

(127th General Assembly)
(Amended Substitute Senate Bill Number 267)

AN ACT

To amend sections 145.01, 145.19, 145.191, 145.33, 145.35, 145.49, 145.58, 742.45, and 742.63 and to enact section 145.2914 of the Revised Code regarding the Public Employees Retirement System (PERS) law enforcement division, the Ohio Public Safety Officers Death Benefit Fund, and reimbursement by PERS and the Ohio Police and Fire Pension Fund for Medicare Part B premiums.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 145.01, 145.19, 145.191, 145.33, 145.35, 145.49, 145.58, 742.45, and 742.63 be amended and section 145.2914 of the Revised Code be enacted to read as follows:

Sec. 145.01. 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 historical society, 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 and 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.

In all cases of doubt, the public employees retirement board shall determine 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 historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state medical college, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in this division not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. In addition, "employer" means the employer of any public employee.

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

by that other system after that other system was established, credit for the service may be allowed by the public employees retirement system only when the employee has made payment, to be computed on the salary earned from the date of appointment to the date membership was established in the public employees retirement system, at the rate in effect at the time of payment, and the employer has made payment of the corresponding full liability as provided by section 145.44 of the Revised Code. "Prior 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.

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

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

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

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

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

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

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

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

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

state retirement systems.

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

(5) "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 quotient obtained by dividing by three the sum of the three full calendar years of contributing service in which the member's earnable salary was highest, except that if the member has a partial year of contributing service in the year the member's employment terminates and the member's earnable salary for the partial year is higher than for any comparable period in the three years, the member's earnable salary for the partial year shall be substituted for the member's earnable salary for the comparable period during the three years in which the member's earnable salary was lowest.

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

(3) For the purpose of calculating benefits payable to a member qualifying for service credit under division (Z) of this section, "final average salary" means the total earnable salary on which contributions were made divided by the total number of years during which contributions were made, including any fraction of a year. If contributions were made for less than twelve months, "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, 145.34, 145.37, and 145.46 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 full 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 divisions (K)(3) and (Y) of this section.

(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.

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

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

(b) For each month for which the member's earnable salary is less than two hundred fifty dollars, allow a fraction of a month's credit. The numerator of this fraction shall be the earnable salary during the month, and the denominator shall be 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 (T)(1)(b) of this section shall not reduce any credit earned before January 1, 1985.

(2) Notwithstanding division (T)(1) 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.

(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, 145.34,

and 145.46 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) 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 contributions calculated upon the basis of the increased salary for the office. At the member's request, the board shall compute the total additional amount the member would have contributed, or the amount by which each of the member'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 amount by which the member's contribution would have increased withheld from the member's salary, the member shall notify the employer, and the employer shall make the withholding and transmit it to the retirement system. A member who has not elected to have that amount withheld may elect at any time to make a payment to the retirement system equal to the additional amount the member's contribution would have increased, plus interest on that contribution, compounded annually at a rate established by the board and computed from the date on which the last contribution would have been withheld from the member's salary to the date of payment. A member may make a payment for part of the period for which the increased contribution was not withheld, in which case the interest shall be computed from the date the last contribution would have been withheld for the period for which the payment is made. Upon the payment of the increased contributions as provided in this division, 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.

(Z) "Five years of service credit," for the exclusive purpose of satisfying the service credit requirements and of determining eligibility for benefits under section 145.33 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 the coverage.

(AA) "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, ~~and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of this state~~; 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 ~~and whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state~~; 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 ~~and whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state~~.

(BB) "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, ~~and whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state~~.

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

(1) Employed ~~full-time~~ 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~~ 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.

(DD) "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.

(EE) "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.

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

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

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

(II) "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.

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

(KK) "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.

(LL) "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.

(MM) "Municipal police officer" means a member of the organized police department of a municipal corporation who is employed ~~full-time~~ 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.

(NN) "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.

(OO) "Special police officer for a mental health institution" means any person who is designated as such pursuant to section 5119.14 of the Revised

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

(PP) "Special police officer for an institution for the mentally retarded and developmentally disabled" 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.

(QQ) "State university law enforcement officer" means any person who is employed ~~full-time~~ 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.

(RR) "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.

(SS) "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.

(TT) "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.

(UU) "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.

(VV) "Municipal public safety director" means a person who serves ~~full-time~~ 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.

(WW) 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, ~~municipal public safety director~~, department of public safety enforcement agent, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft 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 the mentally retarded and developmentally disabled, 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 serving as a municipal public safety director at any time during the period from September 29, 2005 to the effective date of this amendment, if the duties of that service were to preserve the peace, protect life and property, and enforce the laws of this state.

(XX) "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, ~~and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of this state.~~

(YY) "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, park officer, forest officer, preserve officer, wildlife officer, state watercraft 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 the mentally retarded and developmentally disabled, 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 serving as a municipal public safety director at any time during the period from September 29, 2005 to the effective date of this amendment, if the duties of that service were other than to preserve the peace, protect life and property, and enforce the laws of this state.

(ZZ) "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.

~~(ZZ)~~(AAA) "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.

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

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

Sec. 145.19. (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 the date on which the public employees retirement board first establishes a PERS defined contribution plan 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. If a form evidencing an election under this section is not received by the public employees retirement system not later than 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 in writing 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) At the time employment begins, 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 is a contributor who, as of the last day of the month

prior to the date employment begins, has five or more years of total service credit.

(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 ~~Hamilton county municipal court bailiff~~ **PERS public safety officer**.

Sec. 145.191. (A) Except as provided in division (E) of this section, a public employees retirement system member or contributor who, as of the last day of the month immediately preceding the date on which the public employees retirement board first establishes a PERS defined contribution plan, 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 one hundred eighty days after the day the board first establishes a PERS defined contribution plan, an eligible member or contributor may elect to participate in a PERS defined contribution plan. 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, 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 receipt of an election under this section, the system shall do both of the following:

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

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

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

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

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

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

(1) A PERS retirant who is a member under division (C) of section

145.38 of the Revised Code;

(2) A PERS law enforcement officer or a ~~Hamilton county municipal court bailiff~~ PERS public safety officer.

Sec. 145.2914. (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 division (A) or (B)(2)(b) of section 145.33 of the Revised Code is treated as service credit earned under division (B)(2)(a) of that section if the member makes payment to the public employees retirement system in accordance with the rules.

(B) If the board adopts rules under division (A) of this section, all of the following apply:

(1) For each year or portion of a year of service credit earned under division (A) or (B)(2)(b) of section 145.33 of the Revised Code that is to be treated as service credit earned under division (B)(2)(a) of that section, 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) The number of years of service credit earned under division (A) or (B)(2)(b) of section 145.33 of the Revised Code that may be treated as service credit earned under division (B)(2)(a) of that section shall not exceed five.

(3) Any amounts paid under this section shall be credited to the employees' savings fund.

(4) 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 payments 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 payment. The member shall agree to retire not later than ninety days after receiving notice of the additional liability specified under division (B)(1) of this section. Payment shall be made in full for any credit earned under division (A) or (B)(2)(b) of section 145.33 of the Revised Code that is to be treated as service credit earned under division (B)(2)(a) of that section, 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 payment authorized by this section, the system shall refund the payment and shall not treat the credit for which payment was made as service credit earned under division (B)(2)(a) of section 145.33 of the Revised Code.

(E) The board's rules may deal with any other matter necessary to implement this section.

Sec. 145.33. (A) Except as provided in division (B) or (C) of this section, a member with at least five years of total service credit who has attained age sixty, or who has thirty years of total Ohio service credit, may apply for age and service retirement, which shall consist of:

(1) An annuity having a reserve equal to the amount of the member's accumulated contributions at that time;

(2) A pension equal to the annuity provided by division (A)(1) of this section;

(3) An additional pension, if the member can qualify for prior service, equal to forty dollars multiplied by the number of years, and fraction thereof, of such prior and military service credit;

(4) A basic annual pension equal to one hundred eighty dollars if the member has ten or more years of total service credit as of October 1, 1956, except that the basic annual pension shall not exceed the sum of the annual benefits provided by divisions (A)(1), (2), and (3) of this section.

(5) When a member retires on age and service retirement, the member's total annual single lifetime allowance, including the allowances provided in divisions (A)(1), (2), (3), and (4) of this section, shall be not less than a base amount adjusted in accordance with division (A)(5) of this section and determined by multiplying the member's total service credit by the greater of the following:

(a) Eighty-six dollars;

(b) 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.

The allowance shall be adjusted by the factors of attained age or years of service to provide the greater amount as determined by the following schedule:

Attained Birthday	or	Years of Total Service Credit	Percentage of Base Amount
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

Members shall vest the right to a benefit in accordance with the following schedule, based on the member's attained age by September 1, 1976:

Attained Birthday	Percentage of Base Amount
66	102
67	104
68	106
69	108
70 or more	110

(6) The total annual single lifetime allowance that a member shall receive under division (A)(5) of this section shall not exceed the lesser of one hundred 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.A. 415, as amended.

(B)(1) For the purposes of divisions (B) to (G) of this section, "total service credit as a PERS law enforcement officer" and "total service credit as a ~~Hamilton county municipal court bailiff~~ PERS public safety officer" include credit for military service to the extent permitted by division (E)(2) of this section and credit for service as a police officer or state highway patrol trooper to the extent permitted by divisions (E)(3) and (4) of this section.

(2) A member who meets the conditions in division (B)(2)(a), (b), or (c); ~~or (d)~~ of this section may apply for an age and service retirement benefit under this division:

(a) The member has attained age forty-eight and has at least twenty-five years of total service credit as a PERS law enforcement officer ~~whose primary duties were to preserve the peace, protect life and property, and enforce the laws in the member's jurisdiction;~~

(b) The member has attained age fifty-two, and has at least twenty-five years of total service credit as a ~~PERS law enforcement~~ public safety officer; ~~but the member's primary duties were other than to preserve the peace, protect life and property, and enforce the laws in the member's jurisdiction~~ 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) The member has attained age fifty-two and has at least twenty-five years of total service as a Hamilton county municipal court bailiff;~~

~~(d)~~ The member has attained age sixty-two and has at least fifteen years of total service credit as either of the following:

(i) A PERS law enforcement officer;

(ii) A ~~Hamilton county municipal court bailiff~~ PERS public safety officer.

(3) A benefit paid under division (B)(2) 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 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.

(4) A member with at least fifteen years of total service credit as a PERS law enforcement officer or ~~Hamilton county municipal court bailiff~~ 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. The allowance shall commence on the first day of the calendar month following the month in which the application is filed with the public employees retirement board on or after the attainment by the applicant of age fifty-two.

(C)(1) A member with at least twenty-five years of total service credit who would be eligible to retire under division (B)(2)(b) ~~or (e)~~ 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 the date of attaining forty-eight years of age, but before the date of attaining fifty-two years of age, may elect to receive a reduced benefit as determined by the following schedule:

Attained Age	Reduced Benefit
48	75% of the benefit payable under division (B)(3) of this section
49	80% of the benefit payable under division (B)(3) of this section
50	86% of the benefit payable under division (B)(3) of this section
51	93% of the benefit payable under division (B)(3) of this section

(2) If a member elects to receive a reduced benefit after attaining age forty-eight the reduced benefit is payable from the later of the date of the member's most recent birthday or the date the member becomes eligible to receive the reduced benefit.

(3) Once a member elects to receive a reduced benefit determined by the schedule in division (C)(1) of this section and has received a payment, the member may not reelect to change that election.

(4) If a member who has resigned or been discharged has left on deposit the member's accumulated contributions in the employees' savings fund and has not elected to receive a reduced benefit determined by the schedule in division (C)(1) of this section, upon attaining fifty-two years of age, the member shall be entitled to receive a benefit computed and paid under division (B)(3) of this section.

(D) A benefit paid under division (B) or (C) of 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.A. 415, as amended.

(E)(1) A member with service credit as a PERS law enforcement officer or a ~~Hamilton county municipal court bailiff~~ PERS public safety officer and other service credit under this chapter may elect one of the following:

(a) To have all the member's service credit under this chapter, including credit for service as a PERS law enforcement officer or ~~Hamilton county municipal court bailiff~~ PERS public safety officer, used in calculating a retirement allowance under division (A) of this section if the member qualifies for an allowance under that division;

(b) If the member qualifies for an allowance under division (B)(2)(a) of this section, to have the member's service credit as a PERS law enforcement officer used in calculating a benefit under that division and the member's credit for all service other than PERS law enforcement service used in calculating a benefit consisting of 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 and an equal amount of employer contributions.

(c) If the member qualifies for an allowance under division (B)(2)(b) or (c), (B)(4), or (C) of this section, to have the member's service credit as a PERS law enforcement officer or ~~Hamilton county municipal court bailiff~~ PERS public safety officer used in calculating a benefit under the appropriate division and the member's credit for all service other than PERS law enforcement service or service as a ~~Hamilton county municipal court bailiff~~ PERS public safety officer under this chapter used in calculating a

benefit consisting of 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 and an equal amount of the employer's contributions.

(2) Notwithstanding sections 145.01 and 145.30 of the Revised Code, no more than four years of military service credit granted 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 ~~Hamilton county municipal court bailiff~~ PERS public safety officer or the total service credit of that person.

(3) 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 division (B)(2)(a), (b), or (d)(ii) or (4) or division (C) of 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, park officer, forest officer, wildlife officer, state watercraft 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 the mentally retarded and developmentally disabled, 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 ~~the effective date of this amendment~~ September 29, 2005, but not later than the effective date of this amendment.

(4) Only credit for a member's service as a ~~Hamilton county municipal court bailiff~~ 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)(2)(~~b~~) or (c) ~~or (d)~~(ii) or (4) or division (C) of this section for any person who originally is employed as a Hamilton county municipal court bailiff on or after November 6, 1996.

(F) Retirement allowances determined under this section shall be paid as provided in section 145.46 of the Revised Code.

(G) For the 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.

Sec. 145.35. (A) As used in this section, "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 member's appointing authority.

(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 ~~Hamilton county municipal court bailiff~~ PERS public safety officer, regardless of length of service.

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 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 retirement board 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, 145.34, or 145.37 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 physician or physicians selected by the board 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.

If the physician or physicians determine that the member qualifies for a disability benefit, the board concurs with the determination, and the member agrees to medical treatment as specified in division (F) of this section, the member shall receive a disability benefit under section 145.36 or 145.361 of the Revised Code. 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 physician 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 physician 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.

(G) 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 physician or physicians selected by the board 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.

Sec. 145.49. (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 division (B)(2)(b), (c), or (d) of section 145.33 of the Revised Code.

(2) Each public employee contributing toward benefits as PERS law enforcement officers under division (B)(2)(a) of section 145.33 of the Revised Code shall contribute to the employees' savings fund ~~ten and one-tenth~~ 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 division (B)(2)(a) of section 145.33 of the Revised Code or as PERS law enforcement officers under division (B)(2)(b), (c), or (d) of that section, except that the employer contribution rate shall not exceed eighteen and one-tenth per cent of the earnable salaries of those employees.

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

(1) A former member receiving benefits pursuant to section 145.32, 145.33, 145.331, 145.34, or 145.46 of the Revised Code for whom eligibility is established more than five years after June 13, 1981, and who, at the time of establishing eligibility, has accrued less than ten years' service credit, exclusive of credit obtained pursuant to section 145.297 or 145.298 of the Revised Code, credit obtained after January 29, 1981, pursuant to section 145.293 or 145.301 of the Revised Code, and credit obtained after May 4, 1992, pursuant to section 145.28 of the Revised Code;

(2) The spouse of the former member;

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

(B) The public employees retirement 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 benefits, or any combination thereof, for those 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 of benefits 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 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 ineligible individuals 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 145.325 of the Revised Code for any ineligible 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 benefits 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 medical insurance coverage under part B of Title XVIII of "The Social Security Act," 79 Stat. 301 (1965), 42 U.S.C.A. 1395j, as amended, an amount ~~equal to the basic premium determined by the board~~ for such coverage that is not less than ninety-six dollars and forty cents, except that the board shall make no such payment to any ineligible individual 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, payment, or benefit provided under this section or section 145.325 of the Revised Code with any similar coverage, payment, or benefit 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.

Sec. 742.45. (A) The board of trustees of the Ohio police and fire pension fund may enter into an agreement 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 benefits, or any combination thereof, for those individuals receiving service or disability pensions or survivor benefits subscribing to the plan. 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 considers appropriate.

If all or any portion of the policy or contract premium is to be paid by any individual receiving a service, disability, or survivor pension or benefit, the individual shall, by written authorization, instruct the board to deduct from the individual's benefit 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 Ohio police and fire pension fund. The cost paid from the funds of the Ohio police and fire pension fund shall be included in the employer's contribution rates provided by sections 742.33 and 742.34 of the Revised Code.

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 benefits as authorized by the rules of the board.

(B) The Except as otherwise provided in this division, the board shall, beginning the month following receipt of satisfactory evidence of the payment for coverage, pay monthly to each recipient of service, disability, or survivor benefits under the Ohio police and fire pension fund who is eligible for medical insurance coverage under part B of "The Social Security Amendments of 1965," 79 Stat. 301, 42 U.S.C.A. 1395j, as amended, an amount equal to the basic premiums specified by the board or determined pursuant to a formula established by the board that is not less than ninety-six dollars and forty cents, for such coverage, except that the board shall not pay an amount that exceeds the amount paid by the recipient for the coverage.

The board shall pay not more than one monthly premium under this division to an eligible benefit recipient even if the recipient is receiving

more than one monthly benefit from the fund. The board shall not pay a monthly premium under this division to an eligible benefit recipient who is receiving reimbursement for the premium from any other source.

(C) The board shall establish by rule requirements for the coordination of any coverage, payment, or benefit provided under this section with any similar coverage, payment, or benefit made available to the same individual by the public employees retirement system, state teachers retirement system, school employees retirement system, or state highway patrol retirement system.

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

Sec. 742.63. The board of trustees of the Ohio police and fire pension fund shall adopt rules for the management of the Ohio public safety officers death benefit fund and for disbursements of benefits as set forth in this section.

(A) As used in this section:

(1) "Member" means all of the following:

(a) A member of the Ohio police and fire pension fund, including a member of the fund who has elected to participate in the deferred retirement option plan established under section 742.43 of the Revised Code or a member of or contributor to a police or firemen's relief and pension fund established under former Chapter 521. or 741. of the Revised Code;

(b) A member of the state highway patrol retirement system, including a member who is participating in the deferred retirement option plan established under section 5505.50 of the Revised Code;

(c) A member of the public employees retirement system who at the time of the member's death was one of the following:

(i) A county sheriff or deputy sheriff;

(ii) A full-time regular police officer in a municipal corporation or township;

(iii) A full-time regular firefighter employed by the state, an instrumentality of the state, a municipal corporation, a township, a joint fire district, or another political subdivision;

(iv) A full-time park district ranger or patrol trooper;

(v) A full-time law enforcement officer of the department of natural resources;

(vi) A full-time department of public safety enforcement agent;

(vii) A full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation;

(viii) A full-time law enforcement officer of a conservancy district;

(ix) A correction officer at an institution under the control of a county, a group of counties, a municipal corporation, or the department of rehabilitation and correction;

(x) A state university law enforcement officer;

(xi) An investigator, as defined in section 109.541 of the Revised Code, or an investigator commissioned as a special agent of the bureau of criminal identification and investigation.

(xii) A drug agent, as defined in section 145.01 of the Revised Code.

(d) A member of a retirement system operated by a municipal corporation who at the time of death was a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of the municipal corporation.

(2) Notwithstanding section 742.01 of the Revised Code, "fire or police department" includes a fire department of the state or an instrumentality of the state or of a municipal corporation, township, joint fire district, or other political subdivision, the state highway patrol, a county sheriff's office, the security force of an institution under the control of the department of rehabilitation and correction, the security force of a jail or workhouse under the control of a county, group of counties, or municipal corporation, the security force of a metropolitan, county, or township park district, the security force of lands under the control of the department of natural resources, department of public safety enforcement agents, the security force of parks, waterway lands, or reservoir lands under the control of a municipal corporation, the security force of a conservancy district, the police department of a township or municipal corporation, and the police force of a state university.

(3) "Firefighter or police officer" includes a state highway patrol trooper, a county sheriff or deputy sheriff, a correction officer at an institution under the control of a county, a group of counties, a municipal corporation, or the department of rehabilitation and correction, a police officer employed by a township or municipal corporation, a firefighter employed by the state, an instrumentality of the state, a municipal corporation, a township, a joint fire district, or another political subdivision, a full-time park district ranger or patrol trooper, a full-time law enforcement officer of the department of natural resources, a full-time department of public safety enforcement agent, a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation, a full-time law enforcement officer of a conservancy district, and a state university law enforcement officer.

(4) "Correction officer" includes, in addition to any correction officer,

any correction corporal, sergeant, lieutenant, or captain, and the equivalents of all such persons.

(5) "A park district ranger or patrol trooper" means a peace officer commissioned to make arrests, execute warrants, and preserve the peace upon lands under the control of a board of park commissioners of a metropolitan, county, or township park district.

(6) "Metropolitan, county, or township park district" means a park district created under the authority of Chapter 511. or 1545. of the Revised Code.

(7) "Conservancy district" means a conservancy district created under the authority of Chapter 6101. of the Revised Code.

(8) "Law enforcement officer" means an officer commissioned to make arrests, execute warrants, and preserve the peace upon lands under the control of the governmental entity granting the commission.

(9) "Department of natural resources law enforcement officer" includes a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, a park officer designated pursuant to section 1541.10 of the Revised Code, and a state watercraft officer designated pursuant to section 1547.521 of the Revised Code.

(10) "Retirement eligibility date" means the last day of the month in which a deceased member would have first become eligible, had the member lived, for the retirement pension provided under section 145.33, Chapter 521. or 741., division (C)(1) of section 742.37, or division (A)(1) of section 5505.17 of the Revised Code or provided by a retirement system operated by a municipal corporation.

(11) "Death benefit amount" means an amount equal to the full monthly salary received by a deceased member prior to death, minus an amount equal to the benefit received under section 145.45, 742.37, 742.3714, or 5505.17 of the Revised Code or the benefit received from a retirement system operated by a municipal corporation, plus any increases in salary that would have been granted the deceased member.

(12) "Killed in the line of duty" means either of the following:

(a) Death in the line of duty;

(b) Death from injury sustained in the line of duty, including heart attack or other fatal injury or illness caused while in the line of duty.

(B) A spouse of a deceased member shall receive a death benefit each month equal to the full death benefit amount, provided that the deceased member was a firefighter or police officer killed in the line of duty and there

are no surviving children eligible for a benefit under this section. The spouse shall receive this benefit during the spouse's natural life until the deceased member's retirement eligibility date, on which date the benefit provided under this division shall terminate.

(C)(1) If a member killed in the line of duty as a firefighter or police officer is survived only by a child or children, the child or children shall receive a benefit each month equal to the full death benefit amount. If there is more than one surviving child, the benefit shall be divided equally among these children.

(2) If the death benefit paid under this division is divided among two or more surviving children and any of the children become ineligible to continue receiving a portion of the benefit as provided in division (H) of this section, the full death benefit amount shall be paid to the remaining eligible child or divided among the eligible children so that the benefit paid to the remaining eligible child or children equals the full death benefit amount.

(3) Notwithstanding divisions (C)(1) and (2) of this section, all death benefits paid under this division shall terminate on the deceased member's retirement eligibility date.

(D) If a member killed in the line of duty as a firefighter or police officer is survived by both a spouse and a child or children, the monthly benefit provided shall be as follows:

(1)(a) If there is a surviving spouse and one surviving child, the spouse shall receive an amount each month equal to one-half of the full death benefit amount and the child shall receive an amount equal to one-half of the full death benefit amount.

(b) If the surviving spouse dies or the child becomes ineligible as provided in division (H) of this section, the surviving spouse or child remaining eligible shall receive the full death benefit amount.

(2)(a) If there is a surviving spouse and more than one child, the spouse shall receive an amount each month equal to one-third of the full death benefit amount and the children shall receive an amount, equally divided among them, equal to two-thirds of the full death benefit amount.

(b) If a spouse and more than one child each are receiving a death benefit under division (D)(2)(a) of this section and the spouse dies, the children shall receive an amount each month, equally divided among them, equal to the full death benefit amount.

(c) If a spouse and more than one child each are receiving a benefit under division (D)(2)(a) of this section and any of the children becomes ineligible to receive a benefit as provided in division (H) of this section, the spouse and remaining eligible child or children shall receive a death benefit

as follows:

(i) If there are two or more remaining eligible children, the spouse shall receive an amount each month equal to one-third of the full death benefit amount and the children shall receive an amount each month, equally divided among them, equal to two-thirds of the full death benefit amount;

(ii) If there is one remaining eligible child, the spouse shall receive an amount each month equal to one-half of the full death benefit amount, and the child shall receive an amount each month equal to one-half of the full death benefit amount.

(d) If a spouse and more than one child each are receiving a benefit under division (D)(2)(a) of this section and all of the children become ineligible to receive a benefit as provided in division (H) of this section, the spouse shall receive the full death benefit amount.

(3) Notwithstanding divisions (D)(1) and (2) of this section, death benefits paid under this division to a surviving spouse shall terminate on the member's retirement eligibility date. Death benefits paid to a surviving child or children shall terminate on the deceased member's retirement eligibility date unless earlier terminated pursuant to division (H) of this section.

(E) If a member, on or after January 1, 1980, is killed in the line of duty as a firefighter or police officer and is survived by only a parent or parents dependent upon the member for support, the parent or parents shall receive an amount each month equal to the full death benefit amount. If there is more than one surviving parent dependent upon the deceased member for support, the death benefit amount shall be divided equally among the surviving parents. On the death of one of the surviving parents, the full death benefit amount shall be paid to the other parent.

(F)(1) The following shall receive a monthly death benefit under this division:

(a) A surviving spouse whose benefits are terminated in accordance with division (B) or (D)(3) of this section on the deceased member's retirement eligibility date, or who would qualify for a benefit under division (B) or (D) of this section except that the deceased member reached the member's retirement eligibility date prior to the member's death;

(b) A qualified surviving spouse of a deceased member of or contributor to a police or firemen's relief and pension fund established under former Chapter 521. or 741. of the Revised Code who was a firefighter or police officer killed in the line of duty.

(2) The monthly death benefit shall be one-half of an amount equal to the monthly salary received by the deceased member prior to the member's death, plus any salary increases the deceased member would have received

prior to the member's retirement eligibility date. The benefit shall terminate on the surviving spouse's death. A death benefit payable under this division shall be reduced by an amount equal to any allowance or benefit payable to the surviving spouse under section 742.3714 of the Revised Code.

(3) A benefit granted to a surviving spouse under division (F)(1)(b) of this section shall commence on the first day of the month immediately following receipt by the board of a completed application on a form provided by the board and any evidence the board may require to establish that the deceased spouse was killed in the line of duty.

(G)(1) If there is not a surviving spouse eligible to receive a death benefit under division (F) of this section or the surviving spouse receiving a death benefit under that division dies, a surviving child or children whose benefits under division (C) or (D) of this section are or have been terminated pursuant to division (C)(3) or (D)(3) of this section or who would qualify for a benefit under division (C) or (D) of this section except that the deceased member reached the member's retirement eligibility date prior to the member's death shall receive a monthly death benefit under this division. The monthly death benefit shall be one-half of an amount equal to the monthly salary received by the deceased member prior to the member's death, plus any salary increases the member would have received prior to the member's retirement eligibility date. If there is more than one surviving child, the benefit shall be divided equally among the surviving children.

(2) If two or more surviving children each are receiving a benefit under this division and any of those children becomes ineligible to continue receiving a benefit as provided in division (H) of this section, the remaining eligible child or children shall receive an amount equal to one-half of the monthly salary received by the deceased member prior to death, plus any salary increases the deceased member would have received prior to the retirement eligibility date. If there is more than one remaining eligible child, the benefit shall be divided equally among the eligible children.

(3) A death benefit, or portion of a death benefit, payable to a surviving child under this division shall be reduced by an amount equal to any allowance or benefit payable to that child under section 742.3714 of the Revised Code, but the reduction in that child's benefit shall not affect the amount payable to any other surviving child entitled to a portion of the death benefit.

(H) A death benefit paid to a surviving child under division (C), (D), or (G) of this section shall terminate on the death of the child or, unless one of the following is the case, when the child reaches age eighteen:

(1) The child, because of physical or mental disability, is unable to

provide the child's own support, in which case the death benefit shall terminate when the disability is removed;

(2) The child is unmarried, under age twenty-two, and a student in and attending an institution of learning or training pursuant to a program designed to complete in each school year the equivalent of at least two-thirds of the full-time curriculum requirements of the institution, as determined by the trustees of the fund.

(I) Acceptance of any death benefit under this section does not prohibit a spouse or child from receiving other benefits provided under the Ohio police and fire pension fund, the state highway patrol retirement system, the public employees retirement system, or a retirement system operated by a municipal corporation.

(J) No person shall receive a benefit under this section if any of the following occur:

(1) The person fails to exercise the right to a monthly survivor benefit under division (A) or (B) of section 145.45, division (D), (E), or (F) of section 742.37, or division (A)(3), (4), or (7) of section 5505.17 of the Revised Code; to a monthly survivor benefit from a retirement system operated by a municipal corporation; or to a retirement allowance under section 742.3714 of the Revised Code.

(2) The member's accumulated contributions under this chapter or Chapter 145. or 5505. of the Revised Code are refunded unless the member had been a member of the public employees retirement system and had fewer than eighteen months of total service credit at the time of death.

(3) In the case of a full-time park district ranger or patrol trooper, a full-time law enforcement officer of the department of natural resources, a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation, a full-time law enforcement officer of a conservancy district, a correction officer at an institution under the control of a county, group of counties, or municipal corporation, or a member of a retirement system operated by a municipal corporation who at the time of the member's death was a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of the municipal corporation, the member died prior to April 9, 1981, in the case of a benefit under division (B), (C), or (D) of this section, or prior to January 1, 1980, in the case of a benefit under division (E) of this section.

(4) In the case of a full-time department of public safety enforcement agent who prior to June 30, 1999, was a liquor control investigator of the department of public safety, the member died prior to December 23, 1986;

(5) In the case of a full-time department of public safety enforcement agent other than an enforcement agent who, prior to June 30, 1999, was a liquor control investigator, the member died prior to June 30, 1999.

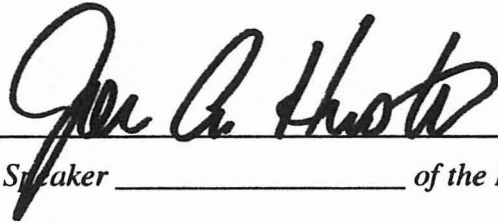
(K) A surviving spouse whose benefit was terminated prior to June 30, 1999, due to remarriage shall receive a benefit under division (B), (D), or (F) of this section beginning on the first day of the month following receipt by the board of an application on a form provided by the board. The benefit amount shall be determined as of that date.

(1) If the benefit will begin prior to the deceased member's retirement eligibility date, it shall be paid under division (B) or (D) of this section and shall terminate as provided in those divisions. A benefit paid to a surviving spouse under division (D) of this section shall be determined in accordance with that division, even if benefits paid to surviving children are reduced as a result.

(2) If the benefit will begin on or after the deceased member's retirement eligibility date, it shall be paid under division (F) of this section and shall terminate as provided in that division. A benefit paid to a surviving spouse under division (F) of this section shall be determined in accordance with that division, even if benefits paid to surviving children are terminated as a result.

SECTION 2. That existing sections 145.01, 145.19, 145.191, 145.33, 145.35, 145.49, 145.58, 742.45, and 742.63 of the Revised Code are hereby repealed.

SECTION 3. The intent of the General Assembly in the amendments made in this act to divisions (WW) and (YY) of section 145.01 and division (E)(3)(m) of section 145.33 of the Revised Code is to provide that service as a municipal public safety director earned on or after the effective date of this section shall not be used in calculation of benefits under divisions (B) to (E) of section 145.33 of the Revised Code. The amendments are not intended to prohibit the use of such service for calculation of benefits under those divisions for service prior to the effective date of this section.



Speaker _____ of the House of Representatives.



President _____ of the Senate.

Passed December 9, 2008

Approved December 23, 2008



Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Mark C. Filanders

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the 23rd day of December, A. D. 2008.

John R. ...

Secretary of State.

File No. 131

Effective Date march 24, 2009