to the retirement system. The payment of the amount by which the employer's contribution would have increased shall be credited to the employers' accumulation fund.

If the payment of the increased contributions is made in accordance with this section, the increased annual salary as provided by law for the office for the period for which the member paid increased contributions thereon shall be used in determining the member's earnable salary for the purpose of computing the member's final average salary.

(B) If a member dies or withdraws from service, the payment under division (A) of this section shall be considered as accumulated contributions of the member.

*(ENACTED: SB 343, Eff. 1/7/13)*

### **Sec. 145.30 Military service credit**

(A)(1) As used in this section and section 145.301 of the Revised Code:

(a) "Armed forces" of the United States includes the following:

(i) Army, navy, air force, marine corps, space force, coast guard, auxiliary corps as established by congress, red cross nurse serving with the army, navy, air force, or hospital service of the United States, army nurse corps, navy nurse corps, full-time service with the American red cross in a combat zone, and such other service as may be designated by congress as included therein;

(ii) Personnel of the Ohio national guard and the reserve components of any of the armed forces enumerated in division (A)(1) of this section who are called to active duty pursuant to an executive order issued by the president of the United States or an act of congress;

(iii) Persons on whom United States merchant marine veteran status has been conferred for service aboard oceangoing merchant ships in service to the United States during World War II.

(b) "State retirement system" means any of the following: the Ohio police and fire pension fund, public employees retirement system, school employees retirement system, state highway patrol retirement system, or the state teachers retirement system.

(2) This section applies only to service in the armed forces that occurred prior to October 13, 1994, the date on which the "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C. 101, became a public law.

(B) Except as otherwise provided in this division, upon reemployment in the public service and completion of one year of service credit as covered by a state retirement system or the Cincinnati retirement system, within two years after service in the armed forces that is terminated in a manner other than as described in section 4304 of Title 38 of the United States Code, "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C.A. 4304, and presentation of documentation of the service and subject to rules adopted by the retirement board, any member of the public employees retirement system who was a member with not less than one year of payroll deductions before entering active duty with the armed forces and maintained membership in the public employees retirement system as provided by section 145.41 of the Revised Code, and who was or is out of active service as a public employee by reason of having become a member of the armed forces of the United States on active duty or service shall have such service, not in excess of ten years, included as prior military service. Except as otherwise provided in this division, service in the armed forces as established by documentation of the service, not in excess of ten years, shall also be included as prior military service for a person who was a public employee and who has acquired service credit for five years prior to, and within

the one year preceding, the date of entering on active duty in the armed forces of the United States if such person was reemployed in the public service within one year after service in the armed forces that is terminated in a manner other than as described in section 4304 of Title 38 of the United States Code, "Uniformed Services Employment and Reemployment Rights Act of 1994," 38 U.S.C.A. 4304, and established total service credit as defined in section 145.01 of the Revised Code of twenty years exclusive of credit for service in the uniformed services, as defined in section 145.302 of the Revised Code. This division shall not serve to cancel any military service credit earned or granted prior to November 1, 1965.

If the public employees retirement board adopts a rule requiring payment for service credit granted under this section, the credit shall be granted only if payment is made. The rule shall not require payment of more than the additional liability to the retirement system resulting from granting the credit. A member may choose to purchase only part of the credit in any one payment.

(C) A member of the public employees retirement system is ineligible to receive service credit under this section for any year of military service credit used to obtain service credit pursuant to section 145.301 or 145.302 of the Revised Code. At the time such credit is requested, the member shall certify on a form supplied by the retirement board that the member does and will conform to this requirement. This division does not cancel any military service credit earned prior to March 15, 1979.

*(ENACTED: HB 551, Eff. 10/26/53; SB 160, Eff. 8/1/59; HB 957, Eff. 10/27/61; HB 590, Eff. 10/14/63; HB 225, Eff. 11/13/65; HB 430, Eff. 11/20/73; HB 754, Eff. 3/15/79; SB 3, Eff. 4/17/91; SB 346, Eff. 7/29/92; HB 638, Eff. 4/16/93; HB 226, Eff. 8/25/95; HB 450, Eff. 10/29/96; SB 130, Eff. 9/18/97; HB 673, Eff. 12/8/98; HB 222, Eff. 11/2/99; SB 343, Eff. 1/7/13; SB 154, Eff. 3/20/25)*

### **Sec. 145.301 Purchase of service credit by veteran**

(A) As used in this section:

(1) "Prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the armed forces of the United States, reserves, or Ohio national guard who was captured, separated, and incarcerated by an enemy of the United States.

(2) "Reserves" means personnel of the reserve components of any of the armed forces of the United States enumerated in division (A)(1)(a) of section 145.30 of the Revised Code.

(B)(1) A member may purchase service credit that shall be considered as the equivalent of Ohio service for each year or portion of a year of service incurred by reason of having been on active duty as a member of the armed forces of the United States, as defined in section 145.30 of the Revised Code.

(2) On presentation of documentation of the service and subject to public employees retirement board rules, a member may purchase service credit for each year or portion of a year of service incurred by reason of having been on active duty as a member of the reserves or the Ohio national guard for which the member is not eligible to purchase credit under division (B)(1) of this section. Any credit purchased under this section shall be considered as the equivalent of Ohio service credit. For purposes of division (B)(2) of this section, active duty in the reserves or the Ohio national guard includes assembly for drill and instruction; training at encampments, maneuvers, outdoor target practice, or other exercises; and any training or duty in this state ordered by the governor.

(3) Credit shall not be granted for any period of duty during which the member was contributing to the retirement system.

The credit may be purchased at any time prior to receipt of a retirement allowance. The number of years purchased shall not exceed five. The member may choose to purchase only part

of such credit in any one payment, subject to public employees retirement board rules.

(C) A member may purchase service credit that shall be considered as the equivalent of Ohio service for each year of service such member was a prisoner of war. The number of years purchased under this division shall not exceed five. Service credit may be purchased under this division for the same years of service used to purchase service credit under division (B) of this section. The member may choose to purchase only part of such credit in any one payment, subject to board rules.

(D) The total number of years purchased under this section shall not exceed the member's total accumulated number of years of Ohio service.

(E)(1) For each year or portion of a year of service purchased under division (B)(1) or (C) of this section, the member shall pay to the public employees retirement system for credit to the member's accumulated account an amount specified by the retirement board that shall be not less than fifty per cent of the additional liability resulting from the purchase of that year or portion of a year of service as determined by an actuary employed by the board.

(2) For each year or portion of a year of service credit purchased under division (B)(2) of this section, the member shall pay to the public employees retirement system for credit to the member's accumulated account an amount equal to one hundred per cent of the additional liability resulting from the purchase of that year or portion of a year of service as determined by an actuary employed by the board.

The retirement system shall calculate the number of years or portion of a year of credit the member is eligible to purchase under division (B)(2) of this section by dividing the number of days actually served by three hundred sixty-five.

(F) A member is ineligible to purchase service credit under this section for any year of military service that was used to obtain service credit pursuant to section 145.30 or 145.302 of the Revised Code.

At the time the credit is purchased, the member shall certify on a form furnished by the retirement board that the member does and will conform to this requirement.

(G) A member who, on March 17, 2000, is purchasing service credit under this section by making installment payments to the system or by a payroll deduction plan authorized under section 145.294 of the Revised Code may elect, on a form provided by the board, to have a portion of the cost of the service credit recalculated under division (E) of this section as amended by House Bill 186 of the 123<sup>rd</sup> general assembly. The recalculation shall apply only to the amount still owed by the member as of the date the election is filed with the board.

For each member who makes an election, the board shall do all of the following:

(1) Determine the amount of the total cost of the service credit still owed by the member as of the date the election is filed with the board and the number of years or portion of a year of service credit attributable to that amount;

(2) Recalculate under division (E) of this section the cost of the service credit described in division (G)(1) of this section;

(3) Notify the member of the recalculated amount.

If the recalculated amount is less than the amount still owed by the member as of the date the election is filed, the recalculated amount shall be the amount owed by the member.

(H) Credit purchased under this section may be combined pursuant to section 145.37 with credit for military service purchased under sections 3307.751 and 3309.021, except that not more than an aggregate total of five years of credit purchased under division (B) of this section, division (A) of section 3307.751, and division (A) of section 3309.021, and not more than an aggregate

total of five years of credit purchased under division (C) of this section, division (B) of section 3307.751, and division (B) of section 3309.021 shall be used in determining retirement eligibility or calculating benefits under section 145.37 of the Revised Code.

*(ENACTED: HB 430, Eff. 11/20/73; HB 1040, Eff. 7/26/74; HB 268, Eff. 8/20/76; HB 1, Eff. 8/26/77; HB 754, Eff. 3/15/79; SB 74, Eff. 2/23/82; HB 502, Eff. 4/24/86; HB 417, Eff. 9/17/86; SB 240, Eff. 7/24/90; HB 382, Eff. 6/30/91; SB 346, Eff. 7/29/92; HB 226, Eff. 8/25/95; HB 450, Eff. 10/29/96; HB 186, Eff. 3/17/00; SB 190, Eff. 7/13/00; HB71, Eff. 3/30/07; SB 343, Eff. 1/7/13)*

## **Sec. 145.302 Purchase of interrupted military service**

(A) As used in this section:

(1) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

(2) "Uniformed services" means the army, navy, air force, marine corps, coast guard, or any reserve components of such services; national guard; the commissioned corps of the United States public health service; service as a red cross nurse with the army, navy, air force, or hospital service of the United States, army nurse corps, navy nurse corps, or serving full-time with the American red cross in a combat zone; and any other category of persons designated by the president in time of war or emergency.

(B) On re-employment of a member with the same public employer that employed the member prior to the member's service in the uniformed services, the member may apply to the public employees retirement system on a form provided by the system to purchase service credit for service in the uniformed service that shall be considered the equivalent of Ohio service credit. On receipt of the application, the retirement system shall request from the public employer that employed the member prior to the military service a certification that the member was employed by the public employer prior to, and returned to employment with the employer within three months of honorable discharge or release from, service in the uniformed services. If the public employer can so certify, it shall do so and shall pay to the retirement system the employer's contribution required by this section. The service credit shall be granted the member if all of the following requirements are met:

(1) The member was a member and maintained membership in the public employees retirement system in accordance with section 145.41 of the Revised Code;

(2) The member was out of active service as a public employee by reason of service in the uniformed services;

(3) The member was honorably discharged or released from service in the uniformed services;

(4) The member pays contributions to the retirement system in accordance with this section.

(C) Credit may be purchased pursuant to this section at any time prior to receipt of a retirement allowance. The member may choose to purchase only part of the credit in any one payment, subject to board rules. The retirement system shall grant service credit under this section, not to exceed five years, for each period of service in the uniformed services for which contributions have been received.

(D) For service purchased under this section, the member and the member's public

employer, subject to board rules, shall pay to the retirement system for credit to the member's accumulated account an amount equal to the contributions that would have been paid pursuant to sections 145.47 and 145.48 of the Revised Code if the member had not been out of active service as a public employee by reason of service in the uniformed services.

If a member pays all or any portion of the member's contributions required by section 145.47 of the Revised Code later than the lesser of five years or a period that is three times the member's period of service in the uniformed service beginning from the later of the member's date of re-employment or the effective date of this section, an amount equal to compound interest at a rate established by the board from the later of the member's date of re-employment or the effective date of this section to the date of payment shall be added to the remaining amount to be paid by the member to purchase service credit under this section.

(E) This section does not cancel any military service credit or service in the uniformed services earned or granted under this chapter prior to the effective date of this section.

(F) If a member purchased service credit under section 145.301 of the Revised Code prior to the effective date of this section, is not receiving a retirement allowance, and would have been eligible to obtain service credit pursuant to this section had it been in effect at the time of purchase, the retirement system shall refund the amounts paid by the member for the purchase if both of the following requirements are met:

(1) The member makes a written request for a refund on a form provided by the retirement system;

(2) The member pays to the retirement system the contributions required by this section.

(G) If the member meets the requirements of division (F) of this section, the public employer shall pay to the retirement system the employer's contributions required by this section.

*(ENACTED: HB 450, Eff. 10/29/96)*

### **Sec. 145.31 Restoration of membership and service credit**

(A)(1) Except as provided in this section, a member or former member of the public employees retirement system with at least eighteen months of contributing service credit in this system, the state teachers retirement system, the school employees retirement system, the Ohio police and fire pension fund, or the state highway patrol retirement system, after the withdrawal of accumulated contributions and cancellation of service credit in this system, may restore such service credit by redepositing the amount withdrawn, with interest on such amount compounded annually at a rate to be determined by the public employees retirement board from the first day of the month of withdrawal to and including the month of redeposit.

(2) The amount redeposited shall be credited as follows:

(a) The amount that equals the amount, if any, included under section 145.401 of the Revised Code in the withdrawal of accumulated contributions under section 145.40 of the Revised Code shall be credited to the employers' accumulation fund.

(b) The remaining amount shall be credited to the member's account in the employees' savings fund.

(3) If the accumulated contributions were withdrawn under section 145.402 of the Revised Code, service credit may be restored only if the member or former member accrued eighteen months of contributing service credit after withdrawal of the accumulated contributions.

(B) The member may choose to purchase only part of the credit available under this section in any one payment, subject to board rules. Except for any amount included under section 145.401 of the Revised Code in the withdrawal of accumulated contributions under section 145.40 of the

Revised Code, the total payment to restore canceled service credit, plus any interest credited thereto, shall be considered as accumulated contributions of the member. If a former member is eligible to buy the service credit as a member of the Ohio police and fire pension fund, state highway patrol retirement system, or the city of Cincinnati retirement system, the former member is ineligible to restore that service credit under this section.

(C) Any employee who has been refunded the employee's accumulated contributions to the public employees retirement system solely by reason of membership in a former firemen's relief and pension fund or a former police relief and pension fund may restore membership in the public employees retirement system by redepositing with the system the amount refunded, with interest on such amount compounded annually at a rate to be determined by the board from the month of refund to and including the month of redeposit. The member may choose to purchase only part of such credit in any one payment, subject to board rules.

(D) In lieu of an amount required by division (A) of this section, the board may by rule require deposit of an amount specified in the rule. The amount shall not exceed the additional liability to the retirement system that results from granting the credit.

*(ENACTED: HB 744, Eff. 6/29/55; HB 957, Eff. 10/27/61; HB 776, Eff. 11/5/65; SB 409, Eff. 11/21/69; HB 268, Eff. 8/20/76; HB 201, Eff. 7/1/85; HB 648, Eff. 9/16/98; HB 222, Eff. 11/2/99; SB 144, Eff. 12/13/00; HB 535, Eff. 4/1/01; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

#### **Sec. 145.311 Restoration of SERS or STRS refunded service credit through PERS**

(A) A member of the public employees retirement system who has at least eighteen months of contributing service credit in the system, the Ohio police and fire pension fund, school employees retirement system, state teachers retirement system, or state highway patrol retirement system, and is a former member of and no longer contributing to the school employees retirement system or state teachers retirement system may restore service credit under section 3307.71 or 3309.26 of the Revised Code by making payments pursuant to this section through a payroll deduction plan established under section 145.294 of the Revised Code. A member seeking to restore this service credit shall notify the public employees retirement system on a form approved by the public employees retirement board. After receiving the notice, the public employees retirement system shall request that the former retirement system calculate under section 3307.712 or 3309.262 of the Revised Code the cost to the member to restore service credit for each year or portion of a year of service for which the member seeks to restore the service credit. The amount the former retirement system certifies as the cost of restoring the service credit, plus interest described in division (B) of this section, is the cost to the member of restoring the service credit. On receiving the certification from the former retirement system, the public employees retirement system shall notify the member of the cost.

(B) For each year or portion of a year of service credit restored under section 3307.71 or 3309.26 of the Revised Code, a member shall pay to the public employees retirement system the amount certified by the former retirement system plus interest at a rate specified by the former retirement system under section 3307.712 or 3309.262 of the Revised Code for the period during which deductions are made under section 145.294 of the Revised Code.

(C) The public employees retirement board shall at least annually transmit to the former retirement system notice and any payments made to restore service credit under section 3307.71 or 3309.26 of the Revised Code. The former retirement system shall restore the service credit for the year or portion of a year for which the payment was made.

(D) The board shall adopt rules to implement this section.

*(ENACTED: HB 15, Eff. 11/3/99; SB 190, Eff. 7/13/00; SB 42, Eff. 3/23/15)*

### **Sec. 145.312 Restoration of PERS service credit through SERS or STRS**

After receiving a request from the state teachers retirement system under division (A) of section 3307.711 or the school employees retirement system under division (A) of section 3309.261 of the Revised Code, the public employees retirement system shall do both of the following:

(A) Calculate and certify to the requesting retirement system the cost to a former member to restore service credit under section 145.31 of the Revised Code for each year or portion of a year for which the former member seeks to restore service credit under that section.

(B) Inform the requesting retirement system of the rate of interest charged to a member under a payroll deduction plan authorized under section 145.294 of the Revised Code.

*(ENACTED: HB 15, Eff. 11/3/99; SB 190, Eff. 7/13/00)*

### **Sec. 145.32 Voluntary and compulsory retirement; designation of beneficiary**

Eligibility of members of the public employees retirement system, including for members described in section 145.196 of the Revised Code and other than those subject to section 145.332 of the Revised Code, for age and service retirement shall be determined under this section.

(A) A member is eligible for age and service retirement under this division if, not later than five years after January 7, 2013, the member meets one of the following requirements:

- (1) Has five or more years of total service credit and has attained age sixty;
- (2) Has twenty-five or more years of total service credit and has attained age fifty-five;
- (3) Has thirty or more years of total service credit at any age.

(B)(1) A member who would be eligible to retire not later than ten years after January 7, 2013, if the requirements of this section as they existed immediately prior to January 7, 2013, were still in effect is eligible to retire under this division if the member meets one of the following requirements:

- (a) Has five or more years of total service credit and has attained age sixty;
- (b) Has twenty-five or more years of total service credit and has attained age fifty-five;
- (c) Has thirty-one or more years of total service credit and has attained age fifty-two;
- (d) Has thirty-two or more years of total service credit at any age.

(2) A member who on January 7, 2013, has twenty or more years of total service credit is eligible for age and service retirement under this division on meeting one of the requirements of division (B)(1) of this section, regardless of when the member meets the requirement unless, between January 7, 2013, and the date the member meets the requirement, the member receives a refund of accumulated contributions under section 145.40 of the Revised Code.

(C) A member who is not eligible for age and service retirement under division (A) or (B) of this section, or who became a member on or after January 7, 2013, is eligible for age and service retirement under this division if the member meets one of the following requirements:

- (1) Has five years or more of total service credit and has attained age sixty-two;
- (2) Has twenty-five years or more of total service credit and has attained age fifty-seven;
- (3) Has thirty-two years or more of total service credit and has attained age fifty-five.



(D) Service credit purchased or obtained under this chapter shall be used in determining whether a member has the number of years of total service credit required under division (A) or (B) of this section only if the member was a member on January 7, 2013, or obtains credit under section 145.483 of the Revised Code that would have made the member a member on that date and one of the following applies:

(1) Except in the case of service credit that has been or will be purchased or obtained under section 145.295 or 145.37 of the Revised Code or is for service covered by the Cincinnati retirement system:

(a) For division (A) of this section, the service credit purchase is completed or the service credit is obtained not later than five years after January 7, 2013.

(b) For division (B) of this section, the service credit purchase is completed or the service credit is obtained not later than ten years January 7, 2013.

(2) In the case of service credit that has been or will be purchased or obtained under section 145.295 or 145.37 of the Revised Code or is for service covered by the Cincinnati retirement system:

(a) For division (A) of this section, the service for which the credit has been or will be purchased or obtained occurs not later than five years after January 7, 2013.

(b) For division (B) of this section, the service for which the credit has been or will be purchased or obtained occurs not later than ten years after January 7, 2013.

(E) A member seeking to retire shall file with the board an application for retirement. Service retirement shall be effective on the first day of the month immediately following the later of:

(1) The last day for which compensation was paid;

(2) The attainment of minimum age or service credit eligibility provided under this section;

(3) Ninety days prior to receipt by the board of the member's completed application for retirement.

An employer may, except as otherwise provided in the "Age Discrimination in Employment Act of 1967," as amended, 81 Stat. 602, 29 U.S.C. 621 to 634, as of the thirtieth day of June of any year, terminate the employment of any member who has attained the age of seventy years. A member may at the time of retirement by written designation duly executed and filed with the public employees retirement board designate a beneficiary to receive any installment which may remain unpaid at the time of death. Except as provided in section 145.46 of the Revised Code, after the date of retirement such nomination shall not be changed if the member elects to receive the member's retirement allowance computed as provided in section 145.46 of the Revised Code as a joint-life plan or multiple-life plan.

*(ENACTED: HB 324, Eff. 10/2/53; HB 744, Eff. 6/29/55; SB 160, Eff. 8/1/59; HB 957, Eff. 10/27/61; SB 409, Eff. 11/21/69; HB 430, Eff. 11/20/73; HB 268, Eff. 8/20/76; HB 1, Eff. 8/26/77; HB 178, Eff. 6/24/87; SB 240, Eff. 7/24/90; SB 343, Eff. 1/7/13; HB 33, Eff. 10/3/23)*

### **Sec. 145.323 Cost-of-living increase**

(A) Except as otherwise provided in this section, the public employees retirement board shall annually increase each allowance, pension, or benefit payable under this chapter.

Until the last day of December of the fifth full calendar year after the effective date of this amendment, the increase shall be three per cent. For each succeeding calendar year, the increase shall be as follows:

(1) For each allowance, pension, or benefit granted not later than the effective date of this

amendment, three per cent;

(2) For each allowance, pension, or benefit granted on or after the effective date of this amendment, the percentage increase in the consumer price index, not exceeding three per cent, as determined by the United States bureau of labor statistics (U.S. city average for urban wage earners and clerical workers: "all items 1982-84=100") for the twelve-month period ending on the thirtieth day of June of the immediately preceding calendar year. If the consumer price index for that period did not increase, no increase shall be made under division (A)(2) of this section.

No allowance, pension, or benefit shall exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 415, as amended.

The first increase is payable to all persons becoming eligible after June 30, 1971, upon such persons receiving an allowance for twelve months. The increased amount is payable for the ensuing twelve-month period or until the next increase is granted under this section, whichever is later. Subsequent increases shall be determined from the date of the first increase paid to the former member in the case of an allowance being paid a beneficiary under an option, or from the date of the first increase to the survivor first receiving an allowance or benefit in the case of an allowance or benefit being paid to the subsequent survivors of the former member.

The date of the first increase under this section becomes the anniversary date for any future increases.

The allowance or benefit used in the first calculation of an increase under this section shall remain as the base for all future increases, unless a new base is established.

(B) If payment of a portion of a benefit is made to an alternate payee under section 145.571 of the Revised Code, increases under this section 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 benefit is made to one or more beneficiaries under a multiple-life plan under section 145.46 of the Revised Code, each increase under this section 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.

(C) The board shall make all rules necessary to carry out this section.

*(ENACTED: SB 448, Eff. 7/14/70; HB 268, Eff. 8/20/76; HB 1, Eff. 8/26/77; HB 204, Eff. 7/30/79; SB 240, Eff. 7/24/90; HB 365, Eff. 9/27/96; HB 157, Eff. 2/1/02; HB 98, Eff. 10/27/06; SB 343, Eff. 1/7/13)*

### **Sec. 145.33 Benefit upon age and service retirement**

(A)(1) Except as provided in sections 145.332 and 145.335 of the Revised Code, when a member retires on age and service retirement, the member's total annual single lifetime allowance shall be an amount adjusted in accordance with division (A)(2) or (B) of this section and determined by multiplying the member's total service credit by the following:

(a) If the member is eligible for age and service retirement under division (A) or (B) of section 145.32 of the Revised Code, two and two-tenths per cent of the member's final average salary for each of the first thirty years of service plus two and one-half per cent of the member's final average salary for each subsequent year of service;

(b) If the member is eligible for age and service retirement under division (C) of section 145.32 of the Revised Code, two and two-tenths per cent of the member's final average salary for each of the first thirty-five years of service plus two and one-half per cent of the member's final average salary for each subsequent year of service.

(2)(a) For a member eligible to retire under division (A) of section 145.32 of the Revised

Code, the member's allowance under division (A)(1) of this section shall be adjusted by the factors of attained age or years of service to provide the greater amount as determined by the following schedule:

| <b>Attained Birthday</b> | <b>or</b> | <b>Years of Total Service Credit</b> | <b>Percentage of Base Amount</b> |
|--------------------------|-----------|--------------------------------------|----------------------------------|
| 58                       |           | 25                                   | 75                               |
| 59                       |           | 26                                   | 80                               |
| 60                       |           | 27                                   | 85                               |
| 61                       |           |                                      | 88                               |
|                          |           | 28                                   | 90                               |
| 62                       |           |                                      | 91                               |
| 63                       |           |                                      | 94                               |
|                          |           | 29                                   | 95                               |
| 64                       |           |                                      | 97                               |
| 65                       |           | 30 or more                           | 100                              |

(b) For a member eligible to retire under division (B) or (C) of section 145.32 of the Revised Code, the member's allowance under division (A)(1) of this section shall be reduced by a percentage determined by the board's actuary based on the number of years the commencement of the allowance precedes the member's eligibility for an unreduced allowance.

(c) The actuary may use an actuarially based average percentage reduction for purposes of division (A)(2)(b) of this section.

(3) For a member eligible to retire under division (A) or (B) of section 145.32 of the Revised Code, the right to a benefit shall vest in accordance with the following schedule, based on the member's attained age by September 1, 1976:

| <b>Attained Birthday</b> | <b>Percentage of Base Amount</b> |
|--------------------------|----------------------------------|
| 66                       | 102                              |
| 67                       | 104                              |
| 68                       | 106                              |
| 69                       | 108                              |
| 70 or more               | 110                              |

(B) The total annual single lifetime allowance that a member shall receive under of this section shall not exceed the lesser of the following:

- (1) Any limit established under section 145.333 of the Revised Code;
- (2) One hundred per cent of the member's final average salary;
- (3) The limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(C) Retirement allowances determined under this section shall be paid as provided in

section 145.46 of the Revised Code.

If the monthly amount of a member's annual single lifetime allowance that is first payable on or after March 22, 2019, under division (A) of this section would be less than fifty dollars, instead of a monthly payment the retirement system shall pay the greater of the following in a single payment:

(1) An amount determined under section 145.40 of the Revised Code as a refund of accumulated contributions;

(2) An amount equal to the actuarial present value of the allowance as determined by the retirement system.

*(ENACTED: HB 551, Eff. 10/26/53; HB 744, Eff. 6/29/55; SB 160, Eff. 8/1/59; HB 957, Eff. 10/27/61; HB 590, Eff. 10/14/63; HB 225, Eff. 11/13/65; HB 959, Eff. 6/10/68; HB 100, Eff. 12/31/71; HB 430, Eff. 11/20/73; HB 1312, Eff. 3/4/75; HB 620, Eff. 5/29/75; HB 268, Eff. 8/20/76; HB 754, Eff. 3/15/79; HB 509, Eff. 12/27/79; HB 548, Eff. 10/8/82; HB 232, Eff. 2/16/84; SB 243, Eff. 9/26/84; HB 502, Eff. 4/24/86; HB 552, Eff. 12/15/88; HB 760, Eff. 1/1/89; SB 240, Eff. 7/24/90; HB 382, Eff. 6/30/91; SB 144, Eff. 8/8/91; SB 124, Eff. 4/16/93; SB 182, Eff. 10/20/94; HB 450, Eff. 10/29/96; HB 379, Eff. 11/6/96; HB 648, Eff. 9/16/98; SB 187, Eff. 3/18/99; HB 163, Eff. 7/1/99; HB 628, Eff. 9/21/00; HB 416, Eff. 1/1/01; HB 535, Eff. 4/1/01; HB 94, Eff. 9/5/01; HB 158, Eff. 2/1/02; HB 675, Eff. 3/14/03; HB 66, Eff. 9/29/05; SB267, Eff. 3/24/09; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15; HB 572, Eff. 3/22/19; HB 33, Eff. 10/3/23)*

### **Sec. 145.331 Conversion to age and service retirement**

(A) A recipient of a disability allowance under section 145.361 of the Revised Code who is subject to division (C)(3) of that section may make application for age and service retirement under this section. Retirement shall be effective on the first day of the first month following the last day for which the disability allowance is paid.

(B) The annual allowance payable under this section shall consist of the sum of the amounts determined under divisions (B)(1) and (2) of this section:

(1) The greater of the following:

(a) An allowance calculated as provided in section 145.33, 145.332, or 145.335 of the Revised Code, excluding any period during which the applicant received a disability benefit under section 145.361 of the Revised Code;

(b) An allowance calculated by multiplying the applicant's total service credit, including service credit for the last continuous period during which the applicant received a disability benefit under section 145.361 of the Revised Code, by two and two-tenths per cent of the applicant's final average salary, except that the allowance shall not exceed forty-five per cent of the applicant's final average salary.

(2) An amount equal to the additional allowance the recipient would receive under section 145.323 of the Revised Code, plus any other additional amount the recipient would receive under this chapter, had the recipient retired under section 145.33, 145.332, or 145.335 of the Revised Code effective on the effective date of the recipient's most recent continuous period of receipt of a disability benefit under section 145.361 of the Revised Code.

(C) The allowance calculated under division (B) of this section, exclusive of any amount added under division (B)(2) of this section based on section 145.323 of the Revised Code, shall be the base for all future additional allowances under section 145.323 of the Revised Code.

The anniversary date for future additional allowances under section 145.323 of the Revised Code shall be the effective date of the recipient's most recent continuous period of receipt of a disability benefit under section 145.361 of the Revised Code.

(D) The retirement allowance determined under this section shall be paid as provided in section 145.46 of the Revised Code.

**Sec. 145.332 Age and service retirement for law enforcement and public safety members**

Eligibility of members of the public employees retirement system, other than those subject to section 145.196 or 145.32 of the Revised Code, for age and service retirement shall be determined under this section.

(A) A member of the public employees retirement system is eligible for age and service retirement under this division if, not later than five years after January 7, 2013, the member meets one of the following requirements:

(1) Has attained age forty-eight and has at least twenty-five years of total service credit as a PERS law enforcement officer;

(2) Has attained age fifty-two and has at least twenty-five years of total service credit as a PERS public safety officer or has service as a PERS public safety officer and service as a PERS law enforcement officer that when combined equal at least twenty-five years of total service credit;

(3) Has attained age sixty-two and has at least fifteen years of total service credit as a PERS law enforcement officer or PERS public safety officer.

(B)(1) A member who would be eligible to retire not later than ten years after January 7, 2013 if the requirements of section 145.33 of the Revised Code as they existed immediately prior to January 7, 2013 were still in effect is eligible to retire under this division if the member meets one of the following requirements:

(a) Has attained age fifty and has at least twenty-five years of total service credit as a PERS law enforcement officer;

(b) Has attained age fifty-four and has at least twenty-five years of total service credit as a PERS public safety officer or has service as a PERS public safety officer and service as a PERS law enforcement officer that when combined equal at least twenty-five years of total service credit;

(c) Has attained age sixty-four and has at least fifteen years of total service credit as a PERS law enforcement officer or PERS public safety officer.

(2) A member who on January 7, 2013 has twenty or more years of total service credit is eligible for age and service retirement under this division on meeting one of the requirements of division (B)(1) of this section, regardless of when the member meets the requirement unless, between January 7, 2013 and the date the member meets the requirement, the member receives a refund of accumulated contributions under section 145.40 of the Revised Code.

(C) A member who is not eligible for age and service retirement under division (A) or (B) of this section is eligible under this division if the member meets one of the following requirements:

(1) Has attained age fifty-two and has at least twenty-five years of total service credit as a PERS law enforcement officer;

(2) Has attained age fifty-six and has at least twenty-five years of total service credit as a PERS public safety officer or has service as a PERS public safety officer and service as a PERS law enforcement officer that when combined equal at least twenty-five years of total service credit;

(3) Has attained age sixty-four and has at least fifteen years of total service credit as a PERS law enforcement officer or PERS public safety officer.

(D) Service credit purchased or obtained under this chapter shall be used in determining whether a member has the number of years of total service credit required under division (A) or (B) of this section only if the member was a member on January 7, 2013, or obtains credit under section 145.483 of the Revised Code that would have made the member a member on that date

and one of the following applies:

(1) Except in the case of service credit that has been or will be purchased or obtained under section 145.295 or 145.37 of the Revised Code or is for service covered by the Cincinnati retirement system:

(a) For division (A) of this section, the service credit purchase is completed or the service credit is obtained not later than five years after January 7, 2013;

(b) For division (B) of this section, the service credit purchase is completed or the service credit is obtained not later than ten years after January 7, 2013.

(2) In the case of service credit that has been or will be purchased or obtained under section 145.295 or 145.37 of the Revised Code or is for service covered by the Cincinnati retirement system:

(a) For division (A) of this section, the service for which the credit has been or will be purchased or obtained occurs not later than five years after January 7, 2013;

(b) For division (B) of this section, the service for which the credit has been or will be purchased or obtained occurs not later than ten years after January 7, 2013.

(E)(1) A member with at least twenty-five years of total service credit who would be eligible to retire under division (B)(1)(a) of this section had the member attained age fifty and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after attaining age forty-eight, but before attaining age fifty, may elect to receive a reduced benefit. The benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.

(2) A member with at least twenty-five years of total service credit who would be eligible to retire under division (C)(1) of this section had the member attained age fifty-two and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after attaining age forty-eight, but before attaining age fifty-two, may elect to receive a reduced benefit. The benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.

(3) A member with at least twenty-five years of total service credit who would be eligible to retire under division (A)(2) of this section had the member attained age fifty-two and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after attaining age forty-eight, but before attaining age fifty-two, may elect to receive a reduced benefit.

(a) If eligibility to make the election under division (E)(3) of this section occurs not later than five years after January 7, 2013, the benefit shall be calculated in accordance with the following schedule:

| <b>Attained Age</b> | <b>Reduced Benefit</b>  |
|---------------------|---|
| 48                  | 75% of the benefit payable under division (F) of this section |
| 49                  | 80% of the benefit payable under division (F) of this section |
| 50                  | 86% of the benefit payable under division (F) of this section |

(b) If eligibility to make the election occurs after the date determined under division (E)(3)(a) of this section, the benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.

(4) A member with at least twenty-five years of total service credit who would be eligible to retire under division (B)(1)(b) of this section had the member attained age fifty-four and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after attaining age forty-eight, but before attaining age fifty-four, may elect to receive a reduced benefit. The benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.

(5) A member with at least twenty-five years of total service credit who would be eligible to retire under division (C)(2) of this section had the member attained age fifty-six and who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after attaining age fifty-two, but before attaining age fifty-six, may elect to receive a reduced benefit. The benefit shall be the actuarial equivalent of the allowance calculated under division (F) of this section adjusted for age.

(6) If a member elects to receive a reduced benefit under division (E)(1), (2), (3), (4), or (5) of this section, the reduced benefit shall be based on the member's age on the member's most recent birthday. Once a member elects to receive a reduced benefit and has received a payment, the member may not change that election.

(F) A benefit paid under division (A), (B), or (C) of this section shall consist of an annual single lifetime allowance equal to the sum of two and one-half per cent of the member's final average salary multiplied by the first twenty-five years of the member's total service credit plus two and one-tenth per cent of the member's final average salary multiplied by the number of years of the member's total service credit in excess of twenty-five years.

(G) A member with at least fifteen years of total service credit as a PERS law enforcement officer or PERS public safety officer who voluntarily resigns or is discharged for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony may apply for an age and service retirement benefit, which shall consist of an annual single lifetime allowance equal to one and one-half per cent of the member's final average salary multiplied by the number of years of the member's total service credit.

(1) If the member will attain age fifty-two not later than ten years after January 7, 2013, the retirement allowance shall commence on the first day of the calendar month following the month in which application is filed with the board on or after the member's attainment of age fifty-two.

(2) If the member will not attain age fifty-two on or before the date determined under division (G)(1) of this section, the retirement allowance shall commence on the first day of the calendar month following the month in which application is filed with the board on or after the member's attainment of age fifty-six.

(H) A benefit paid under this section shall not exceed the lesser of ninety per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 415, as amended.

(I) A member with service credit as a PERS law enforcement officer or PERS public safety officer and other service credit under this chapter may elect one of the following:

(1) To have all the member's service credit under this chapter, including credit for service as a PERS law enforcement officer or PERS public safety officer, used in calculating a retirement allowance under section 145.33 of the Revised Code if the member qualifies for an allowance under that section;

(2) If the member qualifies for an allowance under division (A)(1), (B)(1), (C)(1), or (E)(1) or (2) of this section, to receive all of the following:

(a) A benefit under division (A)(1), (B)(1), (C)(1), or (E)(1) or (2) of this section for the member's service credit as a PERS law enforcement officer;

(b) A single life annuity having a reserve equal to the amount of the member's accumulated contributions for all service other than PERS law enforcement service;

(c) A pension equal to the annuity provided under division (I)(2)(b) of this section, excluding amounts of the member's accumulated contributions deposited under former division (Y) of section 145.01 or former sections 145.02, 145.29, 145.292, and 145.42, or sections 145.20, 145.201, 145.28, 145.291, 145.292, 145.293, 145.299, 145.2916, 145.301, 145.47, and 145.814 of the Revised Code for the purchase of service credit.

(3) If the member qualifies for an allowance under division (A)(2), (B)(2), (C)(2), or (E)(3), (4), or (5) of this section, to receive all of the following:

(a) A benefit under division (A)(2), (B)(2), (C)(2), or (E)(3), (4), or (5) of this section for the member's service credit as a PERS law enforcement officer or PERS public safety officer;

(b) A single life annuity having a reserve equal to the amount of the member's accumulated contributions for all service other than PERS law enforcement service or PERS public safety officer service;

(c) A pension equal to the annuity provided under division (I)(3)(b) of this section, excluding amounts of the member's accumulated contributions deposited under former division (Y) of section 145.01 or former sections 145.02, 145.29, 145.292, and 145.42, or sections 145.20, 145.201, 145.28, 145.291, 145.292, 145.293, 145.299, 145.2916, 145.301, 145.47, and 145.814 of the Revised Code for the purchase of service credit.

(J) For the purposes of this section, "total service credit" includes credit for military service to the extent permitted by division (K) of this section and credit for service as a police officer or state highway patrol trooper to the extent permitted by division (L) of this section.

(K) Notwithstanding sections 145.01 and 145.30 of the Revised Code, not more than four years of military service credit granted or purchased under section 145.30 of the Revised Code and five years of military service credit purchased under section 145.301 or 145.302 of the Revised Code shall be used in calculating service as a PERS law enforcement officer or PERS public safety officer or the total service credit of that person.

(L)(1) Only credit for the member's service as a PERS law enforcement officer, PERS public safety officer, or service credit obtained as a police officer or state highway patrol trooper shall be used in computing the benefit of a member who qualifies for a benefit under this section for the following:

(a) Any person who originally is commissioned and employed as a deputy sheriff by the sheriff of any county, or who originally is elected sheriff, on or after January 1, 1975;

(b) Any deputy sheriff who originally is employed as a criminal bailiff or court constable on or after April 16, 1993;

(c) Any person who originally is appointed as a township constable or police officer in a township police department or district on or after January 1, 1981;

(d) Any person who originally is employed as a county narcotics agent on or after



September 26, 1984;

(e) Any person who originally is employed as an undercover drug agent as defined in section 109.79 of the Revised Code, department of public safety enforcement agent who prior to June 30, 1999, was a liquor control investigator, forest-fire investigator, natural resources officer, wildlife officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for persons with developmental disabilities, or municipal police officer on or after December 15, 1988;

(f) Any person who originally is employed as a state university law enforcement officer on or after November 6, 1996;

(g) Any person who is originally employed as a state university law enforcement officer by the university of Akron on or after September 16, 1998;

(h) Any person who originally is employed as a preserve officer on or after March 18, 1999;

(i) Any person who originally is employed as a natural resources law enforcement staff officer on or after March 18, 1999;

(j) Any person who is originally employed as a department of public safety enforcement agent on or after June 30, 1999;

(k) Any person who is originally employed as a house sergeant at arms or assistant house sergeant at arms on or after September 5, 2001;

(l) Any person who is originally appointed as a regional transit authority police officer or state highway patrol police officer on or after February 1, 2002;

(m) Any person who is originally employed as a municipal public safety director on or after September 29, 2005, but not later than March 24, 2009.

(2) Only credit for a member's service as a PERS public safety officer or service credit obtained as a PERS law enforcement officer, police officer, or state highway patrol trooper shall be used in computing the benefit of a member who qualifies for a benefit under division (B)(1)(b) or (c), (B)(2), (C)(1)(b) or (c), or (C)(2) of this section for any person who originally is employed as a Hamilton county municipal court bailiff on or after November 6, 1996.

(M) For purposes of this section, service prior to June 30, 1999, as a food stamp trafficking agent under former section 5502.14 of the Revised Code shall be considered service as a law enforcement officer.

(N)(1) Retirement allowances determined under this section shall be paid as provided in section 145.46 of the Revised Code.

(2) If the monthly amount of a member's annual single lifetime allowance that is first payable on or after March 22, 2019, under division (F) or (G) of this section would be less than fifty dollars, instead of a monthly payment, the retirement system shall pay the greater of the following in a single payment:

(a) An amount determined under section 145.40 of the Revised Code as a refund of accumulated contributions;

(b) An amount equal to the actuarial present value of the allowance as determined by the retirement system.

(3) If the monthly amount of a member's annual single lifetime annuity that is first payable on or after March 22, 2019, under division (I)(2) or (3) of this section for service other than PERS law enforcement service or PERS public safety service would be less than fifty dollars, instead of a monthly payment, the retirement system shall pay an amount determined

under section 145.40 of the Revised Code as a refund of accumulated contributions.

(O) A member seeking to retire under this section shall file an application with the public employees retirement board.

Service retirement shall be effective as provided in division (E) of section 145.32 of the Revised Code.

(P) If fewer than one per cent of the retirement system's members are contributing as public safety officers, the board, pursuant to a rule it adopts, may treat service as a public safety officer as service as a law enforcement officer.

*(ENACTED: SB343, Eff. 1/7/13; SB 293, Eff. 9/14/16; HB 158, Eff. 10/12/16; HB 572, Eff. 3/22/19; HB 33, Eff. 10/3/23)*

### **Sec. 145.333 Contribution-based benefit cap**

(A) As used in this section:

(1) "Retirement allowance" means any of the following as appropriate:

(a) An allowance calculated under section 145.33, 145.332, or 145.335 of the Revised Code prior to any reduction for early retirement or election under section 145.46 of the Revised Code of a plan of payment and exclusive of any amounts payable under divisions (I)(2)(b) and (c) or (I)(3)(b) and (c) of section 145.332 of the Revised Code;

(b) An allowance calculated under division (A) of section 145.45 of the Revised Code;

(c) An allowance calculated under division (B)(1)(a) of section 145.331 of the Revised Code.

(2) "CBBC" means the contribution based benefit cap, a limit established by the public employees retirement board on the retirement allowance a member may receive.

(B) Based on the advice of an actuary appointed by the board, the board shall designate a number as the CBBC factor. The board may revise the factor pursuant to advice from an actuary appointed by the board.

(C) Prior to paying a retirement allowance, the public employees retirement system shall make the following calculations:

(1) Determine an amount equal to the value of the member's accumulated contributions, exclusive of contributions payable under divisions (I)(2)(b) and (c) or (I)(3)(b) and (c) of section 145.332 of the Revised Code but including any contributions made under section 145.483 of the Revised Code that represent member contributions, any contributions used to fund a benefit under section 145.36 of the Revised Code, with interest compounded at a rate approved by the board, and a portion of any amounts paid by an employer under sections 145.297 or 145.298 of the Revised Code, as determined by an actuary appointed by the board;

(2) Determine the amount of a single life annuity that is the actuarial equivalent of the amount determined under division (C)(1) of this section, adjusted for age of the member at the time of retirement or, when appropriate, the age at the time of the member's death;

(3) Multiply the annuity amount determined under division (C) (2) of this section by the CBBC factor.

(D) The amount determined under division (C)(3) of this section is the member's CBBC. Except as provided in division (E) of this section, if the retirement allowance the member would receive exceeds the member's CBBC, the allowance shall be reduced to an amount equal to the member's CBBC.

(E) The retirement allowance of a member eligible for age and service retirement under division (A) of section 145.32 of the Revised Code or division (A) of section 145.332 of the Revised Code shall not be reduced under division (D) of this section by more than five per cent of the member's single lifetime allowance computed under section 145.33 or 145.332 of the Revised Code, unless

during any full month of service earned after January 1, 1987, the member's earnable salary was less than one thousand dollars.

*(ENACTED: SB 343, Eff. 1/7/13; HB 33, Eff. 10/3/23)*

### **Sec. 145.334 Election to participate in law enforcement or public safety division**

A member who, on the effective date of this section, meets the definition of bureau of criminal identification and investigation investigator, gaming agent, department of taxation investigator, special police officer for a port authority, or special police officer for a municipal airport in section 145.01 of the Revised Code may make the election to be considered a PERS law enforcement officer or PERS public safety officer by giving notice to the public employees retirement system on a form provided by the public employees retirement board. To be valid, the notice must be received by the retirement system not later than ninety days after the effective date of this section. The election, once made, causes the member to be considered a PERS law enforcement officer or PERS public safety officer and is irrevocable.

Service credit earned by a member of the public employees retirement system before the first day of the first month following the retirement system's receipt of the notice of election shall not be considered service credit as a PERS law enforcement officer or PERS public safety officer.

*(ENACTED: HB 520, Eff. 4/6/17)*

### **Sec. 145.335 Age and service retirement under the combined plan**

(A) This section applies only to members of the public employees retirement system participating in the PERS combined plan, as defined in section 145.196 of the Revised Code, that was consolidated by the system with the PERS defined benefit plan under that section.

(B)(1) When a member described in section 145.196 of the Revised Code retires on age and service retirement, the total annual single lifetime allowance for that member shall be an amount adjusted in accordance with division (B)(2) or (C) of this section and determined by multiplying the member's total service credit by the following:

(a) If the member is eligible for age and service retirement under division (A) or (B) of section 145.32 of the Revised Code, one per cent of the member's final average salary for each of the first thirty years of service plus one and one-quarter per cent of the member's final average salary for each subsequent year of service;

(b) If the member is eligible for age and service retirement under division (C) of section 145.32 of the Revised Code, one per cent of the member's final average salary for each of the first thirty-five years of service plus one and one-quarter per cent of the member's final average salary for each subsequent year of service.

(2)(a) For a member eligible to retire under division (A) of section 145.32 of the Revised Code, the member's allowance under division (B)(1) of this section shall be adjusted by the factors of attained age or years of service to provide the greater amount as determined by the following schedule:

| <b>Attained<br/>Birthday</b> | <b>or</b> | <b>Years of<br/>Total Service<br/>Credit</b> | <b>Percentage<br/>of<br/>Base Amount</b> |
|------------------------------|-----------|--|--|
| 58                           |           | 25   | 75                                       |
| 59                           |           | 26   | 80                                       |
| 60                           |           | 27   | 85                                       |
|                              |           | 92   |  |

|    |            |     |
|----|------------|-----|
| 61 |            | 88  |
|    | 28         | 90  |
| 62 |            | 91  |
| 63 |            | 94  |
|    | 29         | 95  |
| 64 |            | 97  |
| 65 | 30 or more | 100 |

(b) For a member eligible to retire under division (B) or (C) of section 145.32 of the Revised Code, the member's allowance under division (B)(1) of this section shall be reduced by a percentage determined by the public employees retirement board's actuary based on the number of years the commencement of the allowance precedes the member's eligibility for an unreduced allowance.

(c) The actuary may use an actuarially based average percentage reduction for purposes of division (B)(2)(b) of this section.

(C) The total annual single lifetime allowance that a member shall receive under this section shall not exceed the lesser of the following:

- (1) Any limit established under section 145.333 of the Revised Code;
- (2) One hundred per cent of the member's final average salary;
- (3) The limit established by section 415 of the "Internal Revenue Code of 1986," 26 U.S.C.

415.

(D) Retirement allowances determined under this section shall be paid as provided in section 145.46 of the Revised Code. If the monthly amount of a member's annual single lifetime allowance that is first payable on or after the effective date of this section under division (B) of this section would be less than fifty dollars, instead of a monthly payment the retirement system shall pay an amount determined under section 145.40 of the Revised Code as a refund of accumulated contributions.

*(ENACTED: HB 33, Eff. 10/3/23)*

### **Sec. 145.35 Application and medical examination for disability retirement**

(A) As used in this section and section 145.362 and 145.363 of the Revised Code:

(1) "Examining physician" means a physician appointed by the public employees retirement board to conduct a medical examination of a disability benefit applicant or recipient.

(2) "Medical consultant" means a physician appointed by the board to review a member's application for a disability benefit or an appeal of a denial or termination of a benefit.

(3) "On-duty illness or injury" means an illness or injury that occurred during or resulted from performance of duties under the direct supervision of a public employer.

(B) The public employees retirement system shall provide disability coverage to each member who has at least five years of total service credit and disability coverage for on-duty illness or injury to each member who is a PERS law enforcement officer or PERS public safety officer, regardless of length of service.

The coverage shall extend only to illness or injury that occurs before the member's contributing service terminates or, in the case of illness or injury that results from contributing service, becomes evident not later than two years after the date the contributing service ends. The coverage shall not extend to disability resulting from elective cosmetic surgery other than reconstructive surgery.

Not later than October 16, 1992, the public employees retirement board shall give each person who is a member on July 29, 1992, the opportunity to elect disability coverage either under section 145.36 of the Revised Code or under section 145.361 of the Revised Code. The board shall mail notice of the election, accompanied by an explanation of the coverage under each of the Revised Code sections and a form on which the election is to be made, to each member at the member's last known address. The board shall also provide the explanation and form to any member on request.

Regardless of whether the member actually receives notice of the right to make an election, a member who fails to file a valid election under this section shall be considered to have elected disability coverage under section 145.36 of the Revised Code. To be valid, an election must be made on the form provided by the retirement board, signed by the member, and filed with the board not later than one hundred eighty days after the date the notice was mailed, or, in the case of a form provided at the request of a member, a date specified by rule of the retirement board. Once made, an election is irrevocable, but if the member ceases to be a member of the retirement system, the election is void. If a person who makes an election under this section also makes an election under section 3307.62 or 3309.39 of the Revised Code, the election made for the system that pays a disability benefit to that person shall govern the benefit.

Disability coverage shall be provided under section 145.361 of the Revised Code for persons who become members after July 29, 1992, and for members who elect under this division to be covered under section 145.361 of the Revised Code.

The retirement board may adopt rules governing elections made under this division.

(C) Application for a disability benefit may be made by a member, by a person acting in the member's behalf, or by the member's employer, provided the member has disability coverage under section 145.36 or 145.361 of the Revised Code and is not receiving a disability benefit under any other Ohio state or municipal retirement program. Application must be made within two years from the date the member's contributing service under the PERS defined benefit plan terminated or the date the member ceased to make contributions to the PERS defined benefit plan under section 145.814 of the Revised Code, unless the board's medical consultant determines that the member's medical records demonstrate conclusively that at the time the two-year period expired, the member was physically or mentally incapacitated for duty and unable to make an application. Application may not be made by or for any person receiving age and service retirement benefits under section 145.33, 145.331, 145.332, 145.335, or 145.37 or former section 145.34 of the Revised Code or any person who, pursuant to section 145.40 of the Revised Code, has been paid the accumulated contributions standing to the credit of the person's individual account in the employees' savings fund. The application shall be made on a form provided by the retirement board.

(D) The benefit payable to any member who is approved for a disability benefit shall become effective on the first day of the month immediately following the later of the following:

- (1) The last day for which compensation was paid;
- (2) The attainment of eligibility for a disability benefit.

(E) Medical examination of a member who has applied for a disability benefit shall be conducted by a competent disinterested examining physician to determine whether the member is mentally or physically incapacitated for the performance of duty by a disabling condition either permanent or presumed to be permanent. The disability must have occurred since last becoming a member or have increased since last becoming a member to such extent as to make the disability permanent or presumed to be permanent. A disability is presumed to be permanent if it is expected to last for a continuous period of not less than twelve months following the filing of the application.

The standard used to determine whether a member is incapacitated for duty is that the

member is mentally or physically incapable of performing the duties of the most recent public position held by the member.

A member shall receive a disability benefit under section 145.36 or 145.361 of the Revised Code if all of the following apply:

- (1) The board's examining physician determines that the member qualifies for a disability benefit and the board's medical consultant concurs with the determination;
- (2) The board concurs with the medical consultant's determination;
- (3) The member agrees to medical treatment as specified in division (F) of this section.

A disability benefit described in this division may be commenced prior to the board's concurrence with the determination if the conditions specified in divisions (E)(1) and (3) of this section are met.

The action of the board shall be final.

(F) The public employees retirement board shall adopt rules requiring a disability benefit recipient, as a condition of continuing to receive a disability benefit, to agree in writing to obtain any medical treatment recommended by the board's medical consultant and submit medical reports regarding the treatment. If the board determines that a disability benefit recipient is not obtaining the medical treatment or the board does not receive a required medical report, the disability benefit shall be suspended until the treatment is obtained, the report is received by the board, or the board's medical consultant certifies that the treatment is no longer helpful or advisable. Should the recipient's failure to obtain treatment or submit a medical report continue for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

The board shall require the recipient of a disability benefit who is described in section 145.363 of the Revised Code to comply with that section.

(G) A disability benefit that has been granted a member but has not commenced shall not be paid if the member continues in or returns to employment with the same employer in the same position or in a position with duties similar to those of the position the member held at the time the benefit was granted.

(H) In the event an employer files an application for a disability benefit as a result of a member having been separated from service because the member is considered to be mentally or physically incapacitated for the performance of the member's present duty, and the board's medical consultant reports to the board that the member is physically and mentally capable of performing service similar to that from which the member was separated and the board concurs in the report, the board shall so certify to the employer and the employer shall restore the member to the member's previous position and salary or to a similar position and salary.

*(ENACTED: HB 551, Eff. 10/26/53; HB 763, Eff. 10/6/55; SB 386, Eff. 9/16/57; SB 160, Eff. 8/1/59; HB 957, Eff. 10/27/61; HB 430, Eff. 11/20/73; HB 268, Eff. 8/20/76; HB 502, Eff. 4/24/86; HB 552, Eff. 12/15/88; SB 346, Eff. 7/29/92; HB 648, Eff. 9/16/98; SB 190, Eff. 7/13/00; HB 158, Eff. 2/1/02; SB 247, Eff. 10/1/02; SB 267, Eff. 3/24/09; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15; HB 33, Eff. 10/3/23)*

## **Sec. 145.351 Disability report**

Not later than March 1, 2000, and each first day of March thereafter, the public employees retirement board shall make and submit a report for the preceding fiscal year of the disability retirement experience of each employer. The report shall specify the total number of disability applications submitted, the status of each application as of the last day of the fiscal year, total applications granted or denied, and the percentage of disability benefit recipients to the total number of the employer's employees who are members of the public employees retirement system. The report shall be submitted to the governor, the Ohio retirement study council, and the chairpersons of the standing committees and subcommittees of the senate and house of representatives with primary responsibility for retirement legislation.

*(ENACTED: HB 648, Eff. 9/16/98; HB272, Eff. 4/6/07)*

## **Sec. 145.36 Benefit upon disability retirement**

A member who has elected disability coverage under this section, has not attained the applicable age, and is determined by the public employees retirement board under section 145.35 of the Revised Code to qualify for a disability benefit shall be retired on disability under this section.

The applicable age is sixty if the member is described in division (A) or (B) of section 145.32 or division (A), (B), or (E)(1), (3), or (4) of section 145.332 of the Revised Code. It is sixty-two if the member is described in division (C) of section 145.32 or division (E)(2) or (5) of section 145.332 of the Revised Code.

Upon disability retirement, a member shall receive an annual amount that shall consist of:

(A) An annuity having a reserve equal to the amount of the retirant's accumulated contributions;

(B) A pension that shall be the difference between the member's annuity and an annual amount determined by multiplying the total service credit of the retirant, and in addition thereto the projected number of years and fractions thereof between the effective date of the member's disability retirement and attainment of the applicable age, assuming continuous service, by two and two tenths per cent of the member's final average salary.

Where the recipient is not receiving a disability benefit under section 145.37 of the Revised Code and is receiving a disability benefit from either the state teachers retirement system or the school employees retirement system, the recipient shall not be eligible for service credit based upon the number of years and fractions thereof between the date of disability and attained age sixty as provided for in this division.

In no case shall disability retirement be less than thirty per cent or more than seventy-five per cent of the member's final average salary, except that it shall not exceed any limit to which the retirement system is subject under section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

A year of service for the purpose of disability retirement is a complete year of full-time authority in determining the eligibility of a member for disability retirement.

*(ENACTED: HB 744, Eff. 6/29/55; SB 386, Eff. 9/16/57; SB 160, Eff. 8/1/59; HB 225, Eff. 11/13/65; HB 959, Eff. 6/10/68; SB 409, Eff. 11/21/69; HB 430, Eff. 11/20/73; HB 1, Eff. 6/13/75; HB 268, Eff. 8/20/76; HB 1, Eff. 12/31/77; HB 232, Eff. 2/16/84; SB 240, Eff. 7/24/90; SB 346, Eff. 7/29/92; HB 628, Eff. 9/21/00; SB 343, Eff. 1/7/13)*

## **Sec. 145.361 Disability allowance**

(A) A member with disability coverage under this section who is determined by the public employees retirement board under section 145.35 of the Revised Code to qualify for a disability benefit shall receive a disability allowance under this section. The allowance shall be an annual amount equal to the greater of the following:

(1) Forty-five per cent of the member's final average salary;

(2) The member's total service credit multiplied by two and two-tenths per cent of the member's final average salary, not exceeding sixty per cent of the member's final average salary.

(B) Sufficient reserves for payment of the disability allowance shall be transferred to the annuity and pension reserve fund from the employers' contribution fund. The accumulated contributions of the member shall remain in the employees' savings fund. No part of the allowance



paid under this section shall be charged against the member's accumulated contributions.

(C) A disability allowance paid under this section shall terminate at the earliest of the following:

(1) The effective date of age and service retirement under sections 145.32, 145.33, 145.332, and 145.335, or section 145.37 or former section 145.34 of the Revised Code;

(2) The date the allowance is terminated under section 145.362 of the Revised Code;

(3) The later of the last day of the month in which the recipient attains the applicable age, or the last day of the month in which the benefit period ends as follows:

| <b>Attained Age at Effective Date<br/>of Disability Allowance</b> | <b>Benefit Period</b> |
|---|-----------------------|
| 60 or 61  | 60 months             |
| 62 or 63  | 48 months             |
| 64 or 65  | 36 months             |
| 66, 67, or 68   | 24 months             |
| 69 or older   | 12 months             |

The applicable age is sixty-five if the member is described in division (A) of section 145.32 or division (A) of section 145.332 of the Revised Code. It is sixty-six if the member is described in division (B) of section 145.32 or division (B) of section 145.332 of the Revised Code. It is sixty-seven if the member is described in division (C) of section 145.32 or division (C) of section 145.332 of the Revised Code.

*(ENACTED: SB 346, Eff. 7/29/92; HB 628, Eff. 9/21/00; SB 343, Eff. 1/7/13)*

### **Sec. 145.362 Disability benefit recipient considered on leave of absence; medical examination; statement; restoration to position and salary**

A disability benefit recipient whose application for a disability benefit was received by the public employees retirement system before January 7, 2013 shall, regardless of when the disability occurred, retain membership status and shall be considered on leave of absence from employment during the first five years following the effective date of a disability benefit, notwithstanding any contrary provisions in this chapter.

A disability benefit recipient whose application for a disability benefit is received by the system on or after January 7, 2013 shall, regardless of when the disability occurred, retain membership status and shall be considered on leave of absence from employment during the first three years following the effective date of a disability benefit, except that, if the member is receiving rehabilitative services acceptable to the board's examining physician, the board may permit the recipient to retain membership status and be considered on leave of absence from employment for up to five years following the effective date of a disability benefit.

The public employees retirement board shall require any disability benefit recipient to undergo a periodic medical examination, as determined by the board's medical consultant or as specified in rules adopted by the board. The board may waive the medical examination if the board's medical consultant certifies that the recipient's disability is ongoing or for any other reason specified in rules adopted by the board. If any disability benefit recipient refuses to submit to a medical examination, the recipient's disability benefit shall be suspended until withdrawal of the refusal. Should the refusal continue for one year, all the recipient's rights in and to the disability

benefit shall be terminated as of the effective date of the original suspension.

On completion of the examination by the board's examining physician, the physician shall report to the board's medical consultant and certify whether the disability benefit recipient meets the applicable standard for termination of a disability benefit. If the examining physician certifies that the recipient meets the applicable standard for termination of a disability benefit and the medical consultant concurs, the medical consultant shall certify to the board that the recipient meets the applicable standard for termination.

(A) Regardless of when the disability occurred, if the recipient's application for a disability benefit was received by the system before January 7, 2013, or, if on or after that date, the recipient has been receiving the benefit for less than three years or is receiving rehabilitative services acceptable to the board's examining physician and considered on leave of absence, or, if, at the time contributing service terminated, the recipient was a PERS law enforcement officer, the standard for termination is that the recipient is no longer physically and mentally incapable of resuming the service from which the recipient was found disabled.

(B) Regardless of when the disability occurred, if the recipient's application for a disability benefit is received by the system on or after January 7, 2013 the recipient has been receiving the benefit for three years or longer, the recipient was not a PERS law enforcement officer at the time contributing service terminated, and the recipient is not receiving rehabilitative services acceptable to the board's examining physician, the standard for termination is that the recipient is not physically or mentally incapable of performing the duties of any position that meets all of the following criteria:

(1) Replaces not less than seventy-five per cent of the member's final average salary, adjusted each year by the actual average increase in the consumer price index prepared by the United States bureau of labor statistics (U.S. city average for urban wage earners and clerical workers: "all items 1982-1984=100");

(2) Is reasonably to be found in the member's regional job market;

(3) Is one that the member is qualified for by experience or education.

If the board concurs in the report that the disability benefit recipient meets the applicable standard for termination of a disability benefit, the payment of the disability benefit shall be terminated not later than three months after the date of the board's concurrence or upon employment as a public employee. If the leave of absence has not expired, the retirement board shall certify to the disability benefit recipient's last employer before being found disabled that the recipient is no longer physically and mentally incapable of resuming service that is the same or similar to that from which the recipient was found disabled. The employer shall restore the recipient to the recipient's previous position and salary or to a position and salary similar thereto, unless the recipient was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

Each disability benefit recipient shall file with the board an annual statement of earnings, current medical information on the recipient's condition, and any other information required in rules adopted by the board. The board may waive the requirement that a disability benefit recipient file an annual statement of earnings or current medical information if the board's medical consultant certifies that the recipient's disability is ongoing or for any other reason specified in rules adopted by the board.

The board shall annually examine the information submitted by the recipient. If a disability benefit recipient fails to file the statement or information, the disability benefit shall be suspended until the statement and information are filed. If the failure continues for one year, the recipient's

right to the disability benefit shall be terminated as of the effective date of the original suspension.

If a disability benefit recipient is restored to service by, or elected to an elective office with, an employer covered by this chapter, the recipient's disability benefit shall cease.

The board may terminate a disability benefit at the request of the recipient if the board's medical consultant determines that the recipient is no longer disabled.

If disability retirement under section 145.36 of the Revised Code is terminated for any reason, the annuity and pension reserves at that time in the annuity and pension reserve fund shall be transferred to the employees' savings fund and the employers' accumulation fund, respectively. If the total disability benefit paid is less than the amount of the accumulated contributions of the member transferred to the annuity and pension reserve fund at the time of the member's disability retirement, the difference shall be transferred from the annuity and pension reserve fund to another fund as may be required. In determining the amount of a member's account following the termination of disability retirement for any reason, the total amount paid shall be charged against the member's refundable account.

If a disability allowance paid under section 145.361 of the Revised Code is terminated for any reason, the reserve on the allowance at that time in the annuity and pension reserve fund shall be transferred from that fund to the employers' accumulation fund.

If a former disability benefit recipient again becomes a contributor, other than as an other system retiree under section 145.38 of the Revised Code, to this system, the state teachers retirement system, or the school employees retirement system, and completes an additional two years of service credit, the former disability benefit recipient shall be entitled to full service credit, not exceeding five years' service credit, for the period as a disability benefit recipient, except that if the board adopts a rule requiring payment for the service credit it shall be granted only if the former disability benefit recipient pays an amount determined under the rule. The rule shall not require payment of more than the additional liability to the retirement system resulting from granting the credit. The former recipient may choose to purchase only part of the credit in any one payment.

If any employer employs any member who is receiving a disability benefit, the employer shall file notice of employment with the retirement board, designating the date of employment. In case the notice is not filed, the total amount of the benefit paid during the period of employment prior to notice shall be charged to and paid by the employer.

*(ENACTED: SB 160, Eff. 8/1/59; HB 590, Eff. 10/14/63; SB 409, Eff. 11/21/69; HB 430, Eff. 11/20/73; SB 74, Eff. 2/23/82; SB 346, Eff. 7/29/92; SB 82, Eff. 3/6/97; HB 648, Eff. 9/16/98; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15; HB 520, Eff. 4/6/17; HB 572, Eff. 3/22/19))*

### **Sec. 145.363 Impact of Social Security disability insurance benefits**

This section does not apply to a disability recipient who, at the time contributing service terminated, was a PERS law enforcement officer.

(A) A recipient of a disability benefit granted under this chapter whose application for such benefit is received by the public employees retirement system on or after January 7, 2013 shall, regardless of when the disability occurred, apply for social security disability insurance benefit payments under 42 U.S.C. 423 if the recipient meets the requirements of divisions (a)(1)(A),(B), and (C) of that section. The application for a social security disability insurance benefit shall be made before the later of the ninety-first day after the recipient is granted a disability benefit under this chapter or the ninety-first day after the recipient attains eligibility to apply for a social security disability insurance benefit, unless the public employees retirement board's medical consultant

determines from the member's medical records that the member is physically or mentally unable to make the application. The recipient shall file with the system a copy of the completed application or other evidence of application satisfactory to the board and the system shall accept the copy or other evidence as evidence of the member's application. If a recipient fails without just cause to apply for social security disability insurance benefit payments or to file a copy or other evidence of the application with the system, the disability benefit under this chapter shall be suspended until application is made and a copy or other evidence of the application filed with the system. If the recipient's failure to file a copy or other evidence of the application continues for one year, the disability benefit shall be terminated as of the effective date of the original suspension.

(B) Regardless of whether the recipient's disability is ongoing, a recipient of a disability benefit under this chapter who also receives social security disability insurance benefit payments shall file an annual statement of earnings under section 145.362 of the Revised Code and include a copy of the social security disability insurance benefit annual reward letter that specifies the amount of the social security disability insurance program benefit.

(C) Except as provided in division (D) of this section, if any year the total of a disability benefit recipient's benefit under this chapter and social security disability insurance benefit payments exceeds the recipient's adjusted final average salary, the annual benefit under this chapter shall be reduced so that the annual total equals the recipient's adjusted final average salary.

The recipient's adjusted final average salary shall be determined by annually increasing the recipient's final average salary by the percentage increase in the consumer price index, not exceeding three per cent, as determined by the United States bureau of labor statistics (U.S. city average for urban wage earners and clerical workers: "all items 1982-84=100") for the twelve-month period ending on the thirtieth day of June of the immediately preceding calendar year. If the consumer price index for that period did not increase, no increase shall be made to the recipient's adjusted final average salary for that period. No adjustment to a benefit shall exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 415, as amended.

If a disability benefit recipient receives retroactive payments of social security disability insurance benefits, the system may reduce future disability benefit payments under this chapter to recoup any overpayments.

(D) The reductions required by division (C) of this section do not apply to a recipient of a disability benefit under this chapter who has not less than five years of service credit for periods during which the recipient had earnings from other employment that was subject to the tax imposed by the "Federal Insurance Contributions Act," 26 U.S.C. 3101.

*(ENACTED: SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

### **Sec. 145.37 Coordinating membership in state retirement systems; combining contributions and service credits**

(A) As used in this section:

(1) "State retirement system" means the public employees retirement system, school employees retirement system, or state teachers retirement system.

(2) "Total service credit" means all service credit earned in the state retirement systems, except credit for service subject to section 145.38 of the Revised Code. Total service credit shall not exceed one year of credit for any twelve-month period.

(3) In addition to the meaning given in division (N) of section 145.01 of the Revised Code,

“disability benefit” means “disability benefit” as defined in sections 3307.01 and 3309.01 of the Revised Code.

(4) “Paying system” means the state retirement system in which the member has the greatest service credit, without adjustment or, if a member who has equal service credit in two or more retirement systems, the retirement system in which the member has the greatest total contributions.

(5) “Transferring system” means the state retirement system transferring a member’s contributions and service credit in that system to the paying system.

(6) “Retention percentage” means five per cent, or a percentage determined under division (D) of this section, of a member’s earnable salary in the case of a member of the public employees retirement system or five per cent, or a percentage determined under division (D) of this section, of a member’s compensation in the case of a member of the state teachers retirement system or school employees retirement system.

(B) To coordinate and integrate membership in the state retirement systems, at the election of a member, total contributions and service credit in all state retirement systems, including amounts paid to restore service credit under sections 145.311, 3307.711, and 3309.261 of the Revised Code, shall be used in determining the eligibility and total retirement or disability benefit payable. When total contributions and service credit are so combined, the following provisions apply:

(1) Age and service retirement shall be effective on the first day of the month immediately following the later of:

(a) The last day for which compensation was paid;

(b) The attainment of minimum age or service credit eligibility for benefits provided under this section;

(c) Ninety days prior to receipt by the board of the member’s completed application for retirement.

(2) Disability benefits shall be effective on the first day of the month immediately following the later of the following:

(a) The last day for which compensation was paid;

(b) The attainment of eligibility for a disability benefit.

(3) The board of the paying system shall do both of the following:

(a) Determine a member’s eligibility for a retirement or disability benefit;

(b) Calculate and pay the member’s retirement or disability benefit.

(4)(a) Each transferring system in which the member has service credit shall certify to the paying system all of the following:

(i) The service credit earned by the member in the transferring system;

(ii) The beginning and ending dates of the service credit period covered by the transferring system;

(iii) Any breaks in service by the member, excluding school breaks;

(iv) If available, a statement listing the member’s monthly contributions and service credit earned, obtained, or purchased in the transferring system.

(b) The certification under division (B)(4)(a) of this section may be reviewed by both the transferring system and the paying system.

(5) In determining the total credit to be used in calculating a retirement or disability benefit, credit shall not be reduced below that certified by the transferring system, except as follows:

(a) Not more than one year of credit may be certified by the transferring system for any

one “year” as defined in the law of the transferring system.

(b) The paying system may reduce any credit certified by the transferring system that is concurrent with any period of service credit the member earned from the paying system.

(c) The paying system may reduce any credit certified by the transferring system if the amount certified, when added to the paying system’s service credit for any one “year” as defined in the law of the paying system, exceeds one year.

(6)(a) The paying system shall receive from the transferring system or systems all of the following for each year of service:

(i) The amount contributed by the member, or, in the case of service credit purchased by the member, paid by the member, that is attributable to the year of service;

(ii) An amount equal to the lesser of the employer’s contributions made on behalf of the member to the transferring system for that year of service less the retention percentage or the amount that would have been contributed by the employer for the service had the member been a member of the public employees retirement system at the time the credit was earned less the retention percentage;

(iii) Interest compounded annually on the amounts specified in divisions (B)(6)(a)(i) and (ii) of this section at the lesser of the actuarial assumption rate for that year of the paying system or the transferring system or systems.

(b) If applicable, the public employees retirement system shall pay to the paying system a portion of the amount paid on behalf of the member by an employer under section 145.483 of the Revised Code. The portion shall be paid from the employers’ accumulation fund and shall equal the product obtained by multiplying by two the amount the member would have contributed during the period the employer failed to deduct contributions, as described in section 145.483 of the Revised Code.

(7) The annuity rates and mortality tables of the paying retirement system shall be exclusively applicable.

(8) Deposits made for the purpose of an additional annuity, together with earnings as provided in section 145.62 of the Revised Code, upon the request of the member, shall be transferred to the paying system. The return upon such deposits shall be that offered by the paying system.

(9) A former member receiving a retirement or disability benefit under this section, who accepts employment amenable to coverage in any state retirement system that participated in the former member’s combined benefit, shall be subject to the applicable provisions of law governing such re-employment. If a former member should be paid any amount in a retirement benefit, to which the former member is not entitled under the applicable provisions of law governing such re-employment, such amount shall be recovered by the paying system by utilizing any recovery procedure available under the paying system’s re-employment provisions.

(C) A PERS retirant or other system retirant, as defined in section 145.38 of the Revised Code, is not eligible to receive any benefit under this section for service subject to section 145.38 of the Revised Code.

(D) The retention percentage used in the calculation under division (B)(6)(a)(ii) of this section shall be reviewed by the state retirement systems not less than once every five years after the effective date of this amendment or on request of any of the systems. If the retirement systems agree, the retention percentage may be changed if any system’s employer contribution rate increases or decreases or the systems agree that a change is in the interest of one or more of the systems.

*(ENACTED: HB 551, Eff. 10/26/53; HB 744, Eff. 6/29/55; SB 386, Eff. 9/16/57; SB 160, Eff. 8/1/59; HB 957, Eff.*

*10/27/61; HB 590, Eff. 10/14/63; SB 409, Eff. 11/21/69; HB 430, Eff. 11/20/73; HB 268, Eff. 8/20/76; HB 382, Eff. 6/30/91; SB 346, Eff. 7/29/92; HB 15, Eff. 11/3/99; SB 190, Eff. 7/13/00; SB 144, Eff. 12/13/00; HB 535, Eff. 4/1/01; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

### **Sec. 145.38 Subsequent public employment of retireant**

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

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

(a) Age and service retirement benefits under section 145.32, 145.33, 145.331, 145.332, 145.335, or 145.46 or former section 145.34 of the Revised Code;

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

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

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

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

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

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

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

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

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

(b) An other system retireant who has received a retirement allowance or disability benefit for less than two months when employment subject to this section commences shall forfeit the retirement allowance or disability benefit for any month the other system retireant is employed prior

to the expiration of the two-month period. Service and contributions for that period shall not be included in the calculation of any benefits payable to the other system retirant and those contributions shall be refunded on the retirant's death or termination of the employment.

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

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

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

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

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

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

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

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

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

(2) A PERS retirant who is subject to this division is a member of the public employees retirement system with all the rights, privileges, and obligations of membership, except that the membership does not include survivor benefits provided pursuant to section 145.45 of the Revised Code or, beginning on the ninetieth day after September 14, 2000, any amount calculated under section 145.401 of the Revised Code. The pension portion of the PERS retirant's retirement allowance shall be forfeited until the first day of the first month following termination of the employment. The annuity portion of the retirement allowance shall accumulate to the credit of the PERS retirant to be paid in a single payment after termination of the employment. The retirement allowance shall resume on the first day of the first month following termination of the employment. On termination of the employment, the PERS retirant shall elect to receive either a refund of the retirant's contributions to the retirement system during the period of employment subject to this



section or a supplemental retirement allowance based on the retirant's contributions and service credit for that period of employment.

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

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

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

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

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

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

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

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

(G) The public employees retirement board may adopt rules to carry out this section.  
*(ENACTED: HB 382, Eff. 6/30/91; SB 346, Eff. 7/29/92; HB 151, Eff. 2/9/94; SB 82, Eff. 12/6/96; HB 222, Eff. 11/2/99; SB 190, Eff. 7/13/00; SB 144, Eff. 9/14/00; HB 628, Eff. 9/21/00; HB 535, Eff. 4/1/01; HB 84, Eff. 7/31/01; SB 247, Eff. 10/1/02; HB95, Eff. 9/25/03; HB3, Eff. 5/2/06; SB 343, Eff. 1/7/13; HB 33, Eff. 10/3/23)*

### **Sec. 145.381 Special notice and hearing requirements for certain re-employed retirees**

(A) This section applies in the case of a person who is or most recently has been employed by a public employer in a position that is customarily filled by a vote of members of a board or commission or by the legislative authority of a county, municipal corporation, or township.

(B) A board, commission, or legislative authority that proposes to continue the employment as a reemployed retiree or rehire as a reemployed retiree to the same position an individual described in division (A) of this section shall do both of the following in accordance with rules adopted under division (C) of this section:

(1) Not less than sixty days before the employment as a reemployed retiree is to begin, give public notice that the person is or will be retired and is seeking employment with the public employer;

(2) Between fifteen and thirty days before the employment as a reemployed retiree is to begin and after complying with division (B)(1) of this section, hold a public meeting on the issue of the person being employed by the public employer. The notice regarding division (B)(1) of this section shall include the time, date, and location at which the public meeting is to take place.

(C) The public employees retirement board shall adopt rules as necessary to implement this section.

*(ENACTED: HB95, Eff. 9/25/03)*

### **Sec. 145.382 Retiree's allowance and subsequent employment**

(A) A former member receiving an age and service retirement allowance from the public employees retirement system, and hereafter referred to as a retiree, may be employed, notwithstanding sections 145.38 and 145.46 of the Revised Code, if his later employment has been in a position described in any of the following categories:

(1) A position authorized by section 101.31, 121.03, or 121.04 of the Revised Code;

(2) A position to which appointment is made by the governor with the advice and consent of the senate;

(3) The head of a division of a state department.

A retiree employed in such a category is entitled to a retirement allowance based on his total contributions and service credit accrued during all service as a public employee.

(B) Upon his later retirement, the retiree may elect to receive retirement benefits based upon his original service and his service after re-entering public service by selecting any of the optional benefit plans specified in section 145.46 of the Revised Code.

*(ENACTED: HB 225, Eff. 11/13/65; HB 349, Eff. 9/14/70; HB 1, Eff. 3/26/71; HB 430, Eff. 11/20/73; HB 382, Eff. 6/30/91; SB 346, Eff. 7/29/92)*

### **Sec. 145.383 Retirement for which a member holds multiple positions**

(A) As used in this section:

(1) "Compensation" has the same meaning as in section 3307.01 or 3309.01 of the Revised Code, as appropriate.

(2) "PERS position" means a position for which a member of the public employees retirement system is making contributions to the system.

(3) "Other state retirement system" means the state teachers retirement system or the school employees retirement system.

(4) “State retirement system” means the public employees retirement system, state teachers retirement system, or the school employees retirement system.

(B)(1) A member of the public employees retirement system who holds two or more PERS positions may retire under section 145.32, 145.33, 145.331, 145.332, 145.37, or 145.46 of the Revised Code from the position for which the annual earnable salary at the time of retirement is highest and continue to contribute to the retirement system for the other PERS position or positions.

(2) A member of the public employees retirement system who also holds one or more other positions covered by the other state retirement systems may retire under section 145.32, 145.33, 145.331, 145.332, 145.37, or 145.46 of the Revised Code from the PERS position and continue contributing to the other state retirement systems if the annual earnable salary for the PERS position at the time of retirement is greater than annual compensation for the position, or any of the positions, covered by the other state retirement systems.

(3) A member of the public employees retirement system who holds two or more PERS positions and at least one other position covered by one of the other state retirement systems may retire under section 145.32, 145.33, 145.331, 145.332, 145.37, or 145.46 of the Revised Code from one of the PERS positions and continue contributing to the public employees retirement system and the other state retirement system if the annual earnable salary for the PERS position from which the member is retiring is, at the time of retirement, greater than the annual compensation or earnable salary for any of the positions for which the member is continuing to make contributions.

(4) A member of the public employees retirement system who has retired as provided in division (B)(2) or (3) of section 3307.351 or division (B)(2) or (3) of section 3309.343 of the Revised Code may continue to contribute to the public employees retirement system for a PERS position if the member held the position at the time of retirement from the other state retirement system.

(5) A member who contributes to the public employees retirement system in accordance with division (B)(1), (3), or (4) of this section shall contribute in accordance with section 145.47 of the Revised Code. The member’s employer shall contribute as provided in section 145.48 of the Revised Code. Neither the member nor the member’s survivors are eligible for any benefits based on those contributions other than those provided under section 145.384, 3307.352, or 3309.344 of the Revised Code.

(C)(1) In determining retirement eligibility and the annual retirement allowance of a member who retires as provided in division (B)(1), (2) or (3) of this section, the following shall be used to the date of retirement:

(a) The member’s earnable salary and compensation for all positions covered by a state retirement system;

(b) Total service credit in any state retirement system, except that the credit shall not exceed one year of credit for any period of twelve months;

(c) The member’s accumulated contributions.

(2) A member who retires as provided in division (B)(1), (2), or (3) of this section is a retiree for all purposes of this chapter, except that the member is not subject to section 145.38 of the Revised Code for a position or positions for which contributions continue under those divisions or division (B)(4) of this section.

(D) A retired member receiving a benefit under section 145.384 of the Revised Code based on employment subject to this section is not a member of the public employees retirement system and does not have any rights, privileges, or obligations of membership. The retired member is a

PERS retirant for purposes of section 145.38 of the Revised Code.

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

*(ENACTED: SB 144, Eff. 9/14/00; HB 535, Eff. 4/1/01; SB 343, Eff. 1/7/13)*

### **Sec. 145.384 Benefits upon termination of re-employment**

(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 fifty 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 the date of 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.

If the marriage or remarriage occurs on or after June 6, 2005, 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 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 retirant or other system retirant 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) Ninety days prior to receipt by the board of the member's completed application for retirement;

(5) A date specified by the retirant.

(F)(1) If a PERS retirant or other system retirant dies while employed in employment subject to section 145.38, 145.383, or 145.385 of the Revised Code, a lump sum payment shall be paid to the retirant's beneficiary under division (G) of this section. The lump sum shall be calculated in accordance with division (H) of this section if the retirant was under age sixty-five at the time of death. It shall be calculated in accordance with division (B)(2) of this section if the retirant was age sixty-five or older at the time of death.

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

(G) A PERS retirant or other system retirant 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 retirant or other system retirant, and filed with the board prior to death. The last designation of a beneficiary revokes all previous designations. The PERS retirant's or other system retirant'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 or the beneficiary is not located within ninety days, the beneficiary shall be determined in the following order of precedence:

- (1) Surviving spouse;
- (2) Children, share and share alike;
- (3) Parents, share and share alike;
- (4) Estate.

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

(H)(1) A PERS retirant or other system retirant who applies under division (B)(1) of this section for payment of the retirant'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) Two 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 two-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. *(ENACTED: HB 535, Eff. 4/1/01; SB 247, Eff. 10/1/02; HB 449, Eff. 4/11/05; HB 10, Eff. 6/6/05; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15; HB 520, Eff. 4/6/17; HB 572, Eff. 3/22/19)*

### **Sec. 145.385 Notice; resumption of retirement allowance**

(A) A PERS retirant who made an election under former section 145.381 of the Revised Code under which the annuity portion of the retirant's retirement allowance was suspended and the pension portion forfeited may have the entire retirement allowance resume by giving notice to

the public employees retirement system. The notice must be given not later than ninety days after October 1, 2002.

(B) The retirement allowance shall resume on the first day of the month following receipt of notice by the retirement system.

(C) The annuity portion of the retirement allowance that has accumulated to the retirant's credit shall be paid as a single payment on the first day of the month following receipt of notice by the retirement system.

(D) Contributions made by the retirant and employer during the period of forfeiture and contributions made after the retirement allowance resumes shall be left on deposit with the system and, except in the case of a retirant who elects, under division (H) of section 145.384 of the Revised Code, to receive a payment of the retirant contributions, shall be used in the calculation of a benefit under section 145.384 of the Revised Code.

*(ENACTED: SB 247, Eff. 10/1/02; HB449, Eff. 4/11/05)*

### **Sec. 145.39 Increase in benefits when Internal Revenue Code limits raised**

Whenever the limits established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended, are raised, the public employees retirement board shall increase the amount of the pension, benefit, or allowance of any person whose pension, benefit, or allowance payable under section 145.323, 145.33, 145.331, 145.332, 145.335, 145.36, or 145.361 or former section 145.34 of the Revised Code was limited by the application of section 415. The amount of the increased pension, benefit, or allowance shall not exceed the lesser of the amount the person would have received if the limits established by section 415 had not been applied or the amount the person is eligible to receive subject to the new limits established by section 415. *(ENACTED: SB 240, Eff. 7/24/90; SB 346, Eff. 7/29/92; SB 343, Eff. 1/7/13; HB 33, Eff. 10/3/23)*

### **Sec. 145.391 Qualified excess benefit arrangement**

The public employees retirement board may establish and maintain a qualified governmental excess benefit arrangement that meets the requirements of division (m) of section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended, and any regulations adopted thereunder. If established, the arrangement shall be a separate portion of the public employees retirement system and be maintained solely for the purpose of providing to retired members that part of a benefit otherwise payable under this chapter that exceeds the limits established by section 415 of the "Internal Revenue Code of 1986," as amended. If established, the amounts required to fund the arrangement shall be included in the employer's contribution required by sections 145.48 and 145.51 of the Revised Code.

Members participating in an arrangement established under this section shall not be permitted to elect to defer compensation to the arrangement. Contributions to and benefits paid under an arrangement shall not be payable from a trust that is part of the system unless the trust is maintained solely for the purpose of providing such benefits.

The board shall adopt rules to administer an arrangement established under this section. *(ENACTED: SB 190, Eff. 7/13/00; HB 628, Eff. 9/21/00; SB 42, Eff. 3/23/15)*

## **Sec. 145.40 Payment to member who ceases to be a public employee; forfeiture**

(A)(1) Subject to the provisions of section 145.57 of the Revised Code and except as provided in division (B) of this section, if a member elects to become exempt from contribution to the public employees retirement system pursuant to section 145.03 of the Revised Code or ceases to be a public employee for any cause other than death, retirement, receipt of a disability benefit, or current employment in a position in which the member has elected to participate in an alternative retirement plan under section 3305.05 or 3305.051 of the Revised Code, upon application the public employees retirement board shall pay the member the member's accumulated contributions, plus any applicable amount calculated under section 145.401 of the Revised Code, provided that both the following apply:

(a) Two months have elapsed since the member's service subject to this chapter, other than service, exempted from contribution pursuant to section 145.03 of the Revised Code, was terminated;

(b) The member has not returned to service subject to this chapter, other than service exempted from contribution pursuant to section 145.03 of the Revised Code, during that two-month period.

The payment of such accumulated contributions shall cancel the total service credit of such member in the public employees retirement system.

(2) A member described in division (A)(1) of this section who is married at the time of application for payment and is eligible for age and service retirement under section 145.32, 145.33, 145.331, or 145.332 of the Revised Code or would be eligible for age and service retirement under any of those sections but for a forfeiture ordered under division (A) or (B) of section 2929.192 of the Revised Code shall submit with the application a written statement by the member's spouse attesting that the spouse consents to the payment of the member's accumulated contributions. Consent shall be valid only if it is signed 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.

(B) This division applies to any member who is employed in a position in which the member has made an election under section 3305.05 or 3305.051 of the Revised Code and due to the election ceases to be a public employee for purposes of that position.

Subject to section 145.57 of the Revised Code, the public employees retirement system shall do the following:

(1) On receipt of a certified copy of a form evidencing an election under section 3305.05 or 3305.051 of the Revised Code, pay to the appropriate provider, in accordance with section 3305.052 of the Revised Code, the amount described in section 3305.052 of the Revised Code;

(2) If a member has accumulated contributions, in addition to those subject to division (B)(1) of this section, standing to the credit of the member's individual account and is not otherwise employed in a position in which the member is considered a public employee for the purposes of that position, pay, to the provider the member selected pursuant to section 3305.05 or 3305.051 of the Revised Code, the member's accumulated contributions. The payment shall be made on the member's application.

(C) Payment of a member's accumulated contributions under division (B) of this section cancels the member's total service credit in the public employees retirement system. A member whose accumulated contributions are paid to a provider pursuant to division (B) of this section is forever barred from claiming or purchasing service credit under the public employees retirement system for the period of employment attributable to those contributions.

*(ENACTED: SB 160, Eff. 8/1/59; HB 268, Eff. 8/20/76; HB 265, Eff. 9/20/84; HB 502, Eff. 4/24/86; SB 138, Eff. 7/20/88; SB 351, Eff. 7/1/92; SB 346, Eff. 7/29/92; HB 383, Eff. 8/3/92; HB 586, Eff. 3/31/97; SB 144, Eff. 12/13/00;*



*HB 535, Eff. 4/1/01; HB 158, Eff. 2/1/02; SB 247, Eff. 10/1/02; SB133, Eff. 9/15/04; SB 3, Eff. 5/13/08; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15; HB 520, Eff. 4/6/17)*

#### **Sec. 145.401 Additional payment upon withdrawal of account**

(A) As used in this section, “service credit” means service credit earned for periods for which contributions were made under section 145.47 of the Revised Code and, if applicable, periods for which service credit was purchased or restored under section 145.302 or 145.31 of the Revised Code.

(B) If a member has, or at the time of death had, at least five years of service credit, the public employees retirement board shall include the amount specified in rules adopted by the board in the amount payable under section 145.40 of the Revised Code to the member, or under division (B) of section 145.43 of the Revised Code to a beneficiary or beneficiaries of the member, unless at the time of death the member was a disability benefit recipient. The amount specified in rules shall be paid from the employers’ accumulation fund.

(C) The public employees retirement board shall adopt rules under section 145.09 of the Revised Code specifying the additional amounts that may be provided a member under section 145.40 of the Revised Code or a beneficiary or beneficiaries under division (B) of section 145.43 of the Revised Code. The additional amounts may vary depending on the amount of service credit the member has accrued.

*(ENACTED: SB 144, Eff. 12/13/00; SB 343, Eff. 1/7/13)*

#### **Sec. 145.402 Payment under R.C. 145.40 to SERS or STRS members**

(A) As used in this section, “other retirement system” means the state teachers retirement system or the school employees retirement system.

(B) Except as provided in this section, on application, a member of the public employees retirement system who is also a member of one or both of the other retirement systems and has ceased to be a public employee for the purposes of this chapter may be paid, in accordance with section 145.40 of the Revised Code, the member’s accumulated contributions to the public employees retirement system, plus any applicable amount calculated under section 145.401 of the Revised Code. This payment does not affect the member’s membership in the other retirement systems or any right the member may have to a benefit or return of contributions under those systems.

(C) This section does not apply to a member of one of the other retirement systems whose employment under that system is with the public employer that was the employer under the public employees retirement system at the time the member’s service subject to this chapter terminated.

*(ENACTED: SB 42, Eff. 3/23/15)*

#### **Sec. 145.41 Termination of membership; leave of absence**

Membership shall cease upon refund of accumulated contributions, death, or retirement except as provided in section 145.362 of the Revised Code. A member who separates from service for any reason other than death or retirement or who otherwise ceases to be a public employee for any reason other than death or retirement may leave the member’s accumulated contributions on deposit with the public employees retirement board and, for the purposes of the public employees retirement system, be considered on a membership leave of absence. The member’s membership

rights shall continue until the member has withdrawn the member's accumulated contributions, retired on a retirement allowance as provided in section 145.33, 145.331, 145.332, or 145.335 of the Revised Code, or died. The account of such a member shall remain in the employees' savings fund, except that the account of a member who has less than five calendar years of contributing service credit or is a member of the state teachers retirement system or the school employees retirement system may be transferred to the income fund if by the end of the fifth calendar year following the calendar year in which the last contribution was received the member has not died, claimed a refund of contributions, or requested the retirement board to continue the member's membership on a leave of absence basis. In case such a member later requests a refund, the member's account shall be restored to the employees' savings account and refunded therefrom. Members on such leaves of absence shall retain all rights, obligations, and privileges of membership in the public employees retirement system. A "contributor," as defined in division (F) of section 145.01 of the Revised Code, who formerly lost membership through termination of membership leave of absence and who has not withdrawn the contributor's account shall be reinstated as a member with all the rights, privileges and obligations of membership in the system. In no case shall a member on leave of absence as provided in this section add to the member's total number of years of service credit by reason of such leave of absence, unless such member is eligible to and does make a payment as provided in section 145.291 of the Revised Code.

*(ENACTED: SB 386, Eff. 9/16/57; SB 160, Eff. 8/1/59; HB 383, Eff. 8/3/92; SB 346, Eff. 7/29/92; HB 628, Eff. 9/21/00; SB 343, Eff. 1/7/13; HB 33, Eff. 10/3/23)*

#### **Sec. 145.43 Designation of survivors of members**

(A) As used in this section and in section 145.45 of the Revised Code:

(1) "Child" means a biological or legally adopted child of a deceased member. If a court hearing for an interlocutory decree for adoption was held prior to the member's death, "child" includes the child who was the subject of the hearing notwithstanding the fact that the final decree of adoption, adjudging the surviving spouse as the adoptive parent, is made subsequent to the member's death.

(2) "Parent" is a parent or legally adoptive parent of a deceased member.

(3) "Dependent" means a beneficiary who receives one-half of the beneficiary's support from a member during the twelve months prior to the member's death.

(4) "Surviving spouse" means an individual who establishes a valid marriage to a member at the time of the member's death by marriage certificate or pursuant to division (E) of this section.

(5) "Survivor" means a surviving spouse, child, or parent.

(6) "Accumulated contributions" has the meaning given in section 145.01 of the Revised Code, except that, notwithstanding that section, it does not include additional amounts deposited in the employees' savings fund pursuant to the version of division (C) of section 145.23 of the Revised Code as it existed immediately prior to April 6, 2007, or pursuant to section 145.62 of the Revised Code.

(B) Except as provided in division (C)(1) of section 145.45 of the Revised Code, should a member die before age and service retirement, the member's accumulated contributions and any applicable amount calculated under section 145.401 of the Revised Code, shall be paid to the person or persons the member has designated under section 145.431 of the Revised Code. A member may designate two or more persons as beneficiaries to be paid the accumulated account in a lump sum. Subject to rules adopted by the public employees retirement board, a member who designates two or more persons as beneficiaries shall specify the percentage of the lump sum that

each beneficiary is to be paid. If the member has not specified the percentages, the lump sum shall be divided equally among the beneficiaries.

The last designation of any beneficiary revokes all previous designations. The member's marriage, divorce, marriage dissolution, legal separation, or withdrawal of account, or the birth of the member's child, or adoption of a child, shall constitute an automatic revocation of the member's previous designation. If a deceased member was also a member of the school employees retirement system or the state teachers retirement system and a survivor benefit may be paid under section 145.37, 3307.57, or 3309.35 of the Revised Code, the beneficiary last established among the systems shall be the sole beneficiary in all the systems.

If the accumulated contributions of a deceased member are not claimed by a beneficiary or by the estate of the deceased member within five years after the death, the contributions shall remain in the employees' savings fund or may be transferred to the income fund and thereafter shall be paid to the beneficiary or to the member's estate upon application to the board. The board shall formulate and adopt the necessary rules governing all designations of beneficiaries.

(C) Except as provided in division (C)(1) of section 145.45 of the Revised Code, if a member dies before age and service retirement and is not survived by a designated beneficiary, the following shall qualify, with all attendant rights and privileges, in the following order of precedence, the member's:

- (1) Surviving spouse;
- (2) Children, share and share alike;
- (3) A dependent parent, if that parent takes survivor benefits under division (B) of section 145.45 of the Revised Code;
- (4) Parents, share and share alike;
- (5) Estate.

If the beneficiary is deceased or is not located within ninety days, the beneficiary ceases to qualify for any benefit and the beneficiary next in order of precedence shall qualify as a beneficiary.

Any payment made to a beneficiary as determined by the board shall be a full discharge and release to the board from any future claims.

(D) Any amount due a retirant or disability benefit recipient receiving a monthly benefit and unpaid to the retirant or recipient at death shall be paid to the beneficiary designated in writing duly executed on a form provided by the board, signed by the retirant or recipient, and filed with the board. If no such designation has been filed, or if the designated beneficiary is not located within ninety days, any amounts payable under this chapter due to the death of the retirant or recipient shall be paid in the following order of precedence to the retirant's or recipient's:

- (1) Surviving spouse;
- (2) Children, share and share alike;
- (3) Parents, share and share alike;
- (4) Estate.

The payment shall be a full discharge and release to the board from any future claim for the payment.

Any amount due a beneficiary receiving a monthly benefit and unpaid to the beneficiary at the beneficiary's death shall be paid to the beneficiary's estate.

(E) If the validity of marriage cannot be established to the satisfaction of the board for the purpose of disbursing any amount due under this section or section 145.45 of the Revised Code, the board may accept a decision rendered by a court having jurisdiction in the state in which the

member was domiciled at the time of death that the relationship constituted a valid marriage at the time of death, or the “spouse” would have the same status as a widow or widower for purposes of sharing the distribution of the member’s intestate personal property.

(F) As used in the division, “recipient” means an individual who is receiving or may be eligible to receive an allowance or benefit under this chapter based on the individual’s service to a public employer.

If the death of a member, a recipient, or any individual who would be eligible to receive an allowance or benefit under this chapter by virtue of the death of a member or recipient is caused by one of the following beneficiaries, no amount due under this chapter to the beneficiary shall be paid to the beneficiary in the absence of a court order to the contrary filed with the board:

(1) A beneficiary who is convicted of, pleads guilty to, or is found not guilty by reason of insanity of a violation of or complicity in the violation of either of the following:

(a) Section 2903.01, 2903.02, or 2903.03 of the Revised Code;

(b) An existing or former law of any other state, the United States, or a foreign nation that is substantially equivalent to section 2903.01, 2903.02, or 2903.03 of the Revised Code.

(2) A beneficiary who is indicted for a violation of or complicity in the violation of the sections or laws described in division (F)(1)(a) or (b) of this section and is adjudicated incompetent to stand trial;

(3) A beneficiary who is a juvenile found to be a delinquent child by reason of committing an act that, if committed by an adult, would be a violation of or complicity in the violation of the sections or laws described in division (F)(1)(a) or (b) of this section.

*(ENACTED: HB 551, Eff. 10/26/53; SB 160, Eff. 8/1/59; HB 957, Eff. 10/27/61; HB 590, Eff. 10/1/63; HB 225, Eff. 11/13/65; HB 210, Eff. 8/27/70; HB 430, Eff. 11/20/73; HB 268, Eff. 8/20/76; HB 167, Eff. 7/24/90; HB 382, Eff. 6/30/91; SB 346, Eff. 7/29/92; HB 648, Eff. 9/16/98; SB 144, Eff. 12/13/00; HB 535, Eff. 4/1/01; HB272, Eff. 4/6/07; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15; HB 520, Eff. 4/6/17)*

### **Sec. 145.431 Universal beneficiary designation**

Designation of a beneficiary for the purposes of section 145.40 of the Revised Code or a return of contributions to the beneficiary of a member participating in a PERS defined contribution plan shall be made under this section. A beneficiary shall be designated in writing duly executed on a form provided by the public employees retirement board and signed by the member. A designation under this section is not valid unless received by the board prior to the member’s death.

A beneficiary designation made under this section applies to the PERS defined benefit plan or PERS defined contribution plan in which the member participated or, if the member participated in both the defined benefit plan and one or more defined contribution plans, to both the defined benefit plan and the defined contribution plans.

The last designation of any beneficiary revokes all previous designations. The member’s marriage, divorce, marriage dissolution, legal separation, or withdrawal of account, or the birth of the member’s child, or adoption of a child, shall constitute an automatic revocation of the member’s previous designation.

*(ENACTED: SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

### **Sec. 145.45 Survivor benefits**

Except as provided in division (C)(1) of this section, in lieu of accepting the payment of the accumulated account of a member who dies before service retirement, a beneficiary, as

determined in this section or section 145.43 of the Revised Code, may elect to forfeit the accumulated contributions and to substitute certain other benefits under division (A) or (B) of this section.

(A)(1) Except as provided in division (A)(3) of this section, if a deceased member was eligible for a service retirement benefit as provided in section 145.33, 145.331, 145.332, 145.335 of the Revised Code, a surviving spouse or other sole dependent beneficiary may elect to receive a monthly benefit computed as a joint-life plan under which the spouse or beneficiary receives one hundred per cent of the actuarial equivalent of the deceased member's lesser retirement allowance payable for the member's life, which the member would have received had the member retired on the last day of the month of death and had the member at that time selected such a plan. Payment shall begin with the month subsequent to the member's death, except that a surviving spouse who is less than sixty-five years old may defer receipt of such benefit. Upon receipt, the benefit shall be calculated based upon the spouse's age at the time of first payment, and shall accrue regular interest during the time of deferral.

(2) Except as provided in division (A)(3) of this section, a surviving spouse or other sole dependent beneficiary may elect, in lieu of a monthly payment under division (A)(1) of this section, a plan of payment consisting of both of the following:

(a) A lump sum in an amount the surviving spouse or other sole dependent beneficiary designates that constitutes a portion of the allowance that would be payable under division (A)(1) of this section;

(b) The remainder of that allowance 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.

The lump sum amount designated by the surviving spouse or other sole dependent beneficiary under division (A)(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 to the surviving spouse or other sole dependent beneficiary under division (A)(1) of this section and shall not result in a monthly payment that is less than fifty per cent of that monthly amount.

(3) If the monthly amount of the single lifetime allowance of a member who dies on or after March 22, 2019, would be less than fifty dollars, a benefit under division (A)(1) or (2) of this section shall be the greater of the following:

(a) The amount payable under section 145.43 of the Revised Code as a refund of the member's accumulated contributions;

(b) An amount equal to the actuarial present value of the member's retirement allowance as determined by the public employees retirement system.

(B) If a deceased member had, except as provided in division (B)(7) of this section, at least one and one-half years of contributing service credit, with, except as provided in division (B) (7) of this section, at least one-quarter year of contributing service credit within the two and one-half years prior to the date of death, or was receiving at the time of death a disability benefit as provided in section 145.36, 145.361, or 145.37 of the Revised Code, qualified survivors who elect to receive monthly benefits shall receive the greater of the benefits provided in division (B)(1)(a) or (b) and (4) of this section as allocated in accordance with division (B)(5) of this section.

|                      |                         |                        |
|----------------------|-------------------------|------------------------|
|                      | <b>Annual Benefit</b>   | <b>Or</b>              |
| <b>(1)(a) Number</b> | <b>as a Per Cent of</b> | <b>Monthly Benefit</b> |
| <b>of Qualified</b>  | <b>Decedent's Final</b> | <b>shall not be</b>    |
|                      | <b>Average Salary</b>   | <b>less than</b>       |

**Survivors  
Affecting the  
Benefit**

|           |     |       |
|-----------|-----|-------|
| 1         | 25% | \$250 |
| 2         | 40% | \$400 |
| 3         | 50% | \$500 |
| 4         | 55% | \$500 |
| 5 or more | 60% | \$500 |

|                             |  |
|-----------------------------|--|
| <b>(b) Years of Service</b> | <b>Annual Benefit as a Per Cent of Member's Final Average Salary</b> |
|-----------------------------|--|

|            |     |
|------------|-----|
| 20         | 29% |
| 21         | 33% |
| 22         | 37% |
| 23         | 41% |
| 24         | 45% |
| 25         | 48% |
| 26         | 51% |
| 27         | 54% |
| 28         | 57% |
| 29 or more | 60% |

(2) Benefits shall begin as qualified survivors meet eligibility requirements as follows:

(a) A qualified spouse is the surviving spouse of the deceased member, who is age sixty-two, or regardless of age meets one of the following qualifications:

(i) Except as provided in division (B)(7) of this section, the deceased member had ten or more years of Ohio service credit.

(ii) The spouse is caring for a qualified child.

(iii) The spouse is adjudged physically or mentally incompetent.

A spouse of a member who died prior to August 27, 1970, whose eligibility was determined at the member's death, and who is physically or mentally incompetent on or after August 20, 1976, shall be paid the monthly benefit which that person would otherwise receive when qualified by age.

(b) A qualified child is any child of the deceased member who has never been married and to whom one of the following applies:

(i) Is under age twenty-two;

(ii) Regardless of age, is adjudged physically or mentally incompetent at the time of the member's death.

(c) A qualified parent is a dependent parent aged sixty-five or older or regardless of age if physically or mentally incompetent, a dependent parent whose eligibility was determined by the member's death prior to August 20, 1976, and who is physically or mentally incompetent on or after August 20, 1976, shall be paid the monthly benefit for which that person would otherwise qualify.

(3) "Physically or mentally incompetent" as used in this section may be determined by a court of jurisdiction, or by a physician appointed by the retirement board. Incapability of making

a living because of a physically or mentally disabling condition shall meet the qualifications of this division.

(4) Benefits to a qualified survivor shall terminate upon ceasing to meet eligibility requirements as provided in this division, a first marriage, abandonment, adoption, or during active military service. Benefits to a deceased member's surviving spouse that were terminated under a former version of this section that required termination due to remarriage and were not resumed prior to September 16, 1998, shall resume on the first day of the month immediately following receipt by the board of an application on a form provided by the board.

Benefits to a qualified child who is at least eighteen years of age but under twenty-two years of age that under a former version of this section never commenced or were terminated due to a lack of attendance at an institution of learning or training and not commenced or resumed before April 6, 2017, shall commence or resume on the first day of the month immediately following receipt by the board of an application on a form provided by the board if the application is received on or before the date that is one year after April 6, 2017. These benefits terminate on the child attaining twenty-two years of age.

Upon the death of any subsequent spouse who was a member of the public employees retirement system, state teachers retirement system, or school employees retirement system, the surviving spouse of such member may elect to continue receiving benefits under this division, or to receive survivor's benefits, based upon the subsequent spouse's membership in one or more of the systems, for which such surviving spouse is eligible under this section or section 3307.49 or 3309.45 of the Revised Code. If the surviving spouse elects to continue receiving benefits under this division, such election shall not preclude the payment of benefits under this division to any other qualified survivor.

Benefits shall begin or resume on the first day of the month following the attainment of eligibility and shall terminate on the first day of the month following loss of eligibility.

(5)(a) If a benefit is payable under division (B)(1)(a) of this section, benefits to a qualified spouse shall be paid in the amount determined for the first qualifying survivor in division (B)(1)(a) of this section. All other qualifying survivors shall share equally in the benefit or remaining portion thereof.

(b) All qualifying survivors shall share equally in a benefit payable under division (B)(1)(b) of this section, except that if there is a surviving spouse, the surviving spouse shall receive not less than the amount determined for the first qualifying survivor in division (B)(1)(a) of this section.

(6) The beneficiary of a member who is also a member of the state teachers retirement system or of the school employees retirement system, must forfeit the member's accumulated contributions in those systems and in the public employees retirement system, if the beneficiary takes a survivor benefit. Such benefit shall be exclusively governed by section 145.37 of the Revised Code.

(7) The following restrictions do not apply if the deceased member was contributing toward benefits under section 145.332 of the Revised Code at the time of death.

(a) That the deceased member have had at least one and one-half years of contributing service credit, with at least one-quarter year of contributing service within the two and one-half years prior to the date of death;

(b) If the deceased member was killed in the line of duty, that the deceased member have had ten or more years of Ohio service credit as described in division (B)(2)(a)(i) of this section.

For the purposes of division (B)(7)(b) of this section, "killed in the line of duty," means either that death occurred in the line of duty or that death occurred as a result of injury sustained

in the line of duty.

(C)(1) Regardless of whether the member is survived by a spouse or designated beneficiary, if the public employees retirement system receives notice that a deceased member described in division (A) or (B) of this section has one or more qualified children, all persons who are qualified survivors under division (B) of this section shall receive monthly benefits as provided in division (B) of this section.

If, after determining the monthly benefits to be paid under division (B) of this section, the system receives notice that there is a qualified survivor who was not considered when the determination was made, the system shall, notwithstanding section 145.561 of the Revised Code, recalculate the monthly benefits with that qualified survivor included, even if the benefits to qualified survivors already receiving benefits are reduced as a result. The benefits shall be calculated as if the qualified survivor who is the subject of the notice became eligible on the date the notice was received and shall be paid to qualified survivors effective on the first day of the first month following the system's receipt of the notice.

If the retirement system did not receive notice that a deceased member has one or more qualified children prior to making payment under section 145.43 of the Revised Code to a beneficiary as determined by the retirement system, the payment is a full discharge and release of the system from any future claims under this section or section 145.43 of the Revised Code.

(2) If benefits under division (C)(1) of this section to all persons, or to all persons other than a surviving spouse or other sole beneficiary, terminate, there are no children under the age of twenty-two years, and the surviving spouse or beneficiary qualifies for benefits under division (A) of this section, the surviving spouse or beneficiary may elect to receive benefits under division (A) of this section. The benefits shall be effective on the first day of the month immediately following the termination.

(D) The final average salary used in the calculation of a benefit payable pursuant to division (A) or (B) of this section to a survivor or beneficiary of a disability benefit recipient shall be adjusted for each year between the disability benefit's effective date and the recipient's date of death by the lesser of three per cent or the actual average percentage increase in the consumer price index prepared by the United States bureau of labor statistics (U.S. city average for urban wage earners and clerical workers: "all items 1982-84=100").

(E) If the survivor benefits due and paid under this section are in a total amount less than the member's accumulated account that was transferred from the public employees' savings fund to the survivors' benefit fund, then the difference between the total amount of the benefits paid shall be paid to the beneficiary under section 145.43 of the Revised Code.

*(ENACTED: HB 551, Eff. 10/26/53; HB 744, Eff. 6/29/55; SB 386, Eff. 9/16/57; SB 160, Eff. 8/1/59; HB 957, Eff. 10/27/61; HB 590, Eff. 10/14/63; HB 255, Eff. 1/13/65; HB 959, Eff. 6/10/68; HB 210, Eff. 8/27/70; SB 502, Eff. 9/4/70; HB 100, Eff. 12/31/71; HB 430, Eff. 11/20/73; HB 1, Eff. 6/13/75; HB 268, Eff. 8/20/76; HB 1010, Eff. 8/27/76; HB 586, Eff. 8/26/77; HB 55, Eff. 10/20/78; HB 1, Eff. 5/16/79; HB 974, Eff. 4/9/81; SB 240, Eff. 7/24/90; HB 382, Eff. 6/30/91; SB 346, Eff. 7/29/92; HB 123, Eff. 6/5/96; HB 648, Eff. 9/16/98; HB 628, Eff. 9/21/00; HB 535, Eff. 4/1/01; HB 158, Eff. 2/1/02; SB 247, Eff. 10/1/02; HB272, Eff. 4/6/07; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15; HB 520, Eff. 4/6/17; HB 572, Eff. 3/22/19; HB 33, Eff. 10/3/23)*

### **Sec. 145.451 Death benefit payment upon death of a retirant or disability benefit recipient**

(A) Upon the death of a retirant or disability benefit recipient, who at the time of death is receiving an age and service retirement benefit or a disability benefit from this system, a death benefit shall be paid, following the completion of an application on a form approved by the public employees retirement board, to one of the following in the order given:



(1) The person the retirant or disability benefit recipient has designated in writing duly executed on a form provided by the board, signed by the retirant or disability recipient, and filed with the board. If more than one such designation has been made, the person last designated shall be considered the person designated.

(2) The retirant's or disability benefit recipient's surviving spouse;

(3) The retirant's or disability benefit recipient's children, share and share alike;

(4) The retirant's or disability benefit recipient's parents, share and share alike;

(5) The person responsible for burial expenses;

(6) The retirant's or disability benefit recipient's estate.

(B) The amount of the death benefit shall be as follows:

(1) If the retirant or disability benefit recipient had at least five years' but less than ten years' total service credit, five hundred dollars;

(2) If the retirant or disability benefit recipient had at least ten years' but less than fifteen years' total service credit, one thousand dollars;

(3) If the retirant or disability benefit recipient had at least fifteen years' but less than twenty years' total service credit, one thousand five hundred dollars;

(4) If the retirant or disability benefit recipient had at least twenty years' but less than twenty-five years' total service credit, two thousand dollars;

(5) If the retirant or disability benefit recipient had twenty-five or more years' total service credit, two thousand five hundred dollars.

(C) A benefit paid under this section shall be treated as life insurance for purposes of this chapter and shall be funded solely from contributions made under section 145.48 of the Revised Code and any earnings attributable to those contributions.

*(ENACTED: HB 430, Eff. 11/20/73; HB 268, Eff. 8/20/76; HB 760, Eff. 1/1/89; HB 167, Eff. 7/24/90; SB 346, Eff. 7/29/92; HB 628, Eff. 9/21/00)*

### **Sec. 145.452 Purchase of service credit by dependents**

The surviving spouse of a member who dies on or after the effective date of this amendment may continue any service credit purchase that the member initiated before death. A purchase shall be considered to have been initiated before the member's death if the member made one or more payments for the purchase before death.

Any service credit purchased under this section shall be applied under the provisions of this chapter in the same manner as it would have been applied had it been purchased by the deceased member during the deceased member's lifetime.

*(ENACTED: HB 268, Eff. 8/20/76; SB 346, Eff. 7/29/92; HB 628, Eff. 9/21/00; HB 535, Eff. 4/1/01; SB 343, Eff. 1/7/13)*

### **Sec. 145.46 Optional benefit plans for retirants**

(A) A retirement allowance calculated under section 145.33, 145.331, 145.332, or 145.335 of the Revised Code shall be paid as provided in this section.

Unless the member is required by division (C) of this section to select a specified plan of payment, a member may elect a plan of payment as provided in division (B)(1), (2), or (3) of this section. An election shall be made at the time the member makes application for retirement and 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, 145.332, or 145.335 of the Revised Code.

(B) The following plans of payment shall be offered by the public employees retirement system:

(1) "Joint-life plan," an allowance that consists of the actuarial equivalent of the member's retirement allowance determined under section 145.33, 145.331, 145.332, or 145.335 of the Revised Code in a lesser amount payable for life and one-half or some other portion equal to ten per cent or more of the allowance continuing after death to the member's designated beneficiary for the beneficiary's life. The beneficiary shall be nominated by written designation filed with the retirement board. The amount payable to the beneficiary shall not exceed the amount payable to the member.

(2) "Single-life plan," the member's retirement allowance determined under section 145.33, 145.331, 145.332, or 145.335 of the Revised Code;

(3) "Multiple-life plan," an allowance that consists of the actuarial equivalent of the member's retirement allowance determined under section 145.33, 145.331, 145.332, or 145.335 of the Revised Code in a lesser amount payable to the retiree 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. Unless required under division (C) of this section, 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.

(C) A member shall select a plan of payment as follows:

(1) Subject to division (C)(2) of this section, if the member is married at the time of retirement, the member shall select a joint-life plan and receive a plan of payment that consists of the actuarial equivalent of the member's retirement allowance determined under section 145.33, 145.331, 145.332, or 145.335 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. A married member is not required to select this plan of payment if the member's spouse consents in writing to the member's election of a plan of payment other than described in this division or the board waives the requirement that the spouse consent;

(2) If prior to the effective date of the member's retirement, the public employees retirement board receives a copy of 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 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:

(a) The member elects a plan of payment that is in accordance with the order.

(b) If the member is married, the member elects a multiple-life plan 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.

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

(1) 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 a joint-life plan and consist 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;

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

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

(4) 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.

(E)(1) 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.

(2) 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) 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.

(F) 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.

(G)(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 the date of 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 the 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.

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

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

(b) A retirant who is receiving a retirement allowance pursuant to a plan of payment providing for payment to a former spouse pursuant to a court order described in division (C)(2) of this section may elect a new plan of payment in the form of a multiple-life plan 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.

(2) If the marriage or remarriage occurs on or after June 6, 2005, 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 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.

(I) 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.

(J) 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. *(ENACTED: HB 744, Eff. 6/29/55; SB 386, Eff. 9/16/57; SB 160, Eff. 8/1/59; HB 957, Eff. 10/27/61; HB 590, Eff. 10/14/63; SB 409, Eff. 11/21/69; HB 268, Eff. 8/20/76; HB 220, Eff. 10/31/78; SB 240, Eff. 7/24/90; HB 382, Eff. 6/30/91; SB 346, Eff. 7/29/92; HB 648, Eff. 9/16/98; HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02; HB 98, Eff. 10/27/06; HB 10, Eff. 6/6/05, other provisions Eff. 10/27/06; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

#### **Sec. 145.47 Per cent of contributions; deductions**

(A) Each public employee who is a contributor to the public employees retirement system shall contribute eight per cent of the contributor's earnable salary to the employees' savings fund, except that the public employees retirement board may raise the contribution rate to a rate not greater than ten per cent of the employee's earnable salary.

(B) The head of each state department, institution, board, and commission, and the fiscal officer of each local authority subject to this chapter, shall transmit to the system for each contributor subsequent to the date of coverage an amount equal to the applicable per cent of each contributor's earnable salary at such intervals and in such form as the system shall require. The head of each state department and the fiscal officer of each local authority subject to this chapter shall transmit promptly to the system a report of contributions at such intervals and in such form as the system shall require, showing thereon all the contributions and earnable salary of each contributor employed, together with warrants, checks, or electronic payments covering the total of such deductions. A penalty shall be added when such report, together with warrants, checks or electronic payments to cover the total amount due from the earnable salary of all amenable employees of such employer, is filed thirty or more days after the last day of such reporting period. The system, after making a record of all receipts under this division, shall deposit the receipts with the treasurer of state for use as provided by this chapter.

(C) Unless the board adopts a rule under division (D) of this section, the penalty described in division (B) of this section for failing to timely transmit a report, pay the total amount due, or both is as follows:

(1) At least one but not more than ten days past due, an amount equal to one per cent of the total amount due;

(2) At least eleven but not more than thirty days past due, an amount equal to two and one-half per cent of the total amount due;

(3) Thirty-one or more days past due, an amount equal to five per cent of the total amount due.

The penalty described in this division shall be added to and collected on the next succeeding regular employer billing. Interest at a rate set by the retirement board shall be charged on the amount of the penalty in case such penalty is not paid within thirty days after it is added to the regular employer billing.

(D) The board may adopt rules to establish penalties in amounts that do not exceed the amounts specified in divisions (C) (1) to (3) of this section.

(E) In addition to the periodical reports of deduction required by this section, the fiscal officer of each local authority subject to this chapter shall submit to the system at least once each year a complete listing of all noncontributing appointive employees. Where an employer fails to transmit contributions to the system, the system may make a determination of the employees' liability for contributions and certify to the employer the amounts due for collection in the same manner as payments due the employers' accumulation fund. Any amounts so collected shall be held in trust pending receipt of a report of contributions for such public employees for the period involved as provided by law and, thereafter, the amount in trust shall be transferred to the employees' savings fund to the credit of the employees. Any amount remaining after the transfer to the employees' savings fund shall be transferred to the employers' accumulation fund as a credit of such employer.

(F) The fiscal officer of each local authority subject to this chapter shall require each new contributor to submit to the system a detailed report of all the contributor's previous service as a public employee along with such other facts as the board requires for the proper operation of the system.

(G) Any member who, because of the member's own illness, injury, or other reason which may be approved by the member's employer is prevented from making the member's contribution to the system for any payroll period, may purchase service credit for the period of absence within one year. Credit shall be purchased under this division in accordance with section 145.29 of the Revised Code.

*(ENACTED: SB 386, Eff. 9/16/57; SB 160, Eff. 8/1/59; HB 225, Eff. 11/13/65; HB 959, Eff. 6/10/68; SB 409, Eff. 11/21/69; HB 716, Eff. 11/22/73; HB 430, Eff. 11/20/73; HB 268, Eff. 8/20/76; HB 548, Eff. 10/8/82; SB 243, Eff. 9/26/84; HB 502, Eff. 4/24/86; HB 552, Eff. 12/15/88; HB 382, Eff. 6/30/91; HB 628, Eff. 9/21/00; HB 562, Eff. 9/23/08; SB 343, Eff. 1/7/13)*

### **Sec. 145.471 Authorization to credit interest**

(A)(1) On and after December 13, 2000, the public employees retirement board shall credit interest to the individual accounts of contributors, except that interest shall not be credited to the individual account of a PERS or other system retirant, as defined in section 145.38 of the Revised Code, for contributions received during the period described in division (B)(4)(a) or (b) of section 145.38 of the Revised Code. For amounts deposited by a contributor under section 145.62 or the version of division (C) of section 145.23 of the Revised Code as it existed immediately prior to the effective date of this amendment, interest or earnings shall be credited in accordance with that section and former division.

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

December 13, 2000.

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

*(ENACTED: SB 144, Eff. 12/13/00; HB272, Eff. 4/6/07)*

### **Sec. 145.472 Interest on amounts prior to December 31, 1998**

This section applies to individuals who are contributors on December 13, 2000.

(A) Not later than thirty days after December 13, 2000, the public employees retirement board shall credit interest to the individual account of each contributor in accordance with this section, except that interest shall not be credited to the individual account of a PERS or other system retiree, as defined in section 145.38 of the Revised Code, for contributions received during the period described in division (B)(4)(a) or (b) of section 145.38 of the Revised Code. For amounts deposited by a contributor under section 145.62 or the version of division (C) of section 145.23 of the Revised Code as it existed immediately prior to the effective date of this amendment, interest or earnings shall be credited in accordance with that section or former division.

For contributors with service credit earned prior to December 31, 1981, the board may reflect the compounding of interest by using factors provided by the board's actuary.

(B) The interest credited under this section shall be calculated on all amounts on deposit in an individual's account in the employees' savings fund as follows:

(1) If this section takes effect on or before December 31, 2000, interest shall be calculated on amounts on deposit in December 31, 1998.

(2) If this section takes effect after December 31, 2000, interest shall be calculated on amounts on deposit on December 31, 1999.

*(ENACTED: SB 144, Eff. 12/13/00; HB272, Eff. 4/6/07)*

### **Sec. 145.473 Interest on contributor's accounts**

(A) The rate of interest credited to individual accounts of contributors under sections 145.471 and 145.472 of the Revised Code shall be as follows:

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

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

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

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

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

(B) For the purpose of determining the reserve value of a contributor's annuity, the rate of interest shall be as follows:

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

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

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

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

(5) An amount determined by the board based on the recommendation of the board's actuary, compounded annually, for contributors retiring on or after December 13, 2000. (ENACTED: SB 144, Eff. 12/13/00; HB 535, Eff. 4/1/01; SB 343, Eff. 1/7/13)

#### **Sec. 145.48 Employer contribution rate**

(A) Each employer shall pay to the public employees retirement system an amount that shall be a certain per cent of the earnable salary of all contributors to be known as the "employer contribution," except that the public employees retirement board may raise the employer contribution to a rate not to exceed fourteen per cent of the earnable salaries of all contributors.

(B)(1) On the basis of regular interest and of such mortality and other tables as are adopted by the public employees retirement board, the actuary for the board shall determine the liabilities and employer rates of contribution as follows:

(a) The percentage of earnable salary that, when added to the per cent of earnable salary contributed by each member, will cover the costs of benefits to be paid to members for each year of service rendered;

(b) The percentage of earnable salary that, if paid over a period of future years, will discharge fully the system's unfunded actuarial accrued pension liability;

(c) The percentage of earnable salary designated by the board to pay benefits authorized under section 145.58 of the Revised Code.

(2) If recognized assets exceed the liabilities for service previously rendered, on approval of the board, a percentage of earnable salary may be deducted from the employer rates of contribution that, if deducted annually over a period of future years, will eliminate the excess. (ENACTED: HB 551, Eff. 10/26/53; HB 636, Eff. 10/6/55; SB 386, Eff. 9/16/57; HB 225, Eff. 11/13/65; SB 502, Eff. 9/4/70; HB 268, Eff. 8/20/76; HB 502, Eff. 4/24/86; HB 382, Eff. 6/30/91; SB 346, Eff. 7/29/92; HB 628, Eff. 9/21/00; SB 343, Eff. 1/7/13)

#### **Sec. 145.483 Delinquent contributions**

Upon a finding that an employer failed to deduct contributions pursuant to section 145.47 of the Revised Code during a period of employment for which such contributions were required, a statement of delinquent contributions shall be prepared showing the amount the contributor and employer would have contributed had regular payroll deductions been taken. Simple interest from the end of each calendar year at a rate equal to the assumed actuarial rate of interest at the time the statement is prepared shall be included. If delinquent contribution statements are paid later than thirty days after the end of the month in which they become an obligation of the employer, any balance remaining shall be collected with penalties and interest pursuant to section 145.51 of the Revised Code.

Any amount paid under this section by an employer shall be credited in accordance with section 145.23 of the Revised Code.

(ENACTED: HB 268, Eff. 8/20/76; HB 502, Eff. 4/24/86; HB 382, Eff. 6/30/91; HB272, Eff. 4/6/07; SB 343, Eff.

1/7/13)

**Sec. 145.49 Calculation of separate contribution rate for law enforcement members electing alternate benefits**

(A) Notwithstanding section 145.47 of the Revised Code:

(1) The public employees retirement system shall be authorized to calculate the employee contribution rates separately for those public employees contributing toward benefits as PERS public safety officers under section 145.332 of the Revised Code.

(2) Each public employee contributing toward benefits as PERS law enforcement officers under section 145.332 of the Revised Code shall contribute to the employees' savings fund the rate determined under division (A)(1) of this section plus an additional percentage specified by the public employees retirement board, which shall initially be one per cent of the employee's earnable salary and shall not be increased to more than two per cent of the employee's earnable salary.

(B) Notwithstanding section 145.48 of the Revised Code, the public employees retirement system shall be authorized to calculate the employer contribution rates separately for those public employees contributing toward benefits as PERS public safety officers under section 145.332 of the Revised Code or as PERS law enforcement officers under that section, except that the employer contribution rate shall not exceed eighteen and one-tenth per cent of the earnable salaries of those employees.

(C) If the public employees retirement board adopts a rule under division (P) of section 145.332 of the Revised Code under which service as a public safety officer is treated as service as a law enforcement officer, the contributions for service as a public safety officer shall be at the rate for service as a law enforcement officer.

*(ENACTED: HB 1312, Eff. 3/4/75; HB 1, Eff. 6/13/75; HB 548, Eff. 10/8/82; HB 552, Eff. 12/15/88; SB 346, Eff. 7/29/92; HB 416, Eff. 4/1/01; HB 158, Eff. 2/1/02; SB267, Eff. 3/24/09; SB 343, Eff. 1/7/13)*

**Sec. 145.51 Payments into employers' accumulation fund**

(A) Each employer described in division (D) of section 145.01 of the Revised Code, shall pay into the employers' accumulation fund, in monthly installments, an amount certified by the public employees retirement board which equals the employer obligation as described in section 145.12 or 145.69 of the Revised Code. In addition, the board shall add to the employer billing next succeeding the amount, with interest, to be paid by the employer to provide the member with contributing service credit for the service prior to the date of initial contribution to the system for which the member has made additional payments, except payments made pursuant to former section 145.29 or sections 145.28 and 145.292 of the Revised Code.

(B) Except as provided in section 145.52 of the Revised Code, all employer obligations described in division (A) of this section must be received by the public employees retirement system not later than the thirtieth day after the last day of the calendar month for which related member contributions are withheld.

(C) Unless the board adopts a rule under division (F) of this section establishing a different interest rate or penalty, interest and penalties for failing to pay the employer obligation when due under division (B) of this section shall be as follows:

(1) Interest, compounded annually and charged monthly, for each day after the due date that the employer obligation remains unpaid in an amount equal to six per cent per annum of the past due amount of the employer obligation and any penalties imposed under this section;



(2) The penalty for failing to pay the employer obligation when due under division (B) is as follows:

(a) At least eleven but not more than thirty days past due, an amount equal to one per cent of the past due obligation;

(b) At least thirty-one but not more than sixty days past due, an additional amount equal to one and one-half per cent of the past due obligation;

(c) Sixty-one or more days past due, an additional amount equal to two and one-half per cent of the past due obligation.

(D) The aggregate of all payments by employers under this section shall be sufficient, when combined with the amount in the employers' accumulation fund, to provide amounts payable under this chapter out of the fund, and if not, the additional amount so required shall be collected by means of an increased rate per cent which shall be certified to such employers by the board.

(E) Upon certification by the board to the director of budget and management, or to the county auditor, of an amount due from an employer within any county who is subject to this chapter, by reason of such employer's delinquency in making payments into the employers' accumulation fund for past billings, such amount shall be withheld from such employer from any funds subject to the control of the director or the county auditor to such employer and shall be paid to the public employees retirement system.

(F) The board may adopt rules to do any of the following:

(1) Establish interest at a rate that does not exceed the annual rate described in division (C)(1) of this section;

(2) Establish penalties in amounts that do not exceed the amounts described in division (C)(2) of this section;

(3) Permit the board to lengthen the periods of time or enter into repayment agreements for employers to comply with divisions (B) and (C) of this section.

*(ENACTED: SB 386, Eff. 9/16/57; SB 160, Eff. 8/1/59; HB 957, Eff. 10/27/61; HB 1, Eff. 10/27/61; HB 1, Eff. 1/23/63; HB 225, Eff. 11/13/65; HB 430, Eff. 11/20/73; HB 201, Eff. 7/1/85; HB 382, Eff. 6/30/91; HB272, Eff. 4/6/07; SB 343, Eff. 1/7/13)*

### **Sec. 145.52 Employer payment of transitional liability**

(A) As used in this section and section 145.53 of the Revised Code, "transitional liability" means an amount equal to the employer obligation due under division (A) of section 145.51 of the Revised Code for the months of October, November, and December of 2007.

(B) The transitional liability is payable in three installments on or before December 31, 2008, December 31, 2009, and December 31, 2010.

(1) The first installment is due not later than December 31, 2008, and equals the portion of the transitional liability for the month of October 2007.

(2) The second installment is due not later than December 31, 2009, and equals the portion of the transitional liability for the month of November 2007.

(3) The third installment is due not later than December 31, 2010, and equals the portion of the transitional liability for the month of December 2007.

(C) Interest and penalties for failing to pay amounts when due under division (B) of this section shall be calculated in accordance with division (C) of section 145.51 of the Revised Code.  
*(ENACTED: HB 272, Eff. 4/6/07)*

**Sec. 145.53    Crediting of transitional liability to defined contribution plan**

(A) From the employer obligation for the month of February 2008, under section 145.51 of the Revised Code, an amount equal to the portion of the employer obligation attributable to section 145.86 of the Revised Code for the months of October, November, and December of 2007, shall be credited to the PERS defined contribution plan to satisfy the portion of the transitional liability attributable to section 145.86 of the Revised Code.

(B) When the amount described in division (A) of this section is credited to the PERS defined contribution plan, an equal amount shall be added to the transitional liability described in section 145.52 of the Revised Code to satisfy a portion of the February 2008 employer obligation that is attributable to the PERS defined benefit plan. This amount shall be paid in accordance with section 145.52 of the Revised Code, and shall be prorated to correspond with the portion of the transitional liability due under division (B) of that section.

*(ENACTED: HB 272, Eff. 4/6/07)*

**Sec. 145.54    Annual estimate of amount necessary to defray expenses; apportionment**

The public employees retirement board shall estimate annually the amount required to defray the expenses of the administration of the public employees retirement system in the ensuing year. If in the judgment of the board, as evidenced by a resolution of that board in its minutes, the amount in the income fund exceeds the amount necessary to cover the ordinary requirements of that fund, the board may transfer to the expense fund such excess amount not exceeding the entire amount required to cover the expenses as estimated for the year. If the amount in the expense fund, including any amount transferred from the income fund, is not sufficient to defray the expenses of administration of the system in the ensuing year, the board may transfer any remaining amount required for the expense fund to that fund from the employer's accumulation fund.

*(ENACTED: HB 551, Eff. 10/26/53; SB 160, Eff. 8/1/59; SB 343, Eff. 1/7/13)*

**Sec. 145.55    Contributions consent to deductions**

The deductions provided for in this chapter shall be made notwithstanding that the minimum compensation provided for by law for any contributor is reduced thereby. Every contributor is deemed to consent to the deductions made and provided for in this chapter. Payment less the deductions shall be a complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment.

*(ENACTED: HB 382, Eff. 6/30/91; HB 628, Eff. 9/21/00)*

**Sec. 145.56    Taxation of allowances; exemption from execution or garnishment**

The right of an individual to a pension, an annuity, or a retirement allowance itself, the right of an individual to any optional benefit, any other right accrued or accruing to any individual, under this chapter, or under any municipal retirement system established subject to this chapter, under the laws of this state or any charter, the various funds created by this chapter or under such municipal retirement system, and all moneys, investments, and income from moneys or investments, are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, and are exempt from any county, municipal, or other local tax, except income taxes imposed pursuant to sections 5748.02, 5748.08, or 5748.09 of the Revised

Code, and, except as provided in sections 145.57, 145.572, 145.573, 145.574, 3105.171, 3105.65, and 3115.501 and Chapters 3119., 3121., 3123., and 3125. of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall be unassignable except as specifically provided in this chapter and sections 3105.171, 3105.65 and 3115.501 and Chapters 3119., 3121., 3123., and 3125. of the Revised Code.

*(ENACTED: HB 744, Eff. 6/29/55; SB 326, Eff. 12/14/67; SB 464, Eff. 10/16/72; HB 265, Eff. 9/20/84; HB 509, Eff. 12/1/86; HB 104, Eff. 10/31/91; SB 10, Eff. 7/15/92; SB 17, Eff. 2/13/97; HB 628, Eff. 9/21/00; SB 180, Eff. 3/22/01; HB 535, Eff. 1/1/02; SB 247, Eff. 10/1/02; SB 3, Eff. 5/13/08; HB123, Eff. 7/29/11; HB 153, Eff. 9/29/11; SB 343, Eff. 1/7/13; HB 64, Eff. 1/1/16)*

### **Sec. 145.561 Person acquires vested right in pension when granted**

(A) Except as provided in division (B) of this section and section 145.363, 145.573, or 145.574 of the Revised Code, the granting of a retirement allowance, annuity, pension, or other benefit to any person pursuant to action of the public employees retirement board vests a right in such person, so long as the person remains the recipient of any benefit of the funds established by section 145.23 of the Revised Code, to receive such retirement allowance, annuity, pension, or other benefit at the rate fixed at the time of granting such retirement allowance, annuity, pension, or other benefit. Such right shall also be vested with equal effect in the recipient of a grant heretofore made from any of the funds named in section 145.23 of the Revised Code.

(B) This section does not apply to an increase made under section 145.323 of the Revised Code for a recipient whose benefit effective date is on or after the effective date of this amendment. *(ENACTED: HB 744, Eff. 6/29/55; SB 160, Eff. 8/1/59; HB 382, Eff. 6/30/91; HB123, Eff. 7/29/11; SB 343, Eff. 1/7/13)*

### **Sec. 145.562 Written notice of waiver**

(A) Any person who is receiving an allowance or benefit or any increases under this chapter may, at any time, waive his rights thereto, or to a portion thereof, by filing a written notice of waiver with the public employees retirement board. Except as provided in division (B) of this section, such waiver shall remain in effect until the first day of the month following his death or the filing of his written cancellation of such waiver with the public employees retirement board. Any amount so waived shall be forever forfeited.

(B) If a beneficiary waives in writing all claim to any benefits under this chapter prior to receipt of the first benefit, the waiver shall put in effect the succession of beneficiaries as provided in division (C) of section 145.43 of the Revised Code and shall be irrevocable. *(ENACTED: HB 590, Eff. 10/14/63; HB 382, Eff. 6/30/91)*

### **Sec. 145.563 Recovery of payments**

Notwithstanding section 145.561 of the Revised Code:

(A) The public employees retirement system may adjust an allowance or benefit payable under this chapter if an error occurred in calculation of the allowance or benefit;

(B) If any person who is a member, former member, contributor, former contributor, retirant, beneficiary, or alternate payee, as defined in section 3105.80 of the Revised Code, is

paid any benefit or payment by the public employees retirement system, including any payment made to a third party on the person's behalf, to which the person is not entitled, the benefit or payment shall be repaid to the retirement system by the person or third party. A repayment required by this section may include a penalty or interest on the amount of the benefit or payment, as specified in rules adopted by the public employees retirement board. The rules shall specify the method for calculating a penalty or interest and the conditions under which a penalty or interest may be assessed.

If the person or third party fails to make the repayment, the retirement system shall withhold the amount or a portion of the amount due from any benefit or payment due the person or the person's beneficiary under this chapter, or may collect the amount in any other manner provided by law.

*(ENACTED: SB 346, Eff. 7/29/92; HB 628, Eff. 9/21/00; HB 535, Eff. 1/1/02; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

#### **Sec. 145.564 Deductions for dues and fees**

Any person receiving from the public employees retirement system an allowance, annuity, pension, or benefit may authorize the system to make deductions therefrom for the payment of dues and other membership fees to any retirement association or other organization composed primarily of retired public employees or retired public employees and their spouses if the association or organization adopts a resolution approving payment by that method and not fewer than five hundred persons receiving allowances, annuities, pensions, or benefits from the system initially authorize the deduction for payment to the same association or organization. The authorization shall be in writing and signed by the person giving it. The system shall make the deductions authorized and pay to the association or organization the amounts deducted, until the authorization is revoked in writing by the person. The system may charge the association or organization an amount not exceeding the actual costs incurred by the system in making the deductions. The system shall adopt rules establishing the method of collecting the amount charged, if any.

*(ENACTED: HB 186, Eff. 3/17/01)*

#### **Sec. 145.57 Withholding order to enforce restitution to employer for theft offense; payment delayed while charge pending**

(A) Notwithstanding any other provision of this chapter, any payment that is to be made under a pension, annuity, allowance, or other type of benefit, other than a survivorship benefit, that has been granted to a person under this chapter, any payment of accumulated contributions standing to a person's credit under this chapter, and any payment of any other amounts to be paid to a person under this chapter upon the person's withdrawal of contributions pursuant to this chapter shall be subject to any withholding order issued pursuant to section 2907.15 of the Revised Code or division (C)(2)(b) of section 2921.41 of the Revised Code, and the public employees retirement board shall comply with that withholding order in making the payment.

(B) Notwithstanding any other provision of this chapter, if the board receives notice pursuant to section 2907.15 of the Revised Code or division (D) of section 2921.41 of the Revised Code that a person who has accumulated contributions standing to the person's credit pursuant to this chapter is charged with a violation of section 2907.02, 2907.03, 2907.04, 2907.05, or 2921.41 of the Revised Code, no payment of those accumulated contributions, of any other amounts to be paid to a contributor under this chapter upon the person's withdrawal of contributions pursuant to this chapter, or of any amount to be paid to a contributor as a lump sum or single payment under section 145.38 of the Revised Code, shall be made prior to whichever of the following is applicable:

(1) If the person is convicted of or pleads guilty to the charge and no motion for a withholding order for purposes of restitution has been filed under section 2907.15 of the Revised Code or division (C)(2)(b)(i) of section 2921.41 of the Revised Code, thirty days after the day on which final disposition of the charge is made;

(2) If the person is convicted of or pleads guilty to the charge and a motion for a withholding order for purposes of restitution has been filed under section 2907.15 of the Revised Code or division (C)(2)(b)(i) of section 2921.41 of the Revised Code, the day on which the court decides the motion;

(3) If the charge is dismissed or the person is found not guilty or not guilty by reason of insanity of the charge, the day on which final disposition of the charge is made.

**Sec. 145.571 Execution of a division of property order**

(A) As used in this section, “alternate payee,” “benefit,” “lump sum payment,” “participant,” and “public retirement program” have the same meanings as in section 3105.80 of the Revised Code.

(B) On receipt of an order issued under section 3105.171 or 3105.65 of the Revised Code, the public employees retirement system shall determine whether the order meets the requirements of sections 3105.80 to 3105.90 of the Revised Code. The system shall retain in the participant’s record an order the system determines meets the requirements. Not later than sixty days after receipt, the system shall return to the court that issued the order any order the system determines does not meet the requirements.

(C) The system shall comply with an order retained under division (B) of this section at the following times as appropriate:

(1) If the participant has applied for or is receiving a benefit or has applied for but not yet received a lump sum payment, as soon as practicable;

(2) If the participant has not applied for a benefit or lump sum payment, on application by the participant for a benefit or lump sum payment.

(D) If the system transfers a participant’s service credit or contributions made by or on behalf of a participant to a public retirement program that is not named in the order, the system shall do both of the following:

(1) Notify the court that issued the order by sending the court a copy of the order and the name and address of the public retirement program to which the transfer was made;

(2) Send a copy of the order to the public retirement program to which the transfer was made.

(E) If it receives a participant’s service credit or contributions and a copy of an order as provided in division (D) of this section, the system shall administer the order as if it were the public retirement program named in the order.

(F) If a participant’s benefit or lump sum payment is or will be subject to more than one order described in section 3105.81 of the Revised Code or to an order described in section 3105.81 of the Revised Code and a withholding order under section 3121.03 of the Revised Code, the system shall, after determining that the amounts that are or will be withheld will cause the benefit or lump sum payment to fall below the limits described in section 3105.85 of the Revised Code, do all of the following:

(1) Establish, in accordance with division (G) of this section and subject to the limits described in section 3105.85 of the Revised Code, the priority in which the orders are or will be paid by the system;

(2) Reduce the amount paid to an alternate payee based on the priority established under division (F)(1) of this section;

(3) Notify, by regular mail, a participant and alternate payee of any action taken under this division.

(G) A withholding or deduction notice issued under section 3121.03 of the Revised Code or an order described in section 3115.501 of the Revised Code has priority over all other orders and shall be complied with in accordance with child support enforcement laws. All other orders are entitled to priority in order of earliest retention by the system. The system is not to retain an order that provides for the division of property unless the order is filed in a court with

jurisdiction in this state.

(H) The system is not liable in civil damages for loss resulting from any action or failure to act in compliance with this section.

*(ENACTED: HB 535, Eff. 1/1/02; HB 64, Eff. 1/1/16; HB 572, Eff. 3/22/19)*

### **Sec. 145.572 Forfeiture of benefits under R.C. 2929.192**

(A)(1) Notwithstanding any other provision of this chapter, the following shall be subject to a forfeiture ordered under division (A) or (B) of section 2929.192 of the Revised Code:

(a) The right of a member to receive any payment under a pension, annuity, allowance, or other type of benefit under this chapter, other than a payment of the accumulated contributions standing to the person's credit under this chapter;

(b) The right of a contributor to receive a benefit under division (B) of section 145.384 of the Revised Code, other than a payment of the person's contributions made under section 145.38 or 145.383 of the Revised Code.

(2) The public employees retirement system shall comply with a forfeiture order issued under division (A) or (B) of section 2929.192 of the Revised Code at the time the member or contributor applies for payment of the person's accumulated contributions. Upon payment of the person's contributions and cancellation of any corresponding service credit, a person who is subject to the forfeiture order described in this division may not restore any canceled service credit under this chapter or the provisions of Chapter 742., 3305., 3307., 3309., or 5505. of the Revised Code.

(B) Notwithstanding any other provision of this chapter, if the system receives notice pursuant to section 2901.43 of the Revised Code that a person who has accumulated contributions standing to the person's credit pursuant to this chapter is charged with any offense or violation listed or described in divisions (D)(1) to (3) of section 2929.192 of the Revised Code that is a felony in the circumstances specified in the particular division, all of the following apply:

(1) No payment of those accumulated contributions or of any other amount or amounts to be paid to a person who is a contributor under this chapter upon the person's withdrawal of contributions pursuant to this chapter shall be made prior to whichever of the following is applicable:

(a) If the person is convicted of or pleads guilty to the charge and forfeiture is ordered under division (A) or (B) of section 2929.192 of the Revised Code, the day on which the system receives from the court a copy of the journal entry of the offender's sentence under that section;

(b) If the charge against the person is dismissed, the person is found not guilty of the charge, or the person is found not guilty by reason of insanity of the charge, the day on which the system receives notice of the final disposition of the charge.

(2) The system shall not process any application for payment under this chapter from the person prior to the final disposition of the charge.

*(ENACTED: SB 3, Eff. 5/13/08)*

### **Sec. 145.573 Disability benefits subject to termination**

Notwithstanding any other provision of this chapter, a disability benefit granted under this chapter is subject to an order issued under section 2929.193 of the Revised Code. The public employees retirement board shall comply with the order.

On receipt of notice under section 2901.43 of the Revised Code that a public employees retirement system member is charged with an offense listed in division (D) of section 2929.192 of the Revised Code under the circumstances specified in that division, the system shall determine whether the member has been granted a disability benefit. If so, the system shall send written notice to the prosecutor assigned to the case that the member has been granted a disability benefit under this chapter and may be subject to section 2929.193 of the Revised Code. (ENACTED: HB 123, Eff. 7/29/11)

#### **Sec. 145.574 Forfeiture of disability benefits under R.C. 2929.194**

Notwithstanding any other provision of this chapter, any right of a member of the public employees retirement system to a disability benefit is subject to a forfeiture order issued under section 2929.194 of the Revised Code.

If the retirement system receives notice under section 2901.431 of the Revised Code that felony charges have been filed against a member, the retirement system shall not grant the member a disability benefit unless it determines that the member's disability was not caused by commission of the felony. If the member has disability coverage under this chapter or was granted a disability benefit after the date on which the felony was committed, the retirement system shall notify the prosecutor who sent the notice under section 2901.431 of the Revised Code that the member may be subject to an order of forfeiture under section 2929.194 of the Revised Code.

On receipt under section 2929.194 of the Revised Code of a journal entry showing an order of forfeiture of any right a member may have to a disability benefit, the retirement system shall comply with the order. If a disability benefit was granted prior to receipt of the order, the retirement system shall terminate the benefit. Any disability benefit paid to the member prior to its termination may be recovered in accordance with section 145.563 of the Revised Code.

Neither this section nor section 2929.194 of the Revised Code precludes a member from withdrawing the member's accumulated contributions in accordance with section 145.40 of the Revised Code if the member is not subject to section 145.572 or 2929.193 of the Revised Code. (ENACTED: SB 343, Eff. 1/7/13)

#### **Sec. 145.58 Group hospitalization coverage; ineligible individuals; service credit; alternative use of HMO**

(A) The public employees retirement board shall adopt rules establishing eligibility for any coverage provided under this section. The rules shall base eligibility on years and types of service credit earned by members. Eligibility determinations shall be made in accordance with the rules, except that an individual who, as a result of making a false statement in an attempt to secure a benefit under this section, is convicted of violating section 2921.13 of the Revised Code is ineligible for coverage.

(B) The board may enter into agreements with insurance companies, health insuring corporations, or government agencies authorized to do business in the state for issuance of a policy or contract of health, medical, hospital, or surgical coverage, or any combination thereof, for eligible individuals receiving age and service retirement, or a disability or survivor benefit subscribing to the plan, or for PERS retirants employed under section 145.38 of the Revised Code, for coverage in accordance with division (D)(2) of section 145.38 of the Revised Code. Notwithstanding any other provision of this chapter, the policy or contract may also include coverage for any eligible individual's spouse and dependent children and for any of the eligible



individual's sponsored dependents as the board determines appropriate. If all or any portion of the policy or contract premium is to be paid by any individual receiving age and service retirement or a disability or survivor benefit, the individual shall, by written authorization, instruct the board to deduct the premium agreed to be paid by the individual to the company, corporation, or agency.

The board may contract for coverage on the basis of part or all of the cost of the coverage to be paid from appropriate funds of the public employees retirement system. The cost paid from the funds of the system shall be included in the employer's contribution rate provided by sections 145.48 and 145.51 of the Revised Code. The board may by rule provide coverage to individuals who are not eligible under the rules adopted under division (A) of this section if the coverage is provided at no cost to the retirement system. The board shall not pay or reimburse the cost for coverage under this section or section 145.584 of the Revised Code for any such individual.

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

(C) The board shall, beginning the month following receipt of satisfactory evidence of the payment for coverage, pay monthly to each recipient of service retirement, or a disability or survivor benefit under the public employees retirement system who is eligible for coverage under part B of the medicare program established under Title XVIII of "The Social Security Act Amendments of 1965," 79 Stat. 301 (1965), 42 U.S.C.A. 1395j, as amended, an amount determined by the board for such coverage, except that the board shall make no such payment to any individual who is not eligible for coverage under the rules adopted under division (A) of this section or pay an amount that exceeds the amount paid by the recipient for the coverage.

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

(D) The board shall establish by rule requirements for the coordination of any coverage or payment provided under this section or section 145.584 of the Revised Code with any similar coverage or payment made available to the same individual by the Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system.

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

*(ENACTED: SB 256, Eff. 10/14/59; HB 957, Eff. 10/27/61; HB 225, Eff. 11/13/65; HB 430, Eff. 11/20/73; HB 268, Eff. 8/20/76; HB 1, Eff. 8/26/77; HB 126, Eff. 6/13/81; HB 236, Eff. 2/2/82; HB 631, Eff. 3/28/85; HB 706, Eff. 12/16/86; SB 124, Eff. 10/1/87; HB 382, Eff. 6/30/91; HB 383, Eff. 5/4/92; SB 346, Eff. 7/29/92; HB 151, Eff. 2/9/94; SB 82, Eff. 3/6/97; SB 67, Eff. 6/4/97; HB 222, Eff. 11/2/99; HB 535, Eff. 4/1/01; SB 247, Eff. 10/1/02; SB267, Eff. 3/24/09; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

## **Sec. 145.581 Long-term care insurance**

(A) As used in this section:

(1) "Long-term care insurance" has the same meaning as in section 3923.41 of the Revised Code.

(2) "Retirement systems" means the public employees retirement system, the Ohio police and fire pension fund, the state teachers retirement system, the school employees retirement system, and the state highway patrol retirement system.

(B) The public employees retirement board may establish a long-term care insurance program consisting of the programs authorized by divisions (C) and (D) of this section. Such

program may be established independently or jointly with one or more of the other retirement systems. If the program is established jointly, the board shall adopt rules in accordance with section 111.15 of the Revised Code to establish the terms and conditions of such joint participation.

(C) The board may establish a program under which it makes long-term care insurance available to any person who participated in a policy of long-term care insurance for which the state or a political subdivision contracted under section 124.84 or 124.841 of the Revised Code and is the recipient of a pension, benefit, or allowance from the system. To implement the program under this division, the board, subject to division (E) of this section, may enter into an agreement with the insurance company, health insuring corporation, or government agency that provided the insurance. The board shall, under any such agreement, deduct the full premium charged from the person's benefit, pension, or allowance notwithstanding any employer agreement to the contrary.

Any long-term care insurance policy entered into under this division is subject to division (C) of section 124.84 of the Revised Code.

(D)(1) The board, subject to division (E) of this section, may establish a program under which a recipient of a pension, benefit, or allowance from the system who is not eligible for such insurance under division (C) of this section may participate in a contract for long-term care insurance. Participation may include the recipient's dependents and family members.

(2) The board may adopt rules in accordance with section 111.15 of the Revised Code governing the program. Any rules adopted by the board shall establish methods of payment for participation under this section, which may include deduction of the full premium charged from a recipient's pension, benefit, or allowance, or any other method of payment considered appropriate by the board.

(E) Prior to entering into any agreement or contract with an insurance company or health insuring corporation for the purchase of, or participation in, a long-term care insurance policy under this section, the board shall request the superintendent of insurance to certify the financial condition of the company or corporation. The board shall not enter into the agreement or contract if, according to that certification, the company or corporation is insolvent, is determined by the superintendent to be potentially unable to fulfill its contractual obligations, or is placed under an order of rehabilitation or conservation by a court of competent jurisdiction or under an order of supervision by the superintendent.

*(ENACTED: HB 383; Eff. 8/3/92; SB 346, Eff. 7/29/92; HB 152, Eff. 7/1/93; SB 67, Eff. 6/4/97; HB 222, Eff. 11/2/99; SB 42, Eff. 3.23.15)*

### **Sec. 145.582 Health care coverage for age and service retirement recipients**

If the public employees retirement system, between June 1, 1992, and December 31, 1992, informed a member in writing that, as a recipient of age and service retirement, the member will receive health care coverage, the system shall grant full-time service credit to the member for each month of contributing service as an elected official prior to December 31, 1987, only for the purpose of health care coverage under section 145.58 of the Revised Code, provided the member cancelled a policy of health insurance in reliance on the system's written notice. Health care coverage to be provided under this section is effective on the date specified in the writing informing the member that he will receive health care coverage.

*(ENACTED: SB 43, Eff. 7/8/93)*

### **Sec. 145.583 Voluntary deposits for health care expenses**

The PERS defined benefit plan or a PERS defined contribution plan may include a program under which a member participating in the plan, the member's employer, or a retiree is permitted to make deposits for the purpose of providing funds to the member or retiree for the payment of health, medical, hospital, surgical, dental, vision care, or drug expenses, including insurance premiums, deductible amounts, or copayments. Deposits made under this section are in addition to contributions required by this chapter and any other deposits made under it.

A program established under this section may be a voluntary employees' beneficiary association, as described in section 501(c)(9) of the Internal Revenue Code, 26 U.S.C. 501(c)(9), as amended; an account described in section 401(h) of the Internal Revenue Code, 26 U.S.C. 401(h), as amended; a medical savings account; or a similar type of program under which an individual may accumulate funds for the purpose of paying such expenses. To implement the program, the public employees retirement board may enter into agreements with insurance companies or other entities authorized to conduct business in this state.

If the PERS defined benefit plan or a PERS defined contribution plan includes a program described in this section, the board shall adopt rules to establish and administer the program.

*(ENACTED: HB 272, Eff. 4/6/07)*

### **Sec. 145.584 Medicare-equivalent benefits for members ineligible for Medicare**

(A) Except as otherwise provided in division (B) of this section, the board of the public employees retirement system shall make available to each retiree or disability benefit recipient receiving a monthly allowance or benefit on or after January 1, 1968, who has attained the age of sixty-five years, and who is not eligible to receive hospital insurance benefits under the federal old age, survivors, and disability insurance program without payment of premiums, one of the following:

(1) Hospital insurance coverage substantially equivalent to the federal hospital insurance benefits, Social Security Amendments of 1965, 79 Stat. 291, 42 U.S.C.A. 1395c, as amended;

(2) An amount, determined by the board, to reimburse the retiree or disability benefit recipient for payment of premiums for federal hospital insurance benefits described in this division, which amount shall not exceed the premiums paid.

This coverage or amount shall also be made available to the spouse, widow, or widower of such retiree or disability benefit recipient provided such spouse, widow, or widower has attained age sixty-five and is not eligible to receive hospital insurance benefits under the federal old age, survivors, and disability insurance program without payment of premiums. The widow or widower of a retiree or disability benefit recipient shall be eligible for such coverage or amount only if he or she is the recipient of a monthly allowance or benefit from this system. A portion of the cost of the premium or amount for the spouse may be paid from the appropriate funds of the system. The remainder of the cost shall be paid by the recipient of the allowance or benefit.

The cost of such coverage or amount, paid from the funds of the system, shall be included in the employer's rate provided by section 145.48 of the Revised Code. The retirement board is authorized to make all necessary rules pursuant to the purpose and intent of this section, and may contract for such coverage as provided in section 145.58 of the Revised Code.

At the request of the board, the recipient of reimbursement under this section shall certify to the retirement system the premium paid for the federal insurance benefits described in division (A) of this section. Payment of the amount described in division (A)(2) of this section shall begin

for the first month that the recipient is participating in both the federal hospital insurance benefits and a health care arrangement offered by the system.

(B) The board need not make the hospital insurance coverage or amount described in division (A) of this section available to any person for whom it is prohibited by section 145.58 of the Revised Code from paying or reimbursing the premium cost of such insurance.

*(ENACTED: HB 402, Eff. 12/14/67; HB 1, Eff. 6/13/75; HB 1, Eff. 8/26/77; HB 126, Eff. 6/13/81; SB 346, Eff. 7/29/92; HB 628, 9/21/00; SB 343, Eff. 1/7/13 (former Sec. 145.325 renumbered to 145.584); SB 42, Eff. 3/23/15)*

### **Sec. 145.62 Deposits for additional annuity**

Subject to rules adopted by the public employees retirement system under section 145.09 of the Revised Code, a contributor participating in the PERS defined benefit plan or contributing under section 145.38 or 145.383 of the Revised Code may deposit additional amounts in the employees' savings fund established under section 145.23 of the Revised Code. The additional deposits may be made either directly to the retirement system or by payroll deduction under section 145.294 of the Revised Code. The contributor shall receive in return either an annuity, as provided in section 145.64 of the Revised Code, having a reserve equal to the amount deposited or a refund under section 145.63 of the Revised Code of the amount deposited, together with earnings on the amount deposited as the public employees retirement board determines appropriate. If the annuity under the plan of payment selected by the contributor under section 145.64 of the Revised Code would be less than fifty dollars per month, the contributor shall receive the refund.

*(ENACTED: HB 272, Eff. 4/6/07; SB 343, Eff. 1/7/13; HB 572, Eff. 3/22/19)*

### **Sec. 145.63 Refund of additional annuity deposits**

(A) Deposits under section 145.62 of the Revised Code, together with earnings, shall be refunded under whichever of the following circumstances applies:

(1) On withdrawal of accumulated contributions as provided in sections 145.40 and 145.43 of the Revised Code or payment of a lump sum under section 145.384 of the Revised Code;

(2) On the death of a contributor prior to retirement;

(3) In the case of a contributor participating in the PERS defined benefit plan, on application of the contributor prior to attaining eligibility for age and service retirement;

(4) In the case of a contributor under section 145.38 or 145.383 of the Revised Code, on application of the contributor prior to attaining eligibility for a benefit under section 145.384 of the Revised Code;

(5) In the case of a contributor who has attained eligibility for an age and service retirement benefit or a benefit under section 145.384 of the Revised Code and is not married, on application;

(6) In the case of a contributor who has attained eligibility for an age and service retirement benefit or a benefit under section 145.384 of the Revised Code and is married, on application if the application is accompanied by a statement of the spouse's consent to the refund or the public employees retirement board waives the requirement that the spouse consent;

(7) In the case of a contributor who has attained eligibility for an age and service retirement benefit as a consequence of section 145.37 of the Revised Code and will receive a retirement or disability benefit from the state teachers retirement system or school employees retirement system but has not requested a transfer of funds to the other retirement system under division (B)(8) of section 145.37 of the Revised Code, at the time the public employees retirement system pays to the other retirement system the amount required under division (B)(6) of that section.

(8) In the case of a disability benefit recipient under section 145.36 of the Revised Code who is not eligible for an age and service retirement allowance, on the effective date of disability retirement.

(B) The consent of a spouse to a refund is valid only if it is in writing, signed, 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.

*(ENACTED: HB 272, Eff. 4/6/07; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

## **Sec. 145.64 Optional plans of payment for additional annuity deposits**

(A) As used in this section, “joint-life plan,” “single-life plan,” and “multiple-life plan” have the same meanings as in division (B) of section 145.46 of the Revised Code.

(B) A contributor who has not received a refund of amounts deposited under section 145.62 or the version of division (C) of section 145.23 of the Revised Code as it existed immediately prior to April 6, 2007, may file an application with the public employees retirement system for a benefit under this section. Except as provided in section 145.62 of the Revised Code, the benefit shall consist of an annuity that shall be paid as described in division (B) of section 145.46 of the Revised Code.

The application must be filed prior to receipt of an age and service retirement benefit from the retirement system or, in the case of a contributor under section 145.38 or 145.383 of the Revised Code, a benefit under section 145.384 of the Revised Code. A contributor who fails to file an application for a benefit under this section prior to receipt of an age and service retirement benefit or a benefit under section 145.384 of the Revised Code shall be eligible only for a refund under section 145.63 of the Revised Code.

(1) Except as provided in division (B)(2) of this section, a contributor who is married at the time of application for a benefit under this section shall receive the benefit as a monthly annuity under a joint-life plan.

(2) A contributor may receive a benefit under this section under a plan of payment other than a joint-life plan if one of the following is the case:

(a) The contributor is unmarried;

(b) The benefit application is accompanied by a statement of the spouse’s consent to another plan of payment or the public employees retirement board waives the requirement that the spouse consent;

(c) A plan of payment providing for payment in a specified portion of the benefit 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 contributor’s benefit application.

(3) If a member is subject to division (B)(2)(c) 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:

(a) The member elects a plan of payment that is in accordance with the order described in division (B)(2)(c) of this section.

(b) If the member is married, the member elects a multiple-life plan 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 or the board waives the requirement that the current spouse

consent.

(4) The contributor shall designate the beneficiary or beneficiaries under a plan of payment in writing at the time the plan is selected.

(5) A plan of payment, other than a single-life plan, shall be effective only if it is certified by an actuary engaged by the board to be the actuarial equivalent of the contributor's single-life plan annuity and is approved by the board.

(6) A contributor who is eligible to select a plan of payment under this section but fails to do so shall receive a monthly annuity under the plan of payment specified in rules adopted by the board.

(C) An annuity shall be paid monthly and consist of an amount determined by the public employees retirement system or the actuarial equivalent of that amount paid as described in this section.

Payments shall begin on whichever of the following applies:

(1) Except as provided in this division, the later of the effective date of the contributor's age and service retirement allowance or the first day of the month following the latest of:

(a) The last day for which compensation was paid;

(b) The attainment of the member's applicable minimum age or service credit eligibility as provided in section 145.32 or 145.332 of the Revised Code;

(c) The first day of the month following receipt of an application for an age and service retirement benefit.

(2) The later of the effective date of a benefit under section 145.384 of the Revised Code or the first day of the month following the latest of:

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

(b) Attainment by the contributor of age sixty-five;

(c) If the contributor was previously employed as described in division (E)(3) of section 145.384 of the Revised Code, completion of a period of twelve months since the effective date of the last benefit under that section;

(d) Receipt of an application for a benefit under section 145.384 of the Revised Code.

(3) The effective date of disability retirement under section 145.36 of the Revised Code if the member is eligible for an age and service retirement allowance on that date.

(4) The first day of the month following the last day for which a disability allowance is paid under section 145.361 of the Revised Code.

(D) The consent of a spouse to a plan of payment other than a joint-life plan is valid only if it is in writing, signed, 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.

(E)(1) The death of a spouse or any designated beneficiary shall cancel the portion of an annuity providing continuing lifetime payments to the deceased spouse or deceased designated beneficiary. The contributor shall receive the actuarial equivalent of the contributor's remaining annuity, as determined by the board, based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary. If the retirement system receives notice of the death on or after January 7, 2013, the change shall be effective the month following the date of death.

(2) On divorce, annulment, or marriage dissolution, a contributor receiving an annuity

under a plan of payment that provides for continuation of all or part of the annuity after death for the lifetime of the contributor'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 payments to that spouse. The contributor shall receive the actuarial equivalent of the contributor's annuity as determined by the board based on the number of remaining beneficiaries, with no change in the 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.

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

(a) A contributor who is receiving payments under a single-life plan may elect a new plan of payment based on the actuarial equivalent of the contributor's single-life plan annuity as determined by the board.

(b) A contributor receiving an annuity under this section pursuant to a plan of payment providing for payment to a former spouse pursuant to a court order as described in division (B)(2)(c) of this section may elect a new plan of payment under a multiple-life plan based on the actuarial equivalent of the contributor's benefit as determined by the board if the new plan of payment does not reduce the payment to the former spouse.

(2) An election under division (F)(1) of this section must be made not later than one year after the date of the marriage or remarriage.

The plan elected shall become effective 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 annuity payment shall commence on the first day of the month following the effective date of the plan.

(G) If at the time of death a contributor receiving a monthly annuity under a single-life plan has received less than the retiree's deposits under section 145.62 or the version of division (C) of section 145.23 of the Revised Code as it existed immediately prior to April 6, 2007, plus earnings on those deposits, the difference between the amount received and the amount of the contributor's deposits plus earnings shall be paid to the contributor's beneficiary under section 145.65 of the Revised Code. If any designated beneficiary receiving a monthly annuity under this section dies and at the time of the beneficiary's death the amounts paid to the contributor and the beneficiary are less than the amount of the contributor's deposits plus earnings on those deposits, the difference between the amount received by the contributor and the beneficiary and the amount of the contributor's deposits plus earnings shall be paid to the beneficiary's estate.

(H) Receipt of the first month's annuity payment constitutes final acceptance of the plan of payment and may be changed only as provided in this section.

*(ENACTED: HB 272, Eff. 4/6/07; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

## **Sec. 145.65 Designation of beneficiary for additional annuity deposits**

(A) As used in this section, "child," "parent," and "surviving spouse" have the same meanings as in section 145.43 of the Revised Code.

(B) Should a contributor die before commencement of a benefit under section 145.64 of the Revised Code, any deposits made under section 145.62 or the version of division (C) of section 145.23 of the Revised Code as it existed immediately prior to the effective date of this section plus earnings shall be paid to the person or persons the contributor has designated in writing duly executed on a form provided by the public employees retirement system, signed by the contributor, and filed with the system prior to the contributor's death. A contributor may designate two or more persons as beneficiaries. Subject to rules adopted by the public employees retirement board,

a contributor who designates two or more persons as beneficiaries under this division shall specify the percentage of the deposits that each beneficiary is to be paid. If the contributor has not specified the percentage, the deposits shall be divided equally among the beneficiaries.

The last designation of any beneficiary revokes all previous designations. The contributor's marriage, divorce, marriage dissolution, legal separation, or refund under section 145.63 of the Revised Code, or the birth of the contributor's child, or adoption of a child, shall constitute an automatic revocation of the contributor's previous designation.

If the deposits of a deceased contributor are not claimed by a beneficiary or by the estate of the deceased contributor within five years, the deposits shall be transferred to the income fund and thereafter paid to the beneficiary or to the contributor's estate on application to the system. The board shall formulate and adopt the necessary rules governing all designations of beneficiaries.

(C) If a contributor dies before commencement of a benefit under section 145.64 of the Revised Code and is not survived by a designated beneficiary, the following shall qualify with all attendant rights and privileges, in the following order of precedence, the contributor's:

- (1) Surviving spouse;
- (2) Children, share and share alike;
- (3) Parents, share and share alike;
- (4) Estate.

If the beneficiary is deceased or is not located within ninety days, the beneficiary ceases to qualify for any benefit and the beneficiary next in order of precedence shall qualify as a beneficiary.

Any payment made to a beneficiary as determined by the board shall be a full discharge and release to the board from any future claims.

(D) If the validity of marriage cannot be established to the satisfaction of the board for the purpose of disbursing any amount due under section 145.63 or 145.64 of the Revised Code, the board may accept a decision rendered by a court having jurisdiction in the state in which the contributor was domiciled at the time of death that the relationship constituted a valid marriage at the time of death, or the "spouse" would have the same status as a widow or widower for purposes of sharing the distribution of the contributor's intestate personal property.

(E) If the death of a contributor or any individual who would be eligible to receive a refund under section 145.63 of the Revised Code or an annuity payment under section 145.64 of the Revised Code by virtue of the death of a contributor is caused by a beneficiary, as described in division (F) of section 145.43 of the Revised Code, no amount due under section 145.63 or 145.64 of the Revised Code to that beneficiary shall be paid to that beneficiary in the absence of a court order to the contrary filed with the board.

*(ENACTED: HB 272, Eff. 4/6/07)*



### **Sec. 145.69 Budget requirements; appropriations**

The public employees retirement board shall prepare and certify to the director of budget and management and to the heads of the departments, on or before the first day of November of each even-numbered year, the employer's rate of contribution, which, when applied to earnable salaries to be paid from state funds for positions covered by the public employees retirement system, will produce the amount necessary to pay the state's obligation as employer. Any appropriations for salaries to be paid to contributors covered by this system must be increased by the employer's contributions rate when salary appropriations are made.

*(ENACTED: SB 386, Eff. 9/16/57; HB 225, Eff. 11/13/65; SB 174, Eff. 12/4/73; HB 502, Eff. 4/24/86; HB 382, Eff. 6/30/91; HB 628, Eff. 9/21/00)*

### **Sec. 145.70 Payments from the state treasury**

All amounts due the public employees retirement system from the state treasury pursuant to this chapter shall be promptly paid upon warrant of the director of budget and management pursuant to a voucher approved by the director.

*(ENACTED: HB 201, Eff. 7/1/85; HB 628, Eff. 9/21/00; HB 530, Eff. 12/1/06)*

### **Sec. 145.80 Implementation of additional plan**

The public employees retirement board shall adopt rules to implement each PERS defined contribution plan.

*(ENACTED: HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02)*

### **Sec. 145.81 Additional plan**

The public employees retirement board shall establish the PERS defined contribution plans, which shall be one or more plans consisting of benefit options that provide for an individual account for each participating member and under which benefits are based solely on the amounts that have accumulated in the account. The plans may include options under which a member participating in a plan may receive definitely determinable benefits.

Each plan established under this section shall meet the requirements of sections 145.81 to 145.98 of the Revised Code and any rules adopted in accordance with section 145.80 of the Revised Code. It may include life insurance, annuities, variable annuities, regulated investment trusts, pooled investment funds, or other forms of investment. Each plan may also permit a participant to transfer participation to another plan created under this chapter. Transfers must be made in accordance with section 145.814 of the Revised Code.

The board may administer the plans, enter into contracts with other entities to administer the plans, or both.

*(ENACTED: HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02)*

### **Sec. 145.811 Qualification of additional plan**

Each PERS defined contribution plan shall qualify as a governmental plan under section 414(d) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 414(d), as amended, and meet the requirements of section 401(a) of the "Internal Revenue Code of 1986," 26 U.S.C.A.

401(a), as amended, applicable to governmental plans.  
(ENACTED: HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02)

### **Sec. 145.812 Additional qualification**

Each PERS defined contribution plan shall meet the requirements necessary to qualify as a retirement system maintained by a state or local government entity under section 3121(b)(7)(F) of the “Internal Revenue Code of 1986,” 100 Stat. 2085, 26 U.S.C.A. 3121(b)(7)(F), as amended. Each participant in a plan shall qualify as a member of that system.  
(ENACTED: HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02)

### **Sec. 145.813 Individual account**

Each PERS defined contribution plan shall require the public employees retirement board, or the entity administering the plan pursuant to a contract with the board, to cause an individual account to be maintained for each member participating in the plan. Amounts to be credited under a PERS defined contribution plan may be deposited into any of the funds created under section 145.23 of the Revised Code or may be transferred to the entity administering the plan for the purpose of making distributions from the member’s individual account.  
(ENACTED: HB 628; Eff. 9/21/00; SB 246, Eff. 10/1/02; SB 343, Eff. 1/7/13)

### **Sec. 145.814 Changes to election under 145.191**

(A) As used in this section “eligible member” means a member who was eligible to make an election under section 145.19 or 145.191 of the Revised Code, regardless of whether the member elected to participate in a PERS defined contribution plan.

(B) If permitted to do so by the plan documents for a PERS defined contribution plan or rules governing the PERS defined benefit plan, an eligible member may elect, at intervals specified by the plan document or rules, to participate in a different defined contribution plan or in the PERS defined benefit plan. The election is subject to this section and rules adopted by the public employees retirement board under sections 145.09 and 145.80 of the Revised Code. An election to participate in a different plan shall be made in writing on a form provided by the public employees retirement system and filed with the system. The election shall take effect on the first day of the month following the date the election is filed and, except as provided in the plan documents or rules governing the PERS defined benefit plan, is irrevocable on receipt by the system.

(C) Except as provided in division (D) of this section, an election to participate in a different plan shall apply only to employee and employer contributions made and, if applicable, service credit earned after the effective date of the election.

(D) An eligible member may elect to have the member’s amount on deposit for the prior plan and, if applicable, service credit earned prior to the effective date of the election deposited and credited in accordance with the member’s new plan if the member, by the election, will begin participating in the PERS defined benefit plan or a PERS defined contribution plan with definitely determinable benefits. The amount on deposit is the amount the member would be entitled to receive as a refund from the prior plan if the member ceased to be a public employee.

If a member makes the election described in this division and service credit is transferred, the board’s actuary shall determine the additional liability to the system, if any. The additional

liability is the amount that, when added to the amount on deposit, will provide the remaining portion of the pension reserve for the period of the member's service as a public employee in the prior plan.

If the actuary determines that there is an additional liability, the member shall elect one of the following:

(1) To receive the total amount of service credit that the member would have received had the member been participating in the new plan, pay to the system an amount equal to the additional liability;

(2) To receive an amount of service credit in the new plan that corresponds to the amount on deposit for the prior plan.

For each member who makes the election described in this division, the system shall deposit and credit to the new plan the amount on deposit for the prior plan and, if applicable, the amount paid by the member. The board may specify in rules adopted under sections 145.09 and 145.80 of the Revised Code how service credit in the defined benefit plan may be converted to amounts on deposit in the defined contribution plan.

*(ENACTED: SB 247, Eff. 10/1/02; SB 343, Eff. 1/7/13)*

### **Sec. 145.82 Applicability of other sections to additional plan**

(A) Except as provided in divisions (B) and (C) of this section, sections 145.201 to 145.70 of the Revised Code do not apply to a PERS defined contribution plan, except that a PERS defined contribution plan may incorporate provisions of those sections as specified in the plan document.

(B) The following sections of Chapter 145. of the Revised Code apply to a PERS defined contribution plan: 145.01 to 145.20, 145.22, 145.221, 145.23, 145.25, 145.26, 145.27, 145.296, 145.38, 145.384, 145.391, 145.431, 145.47, 145.48, 145.483, 145.51, 145.52, 145.53, 145.54, 145.55, 145.56, 145.563, 145.57, 145.571, 145.572, 145.69, and 145.70 of the Revised Code.

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

- (1) Retirement, disability, survivor, or death benefits;
- (2) Health or long-term care insurance or any other type of health care benefit;
- (3) Additional increases under section 145.323 of the Revised Code;
- (4) A refund of contributions made by or on behalf of a member.

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

*(ENACTED: HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02; HB272, Eff. 4/6/07; SB 3, Eff. 5/13/08; HB123, Eff. 7/24/11; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

### **Sec. 145.83 Health care program under additional plan**

A PERS defined contribution plan may include a program described in section 145.583 of the Revised Code under which a member participating in the plan is required to accumulate a portion of the amount contributed under section 145.86 of the Revised Code for the purpose of providing funds to the member for the payment of health, medical, hospital, surgical, dental, or vision care expenses, including insurance premiums, deductible amounts, or copayments as described in that section.

If a PERS defined contribution plan includes a program described in this section, the public employees retirement board shall adopt rules to specify the length of time during which the member will vest in amounts accumulated on the member's behalf and may provide for a minimum annual distribution from the accumulated amount after the member terminates employment in positions subject to this chapter.

*(ENACTED: SB 247, Eff. 10/1/02; SB 343, Eff. 1/7/13)*

### **Sec. 145.85 Member contribution to additional plan**

Each member participating in a PERS defined contribution plan shall contribute a per cent of the member's earnable salary to the public employees retirement system as required in section 145.47 of the Revised Code. Contributions made under this section shall not exceed the limits established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

*(ENACTED: HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02)*

### **Sec. 145.86 Employer contribution to additional plan**

For each member participating in a PERS defined contribution plan, the employer shall contribute a per cent of the member's earnable salary to the public employees retirement system as required in section 145.48 of the Revised Code, less the percentage required under section 145.87 of the Revised Code.

*(ENACTED: HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02)*

### **Sec. 145.87 Transfer amount of employer contribution**

For each member participating in a PERS defined contribution plan, the public employees retirement system may transfer to the employers' accumulation fund a portion of the employer contribution required under section 145.48 of the Revised Code. If the public employees retirement board elects to make a transfer under this section, the portion transferred shall not exceed the percentage of earnable salary of members for whom the contributions are being made that is determined by an actuary appointed by the board to be necessary to mitigate any negative financial impact on the system of members' participation in a plan.

The board may have prepared, at intervals determined by the board, an actuarial study to determine whether a transfer under this section is necessary to reflect a change in the level of negative financial impact resulting from members' participation in a plan. The percentage transferred, if any, shall be increased or decreased to reflect the amount needed to mitigate the negative financial impact, if any, on the system, as determined by the study. A change in the percentage transferred shall take effect on a date determined by the board.

If a transfer under this section is made, the system shall make the transfer until the unfunded actuarial accrued liability for all benefits, except health care benefits provided under section 145.58 or 145.584 of the Revised Code and benefit increases to members and former members participating in the PERS defined benefit plan granted after September 21, 2000, is fully amortized, as determined by the annual actuarial valuation prepared under section 145.22 of the Revised Code. (ENACTED: HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02; SB 343, Eff. 1/7/13)

#### **Sec. 145.88 Deposits of contributions in additional plan**

Amounts contributed under sections 145.85 and 145.86 of the Revised Code, and any earnings on those amounts, shall be deposited and credited in accordance with the PERS defined contribution plan that is selected by the member. The plan may include provisions authorizing the public employees retirement system to do either of the following:

(A) Withhold from the amounts contributed under sections 145.85 and 145.86 of the Revised Code a percentage of earnable salary or a fixed dollar amount that is determined by an actuary appointed by the public employees retirement board to be necessary to administer the plan;

(B) Withhold from the amounts contributed under section 145.86 of the Revised Code a percentage of earnable salary for the purpose of funding health care insurance coverage or any other type of health care benefit for a member participating in the plan.

(ENACTED: HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02; SB 343, Eff. 1/7/13; SB 42, 3/23/15)

#### **Sec. 145.91 Benefits under additional plan**

The right of each member participating in a PERS defined contribution plan to a retirement, disability, survivor, or death benefit, to health or long-term care insurance, or any other type of health care benefit, or to a withdrawal of any amounts that have accumulated on the member's behalf shall be governed exclusively by the plan selected by the member.

(ENACTED: HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02)

#### **Sec. 145.92 Spousal consent under additional plan**

If a member participating in a PERS defined contribution plan is married at the time benefits under the plan are to commence, unless the spouse consents to another plan of payment or the spouse's consent is waived, the member's benefit under the plan shall be paid in a lesser amount payable for life and one-half of that amount continuing after death to the surviving spouse for the life of the spouse.

Consent is valid only if it is evidenced by a written document signed by the spouse and the signature is witnessed by a notary public. A plan may waive the requirement of consent if the spouse is incapacitated or cannot be located or for any other reason specified by the plan or in rules adopted by the public employees retirement board.

A plan shall waive the requirement of consent if a plan of payment that provides for payment in a specified portion of the benefit 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 laws of another state regarding division of marital property prior to the effective date of the member's retirement. If a court order requires this plan of payment, the member shall be required to annuitize the member's accumulated amounts in accordance with the order. If the member is married, the

plan of payment selected by the member also shall provide for payment to the member's current spouse, unless the current spouse consents in writing to not being designated a beneficiary under the plan of payment or the current spouse's consent is waived by reason other than the court order.

Consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.

*(ENACTED: HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02; HB 98, Eff. 10/27/06; HB272, Eff. 4/6/07; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

**Sec. 145.95 Exemption from execution or garnishment of additional plan**

(A) Subject to division (B) of this section and sections 145.38, 145.56, 145.57, 145.572, 145.573, and 145.574 of the Revised Code, the right of a member participating in a PERS defined contribution plan to any payment or benefit accruing from contributions made by or on behalf of the member under sections 145.85 and 145.86 of the Revised Code shall vest in accordance with this section.

A member's right to any payment or benefit that is based on the member's contributions is nonforfeitable.

A member's right to any payment or benefit that is based on contributions by the member's employer is nonforfeitable as specified by the plan selected by the member.

(B) This section does not apply to an increase made under section 145.323 of the Revised Code for a recipient whose benefit effective date is on or after January 7, 2013.

*(ENACTED: HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02; SB 3, Eff. 5/13/08; HB123, Eff.7/29/11; SB 343, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

**Sec. 145.97 Maintenance of amounts in additional plan**

Each PERS defined contribution plan shall permit a member participating in the plan to do both of the following:

(A) If the member has withdrawn the amounts that have accumulated on behalf of the member under the plan, returns to employment covered under this chapter, and is participating in a plan that includes definitely determinable benefits, pay to the system the amounts withdrawn in accordance with rules adopted under section 145.80 of the Revised Code;

(B) Make additional deposits as permitted by the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

*(ENACTED: HB 628, Eff. 9/21/00; SB 247, Eff. 10/1/02; SB 343, Eff. 1/7/13)*

**Sec. 145.98 Cessation of contributions in additional plan**

Contributions under sections 145.85 and 145.86 of the Revised Code shall cease on the member's death or termination of employment or for any other reason specified by the plan selected by the member.

*(ENACTED: HB 628, Eff. 9/21/00)*

**Sec. 145.99 Penalties for violations of R.C. 145.054**

(A) Whoever violates division (A) of section 145.054 of the Revised Code shall be fined not more than one hundred dollars for each day of the violation.

(B) Whoever violates division (B) of section 145.054 of the Revised Code shall be imprisoned for not more than six months or fined not more than five thousand dollars, or both.

(C) Fines imposed by the Ohio elections commission under this section shall be paid into the Ohio elections commission fund created under section 3513.10 of the Revised Code.  
*(ENACTED: SB133, Eff. 9/15/04)*

## Appendix A

### Long-Term Care Program

#### Sec. 124.84 Long-term care insurance; state employees

(A) The department of administrative services, in consultation with the superintendent of insurance and subject to division (D) of this section, may negotiate and contract with one or more insurance companies or health insuring corporations authorized to operate or do business in this state for the purchase of a policy of long-term care insurance covering all state employees who are paid directly by warrant of the director of budget and management, including elected state officials. Any policy purchased under this division shall be negotiated and entered into in accordance with the competitive selection procedures specified in Chapter 125. of the Revised Code. As used in this section, “long-term care insurance” has the same meaning as in section 3923.41 of the Revised Code.

(B) Any elected state official or state employee paid directly by warrant of the director of budget and management may elect to participate in any long-term care insurance policy purchased under division (A) of this section. All or any portion of the premium charged may be paid by the state. Participation in the policy may include the dependents and family members of the elected state official or state employee.

If a participant in a long-term care insurance policy leaves employment, the participant and the participant’s dependents and family members may, at their election, continue to participate in a policy established under this section. The manner of payment and the portion of premium charged the participant, dependent, and family member shall be established pursuant to division (E) of this section.

(C) Any long-term care insurance policy purchased under this section or section 124.841 or 145.581 of the Revised Code shall provide for all of the following with respect to the premiums charged for the policy:

(1) They shall be set at the entry age of the official or employee when first covered by the policy and shall not increase except as a class during coverage under the policy.

(2) They shall be based on the class of all officials or employees covered by the policy.

(3) They shall continue, pursuant to Section 145.581 of the Revised Code, after the retirement of the official or employee who is covered under the policy, at the rate in effect on the date of the official’s or employee’s retirement.

(D) Prior to entering into a contract with an insurance company or health insuring corporation for the purchase of a long-term care insurance policy under this section, the department shall request the superintendent of insurance to certify the financial condition of the company or corporation. The department shall not enter into the contract if, according to that certification, the company or corporation is insolvent, is determined by the superintendent to be potentially unable to fulfill its contractual obligations, or is placed under an order of rehabilitation or conservation by a court of competent jurisdiction or under an order of supervision by the superintendent.

(E) The department shall adopt rules in accordance with section 111.15 of the Revised Code governing long-term care insurance purchased under this section. All or any portion of the premium charged the participants, dependents, and family members shall be paid in such manner or combination of manners as the department determines.

*(ENACTED: HB 383, Eff. 8/3/92; HB 152, Eff. 7/1/93; SB 99, Eff. 10/25/95; SB 67, Eff. 6/4/97; HB 185, Eff.*



8/31/04; HB530, Eff. 12/1/06; HB 59, Eff. 9/29/13)

**Sec. 124.841 Long-term care insurance; political subdivision employees**

(A) As used in this section:

(1) “Long-term care insurance” has the same meaning as in Section 3923.41 of the Revised Code.

(2) “Political subdivision” has the same meaning as in section 9.833 of the Revised Code.

(B) Any political subdivision may negotiate with and may contract with one or more insurance companies or health insuring corporations authorized to operate or do business in this state for the purchase of a policy of long-term care insurance covering all elected officials and employees of the political subdivision. The contract may be entered into without competitive bidding. Any elected official or employee of a political subdivision may elect to participate in any long-term care insurance policy that the political subdivision purchases under this division.

(C) Any long-term care insurance policy entered into under this section is subject to division (C) of section 124.84 of the Revised Code.

(D) All or any portion of the premium charged may be paid by the political subdivision. The political subdivision shall establish a manner or manners of payment for participants and the political subdivision.

*(ENACTED: HB 383, Eff. 8/3/92; SB 67, Eff. 6/4/97; HB 185, Eff. 8/31/04)*

## Appendix B

### Criminal Restitution

#### **Sec. 2907.15 Withholding moneys needed for restitution to crime victims from state retirement funds**

(A) As used in this section:

(1) “Public retirement system” means the public employees retirement system, state teachers retirement system, school employees retirement system, Ohio police and fire pension fund, state highway patrol retirement system, or a municipal retirement system of a municipal corporation of this state.

(2) “Government deferred compensation program” means such a program offered by the Ohio public employees deferred compensation board; a municipal corporation; or governmental unit, as defined in section 148.06 of the Revised Code.

(3) “Deferred compensation program participant” means a “participating employee” or “continuing member,” as defined in section 148.01 of the Revised Code, or any other public employee who has funds in a government deferred compensation program.

(4) Alternative retirement plan means an alternative retirement plan provided pursuant to chapter 3305. of the Revised Code.

(5) “Prosecutor” has the same meaning as in section 2935.01 of the Revised Code.

In any case in which a sentencing court orders restitution to the victim under section 2929.18 or 2929.28 of the Revised Code for a violation of section 2907.02, 2907.03, 2907.04, or 2907.05 of the Revised Code and in which the offender is a government deferred compensation program participant, is an electing employee, as defined in section 3305.01 of the Revised Code, or is a member of, or receiving a pension, benefit, or allowance, other than a survivorship benefit, from, a public retirement system and committed the offense against a child, student, patient, or other person with whom the offender had contact in the context of the offender’s public employment, at the request of the victim the prosecutor shall file a motion with the sentencing court specifying the government deferred compensation program, alternative retirement plan, or public retirement system and requesting that the court issue an order requiring the government deferred compensation program, alternative retirement plan, or public retirement system to withhold the amount required as restitution from one or more of the following: any payment to be made from a government deferred compensation program, any payment or benefit under an alternative retirement plan, or under a pension, annuity, allowance, or any other benefit, other than a survivorship benefit, that has been or is in the future granted to the offender; from any payment of accumulated employee contributions standing to the offender’s credit with the government deferred compensation program, alternative retirement plan, or public retirement system; or from any payment of any other amounts to be paid to the offender pursuant to Chapter 145., 148., 742., 3307., 3309., or 5505. of the Revised Code on withdrawal of contributions. The motion may be filed at any time subsequent to the conviction of the offender or entry of a guilty plea. On the filing of the motion, the clerk of the court in which the motion is filed shall notify the offender and the government deferred compensation program, alternative retirement plan, or public retirement system, in writing, of all of the following: that the motion was filed; that the offender will be granted a hearing on the issuance of the requested order if the offender files a written request for

a hearing with the clerk prior to the expiration of thirty days after the offender receives the notice; that, if a hearing is requested, the court will schedule a hearing as soon as possible and notify the offender and the government deferred compensation program, alternative retirement plan, or public retirement system of the date, time, and place of the hearing; that, if a hearing is conducted, it will be limited to a consideration of whether the offender can show good cause why the order should not be issued; that, if a hearing is conducted, the court will not issue the order if the court determines, based on evidence presented at the hearing by the offender, that there is good cause for the order not to be issued; that the court will issue the order if a hearing is not requested or if a hearing is conducted but the court does not determine, based on evidence presented at the hearing by the offender, that there is good cause for the order not to be issued; and that, if the order is issued, the government deferred compensation program, alternative retirement plan, or public retirement system specified in the motion will be required to withhold the amount required as restitution from payments to the offender.

(B) In any case in which a motion requesting the issuance of a withholding order as described in division (A) of this section is filed, the offender may receive a hearing on the motion by delivering a written request for a hearing to the court prior to the expiration of thirty days after the offender's receipt of the notice provided pursuant to division (A) of this section. If the offender requests a hearing within the prescribed time, the court shall schedule a hearing as soon as possible after the request is made and notify the offender and the government deferred compensation program, alternative retirement plan, or public retirement system of the date, time, and place of the hearing. A hearing scheduled under this division shall be limited to a consideration of whether there is good cause, based on evidence presented by the offender, for the requested order not to be issued. If the court determines, based on evidence presented by the offender, that there is good cause for the order not to be issued, the court shall deny the motion and shall not issue the order. Good cause for not issuing the order includes a determination by the court that the order would severely impact the offender's ability to support the offender's dependents.

If the offender does not request a hearing within the prescribed time or the court conducts a hearing but does not determine, based on evidence presented by the offender, that there is good cause for the order not to be issued, the court shall order the government deferred compensation program, alternative retirement plan, or public retirement system, to withhold the amount required as restitution from one or more of the following: any payments to be made from a government deferred compensation program, any payment or benefit under an alternative retirement plan, or under a pension, annuity, allowance, or under any other benefit, other than a survivorship benefit, that has been or is in the future granted to the offender; from any payment of accumulated employee contributions standing to the offender's credit with the government deferred compensation program, alternative retirement plan, or public retirement system; or from any payment of any other amounts to be paid to the offender upon withdrawal of contributions pursuant to Chapter 145., 148., 742., 3307., 3309., or 5505. of the Revised Code and to continue the withholding for that purpose, in accordance with the order, out of each payment to be made on or after the date of issuance of the order, until further order of the court. On receipt of an order issued under this division, the government deferred compensation program, alternative retirement plan, or public retirement system shall withhold the amount required as restitution, in accordance with the order, from any such payments and immediately forward the amount withheld to the clerk of the court in which the order was issued for payment to the person to whom restitution is to be made. The order shall not apply to any portion of payments made from a government deferred compensation program, alternative retirement plan, or public retirement system to a person other

than the offender pursuant to a previously issued domestic court order. (C) Service of a notice required by division (A) or (B) of this section shall be effected in the same manner as provided in the Rules of Civil Procedure for the service of process.

(D) Upon the filing of charges under section 2907.02, 2907.03, 2907.04, or 2907.05 of the Revised Code against a person who is a deferred compensation program participant, an electing employee participating in an alternative retirement plan, or a member of, or receiving a pension benefit, or allowance, other than a survivorship benefit, from a public retirement system for an offense against a child, student, patient, or other person with whom the offender had contact in the context of the offender's public employment, the prosecutor shall send written notice that charges have been filed against that person to the appropriate government deferred compensation program, alternative retirement plan, or public retirement system. The notice shall specifically identify the person charged.

*(ENACTED: HB 668, Eff. 12/6/96; HB 222; Eff. 11/2/99; HB 628, Eff. 9/21/00; HB 535, Eff. 4/1/01; HB 490, Eff. 1/1/04)*

### **Sec. 2921.41 Theft in office**

(A) No public official or party official shall commit any theft offense, as defined in division (K) of section 2913.01 of the Revised Code, when either of the following applies: (1) The offender uses the offender's office in aid of committing the offense or permits or assents to its use in aid of committing the offense;

(2) The property or service involved is owned by this state, any other state, the United States, a county, a municipal corporation, a township, or any political subdivision, department, or agency of any of them, is owned by a political party, or is part of a political campaign fund.

(B) Whoever violates this section is guilty of theft in office. Except as otherwise provided in this division, theft in office is a felony of the fifth degree. If the value of property or services stolen is one thousand dollars or more and is less than seven thousand five hundred dollars, theft in office is a felony of the fourth degree. If the value of property or services stolen is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, theft in office is a felony of the third degree. If the value of property or services stolen is one hundred fifty thousand dollars or more and is less than seven hundred fifty thousand dollars, theft in office is a felony of the second degree. If the value of the property or services stolen is seven hundred fifty thousand dollars or more, theft in office is a felony of the first degree.

(C)(1) A public official or party official who pleads guilty to, theft in office and whose plea is accepted by the court or a public official or party official against whom a verdict or finding of guilt for committing theft in office is returned is forever disqualified from holding any public office, employment, or position of trust in this state.

(2)(a)(i) A court that imposes sentence for a violation of this section based on conduct described in division (A)(2) of this section shall require the public official or party official who is convicted of or pleads guilty to the offense to make restitution for all of the property or the service that is the subject of the offense, in addition to the term of imprisonment and any fine imposed. The total amount of restitution imposed under this division shall include costs of auditing the public entities specified in division (A)(2) of this section that own the property or service involved in the conduct described in that division that is a violation of this section, but, except as otherwise provided in a negotiated plea agreement, shall not exceed the amount of the restitution imposed for all of the property or the service that is the subject of the offense.

(ii) A court that imposes sentence for a violation of this section based on conduct described

in division (A)(1) of this section and that determines at trial that this state or a political subdivision of this state if the offender is a public official, or a political party in the United States or this state if the offender is a party official, suffered actual loss as a result of the offense, shall require the offender to make restitution to the state, political subdivision, or political party for all of the actual loss experienced, in addition to the term of imprisonment and any fine imposed. The total amount of restitution imposed under this division shall include costs of auditing the state, political subdivision, or political party that suffered the actual loss based on conduct described in that division that is a violation of this section, but, except as otherwise provided in a negotiated plea agreement, shall not exceed the amount of the restitution imposed for all of the actual loss suffered.

(b)(i) In any case in which a sentencing court is required to order restitution under division (C)(2)(a) of this section and in which the offender, at the time of the commission of the offense or at any other time, was a member of the public employees retirement system, the Ohio police and fire pension fund, the state teachers retirement system, the school employees retirement system, or the state highway patrol retirement system; was an electing employee, as defined in section 3305.01 of the Revised Code, participating in an alternative retirement plan provided pursuant to Chapter 3305. of the Revised Code; was a participating employee or continuing member, as defined in section 148.01 of the Revised Code, in a deferred compensation program offered by the Ohio public employees deferred compensation board; was an officer or employee of a municipal corporation who was a participant in a deferred compensation program offered by that municipal corporation; was an officer or employee of a government unit; as defined in section 148.06 of the Revised Code, who was a participant in a deferred compensation program offered by that government unit, or was a participating employee, continuing member, or participant in any deferred compensation program described in this division and a member of a retirement system specified in this division or a retirement system of a municipal corporation, the entity to which restitution is to be made may file a motion with the sentencing court specifying any retirement system, any provider as defined in section 3305.01 of the Revised Code, and any deferred compensation program of which the offender was a member, electing employee, participating employee, continuing member, or participant and requesting the court to issue an order requiring the specified retirement system, the specified provider under the alternative retirement plan, or the specified deferred compensation program, or, if more than one is specified in the motion, the applicable combination of these, to withhold the amount required as restitution from any payment that is to be made under a pension, annuity, or allowance, under an option in the alternative retirement plan, under a participant account, as defined in section 148.01 of the Revised Code, or under any other type of benefit, other than a survivorship benefit, that has been or is in the future granted to the offender, from any payment of accumulated employee contributions standing to the offender's credit with that retirement system, that provider of the option under the alternative retirement plan, or that deferred compensation program, or, if more than one is specified in the motion, the applicable combination of these, and from any payment of any other amounts to be paid to the offender upon the offender's withdrawal of the offender's contributions pursuant to Chapter 145., 148., 742., 3307., 3309., or 5505. of the Revised Code. A motion described in this division may be filed at any time subsequent to the conviction of the offender or entry of a guilty plea. Upon the filing of the motion, the clerk of the court in which the motion is filed shall notify the offender, the specified retirement system, the specified provider under the alternative retirement plan, or the specified deferred compensation program, or, if more than one is specified in the motion, the applicable combination of these, in writing, of all of the following: that the motion was filed; that the offender will be granted a hearing on the issuance of the requested order

if the offender files a written request for a hearing with the clerk prior to the expiration of thirty days after the offender receives the notice; that, if a hearing is requested, the court will schedule a hearing as soon as possible and notify the offender, any specified retirement system, any specified provider under an alternative retirement plan, and any specified deferred compensation program of the date, time, and place of the hearing; that, if a hearing is conducted, it will be limited only to a consideration of whether the offender can show good cause why the requested order should not be issued; that, if a hearing is conducted, the court will not issue the requested order if the court determines, based on evidence presented at the hearing by the offender, that there is good cause for the requested order not to be issued; that the court will issue the requested order if a hearing is not requested or if a hearing is conducted but the court does not determine, based on evidence presented at the hearing by the offender, that there is good cause for the requested order not to be issued; and that, if the requested order is issued, any retirement system, any provider under an alternative retirement plan, and any deferred compensation program specified in the motion will be required to withhold the amount required as restitution from payments to the offender.

(ii) In any case in which a sentencing court is required to order restitution under division (C)(2)(a) of this section and in which a motion requesting the issuance of a withholding order as described in division (C)(2)(b)(i) of this section is filed, the offender may receive a hearing on the motion by delivering a written request for a hearing to the court prior to the expiration of thirty days after the offender's receipt of the notice provided pursuant to division (C)(2)(b)(i) of this section. If a request for a hearing is made by the offender within the prescribed time, the court shall schedule a hearing as soon as possible after the request is made and shall notify the offender, the specified retirement system, the specified provider under the alternative retirement plan, or the specified deferred compensation program, or, if more than one is specified in the motion, the applicable combination of these, of the date, time, and place of the hearing. A hearing scheduled under this division shall be limited to a consideration of whether there is good cause, based on evidence presented by the offender, for the requested order not to be issued. If the court determines, based on evidence presented by the offender, that there is good cause for the order not to be issued, the court shall deny the motion and shall not issue the requested order. If the offender does not request a hearing within the prescribed time or if the court conducts a hearing but does not determine, based on evidence presented by the offender, that there is good cause for the order not to be issued, the court shall order the specified retirement system, the specified provider under the alternative retirement plan, or the specified deferred compensation program, or, if more than one is specified in the motion, the applicable combination of these, to withhold the amount required as restitution under division (C)(2)(a) of this section from any payments to be made under a pension, annuity, or allowance, under a participant account, as defined in section 148.01 of the Revised Code, under an option in the alternative retirement plan, or under any other type of benefit, other than a survivorship benefit, that has been or is in the future granted to the offender, from any payment of accumulated employee contributions standing to the offender's credit with that retirement system, that provider under the alternative retirement plan, or that deferred compensation program, or, if more than one is specified in the motion, the applicable combination of these, and from any payment of any other amounts to be paid to the offender upon the offender's withdrawal of the offender's contributions pursuant to Chapter 145., 148., 742., 3307., 3309., or 5505. of the Revised Code, and to continue the withholding for that purpose, in accordance with the order, out of each payment to be made on or after the date of issuance of the order, until further order of the court. Upon receipt of an order issued under this division, the public employees retirement system, the Ohio police and fire pension fund, the state teachers retirement system, the

school employees retirement system, the state highway patrol retirement system, a municipal corporation retirement system, the provider under the alternative retirement plan, and the deferred compensation program offered by the Ohio public employees deferred compensation board, a municipal corporation, or a government unit, as defined in section 148.06 of the Revised Code, whichever are applicable, shall withhold the amount required as restitution, in accordance with the order, from any such payments and immediately shall forward the amount withheld to the clerk of the court in which the order was issued for payment to the entity to which restitution is to be made.

(iii) Service of a notice required by division (C)(2)(b)(i) or (ii) of this section shall be effected in the same manner as provided in the Rules of Civil Procedure for the service of process.

(c) Consistent with the ruling of the supreme court of the United States in *Kelly v. Robinson*, 479 U.S. 36 (1986), restitution imposed under division (C)(2)(a) of this section is not dischargeable under Chapter 7 of the United States Bankruptcy Code pursuant to 11 U.S.C. 523, as amended.

(D) Upon the filing of charges against a person under this section, the prosecutor, as defined in section 2935.01 of the Revised Code, who is assigned the case shall send written notice that charges have been filed against that person to the public employees retirement system, the police and fire pension fund, the state teachers retirement system, the school employees retirement system, the state highway patrol retirement system, the provider under an alternative retirement plan, any municipal corporation retirement system in this state, and the deferred compensation program offered by the Ohio public employees deferred compensation board, a municipal corporation, or a government unit, as defined in section 148.06 of the Revised Code. The written notice shall specifically identify the person charged.

*(ENACTED: HB 265, Eff. 9/20/84; SB 300, Eff. 11/5/92; SB 2, Eff. 7/1/96; HB 586, Eff. 3/31/97; HB 222, Eff. 11/2/99; HB 628, Eff. 9/21/00; HB 535, Eff. 4/1/01; HB 195, Eff. 9/30/08; HB 86, Eff. 9/30/11; SB 10, Eff. 4/7/21)*

## Appendix C

### University/College Alternative Retirement Plans

#### Sec. 3305.01 Alternative retirement program definitions

As used in this chapter:

(A) “Public institution of higher education” means a state university as defined in section 3345.011 of the Revised Code, the northeast Ohio medical university, or a university branch, technical college, state community college, community college, or municipal university established or operating under Chapter 3345., 3349., 3354., 3355., 3357., or 3358. of the Revised Code.

(B) “State retirement system” means the public employees retirement system created under Chapter 145. of the Revised Code, the state teachers retirement system created under Chapter 3307. of the Revised Code, or the school employees retirement system created under Chapter 3309. of the Revised Code.

(C) “Eligible employee” means any person employed as a full-time employee of a public institution of higher education.

In all cases of doubt, the board of trustees of the public institution of higher education shall determine whether any person is an eligible employee for purposes of this chapter, and the board’s decision shall be final.

(D) “Electing employee” means any eligible employee who elects, pursuant to section 3305.05 or 3305.051 of the Revised Code, to participate in an alternative retirement plan provided pursuant to this chapter or an eligible employee who is required to participate in an alternative retirement plan pursuant to division (C)(3) of section 3305.05 or division (F) of section 3305.051 of the Revised Code.

(E) “Compensation,” for purposes of an electing employee, has the same meaning as the applicable one of the following:

(1) If the electing employee would be subject to Chapter 145. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, “earnable salary” as defined in division (R) of section 145.01 of the Revised Code;

(2) If the electing employee would be subject to Chapter 3307. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, “compensation” as defined in division (L) of section 3307.01 of the Revised Code;

(3) If the electing employee would be subject to Chapter 3309. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, “compensation” as defined in division (V) of section 3309.01 of the Revised Code.

(F) “Vendor” means an entity designated under section 3305.03 of the Revised Code as eligible to be a provider of investment options for an alternative retirement plan.

(G) “Provider” means, with respect to each public institution of higher education, a vendor that has entered into an agreement with that public institution of higher education in accordance with section 3305.04 of the Revised Code.

*(ENACTED: HB 586, Eff. 3/31/97; SB 190, Eff. 7/13/00; HB 535, Eff. 4/1/01; HB 16, Eff. 5/6/05; SB 133, Eff. 8/1/05; HB478, Eff. 7/1/06; HB 139, Eff. 4/29/11; HB 487, Eff. 9/10/12)*



### **Sec. 3305.02 Alternative retirement program**

An alternative retirement program is hereby established in accordance with this chapter for the purpose of providing to eligible employees the opportunity of participating in an alternative retirement plan as an alternative to participating in a state retirement system. The employer is the sponsor of each alternative retirement plan offered under this chapter.

Each alternative retirement plan offered under this program shall be a defined contribution plan qualified under section 401(a) of the Internal Revenue Code that provides retirement and, to the extent applicable, death benefits through investment options. The options shall be offered to electing employees pursuant to trust or custodial accounts or pursuant to group or individual annuity contracts and certificates issued under group contracts. The options may include life insurance, annuities, variable annuities, regulated investment trusts, pooled investment funds, or other forms of investment, at the option of each electing employee.

Notwithstanding this chapter, any retirement plan established by a public institution of higher education prior to March 31, 1997, as an alternative to participating in any state retirement system may continue in effect and be modified without regard to this chapter for all employees at the public institution eligible to participate in the plan.

*(ENACTED: HB 586, Eff. 3/31/97; HB 535, Eff. 4/1/01; SB 133, Eff. 8/1/05; HB 487, Eff. 9/10/12)*

### **Sec. 3305.03 Ohio Board of regents to designate entities eligible to provide investment options - periodic reviews**

(A) The Ohio board of regents shall designate the entities that are eligible to provide investment options under alternative retirement plans maintained by public institutions of higher education. The board shall accept and review applications from entities seeking designation as a vendor. The board shall not designate an entity as a vendor unless the entity meets the requirements described in division (B) of this section.

(B) To be eligible for designation as a vendor, an entity must meet both of the following requirements:

(1) The entity must be authorized to conduct business in this state with regard to the investment options to be offered under an alternative retirement plan maintained by a public institution of higher education.

(2) The entity must meet one of the following requirements:

(a) Have provided investment options for not less than ten years under alternative retirement plans maintained by public institutions of higher education in this state;

(b) Offer the same or similar investment options under alternative retirement plans, optional retirement plans, or similar types of plans with respect to which all of the following apply:

(i) The plans are defined contribution plans that are qualified plans under Internal Revenue Code 401(a) or 403(b).

(ii) The plans are maintained by institutions of higher education in at least ten other states.

(iii) The plans are established as primary retirement plans that are alternatives to or a component of the applicable state retirement system.

(C) In determining whether to designate an entity as a vendor, the board of regents shall identify, consider, and evaluate all of the following:

(1) The experience of the entity in providing in this state or other states investment options under alternative retirement plans, optional retirement plans, or similar types of plans that meet the requirements of division (B)(2)(a) or (b) of this section, as applicable;

(2) The potential effectiveness of the entity in recruiting eligible employees to select that entity for purposes of participating in an alternative retirement plan and in retaining those employees' accounts;

(3) Whether the entity intends to offer a broad range of investment options to the electing employees;

(4) The suitability of the investment options to the needs and interests of the electing employees and their beneficiaries;

(5) The capability of the entity to offer sufficient information to the electing employees and their beneficiaries to make informed decisions with regard to investment options offered by the entity;

(6) The capability of the entity to perform in a manner that is in the best interests of the electing employees and their beneficiaries;

(7) The fees and expenses associated with the entity's investment options and the manner in which the entity intends to disclose those fees and expenses;

(8) The rights and benefits to be provided under the investment options;

(9) The capability of the entity to provide the rights and benefits under the investment options;

(10) Comments submitted by a public institution of higher education under section 3305.031 of the Revised Code;

(11) Any other matters the board of regents considers relevant.

(D) The board of regents shall conduct periodic reviews of each entity designated as a vendor and the investment options being offered to ensure that the requirements and purposes of this chapter are being met. The reviews of a vendor shall occur not less frequently than once every three years.

If it finds that the vendor is not in compliance with the requirements of this chapter or the vendor is not satisfactorily meeting the purposes of this chapter, the board shall rescind the vendor's designation.

(E) Notwithstanding sections 125.01 to 125.11 of the Revised Code, designation of a vendor or the execution of any agreement under this chapter is not subject to competitive bidding under those sections.

*(ENACTED: HB 586, Eff. 3/31/97; HB 535, Eff. 4/1/01; SB 133, Eff. 8/1/05; HB 487, Eff. 9/10/12; HB 59, Eff. 9/29/13)*

### **Sec. 3305.031. Designation of entity as vendor**

(A) As part of the process established under section 3305.03 of the Revised Code for designating an entity as a vendor and conducting periodic reviews of a vendor, the Ohio board of regents shall do all of the following:

(1) Provide written notice to each public institution of higher education that an entity has applied to be designated as a vendor under section 3305.03 of the Revised Code;

(2) Provide written notice to each public institution of higher education that a vendor is scheduled for a review;

(3) Establish a comment period of not less than thirty days during which a public institution of higher education is authorized to comment about an entity's application for designation or a vendor's review and to request a meeting with the board of regents concerning the application or review;

(4) Not later than fourteen days after the board makes a decision with respect to an

application or review, including any rescission of a vendor's designation, provide written notice to each public institution of higher education of the board's decision.

(B) If a meeting is requested by a public institution of higher education under division (A)(3) of this section, the board of regents shall do all of the following:

(1) Notify each public institution of higher education of the meeting and its time and place;

(2) Hold the meeting not less than ten but not more than thirty days after the end of the comment period;

(3) Continue to accept comments concerning the application or review, as applicable, until five business days after the meeting is held.

(C) The board of regents shall adopt rules under section 3305.032 of the Revised Code specifying the method to be used by public institutions of higher education in submitting comments to the board concerning an application or review.

### **Sec. 3305.032. Rule-making authority**

The Ohio board of regents shall adopt rules as the board considers necessary to carry out its duties and responsibilities under this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The rules may provide for fees to be charged providers by the board to cover administrative and marketing expenses of the board.

*(ENACTED: HB 487, Eff. 9/10/12)*

### **Sec. 3305.04 Adoption of alternative retirement plan; implementation**

(A) The board of trustees of each public institution of higher education shall adopt an alternative retirement plan in accordance with this chapter.

In accordance with this chapter, each board may perform such functions and provide as necessary for the administration of its alternative retirement plan.

(B)(1) In implementing the alternative retirement plan established by the board, the public institution of higher education shall develop agreements to be entered into with entities designated under section 3305.03 of the Revised Code as vendors. Each agreement shall include such terms and conditions as are determined by the public institution of higher education in its sole discretion.

(2) Except as provided in division (B)(3) of this section, the public institution of higher education shall enter into agreements with a minimum of four vendors or, if fewer than four vendors are available, with the number of vendors available.

(3) Division (B)(2) of this section does not require a public institution of higher education to enter into an agreement with a vendor if either of the following is the case:

(a) The vendor is not willing to provide investment options under the alternative retirement plan at that public institution.

(b) The vendor is not willing to agree to the terms and conditions of the agreement.

(4) After an agreement has been entered into, both of the following apply with respect to termination of the agreement with the provider:

(a) The agreement shall be terminated if the provider ceases to be an entity designated as a vendor.

(b) The agreement may be terminated if the provider fails to comply with the terms and conditions of such agreement.

*(ENACTED: HB 586, Eff. 3/31/97; HB 535, Eff. 4/1/01; HB 487, Eff. 9/10/12)*

### **Sec. 3305.05 Employees who may elect to participate in alternative plan**

(A) As used in this section and section 3305.051 of the Revised Code, “academic or administrative employee” means any full-time employee not receiving any benefit, allowance, or other payment granted on the employee’s account from a state retirement system who, before August 1, 2005, met one of the following requirements:

(1) The employee was a member of the faculty of a public institution of higher education.

(2) The employee was a member of the administrative staff of a public institution of higher education serving in a position in the unclassified civil service pursuant to section 124.11 of the Revised Code.

(3) If section 124.11 of the Revised Code did not apply to the public institution of higher education, the employee was a member of the administrative staff of a public institution of higher education serving in a position comparable to a position in the unclassified civil service.

In all cases of doubt, the board of trustees of the public institution of higher education shall determine whether any person is an academic or administrative employee for purposes of this chapter, and the board’s decision shall be final.

(B)(1) Each person who, on August 1, 2005, is an eligible employee of a public institution of higher education and has accrued less than five years of service credit in a state retirement system may, not later than one hundred twenty days after August 1, 2005, make an election to participate in an alternative retirement plan available at the employing public institution, unless, prior to August 1, 2005, the person had an opportunity pursuant to former section 3305.05 of the Revised Code to make such an election as an academic or administrative employee of that public institution of higher education.

(2) An eligible employee whose employment with a public institution of higher education commences on or after August 1, 2005, may, not later than one hundred twenty days after the starting date of the employment, make an election to participate in an alternative retirement plan available at the employing public institution.

(3) An eligible employee who, on or after August 1, 2005, terminates employment at one public institution of higher education and subsequently is employed by another public institution of higher education in a position for which an alternative retirement plan is available may, not later than one hundred twenty days after the starting date of the employment, elect to participate in an alternative retirement plan available at that public institution.

(C)(1) An eligible employee who makes an election under division (B) of this section shall submit the election in writing to the designated officer of the employee’s employing public institution of higher education. Once submitted, the election is irrevocable while the eligible employee continues to be employed by the public institution of higher education. Not later than ten days after the election becomes irrevocable, the officer shall file a certified copy of the election with the state retirement system to which, apart from the election, the employee’s employment would be subject.

Each public institution of higher education that employs a person eligible to make an election under division (B) of this section shall notify, in writing, the state retirement system that applies to that employment in the manner specified by that state retirement system. The notice shall include the person’s name and address. The notice shall be given not later than ten days after the first date the person is on the institution’s payroll.

(2) Elections made under division (B) of this section take effect as follows:

(a) An election under division (B)(1) of this section is effective as of the date on which the employee's election to participate in the alternative retirement plan becomes irrevocable.

(b) An election under division (B)(2) or (3) of this section is effective as of the electing employee's starting date of employment.

(3) An eligible employee's election under division (B) of this section applies to the employee's employment in all positions at that public institution, unless the employee terminates employment at the public institution and does not return to employment in any position at that public institution for at least three hundred sixty-five days after the date of termination.

(4) An eligible employee who makes an election under division (B) of this section is forever barred from claiming or purchasing service credit under any state retirement system for the period of employment while the election is in effect.

(D)(1) An eligible employee who fails to make an election under division (B) of this section within the one-hundred-twenty day election period shall be deemed to have elected to participate in the state retirement system that applies to the employee's employment.

(2) An eligible employee who fails to make an election under division (B) of this section shall not be permitted to make an election for employment in any other position at the public institution of higher education while employed at that public institution, unless the employee terminates employment at the public institution and does not return to employment in any position at the public institution for at least three hundred sixty-five days after the date of termination.

*(ENACTED: HB 535, Eff. 4/1/01; SB 133, Eff. 5/18/05; HB 487, Eff. 9/10/12)*

### **Sec. 3305.051 Elections made prior to effective date**

(A) This section applies only to elections made prior to the effective date of this amendment.

(B) A person whose employment as an academic or administrative employee of a public institution of higher education commenced after the initial date on which the board of trustees of the public institution adopted an alternative retirement plan may, not later than one hundred twenty days after the starting date of employment, make an election to participate in an alternative retirement plan available at the public institution. If no election to participate in an alternative retirement plan is made by the end of one hundred twenty days after the person's starting date of employment, the person shall be deemed to have elected participation in the state retirement system that applies to the person's employment.

An election made under this division or division (C) of this section shall be irrevocable while the electing employee is employed by that public institution.

A person who makes an election to participate in an alternative retirement plan shall be forever barred from claiming or purchasing service credit under any state retirement system for the period of that person's employment during which the election is in effect. If a person terminates employment at one public institution of higher education and subsequently is employed by another public institution of higher education in a position for which an alternative retirement plan is available under this chapter, the person may make another election under this division. Each public institution of higher education employing a person eligible to make an election under this division shall notify, within ten days of the person's employment, the state retirement system that applies to that person's employment in the manner specified by that state retirement system, which notice shall include the new employee's name and address.

(C)(1) Not later than one hundred twenty days after the date on which the board of trustees of a public institution of higher education adopts an alternative retirement plan for that public

institution, each eligible academic or administrative employee of the public institution may make an election to participate in an alternative retirement plan available at the public institution. If a person to whom this division applies fails to make an election, the person shall be deemed to have elected continued participation in the state retirement system in which the person is a member.

(2)(a) A member of the public employees retirement system or school employees retirement system who is an academic or administrative employee of the public institution is eligible to make an election if, on April 1, 1998, the member had less than five years of service credit in the retirement system in which the member is making contributions and the public institution of higher education at which the member is employed adopted an alternative retirement plan after December 8, 1998, but before April 1, 1999.

(b) A member of the state teachers retirement system who is an academic or administrative employee of a public institution that establishes an alternative retirement plan is eligible to make an election if the member has less than five years of service credit in the state teachers retirement system on the thirtieth day of June immediately preceding the date the plan is adopted.

(D) An election under division (B) or (C) of this section shall be in writing submitted to the designated officer of the employee's employing public institution of higher education. Not later than ten days after the election becomes irrevocable, the officer shall file a certified copy of the election with the state retirement system to which, apart from this election, the employee's employment would be subject.

(E)(1) Each election made under division (B) of this section shall be effective as of the electing employee's starting date of employment.

(2) In the case of a member of the public employees retirement system or school employees retirement system, an election made under division (C) of this section shall be effective as of April 1, 1998. In the case of a member of the state teachers retirement system, an election shall be effective as of the date described in division (C)(2)(b) of this section.

(F) If an individual makes an election under division (B) or (C) of this section, the election shall apply to the individual's employment in all positions at a public institution of higher education, unless the individual terminates employment at the public institution and does not return to employment in any position at that public institution prior to one year after the date of termination.

If an individual is eligible to make an election under division (B) or (C) of this section for employment at a public institution and does not make the election, the individual shall not be permitted to make an election for employment in any other position at the public institution while employed at that public institution, unless the individual terminates employment at the public institution and does not return to employment in any position at the public institution prior to one year after the date of termination.

*(ENACTED: HB 586, Eff. 3/31/97; HB 673, Eff. 12/8/98; HB 535, Eff. 4/1/01; SB 133, Eff. 8/1/05)*

### **Sec. 3305.052 Returning contributions to selected provider where employee elects alternative program**

(A) The state retirement system that covers the position held by an employee of a public institution of higher education who makes an election under division (B)(2) or (3) of section 3305.05 or division (B) of section 3305.051 of the Revised Code to participate in the public institution's alternative retirement plan shall, not later than thirty days after the date on which the certified copy of the employee's election is filed with the state retirement system under that section, do one of the following:

(1) If the employee was participating in a defined benefit plan as provided in sections 145.201 to 145.79, sections 3307.50 to 3307.79, or sections 3309.18 to 3309.76 of the Revised Code, pay to the provider of the investment option selected by the employee any employee and employer contributions made to the retirement system by or on behalf of that employee for the period beginning on the employee's starting day of employment and ending on the day before the day on which contributions commence under an alternative retirement plan, less the amount due the retirement system pursuant to division (D) of section 3305.06 of the Revised Code for that period.

(2) If the employee was participating in a defined contribution plan as provided in section 145.81, 3307.81, or 3309.81 of the Revised Code, pay to the provider of the investment option selected by the employee the amount on deposit in the employee's individual account for the period beginning on the employee's starting day of employment and ending on the day before the day on which contributions commence under an alternative retirement plan.

(B) The state retirement system that covers the position held by an employee of a public institution of higher education who makes an election under division (B)(1) of section 3305.05 or division (C) of section 3305.051 of the Revised Code to participate in the public institution's alternative retirement plan shall, not later than thirty days after the date on which a certified copy of the employee's election is filed with the state retirement system under that section, do one of the following:

(1) If the employee was participating in a defined benefit plan as provided in sections 145.201 to 145.79, sections 3307.50 to 3307.79, or sections 3309.18 to 3309.70 of the Revised Code, pay to the provider of the investment option selected by the employee any employee and employer contributions made to the retirement system by or on behalf of that employee for any period commencing after the date on which the election becomes irrevocable under division (C)(1) of section 3305.05 of the Revised Code or the applicable date described in division (C)(2)(a) or (b) of section 3305.051 of the Revised Code and ending on the day before the day on which contributions commence under an alternative retirement plan, less the amount due the retirement system pursuant to division (D) of section 3305.06 of the Revised Code for that period.

(2) If the employee was participating in a defined contribution plan as provided in section 145.81, 3307.81, or 3309.81 of the Revised Code, pay to the provider of the investment option selected by the employee the amount on deposit in the employee's individual account for the period commencing after the date on which the election becomes irrevocable under division (C)(1) of section 3305.05 of the Revised Code and ending on the day before the day on which contributions commence under an alternative retirement plan.

*(ENACTED: HB 673, Eff. 12/8/98; HB 535, Eff. 4/1/01; SB133, Eff. 8/1/05; HB 64, Eff. 9/29/15; HB 520, Eff. 4/6/17)*

### **Sec. 3305.053 Selection and change of providers under alternative plan**

The board of trustees of a public institution of higher education shall permit an employee who makes an election under section 3305.05 or 3305.051 of the Revised Code to do all of the following:

(A) Select, from among the providers that have entered into an agreement with the public institution of higher education under section 3305.04 of the Revised Code, the provider of an investment option for that employee;

(B) Subject to any terms and conditions established by the public institution of higher education, change the provider selected under division (A) of this section any time during the plan

year.

(C) If under division (B) of this section an employee changes providers, the employee may direct the provider to transfer to the new provider the employee's account balance either in whole or in part, as directed by the employee, except that the provider is not required to immediately transfer any part of the account invested at the employee's election in a fixed annuity account if the contract with the employee under which the investment was made permits the provider to make such a transfer over a period of time not exceeding ten years and the contract was filed with and approved by the department of insurance pursuant to section 3911.011 of the Revised Code.

*(ENACTED: SB 133, Eff. 8/1/05; HB 487, Eff. 9/10/12)*

### **Sec. 3305.06 Employee and employer contributions**

(A) Each electing employee shall contribute an amount, which shall be a certain percentage of the employee's compensation, to the provider of the investment option the employee has selected. This percentage shall be the percentage the electing employee would have otherwise been required to contribute to the state retirement system that applies to the employee's position, except that the percentage shall not be less than three per cent. Employee contributions under this division may be treated as employer contributions in accordance with Internal Revenue Code 414 (h).

(B) Each public institution of higher education employing an electing employee shall contribute a percentage of the employee's compensation to the provider of the investment option the employee has selected. This percentage shall be equal to the percentage that the public institution of higher education would otherwise contribute on behalf of that employee to the state retirement system that would otherwise cover that employee's position, less the percentage contributed by the public institution of higher education under division (D) of this section.

(C)(1) In no event shall the amount contributed by the electing employee pursuant to division (A) of this section and on the electing employee's behalf pursuant to division (B) of this section be less than the amount necessary to qualify the plan as a state retirement system pursuant to Internal Revenue Code 3121(b)(7) and the regulations adopted thereunder.

(2) The full amount of the electing employee's contribution under division (A) of this section and the full amount of the employer's contribution made on behalf of that employee under division (B) of this section shall be paid to the appropriate provider for application to the electing employee's investment option.

(D) Each public institution of higher education employing an electing employee shall contribute on behalf of that employee to the state retirement system that otherwise applies to the electing employee's position a percentage of the electing employee's compensation to mitigate any negative financial impact of the alternative retirement program on the state retirement system. The percentage shall be determined by the actuarial study conducted under section 145.222, 3307.514, or 3309.212 of the Revised Code, as applicable.

*(ENACTED: HB 586, Eff. 3/31/97; HB 673, Eff. 12/8/98; SB 190, Eff. 7/13/00; HB 535, Eff. 4/1/01; SB 133, Eff. 8/1/05; HB 487, Eff. 9/10/12; SB 342, Eff. 1/7/13; SB 343, Eff. 1/7/13; HB 520, Eff. 4/6/17)*

### **Sec. 3305.061 Employer payments to mitigate negative financial impact**

*(ENACTED: HB 94, Eff. 9/5/01; REPEALED: HB 520, Eff. 4/6/17)*



## **Sec. 3305.062 Amount of coverage by public institution of higher education**

*(ENACTED: HB 64, Eff. 9/29/15; REPEALED: HB 520, Eff. 4/6/17)*

## **Sec. 3305.07 Status and liability of state and public institution**

(A) Neither the state nor a public institution of higher education shall be a party to any contract purchased in whole or in part with contributions to an alternative retirement plan made under section 3305.06 of the Revised Code. No retirement, death, or other benefits shall be payable by the state or by any public institution of higher education under any alternative retirement plan elected pursuant to this chapter.

(B) Except as provided under division (C) of this section and sections 3305.08, 3305.09, 3305.11, and 3305.12 of the Revised Code, benefits shall be paid to an electing employee or the employee's beneficiaries in accordance with the alternative retirement plan adopted by the public institution of higher education at which the employee is employed.

(C) A benefit or payment shall not be paid to an electing employee or the employee's beneficiaries under an investment option before one of the following events occur:

(1) The electing employee dies.

(2) The electing employee terminates employment with the public institution of higher education at which the employee is employed.

(3) If provided under the alternative retirement plan or investment option, either of the following:

(a) The electing employee becomes disabled.

(b) The electing employee is required to begin receiving distributions under division (a)(9) of section 401 of the Internal Revenue Code, 26 U.S.C. 401(a)(9).

(D) The provider of an investment option shall transfer the employee's account balance to another provider as provided under section 3305.053 of the Revised Code if the employee changes providers under that section.

*(ENACTED: HB 586, Eff. 3/31/97; HB 535, Eff. 4/1/01; SB 133, Eff. 8/1/05; SB 3, Eff. 5/13/08; HB123, Eff. 7/29/11; SB 273, Eff. 9/13/22)*

## **Sec. 3305.08 Tax exemption**

Any payment, benefit, or other right accruing to any electing employee under a contract entered into for purposes of an alternative retirement plan and all moneys, investments, and income of those contracts are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, are exempt from any county, municipal, or other local tax, except taxes imposed pursuant to section 5748.02, 5748.08, 5748.09 of the Revised Code, and, except as provided in sections 3105.171, 3105.65, 3115.501, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3305.09, and 3305.12 of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency law, or other process of law, and shall be unassignable except as specifically provided in this section and sections 3105.171, 3105.65, 3119.80, 3119.81, 3121.02, 3121.03, 3115.501, and 3123.06 of the Revised Code or in any contract the electing employee has entered into for purposes of an alternative retirement plan.

*(ENACTED: HB 586, Eff. 3/31/97; HB 535, Eff. 4/1/01; HB 84, Eff. 7/31/01; HB 123, Eff. 7/29/11; HB 153, Eff. 9/29/11; HB 64, Eff. 1/1/16)*

### **Sec. 3305.09 Withholding order to pay restitution for sex offense or theft in office**

(A) Any payment that is to be made under a contract has entered into for purposes of funding an employee's alternative retirement plan benefit shall be subject to any withholding order issued pursuant to section 2907.15 of the Revised Code or division (C)(2)(b) of section 2921.41 of the Revised Code. The provider of the contract shall comply with that withholding order in making the payment.

(B) If the provider receives notice pursuant to section 2907.15 of the Revised Code or division (D) of section 2921.41 of the Revised Code that the electing employee is charged with a violation of section 2907.02, 2907.03, 2907.04, 2907.05 or 2921.41 of the Revised Code, no payment shall be made under the contract prior to whichever of the following is applicable:

(1) If the person is convicted of or pleads guilty to the charge and no motion for a withholding order for purposes of restitution has been filed under section 2907.15 of the Revised Code or division (C)(2)(b)(i) of section 2921.41 of the Revised Code, thirty days after the date on which final disposition of the charge is made;

(2) If the person is convicted of or pleads guilty to the charge and a motion for a withholding order for purposes of restitution has been filed under section 2907.15 of the Revised Code or division (C)(2)(b)(i) of section 2921.41 of the Revised Code, the date on which the court decides the motion;

(3) If the charge is dismissed or the person is found not guilty of the charge or not guilty of the charge by reason of insanity, the date on which final disposition of the charge is made.  
*(ENACTED: HB 586, Eff. 3/31/97; HB 535, Eff. 4/1/01)*

### **Sec. 3305.10 Consent of spouse of electing employee required prior to payment**

(A)(1) Except as provided in division (C) of this section, if an electing employee is married at the time one or more payments are to commence under the retirement plan established under this chapter, the provider that will make the payment shall obtain the consent of the employee's spouse to the form of payment selected by the employee before making any payment.

(2) Except as provided in division (C) of this section, if an electing employee is married at the time the employee dies, the provider that will make a payment of any amounts that are payable to the employee shall obtain the consent of the employee's spouse to the payment of the amounts before making the payment.

(B) Each provider shall establish requirements for consent under division (A) of this section that are the same as the requirements specified in division (a)(2) of section 417 of the "Internal Revenue Code," 26 U.S.C.A. 417(a)(2), as amended.

(C)(1) Consent may be waived if the spouse cannot be located or for any other reason specified in the regulations adopted under division (a)(2) of section 417 of the Internal Revenue Code, 26 U.S.C. 417(a)(2).

(2) A provider is not required to obtain the consent of an electing employee's spouse before making any payment that the provide is required to make in accordance with division (a)(9) of section 401 of the Internal Revenue Code, 26 U.S.C. 401(a)(9).

(D) Consent or waiver under this section is effective only with regard to the spouse who is the subject of the consent or waiver.

*(ENACTED: HB 535, Eff. 4/1/01; SB 273, Eff. 9/13/22)*

### **Sec. 3305.11 Forfeiture of retirement benefits under RC 2929.192**

(A) Notwithstanding any other provision of this chapter, any payment of accumulated contributions standing to a person's credit under this chapter and any other amount or amounts to be paid to a person who is a contributor under this chapter upon the person's withdrawal of contributions pursuant to this chapter shall be subject to any forfeiture ordered under division (A) or (B) of section 2929.192 of the Revised Code, and the provider of an alternative retirement plan shall comply with that order in making the payment. Upon payment of the person's accumulated contributions and cancellation of the corresponding service credit, a person who is subject to the forfeiture described in this division may not restore the canceled service credit under this chapter or under Chapter 145., 742., 3307., 3309., or 5505. of the Revised Code.

(B) Notwithstanding any other provision of this chapter, if the provider of an alternative retirement plan receives notice pursuant to section 2901.43 of the Revised Code that a person who has accumulated contributions standing to the person's credit pursuant to this chapter is charged with any offense or violation listed or described in divisions (D)(1) to (3) of section 2929.192 of the Revised Code that is a felony in the circumstances specified in the particular division, all of the following apply:

(1) No payment of those accumulated contributions or of any other amount or amounts to be paid to a person who is a contributor under this chapter upon the person's withdrawal of contributions pursuant to this chapter shall be made prior to whichever of the following is applicable:

(a) If the person is convicted of or pleads guilty to the charge and forfeiture is ordered under division (A) or (B) of section 2929.192 of the Revised Code, the day on which the provider receives from the court a copy of the journal entry of the offender's sentence under that section;

(b) If the charge against the person is dismissed, the person is found not guilty of the charge, or the person is found not guilty by reason of insanity of the charge, the day on which the provider receives notice of the final disposition of the charge.

(2) The provider of an alternative retirement plan shall not process any application for payment under this chapter from the person prior to the final disposition of the charge. *(ENACTED: SB 3, Eff. 5/13/08)*

### **Sec. 3305.12 Benefits subject to termination**

Notwithstanding any other provision of an alternative retirement plan provided under this chapter, a disability benefit granted under the alternative retirement plan is subject to an order issued under section 2929.193 of the Revised Code. The entity providing the alternative retirement plan shall comply with the order.

On receipt of notice under section 2901.43 of the Revised Code that an alternative retirement plan participant is charged with an offense listed in division (D) of section 2929.192 of the Revised Code under the circumstances specified in that division, the entity shall determine whether the participant has been granted a disability benefit. If so, the entity shall send written notice to the prosecutor assigned to the case that the participant has been granted a disability benefit under an alternative retirement plan and may be subject to section 2929.193 of the Revised Code. *(ENACTED: HB 123, Eff. 7/29/11)*

### **Sec. 3305.20 Alternate payee entitled to certain information**

As used in this section, “personal history record” means information maintained by the entity providing an alternative retirement plan on an individual who participates in the plan that includes the address, telephone number, social security number, record of contributions, correspondence with the plan, or other information the entity providing the plan determines to be confidential.

The entity shall comply with orders issued under section 3105.87 of the Revised Code requiring it to provide information from a participant’s personal history record.

The entity shall furnish information as follows:

(A) On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the entity providing the alternative retirement plan shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(B) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section.

(C) The notice required by section 3305.12 of the Revised Code shall be provided to the prosecutor assigned to the case.

*(ENACTED: HB 535, Eff. 1/1/02; HB 123, Eff. 7/29/11)*

### **Sec. 3305.21 Orders for division of marital or separate property**

(A) As used in this section, “alternate payee,” “benefit,” “lump sum payment,” and “participant” have the same meanings as in section 3105.80 of the Revised Code.

(B) On receipt of an order issued under section 3105.171 or 3105.65 of the Revised Code, an entity providing a participant’s alternative retirement plan shall determine whether the order meets the requirements of sections 3105.80 to 3105.90 of the Revised Code. The entity shall retain in the participant’s record an order the entity determines meets the requirements. Not later than ten days after receipt, the entity shall return to the court that issued the order any order the entity determines does not meet the requirements.

(C) The entity shall comply with an order retained under division (B) of this section at the following times as appropriate:

(1) If the participant has applied for or is receiving a benefit or has applied for but not yet received a lump sum payment, as soon as practicable;

(2) If the participant has not applied for a benefit or lump sum payment, on application by the participant for a benefit or lump sum payment.

(D) If an entity providing an alternative retirement plan is required to transfer a participant’s account balance to an entity providing an alternative retirement plan that is not named in the order, the transferring entity shall do both of the following:

(1) Notify the court that issued the order by sending the court a copy of the order and the name and address of the entity to which the transfer was made.

(2) Send a copy of the order to the entity to which the transfer was made.

(E) An entity that receives a participant’s account balance and a copy of an order as provided in division (D) of this section, shall administer the order as if it were the entity named in the order.

(F) If a participant’s benefit or lump sum payment is or will be subject to more than one order described in section 3105.81 of the Revised Code or to an order described in section 3105.81

of the Revised Code and a withholding order under section 3111.23 or 3113.21 of the Revised Code, the entity providing the alternative retirement plan shall, after determining that the amounts that are or will be withheld will cause the benefit or lump sum payment to fall below the limits described in section 3105.85 of the Revised Code, do all of the following:

(1) Establish, in accordance with division (G) of this section and subject to the limits described in section 3105.85 of the Revised Code, the priority in which the orders are or will be paid;

(2) Reduce the amount paid to an alternate payee based on the priority established under division (F)(1) of this section;

(3) Notify, by regular mail, a participant and alternate payee of any action taken under this division.

(G) A withholding or deduction notice issued under section 3111.23 or 3113.21 of the Revised Code or an order described in section 3115.501 of the Revised Code has priority over all other orders and shall be complied with in accordance with child support enforcement laws. All other orders are entitled to priority in order of earliest retention by the entity providing a participant's alternative retirement plan. The entity is not to retain an order that provides for the division of property unless the order is filed in a court with jurisdiction in this state.

(H) An entity providing an alternative retirement plan is not liable in civil damages for loss resulting from any action or failure to act in compliance with this section.

*(ENACTED: HB 535, Eff. 1/1/02; HB 64, Eff. 1/1/16)*

### **Sec. 3305.22 Repayment or recovery of amounts paid to alternate payee**

If a person who is a disability benefit recipient or an alternate payee as defined in section 3105.80 of the Revised Code, is paid any amount to which the person is not entitled by an entity providing an alternative retirement plan, the person shall repay the entity. If the person fails to repay, the entity shall withhold the amount from any benefit or payment due the person or may collect the amount in any other manner provided by law.

*(ENACTED: HB 535, Eff. 1/1/02; HB 123, Eff. 7/29/11)*

## Appendix D

### Tax

#### Sec. 5747.071 Withholding tax from retirement benefits

(A) As used in this section:

(1) "Retirement system" means the public employees retirement system, state teachers retirement system, school employees retirement system, Ohio police and fire pension fund, state highway patrol retirement system, and any municipal retirement system.

(2) "Benefits" means all annuities, allowances, pensions, and other benefits paid by a retirement system.

(3) "Recipient" means any person receiving benefits from a retirement system.

(B) Any recipient may request the recipient's retirement system to deduct and withhold from the recipient's benefits an amount during the calendar year reasonably estimated to be equal to the tax due from the recipient under this chapter for the year with respect to the recipient's benefits from the retirement system that are included in the recipient's adjusted gross income. The request shall be made pursuant to an application filed with the retirement system, on a form the system shall supply, and shall include the estimate of the recipient of the amount of state income taxes that will be due in the ensuing calendar year with respect to the benefits from the retirement system.

(C) A retirement system with which an application is filed under this section, commencing with the calendar year following the year in which the application is filed, shall withhold from the benefits of the recipient an amount that equals for the calendar year, the amount of taxes that the recipient estimated would be due for the year. The amount to be withheld for a calendar year shall be apportioned throughout the calendar year.

(D) A recipient may submit an amended application to increase or decrease the amount that will be withheld by the retirement system in an ensuing year.

(E) A retirement system that withholds a portion of the benefits of a recipient under this section shall file returns and pay the amounts withheld in accordance with the requirements of section 5747.07 of the Revised Code.

(F) Every retirement system required to deduct and withhold tax from benefits pursuant to this section shall furnish to the recipient, with respect to the benefits paid to the recipient during the calendar year, on or before the thirty-first day of January of the succeeding year, a written statement showing the amount of benefits deducted and withheld as state income tax, and such other information as the tax commissioner requires.

(G) A retirement system may adopt rules governing withholding under this section.

*(ENACTED: HB 602, Eff. 3/25/87; HB 222, Eff. 11/2/99)*

## Appendix E

### Division of Property Orders

#### **Sec. 3105.80 Property division orders involving public retirement program definitions**

As used in this section and sections 3105.81 to 3105.90 of the Revised Code:

(A) “Alternate payee” means a party in an action for divorce, legal separation, annulment, or dissolution of marriage who is to receive one or more payments from a benefit or lump sum payment under an order issued under section 3105.171 or 3105.65 of the Revised Code that is in compliance with sections 3105.81 to 3105.90 of the Revised Code.

(B) “Benefit” means a periodic payment under a pension, annuity, allowance, or other type of benefit, other than a survivor benefit, that has been or may be granted to a participant under sections 742.01 to 742.61 or Chapter 145., 3307., 3309., or 5505. of the Revised Code or any payment that is to be made under a contract a participant has entered into for the purposes of an alternative retirement plan. “Benefit” also includes all amounts received or to be received under a plan of payment elected under division (E)(1) of section 145.46, division (B) of section 3307.60, or division (B)(4) of section 3309.46 of the Revised Code.

(C) “Lump sum payment” means a payment of accumulated contributions standing to a participant’s credit under sections 742.01 to 742.61 or Chapter 145., 3307., 3309., or 5505. of the Revised Code or pursuant to a contract a participant has entered into for the purposes of an alternative retirement plan and any other payment made or that may be made to a participant under those sections or chapters on withdrawal of a participant’s contributions. “Lump sum payment” includes a lump sum payment under section 145.384, 742.26, 3307.352, or 3309.344 of the Revised Code.

(D) “Participant” means a member, contributor, retirant, or disability benefit recipient who is or will be entitled to a benefit or lump sum payment under sections 742.01 to 742.61 or Chapter 145., 3307., 3309., or 5505. of the Revised Code or an academic or administrative employee who elects to participate in an alternative retirement plan under Chapter 3305. of the Revised Code.

(E) “Personal history record” has the same meaning as in section 145.27, 742.41, 3305.20, 3307.20, 3309.22, and 5505.04 of the Revised Code.

(F) “Public retirement program” means the public employees retirement system, Ohio police and fire pension fund, school employees retirement system, state teachers retirement system, state highway patrol retirement system, or an entity providing an alternative retirement plan under Chapter 3305. of the Revised Code.

*(ENACTED: HB 535, Eff. 1/1/02; SB 247, Eff. 10/1/02; HB98, Eff. 10/27/06; SB 343, Eff. 1/7/13)*

#### **Sec. 3105.81 Order for equitable division of property to require compliance with provisions**

A court that issues an order under section 3105.171 or 3105.65 of the Revised Code that provides for a division of property that includes a benefit or lump sum payment and requires one or more payments from a public retirement program to an alternate payee shall include in the order a requirement that the payments be made in accordance with and subject to limitations set forth in sections 3105.82 to 3105.90 of the Revised Code.

*(ENACTED: HB 535, Eff. 1/1/02)*

## **Sec. 3105.82 Requirements of order**

An order described in section 3105.81 of the Revised Code shall meet all of the following requirements:

- (A) Be on the form created under section 3105.90 of the Revised Code;
- (B) Set forth the name and address of the public retirement program subject to the order or, if the court determines that the participant has contributions on deposit with more than one public retirement program, the name and address of each public retirement program that is potentially subject to the order;
- (C) Set forth the names, social security numbers, and current addresses of the participant and alternate payee;
- (D) Specify the amount to be paid to the alternate payee as one of the following:
  - (1) As both a monthly dollar amount should the participant elect a benefit and as a one-time payment should the participant elect a lump sum payment;
  - (2) As a percentage of a fraction determined as follows of a monthly benefit or lump sum payment:
    - (a) The numerator of the fraction shall be the number of years during which the participant was both a contributing member of a public retirement program and married to the alternate payee.
    - (b) The denominator, which shall be determined by the public retirement program at the time the participant elects to take the benefit or payment, shall be the participant's total years of service credit or, in the case of a participant in a retirement plan established under section 145.81, 3307.81, or 3309.81 or Chapter 3305. of the Revised Code, years of participation in the plan.
- (E) If the participant is eligible for more than one benefit or lump sum payment, specify in accordance with division (D) of this section the amount, if any, to be paid to the alternate payee from each benefit or lump sum payment.
- (F) Require an individual who is a participant or alternate payee to notify the public retirement program in writing of a change in the individual's mailing address;
- (G) Notify the alternate payee of the following:
  - (1) The payee's right to payment under the order is conditional on the participant's right to a benefit payment or lump sum payment;
  - (2) The possible reduction under section 145.571, 742.462, 3307.371, 3309.671, or 5505.261 of the Revised Code of the amount paid to the alternate payee;
  - (3) The possible termination of the payee's rights as described in section 3105.86 of the Revised Code.
- (H) Apply to payments made by the public retirement program after retention of an order under section 145.571, 742.462, 3305.21, 3307.371, 3309.671, or 5505.261 of the Revised Code.  
*(ENACTED: HB 535, Eff. 1/1/02; HB 98, Eff. 10/27/06)*

### **Sec. 3105.821 Monthly benefit**

The monthly benefit used under division (D)(2) of section 3105.82 of the Revised Code to determine the amount to be paid an alternate payee from a monthly benefit shall be whichever of the following applies:

- (A) If the participant is receiving a monthly benefit, the monthly benefit shall be the benefit the participant is receiving at the time the decree of divorce or dissolution becomes final;
- (B) If the participant has applied for but is not yet receiving a monthly benefit, the monthly benefit shall be the benefit for which the participant is eligible;



(C) If the participant has not applied for a benefit, the monthly benefit shall be the benefit calculated at the time the participant elects to take it.

*(ENACTED: HB 535, Eff. 1/1/02)*

### **Sec. 3105.83 Commencing payments**

Payments under an order described in section 3105.81 of the Revised Code shall commence as provided under section 145.571, 742.462, 3305.21, 3307.371, 3309.671, or 5505.261 of the Revised Code. An alternate payee has no right or privilege under sections 742.01 to 742.61 or Chapter 145., 3305., 3307., 3309., or 5505. of the Revised Code that is not provided in those sections or chapters.

An order described in section 3105.81 of the Revised Code shall not require a public retirement program to take any action or provide any benefit, allowance, or payment not authorized under the law governing the public retirement program.

*(ENACTED: HB 535, Eff. 1/1/02)*

### **Sec. 3105.84 Defraying administrative costs**

An order described in section 3105.81 of the Revised Code shall authorize the board of the public retirement program that is or will be paying the benefit or lump sum payment to withhold from any benefit or payment that is subject to an order an amount determined by the public retirement program to be necessary to defray the cost of administering the order. This amount shall be divided equally between the participant and the alternate payee.

*(ENACTED: HB 535, Eff. 1/1/02)*

### **Sec. 3105.85 Limit on withholding**

(A) The total of the amounts described in division (D) of section 3105.82 and section 3105.84 of the Revised Code shall not exceed fifty per cent of the amount of a benefit or lump sum payment, or if withholding is to be made from more than one benefit or lump sum payment, fifty per cent of the total of the benefits or lump sum payments.

(B) If a participant's benefit or lump sum payment is or will be subject to more than one order described in section 3105.81 of the Revised Code, the public retirement program shall not withhold an aggregate amount for all the orders that exceeds fifty per cent of the benefit or lump sum payment.

(C) If a participant's benefit or lump sum payment is or will be subject to an order described in section 3105.81 of the Revised Code and one or more withholding orders under section 3111.23 or 3113.21 of the Revised Code, the public retirement program shall not withhold from a benefit or lump sum payment an aggregate amount for all orders described in section 3105.81 of the Revised Code that exceeds the difference between fifty per cent of the benefit or payment and the percentage of the benefit or payment that is or will be paid under orders described in section 3111.23 or 3113.21 of the Revised Code.

(D) The public retirement program that is or will be paying the benefit or lump sum payment shall act in accordance with section 145.571, 742.462, 3305.21, 3307.371, 3309.671, or 5505.261 of the Revised Code.

*(ENACTED: HB 535, Eff. 1/1/02)*

### **Sec. 3105.86 Terminating alternate payee rights**

An alternate payee's rights under an order described in section 3105.81 of the Revised Code shall terminate on the earlier of the following:

(A) The death of the participant;

(B) The death of the alternate payee;

(C) The termination of a benefit paid to a participant under sections 742.01 to 742.61 or Chapter 145., 3305., 3307., 3309., or 5505. of the Revised Code.

*(ENACTED: HB 535, Eff. 1/1/02)*

### **Sec. 3105.87 Disclosing participant's personal history record**

The court may order a public retirement program or the Ohio public employees deferred compensation program to provide information from a participant's personal history record necessary to determine the amounts described in division (D) of section 3105.82 of the Revised Code.

*(ENACTED: HB 535, Eff. 1/1/02; HB 1 Eff. 10/16/09)*

### **Sec. 3105.88 Transmitting order to retirement program**

The clerk of courts shall transmit a certified copy of an order described in section 3105.81 of the Revised Code to each public retirement program named in the order. If the clerk of courts fails to transmit an order, the public retirement program named in the order is not required to administer the order.

The public retirement program shall retain an order in accordance with section 145.571, 742.462, 3305.21, 3307.371, 3309.671, or 5505.261 of the Revised Code.

If the public retirement program returns to the clerk of courts an order in accordance with section 145.571, 742.462, 3305.21, 3307.371, 3309.671, or 5505.261 of the Revised Code, the clerk of courts shall notify the counsel of record that the order was not retained by the public retirement program.

*(ENACTED: HB 535, Eff. 1/1/02)*

### **Sec. 3105.89 Court retains jurisdiction; modification of orders**

Notwithstanding division (I) of section 3105.171 of the Revised Code:

(A) The court shall retain jurisdiction to modify, supervise, or enforce the implementation of an order described in section 3105.81 of the Revised Code.

(B) The court may modify an order issued under section 3105.171 or 3105.65 of the Revised Code that was effective prior to the effective date of this section for the purpose of enforcing the order or carrying into effect the manifest intentions of the parties. A modified order must meet the requirements of section 3105.82 of the Revised Code.

*(ENACTED: HB 535, Eff. 1/1/02)*

### **Sec. 3105.90 Form for court orders**

The state retirement systems, the Ohio state bar association, and the Ohio domestic relations judges association shall jointly create a form to be used by courts for orders described in

section 3105.81 of the Revised Code. Each state retirement system shall, by rule adopted in accordance with section 111.15 of the Revised Code, adopt the form created under this section.  
*(ENACTED: HB 535, Eff. 1/1/02)*

## Appendix F

### Ohio Retirement Study Council

#### Sec. 171.01 Ohio retirement study council

As used in this chapter, “state retirement systems” means the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, and state highway patrol retirement system.

There is hereby created the Ohio retirement study council. Members of the council shall be appointed as follows:

(A) Three members of the senate, appointed by the president of the senate, not more than two of whom may be members of the same political party;

(B) Three members of the house of representatives, appointed by the speaker of the house of representatives, not more than two of whom may be members of the same political party;

(C) Three members appointed by the governor, with the advice and consent of the senate, not more than two of whom shall be members of the same political party, one of whom shall represent the state and its employees; one of whom shall represent nonstate governments and their employees; and one of whom shall represent educational employers and their employees. Of these three members, at least one shall be a person with investment expertise. Terms of the existing members appointed by the governor shall not be affected. Terms of office of members appointed by the governor shall be for three years, commencing on the first day of July and ending on the thirtieth day of June. Each member appointed by the governor shall hold office from the date of appointment until the end of the term for which the appointment was made. Any member appointed by the governor to fill a vacancy occurring prior to the expiration of the term for which the member’s predecessor was appointed shall hold office for the remainder of such term. Each member appointed by the governor shall continue in office until the member’s successor is appointed and qualified, notwithstanding the expiration of the member’s term of office.

(D) Five ex officio members as follows: the executive director of the public employees retirement system, the executive director of the state teachers retirement system, the executive director of the school employees retirement system, the executive secretary of the Ohio police and fire pension fund, and the secretary of the state highway patrol retirement board, who shall be nonvoting members.

A vacancy on the council shall be filled by the person qualified to make the original appointment for the unexpired term, in the same manner as the original appointment.

The members of the council who are appointed from the membership of the senate and the house of representatives shall serve during their terms as members of the general assembly and until their successors are appointed and qualified, notwithstanding the adjournment of the general assembly of which they are members or the expiration of their terms as members of such general assembly.

*(ENACTED: SB 115, Eff. 1/8/79; HB 670, Eff. 12/2/96; HB 222, Eff. 11/2/99; SB 133, Eff. 9/15/04)*

### **Sec. 171.02 Meetings - organization**

Meetings of the Ohio retirement study council shall be called in such manner and at such times as prescribed by rules adopted by the council. A majority of the council constitutes a quorum and no action shall be taken by the council unless approved by at least five voting members. The council shall organize by selecting a chairperson, vice-chairperson, and such other officers as it deems necessary. The council shall adopt rules for the conduct of its business and the election of its officers, and shall establish an office in Columbus. Each member of the council, before entering upon the member's official duties shall take and subscribe to an oath of office, to uphold the constitution and laws of the United States and this state and to perform the duties of the office honestly, faithfully, and impartially. Members of the council shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties. (ENACTED: HB 708, Eff. 4/19/88; HB 670 Eff. 12/02/96)

### **Sec. 171.03 Powers of council**

The Ohio retirement study council may:

(A) Appoint a director to manage and direct the duties of the staff of the council. The director shall be a person who has had training and experience in areas related to the duties of the council.

(B) Appoint such professional, technical, and clerical employees as are necessary, and employ or hire on a consulting basis such actuarial, legal, investment, or other technical services required for the performance of its duties;

(C) Fix the compensation of the director and all other employees of the council. The employees of the council shall be members of the public employees retirement system.

(D) Require the public employees retirement board, the state teachers retirement board, the school employees retirement board, the state highway patrol retirement system, the Ohio police and fire pension fund, and any agency or official of this state or its political subdivisions to provide it with any information necessary to carry out its duties;

(E) Administer oaths and hold public hearings at such times and places within the state as may be necessary to accomplish the purposes and intent of Chapter 171. of the Revised Code;

(F) Establish a uniform format for any report that the boards of the state retirement systems are required to submit to the council and regular reporting requirements;

(G) Request that the auditor of state perform or contract for the performance of a financial or special audit of a state retirement system;

(H) Review all proposed rules submitted to the council pursuant to sections 145.09, 742.10, 3307.04, 3309.04, and 5505.04 of the Revised Code and submit any recommendations to the joint committee on agency rule review.

(ENACTED: HB 959, Eff. 7/11/86; HB 670, Eff. 12/2/96; HB 222, Eff. 11/02/99; SB 133, Eff. 9/15/04)

### **Sec. 171.04 Duties of council**

The Ohio retirement study council shall:

(A) Make an impartial review from time to time of all laws governing the administration and financing of the pension and retirement funds under Chapters 145., 146., 742., 3307., 3309., and 5505. of the Revised Code and recommend to the general assembly any changes it may find

desirable with respect to the allowances and benefits, sound financing of the cost of benefits, the prudent investment of funds, and the improvement of the language, structure, and organization of the laws;

(B) Make an annual report to the governor and to the general assembly covering its evaluation and recommendations with respect to the operations of the state retirement systems and their funds;

(C) Study all changes in the retirement laws proposed to the general assembly and report to the general assembly on their probable costs, actuarial implications, and desirability as a matter of public policy;

(D) Review semiannually the policies, objectives, and criteria adopted under sections 145.11, 742.11, 3307.15, 3309.15, and 5505.06 of the Revised Code for the operation of the investment programs of the state retirement systems, including a review of asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, relative volatility, and performance evaluation guidelines. The council shall, not later than thirty days after completing a review, submit to the governor and the general assembly a report summarizing its findings.

(E) Have prepared for each system by an independent actuary, at least once every ten years, an actuarial review of the actuarial valuations and quinquennial actuarial investigations prepared under sections 145.22, 742.14, 3307.20, 3309.21, and 5505.12 of the Revised Code, including a review of the actuarial assumptions and methods, the data underlying the valuations and investigations, and the adequacy of each system's employee and employer contribution rates to amortize its unfunded actuarial pension liability, if any, and to support the payment of benefits authorized by Chapter 145., 742., 3307., 3309., or 5505. of the Revised Code. The council shall submit to the governor and the general assembly a report summarizing each review.

All costs associated with an audit conducted pursuant to division (F) of this section shall be paid by the retirement system audited.

(F) Have conducted by an independent auditor at least once every ten years a fiduciary performance audit of each of the state retirement systems. All costs associated with an audit conducted pursuant to division (F) of this section shall be paid by the retirement system audited.

(G) Provide each member of the council with copies of all proposed rules submitted to the council pursuant to sections 145.09, 742.10, 3307.04, 3309.04, and 5505.04 of the Revised Code and submit any recommendations to the joint committee on agency rule review.

*(ENACTED: HB 201, Eff. 7/1/85; HB 670, Eff. 12/2/96; SB 190, Eff. 7/13/00; SB 133, 9/15/04; SB 340, Eff. 1/7/13; SB 42, Eff. 3/23/15)*

### **Sec. 171.05 Compensation and expenses of council**

The compensation of all employees of the Ohio retirement study council and other expenses of the council shall be paid upon vouchers approved by the director and the chairperson of the council.

The public employees retirement system, state teachers retirement system, school employees retirement system, state highway patrol retirement system, and Ohio police and fire pension fund shall pay the annual expenses of the council. The council shall prepare and submit to the retirement boards on or before the thirtieth day of June of each year an itemized estimate of the amounts necessary to pay the expenses of the council during the following year. Such expenses shall be charged to and paid by each of the retirement systems in the same ratio as the assets of each system, as of the preceding January first, bear to the total assets of all five systems on that

date. The systems shall pay the expenses required under this section by electronic funds transfer or any other method or device of electronic payment.

The council shall establish policies and procedures for purchasing goods and services on a competitive basis and maintaining tangible personal property. The policies and procedures shall be designed to safeguard the use of funds received by the council. An audit performed under Chapter 117. of the Revised Code shall include a determination of the council's compliance with the policies and procedures.

The council is not subject to Chapters 123., 124., 125., 126., and 127. of the Revised Code.

The treasurer of state shall be the custodian of all funds of the council.

*(ENACTED: HB 152, Eff. 7/1/93; HB 670, Eff. 12/2/96; HB 215, Eff. 9/29/97; HB 648, Eff. 9/16/98; HB 222, Eff. 11/2/99; HB 59, Eff. 9/29/13)*

#### **Sec. 171.06 Attorney general is legal advisor to council**

The attorney general is the legal adviser to the Ohio retirement study council.

*(ENACTED: SB 133, Eff. 9/15/04)*

#### **Sec. 171.07 Triennial independent actuarial study of effect of alternative retirement program**

*(ENACTED: HB 535, Eff. 4/01/01; REPEALED: HB 520, Eff. 4/6/17)*

#### **Sec. 171.50 Boards to submit member education program to council**

The boards of the state retirement systems shall jointly develop a retirement board member education program and submit the program to the Ohio retirement study council. The boards shall jointly pay all costs associated with establishing and conducting the retirement board member education program.

The retirement board member education program shall consist of an orientation component for newly elected and appointed members and a continuing education component for board members who have served for at least one year. The program shall incorporate into its curriculum each of the following topics: board member duties and responsibilities, retirement system member benefits and health care management, ethics, governance processes and procedures, actuarial soundness, investments, and any other subject matter the boards believe is reasonably related to the duties of a board member.

All program sessions, classes, and other events shall be held in Ohio.

*(ENACTED: SB 133, Eff. 9/15/04)*

## Appendix G

### Forfeiture of Retirement Benefits

#### Sec. 2329.66 Exempted interests and rights

(A) Every person who is domiciled in this state may hold property exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order, as follows:

(1)(a) In the case of a judgment or order regarding money owed for health care services rendered or health care supplies provided to the person or a dependent of the person, one parcel or item of real or personal property that the person or a dependent of the person uses as a residence. Division (A)(1)(a) of this section does not preclude, affect, or invalidate the creation under this chapter of a judgment lien upon the exempted property but only delays the enforcement of the lien until the property is sold or otherwise transferred by the owner or in accordance with other applicable laws to a person or entity other than the surviving spouse or surviving minor children of the judgment debtor. Every person who is domiciled in this state may hold exempt from a judgment lien created pursuant to division (A)(1)(a) of this section the person's interest, not to exceed one hundred twenty-five thousand dollars, in the exempted property.

(b) In the case of all other judgments and orders, the person's interest, not to exceed one hundred twenty-five thousand dollars, in one parcel or item of real or personal property that the person or a dependent of the person uses as a residence.

(c) For purposes of divisions (A)(1)(a) and (b) of this section, "parcel" means a tract of real property as identified on the records of the auditor of the county in which the real property is located.

(2) The person's interest, not to exceed three thousand two hundred twenty-five dollars, in one motor vehicle;

(3) The person's interest, not to exceed four hundred dollars, in cash on hand, money due and payable, money to become due within ninety days, tax refunds, and money on deposit with a bank, savings and loan association, credit union, public utility, landlord, or other person other than personal earnings.

(4)(a) The person's interest, not to exceed five hundred twenty-five dollars in any particular item or ten thousand seven hundred seventy-five dollars in aggregate value, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, musical instruments, firearms, and hunting and fishing equipment that are held primarily for the personal, family, or household use of the person;

(b) The person's aggregate interest in one or more items of jewelry, not to exceed one thousand three hundred fifty dollars held primarily for the personal, family, or household use of the person or any of the person's dependents.

(5) The person's interest, not to exceed an aggregate of two thousand twenty-five dollars, in all implements, professional books, or tools of the person's profession, trade, or business, including agriculture;

(6)(a) The person's interest in a beneficiary fund set apart, appropriated, or paid by a benevolent association or society, as exempted by section 2329.63 of the Revised Code;

(b) The person's interest in contracts of life or endowment insurance or annuities, as exempted by section 3911.10 of the Revised Code;



(c) The person's interest in a policy of group insurance or the proceeds of a policy of group insurance, as exempted by section 3917.05 of the Revised Code;

(d) The person's interest in money, benefits, charity, relief, or aid to be paid, provided, or rendered by a fraternal benefit society, as exempted by section 3921.18 of the Revised Code;

(e) The person's interest in the portion of benefits under policies of sickness and accident insurance and in lump sum payments for dismemberment and other losses insured under those policies, as exempted by section 3923.19 of the Revised Code.

(7) The person's professionally prescribed or medically necessary health aids;

(8) The person's interest in a burial lot, including, but not limited to, exemptions under section 517.09 or 1721.07 of the Revised Code;

(9) The person's interest in the following:

(a) Moneys paid or payable for maintenance or rights, as exempted by section 3304.19 of the Revised Code;

(b) Workers' compensation, as exempted by section 4123.67 of the Revised Code;

(c) Unemployment compensation benefits, as exempted by section 4141.32 of the Revised Code;

(d) Cash assistance payments under the Ohio works first program, as exempted by section 5107.75 of the Revised Code;

(e) Benefits and services under the prevention, retention, and contingency program, as exempted by section 5108.08 of the Revised Code;

(f) Payments under section 24 or 32 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended.

(10)(a) Except in cases in which the person was convicted of or pleaded guilty to a violation of section 2921.41 of the Revised Code and in which an order for the withholding of restitution from payments was issued under division (C)(2)(b) of that section, in cases in which an order for withholding was issued under section 2907.15 of the Revised Code, in cases in which an order for forfeiture was issued under division (A) or (B) of section 2929.192 of the Revised Code, and in cases in which an order was issued under section 2929.193 or 2929.194 of the Revised Code, and only to the extent provided in the order, and except as provided in sections 3105.171, 3105.63, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's rights to or interests in a pension, benefit, annuity, retirement allowance, or accumulated contributions, the person's rights to or interests in a participant account in any deferred compensation program offered by the Ohio public employees deferred compensation board, a government unit, or a municipal corporation, or the person's other accrued or accruing rights or interests, as exempted by section 143.11, 145.56, 146.13, 148.09, 742.47, 3307.41, 3309.66, or 5505.22 of the Revised Code, and the person's rights to or interests in benefits from the Ohio public safety officers death benefit fund;

(b) Except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's rights to receive or interests in receiving a payment or other benefits under any pension, annuity, or similar plan or contract, not including a payment or benefit from a stock bonus or profit-sharing plan or a payment included in division (A)(6)(b) or (10)(a) of this section, on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the person and any of the person's dependents, except if all the following apply:

(i) The plan or contract was established by or under the auspices of an insider that employed the person at the time the person's rights or interests under the plan or contract arose.

(ii) The payment is on account of age or length of service.

(iii) The plan or contract is not qualified under the “Internal Revenue Code of 1986,” 100 Stat. 2085, 26 U.S.C. 1, as amended.

(c) Except for any portion of the assets that were deposited for the purpose of evading the payment of any debt and except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person’s rights or interests in the assets held in, or to directly or indirectly receive any payment or benefit under, any individual retirement account, individual retirement annuity, “Roth IRA,” account opened pursuant to a program administered by a state under section 529 or 529A of the “Internal Revenue Code of 1986,” 100 Stat. 2085, 26 U.S.C. 1, as amended, or education individual retirement account that provides payments or benefits by reason of illness, disability, death, retirement, or age or provides payments or benefits for purposes of education or qualified disability expenses, to the extent that the assets, payments, or benefits described in division (A)(10)(c) of this section are attributable to or derived from any of the following or from any earnings, dividends, interest, appreciation, or gains on any of the following:

(i) Contributions of the person that were less than or equal to the applicable limits on deductible contributions to an individual retirement account or individual retirement annuity in the year that the contributions were made, whether or not the person was eligible to deduct the contributions on the person’s federal tax return for the year in which the contributions were made;

(ii) Contributions of the person that were less than or equal to the applicable limits on contributions to a Roth IRA or education individual retirement account in the year that the contributions were made;

(iii) Contributions of the person that are within the applicable limits on rollover contributions under subsections 219, 402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3)(B), 408A(d)(3), and 530(d)(5) of the “Internal Revenue Code of 1986,” 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(iv) Contributions by any person into any plan, fund, or account that is formed, created, or administered pursuant to, or is otherwise subject to, section 529 or 529A of the “Internal Revenue Code of 1986,” 100 Stat. 2085, 26 U.S.C. 1, as amended.

(d) Except for any portion of the assets that were deposited for the purpose of evading the payment of any debt and except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person’s rights or interests in the assets held in, or to receive any payment under, any Keogh or “H.R. 10” plan that provides benefits by reason of illness, disability, death, retirement, or age, to the extent reasonably necessary for the support of the person and any of the person’s dependents.

(e) The person’s rights to or interests in any assets held in, or to directly or indirectly receive any payment or benefit under, any individual retirement account, individual retirement annuity, “Roth IRA,” account opened pursuant to a program administered by a state under section 529 or 529A of the “Internal Revenue Code of 1986,” 100 Stat. 2085, 26 U.S.C. 1, as amended, or education individual retirement account that a decedent, upon or by reason of the decedent’s death, directly or indirectly left to or for the benefit of the person, either outright or in trust or otherwise, including, but not limited to, any of those rights or interests in assets or to receive payments or benefits that were transferred, conveyed, or otherwise transmitted by the decedent by means of a will, trust, exercise of a power of appointment, beneficiary designation, transfer or payment on death designation, or any other method or procedure.

(f) The exemptions under divisions (A)(10)(a) to (e) of this section also shall apply or otherwise be available to an alternate payee under a qualified domestic relations order (QDRO) or

other similar court order.

(g) A person's interest in any plan, program, instrument, or device described in divisions (A)(10)(a) to (e) of this section shall be considered an exempt interest even if the plan, program, instrument, or device in question, due to an error made in good faith, failed to satisfy any criteria applicable to that plan, program, instrument, or device under the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended.

(11) The person's right to receive spousal support, child support, an allowance, or other maintenance to the extent reasonably necessary for the support of the person and any of the person's dependents;

(12) The person's right to receive, or moneys received during the preceding twelve calendar months from, any of the following:

(a) An award of reparations under sections 2743.51 to 2743.72 of the Revised Code, to the extent exempted by division (D) of section 2743.66 of the Revised Code;

(b) A payment on account of the wrongful death of an individual of whom the person was a dependent on the date of the individual's death, to the extent reasonably necessary for the support of the person and any of the person's dependents;

(c) Except in cases in which the person who receives the payment is an inmate, as defined in section 2969.21 of the Revised Code, and in which the payment resulted from a civil action or appeal against a government entity or employee, as defined in section 2969.21 of the Revised Code, a payment, not to exceed twenty thousand two hundred dollars, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the person or an individual for whom the person is a dependent;

(d) A payment in compensation for loss of future earnings of the person or an individual of whom the person is or was a dependent, to the extent reasonably necessary for the support of the debtor and any of the debtor's dependents.

(13) Except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, personal earnings of the person owed to the person for services in an amount equal to the greater of the following amounts:

(a) If paid weekly, thirty times the current federal minimum hourly wage; if paid biweekly, sixty times the current federal minimum hourly wage; if paid semimonthly, sixty-five times the current federal minimum hourly wage; or if paid monthly, one hundred thirty times the current federal minimum hourly wage that is in effect at the time the earnings are payable, as prescribed by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 206(a)(1), as amended;

(b) Seventy-five per cent of the disposable earnings owed to the person.

(14) The person's right in specific partnership property, as exempted by the person's rights in a partnership pursuant to section 1776.50 of the Revised Code, except as otherwise set forth in section 1776.50 of the Revised Code;

(15) A seal and official register of a notary public, as exempted by section 147.04 of the Revised Code;

(16) The person's interest in a tuition unit or a payment under section 3334.09 of the Revised Code pursuant to a tuition payment contract, as exempted by section 3334.15 of the Revised Code;

(17) Any other property that is specifically exempted from execution, attachment, garnishment, or sale by federal statutes other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 11 U.S.C.A. 101, as amended;

(18) The person's aggregate interest in any property, not to exceed one thousand seventy-

five dollars, except that division (A)(18) of this section applies only in bankruptcy proceedings.

(B) On April 1, 2010, and on the first day of April in each third calendar year after 2010, the Ohio judicial conference shall adjust each dollar amount set forth in this section to reflect any increase in the consumer price index for all urban consumers, as published by the United States department of labor, or, if that index is no longer published, a generally available comparable index, for the three-year period ending on the thirty-first day of December of the preceding year. Any adjustments required by this division shall be rounded to the nearest twenty-five dollars.

The Ohio judicial conference shall prepare a memorandum specifying the adjusted dollar amounts. The judicial conference shall transmit the memorandum to the director of the legislative service commission, and the director shall publish the memorandum in the register of Ohio. (Publication of the memorandum in the register of Ohio shall continue until the next memorandum specifying an adjustment is so published.) The judicial conference also may publish the memorandum in any other manner it concludes will be reasonably likely to inform persons who are affected by its adjustment of the dollar amounts.

(C) As used in this section:

(1) "Disposable earnings" means net earnings after the garnishee has made deductions required by law, excluding the deductions ordered pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code.

(2) "Insider" means:

(a) If the person who claims an exemption is an individual, a relative of the individual, a relative of a general partner of the individual, a partnership in which the individual is a general partner, a general partner of the individual, or a corporation of which the individual is a director, officer, or in control;

(b) If the person who claims an exemption is a corporation, a director or officer of the corporation; a person in control of the corporation; a partnership in which the corporation is a general partner; a general partner of the corporation; or a relative of a general partner, director, officer, or person in control of the corporation;

(c) If the person who claims an exemption is a partnership, a general partner in the partnership; a general partner of the partnership; a person in control of the partnership; a partnership in which the partnership is a general partner; or a relative in, a general partner of, or a person in control of the partnership;

(d) An entity or person to which or whom any of the following applies:

(i) The entity directly or indirectly owns, controls, or holds with power to vote, twenty per cent or more of the outstanding voting securities of the person who claims an exemption, unless the entity holds the securities in a fiduciary or agency capacity without sole discretionary power to vote the securities or holds the securities solely to secure to debt and the entity has not in fact exercised the power to vote.

(ii) The entity is a corporation, twenty per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the person who claims an exemption or by an entity to which division (C)(2)(d)(i) of this section applies.

(iii) A person whose business is operated under a lease or operating agreement by the person who claims an exemption, or a person substantially all of whose business is operated under an operating agreement with the person who claims an exemption.

(iv) The entity operates the business or all or substantially all of the property of the person who claims an exemption under a lease or operating agreement.

(e) An insider, as otherwise defined in this section, of a person or entity to which division

(C)(2)(d)(i), (ii), (iii), or (iv) of this section applies, as if the person or entity were a person who claims an exemption;

(f) A managing agent of the person who claims an exemption.

(3) “Participant account” has the same meaning as in section 148.01 of the Revised Code.

(4) “Government unit” has the same meaning as in section 148.06 of the Revised Code.

(C) For purposes of this section, “interest” shall be determined as follows:

(1) In bankruptcy proceedings, as of the date a petition is filed with the bankruptcy court commencing a case under Title 11 of the United States Code;

(2) In all cases other than bankruptcy proceedings, as of the date of an appraisal, if necessary under section 2329.68 of the Revised Code, or the issuance of a writ of execution.

An interest, as determined under division (D)(1) or (2) of this section, shall not include the amount of any lien otherwise valid pursuant to section 2329.661 of the Revised Code.

*(ENACTED: Eff. 9/29/05; Eff. 6/26/03; SB 3, Eff. 5/13/08; HB 332, Eff. 8/6/08; SB 281, Eff. 9/30/88; HB 123, Eff. 7/29/11; HB 5, Eff. 9/23/11; SB 343, Eff. 1/7/13; HB 479, Eff. 3/27/13; HB 155, Eff. 10/15/15; SB 11, Eff. 3/23/16; HB 49, Eff. 9/29/17 and 12/31/17)*

### **Sec. 2901.43 Notice of charges to be sent to retirement plan**

(A)(1) As used in this section:

(a) “Public retirement system,” “alternative retirement plan,” and “prosecutor” have the same meanings as in section 2907.15 of the Revised Code.

(b) “Position of honor, trust, or profit” has the same meaning as in section 2929.192 of the Revised Code.

(2) For purposes of divisions (B) and (C) of this section, a violation of section 2923.32 of the Revised Code or any other violation or offense that includes as an element a course of conduct or the occurrence of multiple acts is “committed on or after the effective date of this section” if the course of conduct continues, one or more of the multiple acts occurs, or the subject person’s accountability for the course of conduct or for one or more of the multiple acts continues, on or after the effective date of this section.

(B) Upon the filing of charges against a person alleging that the person committed on or after the effective date of this section any violation or offense specified in division (C) of this section, if the person allegedly committed the violation or offense while serving in a position of honor, trust, or profit and if the person is an electing employee participating in an alternative retirement plan or a member of a public retirement system, the prosecutor who is assigned the case shall send written notice that those charges have been filed against that person to the alternative retirement plan in which the person is a participant or the public retirement system in which the person is a member, whichever is applicable. The written notice shall specifically identify the person charged.

(C) Division (B) of this section applies when a person is charged with committing on or after the effective date of this section any offense or violation listed or described in divisions (D)(1) to (3) of section 2929.192 of the Revised Code that is a felony, in the circumstances specified in the particular division.

*(ENACTED: SB 3, Eff. 5/13/08)*

### **Sec. 2901.431 Notice of felony charges filed against member**

On the filing of charges against a person who is a member of the public employees retirement system alleging that the person committed a felony on or after the effective date of this section, the prosecutor assigned to the case shall send written notice to the retirement system that the charges have been filed. The notice shall specifically identify the person.

For purposes of this section, a violation or offense that includes as an element a course of conduct or the occurrence of multiple acts is committed on or after the effective date of this section if the course of conduct continues, one or more of the multiple acts occurs, or the person's accountability for the course of conduct or one or more of the multiple acts continues on or after that date.

*(ENACTED: SB 343, Eff. 1/7/13)*

### **Sec. 2929.192 Forfeiture of retirement benefits on conviction**

(A) If an offender is being sentenced for any felony offense listed in division (D) of this section that was committed on or after May 13, 2008, if the offender committed the offense while serving in a position of honor, trust, or profit, and if the offender, at the time of the commission of the offense, was a member of any public retirement system or a participant in an alternative retirement plan, in addition to any other sanction it imposes under section 2929.14, 2929.15, 2929.16, 2929.17, or 2929.18 of the Revised Code but subject to division (B) of this section, the court shall order the forfeiture to the public retirement system or alternative retirement plan in which the offender was a member or participant of the offender's right to a retirement allowance, pension, disability benefit, or other right or benefit, other than payment of the offender's accumulated contributions, earned by reason of the offender's being a member of the public retirement system or alternative retirement plan. A forfeiture ordered under this division is part of, and shall be included in, the sentence of the offender. The court shall send a copy of the journal entry imposing sentence on the offender to the appropriate public retirement system or alternative retirement plan in which the offender was a member or participant.

(B) In any case in which a sentencing court is required to order forfeiture of an offender's right to a retirement allowance, pension, disability benefit, or other right or benefit under division (A) of this section, the offender may request a hearing regarding the forfeiture by delivering to the court prior to sentencing a written request for a hearing. If a request for a hearing is made by the offender prior to sentencing, the court shall conduct the hearing before sentencing. The court shall notify the offender, the prosecutor who handled the case in which the offender was convicted of or pleaded guilty to the offense for which the forfeiture order was imposed, and the appropriate public retirement system, or alternative retirement plan provider, whichever is applicable, or, if more than one is specified in the motion, the applicable combination of these, of the hearing. A hearing scheduled under this division shall be limited to a consideration of whether there is good cause based on evidence presented by the offender for the forfeiture order not to be issued. If the court determines based on evidence presented by the offender that there is good cause for the forfeiture order not to be issued, the court shall not issue the forfeiture order. If the offender does not request a hearing prior to sentencing or if the court conducts a hearing but does not determine based on evidence presented by the offender that there is good cause for the forfeiture order not to be issued, the court shall order the forfeiture described in division (A) of this section in accordance with that division and shall send a copy of the journal entry imposing sentence on the offender to

the appropriate public retirement system or alternative retirement plan in which the offender was a member or participant.

(C) Upon receipt of a copy of the journal entry imposing sentence on an offender under division (A) or (B) of this section that contains an order of forfeiture of a type described in that division, the public retirement system or alternative retirement plan in which the offender was a member or participant shall comply with the forfeiture order on application for a refund of the accumulated contributions of the member or participant.

(D) Division (A) of this section applies regarding an offender who is convicted of or pleads guilty to any of the following offenses committed on or after May 13, 2008, that is a felony and who committed the offense while serving in a position of honor, trust, or profit:

(1) A violation of section 2921.02 or 2923.32 of the Revised Code or a violation of section 2921.41 of the Revised Code that is a felony of the third degree;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to any violation listed in division (D)(1) of this section;

(3) A conspiracy to commit, attempt to commit, or complicity in committing any violation listed in division (D)(1) or described in division (D)(2) of this section.

(E) For purposes of divisions (A) and (D) of this section, a violation of section 2923.32 of the Revised Code or any other violation or offense that includes as an element a course of conduct or the occurrence of multiple acts is “committed on or after May 13, 2008,” if the course of conduct continues, one or more of the multiple acts occurs, or the subject person’s accountability for the course of conduct or for one or more of the multiple acts continues, on or after May 13, 2008.

(F) As used in this section:

(1) (a) For the period beginning May 13, 2008, and ending the day before the effective date of this amendment, “position of honor, trust, or profit” means any of the following:

(i) An elective office of the state or any political subdivision of the state;

(ii) A position on any board or commission of the state that is appointed by the governor or the attorney general;

(iii) A position as a public official or employee, as defined in section 102.01 of the Revised Code, who is required to file a disclosure statement under section 102.02 of the Revised Code;

(iv) A position as a prosecutor, as defined in section 2935.01 of the Revised Code;

(v) A position as a peace officer, as defined in section 2935.01 of the Revised Code, or as the superintendent or a trooper of the state highway patrol.

(b) On and after the effective date of this amendment, “position of honor, trust, or profit” has the same meaning as in division (F)(1)(a) of this section, except that it also includes a position in which, in the course of public employment, an employee has control over the expenditure of public funds of one hundred thousand dollars or more annually.

(2) “Public retirement system” and “alternative retirement plan” have the same meanings as in section 2907.15 of the Revised Code.

(3) “Accumulated contributions” means whichever of the following is applicable:

(a) Regarding an offender who is a member of the public employees retirement system, except as otherwise provided in division (F)(3)(a) of this section, “accumulated contributions” has the same meaning as in section 145.01 of the Revised Code. For a member participating in a PERS defined contribution plan, “accumulated contributions” means the contributions made under section 145.85 of the Revised Code and any earnings on those contributions. For a member participating in a PERS defined contribution plan that includes definitely determinable benefits,

“accumulated contributions” means the contributions made under section 145.85 of the Revised Code, any earnings on those contributions, and additionally any amounts paid by the member to purchase service credits.

(b) Regarding an offender who is or was a member of the Ohio police and fire pension fund, “accumulated contributions” means the amount payable to a member under division (G) of section 742.37 of the Revised Code.

(c) Regarding an offender who is a member of the state teachers retirement system, except as otherwise provided in division (F)(3)(c) of this section, “accumulated contributions” has the same meaning as in section 3307.50 of the Revised Code. For a member participating in an STRS defined contribution plan, “accumulated contributions” means the contributions made under section 3307.26 of the Revised Code to participate in a plan established under section 3307.81 of the Revised Code and any earnings on those contributions. For a member participating in a STRS defined contribution plan that includes definitely determinable benefits, “accumulated contributions” means the contributions made under section 3307.26 of the Revised Code to participate in a plan established under section 3307.81 of the Revised Code, any earnings on those contributions, and additionally any amounts paid by the member to purchase service credits.

(d) Regarding an offender who is or was a member of the school employees retirement system, “accumulated contributions” has the same meaning as in section 3309.01 of the Revised Code and also includes employee contributions made under section 3309.85 of the Revised Code and any earnings on those contributions.

(e) Regarding an offender who is or was a member of the state highway patrol retirement system, “accumulated contributions” has the same meaning as in section 5505.01 of the Revised Code.

(f) Regarding an offender who is or was participating in an alternative retirement plan, “accumulated contributions” means the amounts contributed to an alternative retirement plan participant’s account by the plan participant pursuant to section 3305.06 of the Revised Code and any earnings on those contributions.

*(ENACTED: SB 3, Eff. 5/13/08; HB 123, Eff. 7/29/11)*

### **Sec. 2929.193 Offenses while serving in a position of honor, trust, or profit; hearing; recovery of benefits**

(A) As used in this section:

(1) “Position of honor, trust, or profit” has the same meaning as in division (F)(1)(b) of section 2929.192 of the Revised Code.

(2) “Public retirement system,” “alternative retirement plan,” and “prosecutor” have the same meanings as in section 2907.15 of the Revised Code.

(B) This section applies to an offender to whom all of the following apply:

(1) The offender is being sentenced for an offense listed in division (D) of section 2929.192 of the Revised Code that is a felony and was committed on or after the effective date of this section.

(2) The offense was committed while the offender was serving in a position of honor, trust, or profit.

(3) At the time of the offense, the offender was one of the following:

(a) A member of a public retirement system;

(b) A contributor to a public retirement system receiving or eligible to receive a benefit under section 145.384, 742.26, 3307.352, or 3309.344 of the Revised Code;

(c) A participant in an alternative retirement plan.



(4) Prior to the final disposition of the case, the offender was granted a disability benefit by a public retirement system or an alternative retirement plan provider.

(C)(1) Prior to sentencing an offender subject to this section, the court shall hold a hearing regarding the condition for which the offender was granted a disability benefit. Not later than ten days prior to the scheduled date of the hearing, the court shall give written notice of the hearing to the offender, the prosecutor who handled the case, and the appropriate public retirement system, alternative retirement plan provider, or, if more than one is providing a disability benefit, the applicable combination of these. The hearing shall be limited to a consideration of whether the offender's disabling condition arose out of the commission of the offense the offender was convicted of or pleaded guilty to.

The system or provider shall submit to the court the offender's medical reports and recommendations, and the offender's disability application. If the court determines based on those documents that the disabling condition arose out of the commission of the offense the offender was convicted of or pleaded guilty to, the court shall order the system or provider to terminate the disability benefit.

(2) Any disability benefit paid the offender prior to its termination may be recovered in accordance with section 145.563, 742.64, 3305.22, 3307.47, 3309.70, or 5505.34 of the Revised Code.

(D) For purposes of this section, a violation of section 2923.32 of the Revised Code or any other violation or offense that includes as an element a course of conduct or the occurrence of multiple acts is "committed on or after the effective date of this section" if the course of conduct continues, one or more of the multiple acts occurs, or the offender's accountability for the course of conduct or for one or more of the multiple acts continues on or after the effective date of this section.

*(ENACTED: HB 123, Eff. 7/29/11)*

### **Sec. 2929.194 Offenders under physical or mental disability; forfeiture**

(A) This section applies to members of the public employees retirement system except that in any circumstance in which either section 2929.192 or 2929.193 of the Revised Code applies this section does not apply.

(B) If an offender is being sentenced for a felony offense that was the cause of a physical or mental disability in the offender and was committed on or after the effective date of this section while the offender was a member of the public employees retirement system, in addition to any sanction it imposes under section 2929.14, 2929.15, 2929.16, 2929.17, or 2929.18 of the Revised Code but subject to division (C) of this section, the court shall order forfeiture of any right of the offender to a disability benefit from the retirement system that is based on the disability caused by commission of the felony. The forfeiture shall be ordered regardless of whether a disability benefit has been requested or granted. A forfeiture ordered under this section is part of, and shall be included in, the offender's sentence.

(C) Before sentencing in a case in which the sentencing court is required to order forfeiture under division (B) of this section, the offender may request a hearing regarding the forfeiture by delivering a written request for a hearing to the court. If there is a timely request, the court shall schedule the hearing to be conducted before sentencing. Not later than ten days prior to the scheduled date of the hearing, the court shall give notice of the hearing date to the offender, the prosecutor who handled the case, and the retirement system. The hearing shall be limited to determination of whether the offender's disability resulted from commission of the offense. If a

disability benefit has already been granted, the retirement system shall submit to the court documentation of the evidence on which the benefit was granted.

(D) If the offender does not make a timely request for a hearing or if a hearing is held and the court determines that the disability resulted from commission of the offense, the court shall order the forfeiture of any right the offender may have to a disability benefit from the retirement system that is based on the disability caused by commission of the felony. If the disability benefit has already been granted, the court shall order termination of the benefit. Any disability benefit paid to the offender prior to its termination may be recovered in accordance with section 145.563 of the Revised Code.

(E) The court shall send a copy of the journal entry imposing sentence on the offender to the retirement system.

(F) For purposes of this section, any violation or offense that includes as an element a course of conduct or the occurrence of multiple acts is committed on or after the effective date of this section if the course of conduct continues, one or more of the multiple acts occurs, or the offender's accountability for the course of conduct or for one or more of the multiple acts continues on or after the effective date of this section.

*(ENACTED: SB 343, Eff. 1/7/13)*

## Appendix H

### Criminal Falsification

#### Sec. 2921.13 Falsification - in theft offense

(A) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:

(1) The statement is made in any official proceeding.

(2) The statement is made with purpose to incriminate another.

(3) The statement is made with purpose to mislead a public official in performing the public official's official function.

(4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention, and contingency benefits and services; disability financial assistance; retirement benefits or health care coverage from a state retirement system; economic development assistance, as defined in section 9.66 of the Revised Code; or other benefits administered by a governmental agency or paid out of a public treasury.

(5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release, or provider agreement.

(6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.

(7) The statement is in writing on or in connection with a report or return that is required or authorized by law.

(8) The statement is in writing and is made with purpose to induce another to extend credit to or employ the offender, to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to that person's detriment.

(9) The statement is made with purpose to commit or facilitate the commission of a theft offense.

(10) The statement is knowingly made to a probate court in connection with any action, proceeding, or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint, or other pleading, or an inventory, account, or report.

(11) The statement is made on an account, form, record, stamp, label, or other writing that is required by law.

(12) The statement is made in connection with the purchase of a firearm, as defined in section 2923.11 of the Revised Code, and in conjunction with the furnishing to the seller of the firearm of a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.

(13) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the secretary of state, a county recorder, or the clerk of a court of record.

(14) The statement is made in an application filed with a county sheriff pursuant to section

2923.125 of the Revised Code in order to obtain or renew a concealed handgun license or is made in an affidavit submitted to a county sheriff to obtain a concealed handgun license on a temporary emergency basis under section 2923.1213 of the Revised Code.

(15) The statement is required under section 5743.71 of the Revised Code in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.

(B) No person, in connection with the purchase of a firearm, as defined in section 2923.11 of the Revised Code, shall knowingly furnish to the seller of the firearm a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.

(C) No person, in an attempt to obtain a concealed handgun license under section 2923.125 of the Revised Code, shall knowingly present to a sheriff a fictitious or altered document that purports to be certification of the person's competence in handling a handgun as described in division (B)(3) of that section .

(D) It is no defense to a charge under division (A)(6) of this section that the oath or affirmation was administered or taken in an irregular manner.

(E) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false but only that one or the other was false.

(F)(1) Whoever violates division (A)(1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (13), or (15) of this section is guilty of falsification. Except as otherwise provided in this division, falsification is a misdemeanor of the first degree.

(2) Whoever violates division (A)(9) of this section is guilty of falsification in a theft offense. Except as otherwise provided in this division, falsification in a theft offense is a misdemeanor of the first degree. If the value of the property or services stolen is one thousand dollars or more and is less than seven thousand five hundred dollars, falsification in a theft offense is a felony of the fifth degree. If the value of the property or services stolen is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, falsification in a theft offense is a felony of the fourth degree. If the value of the property or services stolen is one hundred fifty thousand dollars or more, falsification in a theft offense is a felony of the third degree.

(3) Whoever violates division (A)(12) or (B) of this section is guilty of falsification to purchase a firearm, a felony of the fifth degree.

(4) Whoever violates division (A)(14) or (C) of this section is guilty of falsification to obtain a concealed handgun license, a felony of the fourth degree.

(5) Whoever violates division (A) of this section in removal proceedings under section 319.26, 321.37, 507.13, or 733.78 of the Revised Code is guilty of falsification regarding a removal proceeding, a felony of the third degree.

(G) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this division. A civil action under this division is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.

*(ENACTED: 4/8/04; 6/30/05; 4/6/07; 7/1/07; HB 562, Eff. 6/24/08; HB 1, Eff. 7/17/09; HB 86, Eff. 9/30/11; SB 343, Eff. 1/7/13; HB 495, Eff. 3/27/13; HB 10, Eff. 3/23/15)*