

# AN ACT

To amend sections 145.057, 145.06, 145.201, 145.23, 145.294, 145.351, 145.43, 145.45, 145.471, 145.472, 145.483, 145.51, 145.82, 145.92, 742.046, 742.05, 742.381, 742.56, 3307.06, 3307.061, 3307.513, 3307.70, 3309.06, 3309.061, 3309.27, 3309.391, 5505.043, 5505.048, 5505.181, and 5505.203 and to enact sections 145.52, 145.53, 145.583, 145.62, 145.63, 145.64, 145.65, 742.451, 3307.393, 3309.692, and 5505.281 of the Revised Code regarding the state retirement systems.

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

SECTION 1. That sections 145.057, 145.06, 145.201, 145.23, 145.294, 145.351, 145.43, 145.45, 145.471, 145.472, 145.483, 145.51, 145.82, 145.92, 742.046, 742.05, 742.381, 742.56, 3307.06, 3307.061, 3307.513, 3307.70, 3309.06, 3309.061, 3309.27, 3309.391, 5505.043, 5505.048, 5505.181, and 5505.203 be amended and sections 145.52, 145.53, 145.583, 145.62, 145.63, 145.64, 145.65, 742.451, 3307.393, 3309.692, and 5505.281 of the Revised Code be enacted to read as follows:

Sec. 145.057. (A) The office of an employee member or retirant 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 to the office of employee member or retirant member of 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 ~~appeals~~ common pleas of the ~~district~~ 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 ~~appeals~~ 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 of review or to appeal to the supreme court on leave first obtained. The supreme court shall hear the case in not more than thirty court days after granting leave. In other respects, the hearing shall follow the regular procedure in appealable cases that originate in 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.

Sec. 145.06. (A) ~~If~~ 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.

(B) ~~If~~ 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.

Sec. 145.201. (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 by the governor with the advice and consent 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.

The additional service credit may be purchased by paying into the employees' savings fund an amount computed by multiplying by the employee contribution rate in effect at the time of purchase the member's earnable salary for the period of service upon which the purchased credit is based, by the number of years or portions thereof of additional service credit

to be purchased, and by paying into the employers' accumulation fund an amount equal to the full amount paid into the employees' savings fund. If a member purchases less than the full amount of the additional service credit to which the member is entitled, the period of service upon which the purchase is computed shall be the member's earliest period of such service. The member shall receive full credit for such additional elective service in computing an allowance or benefit under section 145.20, 145.33, 145.331, 145.34, 145.36, 145.361, or 145.46 of the Revised Code, notwithstanding any other provision of this chapter. The payment to the employees' savings fund and the employers' accumulation fund for such additional elective service credit shall, in the event of death or withdrawal from service, be considered as accumulated contributions of the member.

A member of a board, commission, or other public body shall be considered to be serving full-time if full-time service is required by law or if the director of administrative services determines that the duties of the position require full-time service.

(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 145.20, 145.33, 145.331, 145.34, 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)(5) of section 145.33 of Revised Code, the allowance exceeds the limit established by division (A)(6) of that section.

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

Sec. 145.23. 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 be transferred from the employees' savings fund 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.

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.

~~Any member participating in the PERS defined benefit plan may deposit in the employees' savings fund, subject to rules established by the public employees retirement system, additional amounts, and, at the time of age and service retirement, shall receive in return therefor, at the participant's option, either an annuity having a reserve equal to the amount deposited or a cash refund of such amounts together with such interest as may have been allowed by the board. Such deposits for additional annuity together with such interest as may have been allowed by the board at the end of each calendar year shall be refunded in the event of death prior to retirement or withdrawal of accumulated contributions as provided in sections 145.40 and 145.43 of the Revised Code or upon application of the contributor prior to~~

~~age and service retirement.~~

~~Any additional deposits that were made under this section by a member who elects under section 145.191 of the Revised Code to participate in a PERS defined contribution plan shall be credited to the defined contribution plan elected by the member under that section.~~

~~For deposits 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 in the case of a payment under this division made prior to the last day of a year, interest shall be earned ending on the last day of the month prior to the date of payment. The board shall credit interest at the end of the calendar year in which it is earned.~~

(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 bequests, 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 a 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) 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 and employer contributions, as provided in section 145.86 of the Revised Code,

credited thereon. The defined contribution fund is the fund from which shall be paid all benefits provided under a PERS defined contribution plan.

Sec. 145.294. (A) 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:

(1) 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;

(2) 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;

(3) 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.

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

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

(B) If the board establishes a payroll deduction plan under this section, 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.

(C) Rules adopted under this section 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.

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

Sec. 145.351. Not later than March 1, 2000, and each first day of March ~~for the succeeding five years 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.

Sec. 145.43. (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 the effective date of this amendment 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, ~~any deposits for purchase of additional annuity, any payment the member has made to restore previously forfeited service credit as provided in section 145.31 of the Revised Code, 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 in writing duly executed on a form provided by the public employees retirement board, signed by the member, and filed with the board prior to the member's death. A member may designate two or more persons as beneficiaries ~~jointly~~ to be paid the accumulated account in a lump sum. The Subject to rules adopted by the board, a member who designates two or more persons as beneficiaries under this division 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, 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, the contributions shall be transferred to the income fund and thereafter 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, ~~any beneficiaries~~ the following shall qualify, with all attendant rights and privileges, in the following order of precedence, ~~with all attendant rights and privileges~~ the member's:

- (1) Surviving spouse;
- (2) Children, share and share alike;
- (3) A dependent parent ~~of a member~~, 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 ~~public employees retirement~~ 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 on a form approved 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 ~~retirement~~ 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 this 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.

Sec. 145.45. 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) If a deceased member was eligible for a service retirement benefit as provided in section 145.33, 145.331, or 145.34 of the Revised Code, a surviving spouse or other sole dependent beneficiary may elect to receive a monthly benefit computed as the joint-survivor benefit designated as "plan D" in section 145.46 of the Revised Code, 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 joint-survivor 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) Beginning on a date selected by the public employees retirement board, which shall be not later than July 1, 2004, 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.

(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.

(1)(a) Number of Qualified survivors affecting the benefit	Annual Benefit as a Per Cent of Decedent's Final Average Salary	Or  Monthly Benefit shall not be less than
1	25%	\$250
2	40	400
3	50	500
4	55	500
5 or more	60	500
(b) Years of Service	Annual Benefit as a Per Cent of Member's Final Average Salary	
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 ~~if~~ 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, or regardless of age if,~~

~~(ii) The spouse is caring for a qualified child, or regardless of age if,~~

~~(iii) The spouse is adjudged physically or mentally incompetent. A~~

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 eighteen, or under age twenty-two if the child is 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 such institution and as further determined by board policy;

(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.

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 3307.66 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 restriction that the deceased member have 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, does~~ following restrictions do not apply if the deceased member was contributing toward benefits under division (B) or (C) of section 145.33 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.

Sec. 145.471. (A)(1) On and after ~~the effective date of this section 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 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 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 ~~the effective date of this section 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.

Sec. 145.472. This section applies to individuals who are contributors on ~~the effective date of this section December 13, 2000~~.

(A) Not later than thirty days after ~~the effective date of this section 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 on 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.

Sec. 145.483. 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 set by the public employees retirement board shall be included. If delinquent contribution statements are not paid not later than ~~ninety~~ thirty days after the end of the ~~quarterly period~~ 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.

Sec. 145.51. ~~(A)~~ Each employer described in division (D) of section 145.01 of the Revised Code shall pay into the employers' accumulation fund, in ~~such monthly or less frequent installments as the public employees retirement board requires,~~ 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 sections 145.28 and 145.29 of the Revised Code. ~~Ninety days after the end of a quarterly period, any amounts that remain unpaid are subject to a penalty for late payment in the amount of five per cent. In addition, interest on past due amounts and penalties may be charged at a rate set by the retirement board.~~

(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 ~~such~~ payments by ~~such~~ 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.

Sec. 145.52. (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.

Sec. 145.53. (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.

Sec. 145.583. 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.

Sec. 145.62. 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 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 twenty-five dollars per month, the contributor shall receive the refund.

Sec. 145.63. (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;

(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 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.

(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.

Sec. 145.64. (A) As used in this section:

(1) "Plan A" means a plan of payment that is the same as "plan A" as described in section 145.46 of the Revised Code.

(2) "Plan B" means a plan of payment that is the same as "plan B" as described in section 145.46 of the Revised Code.

(3) "Plan F" means a plan of payment that is the same as "plan F" as described in 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 the effective date of this section may file an application with the public employees retirement system for a benefit under this section. The benefit shall consist of an annuity under a plan of payment described in division (A) of this section.

(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 "plan A."

(2) A contributor may receive a benefit under this section under a plan of payment other than "plan A" 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 "plan F" and designates the member's current spouse as a beneficiary under that plan unless that spouse consents in writing to not being designated a beneficiary 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 "plan B," shall be effective only if it is certified by an actuary engaged by the board to be the actuarial equivalent of the contributor's "plan B" 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 under a plan of payment described in this section.

Payments shall begin on whichever of the following applies:

(1) The effective date of the contributor's age and service retirement allowance;

(2) The effective date of a benefit under section 145.384 of the Revised Code;

(3) The date on which a member receiving disability retirement under section 145.36 of the Revised Code would have been eligible for an age and service retirement allowance.

(D) The consent of a spouse to a plan of payment other than "plan A" 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. The change shall be effective the month following receipt by the board of notice of the death.

(2) On divorce, annulment, or marriage dissolution, a 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 "plan B" may elect a new plan of payment based on the actuarial equivalent of the contributor's "plan B" 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 "plan F" 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 "plan B" has received less than the retirant'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 the effective date of this section, 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.

Sec. 145.65. (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.

Sec. 145.82. (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: 145.22, 145.221, 145.23, 145.25, 145.26, 145.27, 145.296, 145.38, 145.382, 145.383, 145.384, 145.391, 145.47, 145.48, 145.483, 145.51, 145.52, 145.53, 145.54, 145.55, 145.56, 145.563, 145.57, 145.571, 145.69, 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.

Sec. 145.92. 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 retirement allowance under the plan shall be paid 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.

Consent is valid only if it is evidenced by a written document signed by the ~~member~~ 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 retirement allowance continuing after the member's death to a former spouse is required by a court order issued under section 3105.171 or 3105.65 of the Revised Code or 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.

Sec. 742.046. (A) The office of an employee member, firefighter retirant member, or police retirant member of the board of trustees of the police and fire pension fund 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 to the office of employee member, firefighter retirant member, or police retirant member of the board of trustees of the police and fire pension fund.

(B) A member of the board of trustees of the police and fire pension fund 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 ~~appeals~~ common pleas of the ~~district~~ 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 a police officer employee member of the board, the complaint must be signed by a number of police officer members of the fund that equals at least the following and must include signatures of at least twenty police officer members residing in at least five different counties:

(a) If the police officer employee member was most recently elected in accordance with section 742.04 of the Revised Code, ten per cent of the number of police officers who voted in that election;

(b) If the police officer employee member most recently became a member of the board of trustees pursuant to section 742.05 of the Revised Code or took office in accordance with section 742.041 of the Revised Code, ten per cent of the number of police officers who voted in the most recent election held in accordance with section 742.04 of the Revised Code for that police officer employee member position on the board of trustees.

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

(a) If the firefighter employee member was most recently elected in accordance with section 742.04 of the Revised Code, ten per cent of the number of firefighters who voted in that election;

(b) If the firefighter employee member most recently became a member of the board of trustees pursuant to section 742.05 of the Revised Code or took office in accordance with section 742.041 of the Revised Code, ten per cent of the number of firefighters who voted in the most recent election held in accordance with section 742.04 of the Revised Code for that firefighter employee member position on the board.

(3) If the complaint is against the police retirant member of the board of trustees, the complaint must be signed by a number of police retirants that equals at least the following and must include signatures of at least twenty police retirants residing in at least five different counties:

(a) If the police retirant member was most recently elected in accordance with section 742.04 of the Revised Code, ten per cent of the number of police retirants who voted in that election;

(b) If the police retirant member most recently became a member of the board of trustees under section 742.05 of the Revised Code or took office in accordance with section 742.041 of the Revised Code, ten per cent of the number of police retirants who voted in the most recent election held in accordance with section 742.04 of the Revised Code for the police retirant member position on the board.

(4) If the complaint is against the firefighter retirant member of the board of trustees, the complaint must be signed by a number of firefighter retirants that equals at least the following and must include signatures of at least twenty firefighter retirants residing in at least five different counties:

(a) If the firefighter retirant member was most recently elected in accordance with section 742.04 of the Revised Code, ten per cent of the number of firefighter retirants who voted in that election;

(b) If the firefighter retirant member most recently became a member of the board of trustees under section 742.05 of the Revised Code or took office in accordance with section 742.041 of the Revised Code, ten per cent of the number of firefighter retirants who voted in the most recent election held in accordance with section 742.04 of the Revised Code for the firefighter retirant member position on the board.

(D) The clerk of the court of ~~appeals~~ common pleas in which a complaint against a member of the board of trustees is filed under division (A) 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 of review or to appeal to the supreme court on leave first obtained. The supreme court shall hear the case in not more than thirty court days after granting leave. In other respects, the hearing shall follow the regular procedure in appealable cases that originate in 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.

Sec. 742.05. (A) Any vacancy occurring in the term of a member of the board of trustees of the Ohio police and fire pension fund who is the fiscal officer of a municipal corporation shall be filled by appointment by the governor for the unexpired term of such member.

~~If (B) Except as provided in division (C) of this section, if a vacancy occurs in the term of an employee or retirant member of the board, all the remaining members of the board shall elect a successor employee or retirant member. On certification of the election results in accordance with rules adopted under section 742.045 of the Revised Code, the successor 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 member's election, or until the end of the term for which the successor member was elected, whichever is sooner.~~

Elections under this section to fill a vacancy on the board shall be conducted in accordance with rules adopted under section 742.045 of the Revised Code.

If a member of the board who is the fiscal officer of a municipal corporation ceases to be a fiscal officer of a municipal corporation, a vacancy shall exist.

If an employee member of the board ceases to be a member of the fund, a vacancy shall exist.

If as a result of changed circumstances a retirant member no longer qualifies for membership on the board as a retirant member, a vacancy shall exist.

Any elected or appointed member of the board who fails to attend three consecutive meetings of the board, without valid excuse, shall be considered as having resigned from the board and the board shall declare the member's office vacated and as of the date of the adoption of a proper resolution a vacancy shall exist.

(C) A successor member need not be elected under division (B) of this section to fill a vacancy if on the day the vacancy occurs less than ninety days remain in the vacated term.

Sec. 742.381. Not later than March 1, 2000, and each first day of March ~~for the succeeding five years thereafter~~, the board of trustees of the Ohio police and fire pension fund 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 fund. 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.

Sec. 742.451. The board of trustees of the Ohio police and fire pension fund may establish a program under which a member or a member's employer is permitted to make additional deposits for the purpose of providing funds for the payment of health, medical, hospital, surgical, dental, or vision care expenses, including insurance premiums, deductible amounts, or copayments. The program 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 board may enter into agreements with

insurance companies or other entities authorized to conduct business in this state.

If the board establishes a program under this section, it shall adopt rules to administer the program.

Sec. 742.56. (A) The board of trustees of the Ohio police and fire pension fund may by rule establish a payroll deduction plan for payment of the following:

(1) The cost of service credit members of the fund are eligible to purchase under this chapter;

(2) Charges for participation in programs established under section 742.53 of the Revised Code;

(3) Deposits under section 742.451 of the Revised Code and any charges for participation in the program established under that section.

(B) In addition to any other matter considered relevant by the trustees, the rules shall specify all of the following:

(1) 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;

(2) The procedure to be followed by a member to inform the member's employer and the Ohio police and fire pension fund that the member wishes to purchase service credit under this chapter or pay for participation in programs established under section 742.53 of the Revised Code and chooses to pay for it through payroll deduction;

(3) The procedure to be followed by the fund 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, but shall provide that no deduction may exceed the member's net compensation after all deductions and withholdings required by law.

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

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

(C) If the trustees of the fund establish a payroll deduction plan under this section, the trustees shall certify to the member's employer for each member for which 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 on or

before the last day of the month following the last day of the reporting period during which the deductions are made. The deduction shall be accompanied by a report, in such form as the board requires, that includes the name of each member for whom deductions were made and the deductions attributed to that member. If the employer fails to transmit the deductions or the report on or before the last day of the month following the last day of the reporting period during which the deductions are made, a penalty determined under section 742.352 of the Revised Code shall be assessed against the employer. On certification by the board to the county auditor of an amount due from an employer within the county who is subject to this division, by reason of the employer's delinquency in transmitting amounts due under this division for past months, those amounts shall be withheld from the employer from any funds in the hands of the county treasurer for distribution to the employer. On receipt of the certification, the county auditor shall draw a warrant against the funds in favor of the Ohio police and fire pension fund for the amount.

(D) Rules adopted under this section 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.

Sec. 3307.06. (A) Annually on the first Monday of May, one contributing member, as defined in division (D) of section 3307.05 of the Revised Code, shall be elected by ballot to the state teachers retirement board, except that, beginning with the annual election for contributing members in May, 1978, and in the annual election of each fourth year thereafter, two contributing members shall be elected to the board. Elected contributing members shall begin their respective terms of office on the first day of September following their election and shall serve for a term of four years.

(B) The retired teacher members of the board, as defined in division (E) of section 3307.05 of the Revised Code, shall be elected for a term of four years. The retired teacher members shall be elected to the board at the annual election for contributing members of the board, as provided in division (A) of this section, in the year in which the term of the current retired teacher members would expire. The retired teacher members shall begin their respective terms of office on the first day of September following their election.

No contributing member of the board who retires while a member of the board shall be eligible to become a retired teacher member of the board for three years after the date of the member's retirement.

(C) ~~If~~ Except as provided in division (E) of this section, if a vacancy occurs during the term of office of any elected member of the board, the remaining members of the board shall elect a successor member. On certification of the election results in accordance with rules adopted under section 3307.075 of the Revised Code the successor 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 member's election, or until the end of the term for which the successor member was elected, whichever is sooner. The successor member shall qualify for board membership under the same division of section 3307.05 of the Revised Code as the member's predecessor in office. Elections under this division shall be conducted in accordance with rules adopted under section 3307.075 of the Revised Code.

(D) If as a result of changed circumstances an elected member of the board would no longer qualify for board membership under that division of section 3307.05 of the Revised Code on the basis of which the member was elected, or if such a member fails to attend the meetings of the board for four months or longer, without being excused, the member's position on the board shall be considered vacant, and a successor member shall be elected; ~~under this division (C) of this section;~~ for the remainder of the unexpired term.

(E) A successor member need not be elected under division (C) of this section to fill a vacancy if on the day the vacancy occurs less than ninety days remain in the vacated term.

Sec. 3307.061. (A) The office of a contributing member or retired teacher member of the state teachers 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 to the office of contributing or retired teacher member of the state teachers retirement board.

(B) A member of the state teachers 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 ~~appeals~~ common pleas of the ~~district 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 a contributing member of the board, the complaint must be signed by a number of contributing members of the retirement system that equals at least the following and must include signatures of at least twenty contributing members residing in at least five different counties:

(a) If the contributing member was most recently elected in accordance with division (A) of section 3307.06 of the Revised Code, ten per cent of the number of contributing members of the system who voted in that election;

(b) If the contributing member was most recently elected under division (D) of section 3307.06 of the Revised Code or took office in accordance with section 3307.071 of the Revised Code, ten per cent of the number of contributing members of the system who voted in the most recent election held in accordance with division (A) of section 3307.06 of the Revised Code for that contributing member position on the board.

(2) If the complaint is against a retired teacher member of the board, the complaint must be signed by a number of former members of the system who are superannuates, as defined in section 3307.01 of the Revised Code, that equals at least the following and must include signatures of at least twenty retired teacher members residing in at least five different counties:

(a) If the retired teacher member was most recently elected in accordance with division (C) of section 3307.06 of the Revised Code, ten per cent of the number of former members of the system who voted in that election;

(b) If the retired teacher member was most recently elected under division (D) of section 3307.06 of the Revised Code or took office in accordance with section 3307.071 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 division (B) of section 3307.06 of the Revised Code for that retired teacher member position on the board.

(D) The clerk of the court of ~~appeals~~ common pleas in which a complaint against a member of the state teachers retirement 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 of review or to appeal to the supreme court on leave first obtained. The supreme court shall hear the case in not more than thirty court days after granting leave. In other respects, the hearing shall follow the regular procedure in appealable cases that originate in 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.

Sec. 3307.393. As used in this section, "STRS defined benefit plan" means the plan established under sections 3307.50 to 3307.79 of the Revised Code and "STRS defined contribution plan" means a plan established under section 3307.81 of the Revised Code.

The STRS defined benefit plan or a STRS defined contribution plan may include a program under which a member participating in the plan or a member's employer is permitted to make additional deposits for the purpose of providing funds for the payment of health, medical, hospital, surgical, dental, or vision care expenses, including insurance premiums, deductible amounts, or copayments. The program 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 state teachers retirement board may enter into agreements with insurance companies or other entities authorized to conduct business in this state.

If the STRS defined benefit plan or a STRS defined contribution plan includes a program described in this section, the board shall adopt rules to establish and administer the program.

Sec. 3307.513. Not later than September 1, 2000, and each first day of September ~~for the succeeding five years~~ thereafter, the state teachers 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 under section 3307.62 of the Revised Code, 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, as defined in section 3307.50 of the Revised Code, to the total number of the employer's employees who are members of the state teachers 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.

Sec. 3307.70. (A) The state teachers retirement board may establish by rule payroll deduction plans for payment of the following:

(1) The cost of restoring service credit under section 3307.71 or 3307.711 of the Revised Code or purchasing any service credit members of the state teachers retirement system are eligible to purchase under this chapter;

(2) Charges for participation in programs established under section 3307.391 of the Revised Code;

(3) Deposits under section 3307.393 of the Revised Code and any charges for participating in the program established under that section.

(B) In addition to any other matter considered relevant by the board, the rules adopted under this section shall specify all of the following:

(1) 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;

(2) The procedure for informing the member's employer and the system that the member wishes to use payroll deduction to purchase service credit or pay for participation in programs established under section 3307.391 of the Revised Code;

(3) 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. They may also provide for a maximum number of deductions for the purchase of any type of service credit.

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

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

(6) The time period within which employers are required to transmit amounts deducted from payrolls to the system.

(C)(1) If the board establishes a payroll deduction plan under this section, 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.

(2) If an employer does not transmit amounts deducted from the compensation of an employee to the system within the time period specified in rules adopted under division (B)(6) of this section, the employer shall pay interest on the deducted amount compounded annually at a rate to be determined by the board from the date the amount is deducted to the date it is transmitted to the system.

(D) Rules adopted under this section 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.

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

(F) No payments made to the system under this section shall affect any contribution required by section 3307.26 or 3307.28 of the Revised Code.

Sec. 3309.06. (A) Elections for employee and retirant members of the school employees retirement board shall be held on the first Monday of March. Terms of office of the employee and retirant members of the board shall be for four years each, commencing on the first day of July following the election and ending on the thirtieth day of June. The initial terms of the first retirant member and the new employee member shall commence on July 1, 1984, and end on June 30, 1988.

(B) The initial election of the second retirant member shall be held at

the first election that occurs later than ninety days after September 15, 2004. Subsequent elections shall be held each fourth year thereafter.

(C) ~~If~~ Except as provided in division (E) of this section, if a vacancy occurs during the term of an elected member of the board, the remaining members of the board shall elect a successor member. On certification of the election results in accordance with rules adopted under section 3309.075 of the Revised Code, the successor 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 member's election, or until the end of the term for which the successor member was elected, whichever is sooner. The successor member shall qualify for board membership under the same division of section 3309.05 of the Revised Code as the member's predecessor in office. Elections under this division shall be conducted in accordance with rules adopted under section 3309.075 of the Revised Code.

(D) Employee members or retirant members of the board who fail to attend the meetings of the board for four months or longer, without being excused, shall be considered as having resigned and successors shall be elected for their unexpired terms pursuant to division (C) of this section. If as a result of changed circumstances the retirant member would no longer qualify for membership on the board as a retirant member, the office shall be considered vacant, and a successor retirant member shall be elected pursuant to division (C) of this section.

(E) A successor member need not be elected under division (C) of this section for a vacancy that occurs on or after the first day of March of the year in which the vacated term ends.

Sec. 3309.061. (A) The office of an employee member or retirant member of the school 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 to the office of employee or retirant member of the school employees retirement board.

(B) A member of the school 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 ~~appeals~~ common pleas of the ~~district~~ 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 retirement system 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 division (B) of section 3309.07 of the Revised Code, ten per cent of the number of members of the system who voted in that election;

(b) If the employee member most recently became a member of the board pursuant to section 3309.06 of the Revised Code to fill a vacancy in the board or took office in accordance with section 3309.061 of the Revised Code, ten per cent of the number of members of the system who voted in the most recent election held in accordance with division (B) of section 3309.07 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 system retirants that equals at least the following and must include signatures of at least twenty retirant members residing in at least five different counties:

(a) If the retirant member was most recently elected in accordance with division (C) of section 3309.07 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 most recently became a member of the board pursuant to section 3309.06 of the Revised Code to fill a vacancy in the board or took office in accordance with section 3309.061 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 division (C) of section 3309.07 of the Revised Code for that retirant member position on the board.

(D) The clerk of the court of ~~appeals~~ common pleas in which a complaint against a board member 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 of review or to appeal to the supreme court on leave first obtained. The supreme court shall hear the case in not more than thirty court days after granting leave. In other respects, the hearing shall follow the regular procedure in appealable cases that originate in 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.

Sec. 3309.27. (A) The school employees retirement board may establish by rule payroll deduction plans for payment of the following:

(1) The cost of restoring service credit under section 3309.26 or 3309.261 of the Revised Code or purchasing any service credit members of the school employees retirement system are eligible to purchase under this chapter;

(2) Charges for participation in programs established under section 3309.691 of the Revised Code;

(3) Deposits under section 3309.692 of the Revised Code and any charges for participating in the program established under that section.

(B) In addition to any other matter considered relevant by the board, the rules adopted under this section shall specify all of the following:

(1) 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;

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

that the member wishes to use payroll deduction to purchase service credit or pay for participation in programs established under section 3309.691 of the Revised Code;

(3) 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 service credit.

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

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

(C) If the board establishes a payroll deduction plan under this section, 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.

(D) Rules adopted under this section 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.

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

Sec. 3309.391. Not later than September 1, 2000, and each first day of September ~~for the succeeding five years~~ thereafter, the school 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 school 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.

Sec. 3309.692. As used in this section, "SERS defined benefit plan" means the plan established under sections 3309.18 to 3309.70 of the Revised

Code and "SERS defined contribution plan" means the plan established under section 3309.81 of the Revised Code.

The SERS defined benefit plan or a SERS defined contribution plan may include a program under which a member participating in the plan or a member's employer is permitted to make additional deposits for the purpose of providing funds for the payment of health, medical, hospital, surgical, dental, or vision care expenses, including insurance premiums, deductible amounts, or copayments. The program 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 school employees retirement board may enter into agreements with insurance companies or other entities authorized to conduct business in this state.

If the SERS defined benefit plan or a SERS defined contribution plan includes a program described in this section, the board shall adopt rules to administer the program.

Sec. 5505.043. (A) ~~The state highway patrol retirement board is not required to hold an election for a position on the board as a retirant member; or employee member, or vacancy for a retirant member or employee member if only one candidate has been nominated for the position or vacancy in accordance with rules governing the election adopted under section 5505.047 of the Revised Code. The candidate shall take office as if elected. In the case of a retirant member or employee member, and the term of office shall be four years beginning in August of the year the candidate was nominated. In the case of a vacancy, the candidate shall fill the unexpired term.~~

(B) The board is not required to hold an election for a vacated position on the board as a retirant member or employee member if either of the following is the case:

(1) Only one candidate has been nominated for the vacancy in accordance with rules governing the election adopted under section 5505.047 of the Revised Code, in which case the candidate shall fill the unexpired term.

(2) Less than ninety days remain in the member's term on the day that member's position becomes vacant.

Sec. 5505.048. (A) The office of an employee member or retirant member of the state highway patrol 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 to the office of employee member or retirant member of the state highway patrol retirement board.

(B) A member of the state highway patrol 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 state retirement system board member on any of the grounds enumerated in division (B) of this section shall be commenced by filing with the court of ~~appeals common pleas~~ district 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 retirement system 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 division (C)(2) of section 5505.04 of the Revised Code, ten per cent of the number of contributing members of the system who voted in that election;

(b) If the employee member was most recently elected to the board pursuant to division (C)(3) of section 5505.04 of the Revised Code or took office in accordance with division (C)(4) of that section, ten per cent of the number of contributing members of the system who voted in the most recent election held in accordance with division (C)(2) of section 5505.04 of the Revised Code for that employee member position on the board.

(2) If the complaint is against the retirant member of the board, the complaint must be signed by a number of service and disability retirants that equals at least the following and must include signatures of at least twenty service and disability members residing in at least five different counties:

(a) If the retirant member was most recently elected in accordance with division (C)(1) of section 5505.04 of the Revised Code, ten per cent of the number of service and disability retirants who voted in that election;

(b) If the retirant member was most recently elected to the board pursuant to division (C)(3) of section 5505.04 of the Revised Code or took office in accordance with division (C)(4) of that section, ten per cent of the number of service and disability retirants who voted in the most recent election held in accordance with division (C)(1) of section 5505.04 of the Revised Code for that retirant member position on the board.

(D) The clerk of the court of ~~appeals~~ common pleas in which a complaint against a board member 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 of review or to appeal to the supreme court on leave first obtained. The supreme court shall hear the case in not more than thirty court days after granting leave. In other respects, the hearing shall follow the regular procedure in appealable cases that originate in 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.

Sec. 5505.181. Not later than March 1, 2000, and each first day of March ~~for the succeeding five years thereafter~~, the state highway patrol retirement board shall make and submit a report for the preceding fiscal year

of the disability retirement experience of the state highway patrol. 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 patrol's employees who are members of the state highway patrol 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.

Sec. 5505.203. (A) The state highway patrol retirement board may establish by rule a payroll deduction plan for payment of the following:

(1) The cost of restoring service credit under section 5505.20 of the Revised Code or purchasing any service credit members of the state highway patrol retirement system are eligible to purchase under this chapter;

(2) Charges for participation in programs established under section 5505.33 of the Revised Code;

(3) Deposits under section 5505.281 of the Revised Code and any charges for participation in the program established under that section.

(B) In addition to any other matter considered relevant by the board, the rules shall specify all of the following:

(1) 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;

(2) The procedure to be followed by a member to inform ~~his~~ the member's employer and the system that ~~he~~ the member wishes to purchase service credit under this chapter or pay for participation in programs established under section 5505.33 of the Revised Code through payroll deduction;

(3) 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.

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

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

(C) If the board establishes a payroll deduction plan under this section, 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.

(D) Rules adopted under this section 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 ~~he~~ the member is eligible to purchase.

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

Sec. 5505.281. The state highway patrol retirement board may establish a program under which a member or a member's employer is permitted to make additional deposits for the purpose of providing funds for the payment of health, medical, hospital, surgical, dental, or vision care expenses, including insurance premiums, deductible amounts, or copayments. The program 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 board may enter into agreements with insurance companies or other entities authorized to conduct business in this state.

If the board establishes a program under this section, it shall adopt rules to administer the program.

SECTION 2. That existing sections 145.057, 145.06, 145.201, 145.23, 145.294, 145.351, 145.43, 145.45, 145.471, 145.472, 145.483, 145.51, 145.82, 145.92, 742.046, 742.05, 742.381, 742.56, 3307.06, 3307.061, 3307.513, 3307.70, 3309.06, 3309.061, 3309.27, 3309.391, 5505.043, 5505.048, 5505.181, and 5505.203 of the Revised Code are hereby repealed.

SECTION 3. Notwithstanding sections 742.03 and 742.04 of the Revised Code, the police retirant member of the Board of Trustees of the Ohio Police and Fire Pension Fund whose term of office commenced on June 2, 2003, shall serve a term of five years.

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*Speaker \_\_\_\_\_ of the House of Representatives.*

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*President \_\_\_\_\_ of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

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

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_