

H. B. 1139

135. O.L.

Sec. 145.01. As used in Chapter 145. of the Revised Code:

(A) "Public employee" means any person holding an office, not elective, under the state or any county, municipal corporation, park district, conservancy district, sanitary district, health district, township, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state university rotary fund, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in this division, or employed and paid in whole or in part by the state or any of the authorities named in this division in any capacity not covered by section 3307.01 or 3309.01 of the Revised Code. "Public employee" also means one who is a member of the retirement system who continues to perform the same or similar duties under the direction of a contractor who has contracted to take over what before the date of such contract was a publicly operated function. The governmental unit with whom such contract has been made shall be deemed the employer for the purposes of administering Chapter 145. of the Revised Code.

Any civilian employees of the national guard and the air national guard, employed in or with a unit of the Ohio national guard or the Ohio air national guard, except those employed by the national guard bureau, shall be considered as employees of the adjutant general of the state for the purpose of Chapter 145. of the Revised Code, although such employees may be paid by federal funds. "Public employee" means also any person who performs or

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has performed services under the direction of an employer, as defined in division (D) of this section, notwithstanding his compensation for such services has been or is paid by one other than such employer. Credit for such service shall be included as total service credit, provided, the employee makes the payments required by Chapter 145. of the Revised Code, and his employer makes the payments required by sections 145.48 and 145.51 of the Revised Code.

In all cases of doubt, the public employees retirement board shall determine whether any person is a public employee, and its decision is final.

(B) "Member" means any person included in the membership of the public employees retirement system.

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

(D) "Employer" means the state or any county, municipal corporation, park district, conservancy district, sanitary district, health district, township, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state medical college, state university local rotary fund or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in this division not covered by section 3307.01 or 3309.01 of the Revised Code. In addition, "employer" means the employer of employees described in division (A) of this section.

(E) "Prior service" means all service as a public employee rendered before January 1, 1935, and all service as an employee of any employer who comes within the state teachers retirement system or of the state public school employees retirement system or of any other retirement system established under the laws of this state rendered prior to January 1, 1935, provided that if the employee claiming such service was employed in any capacity covered by such other system after such other system was established, credit for such service may be allowed by the public employees retirement system only when the employee has made payment, to be computed on the salary earned from the date of appointment to the date membership was established in the public employees retirement system, at the rate in effect at the time of payment, and the employer has made payment of the corresponding full liability as provided by section 145.44 of the Revised Code. "Prior service" also means all service credited for active duty with the armed forces of the United States as provided in section 145.30 of the Revised Code.

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

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

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

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

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

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

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

(F) "Contributor" means any person who has an account in the employees' savings fund created by section 145.23 of the Revised Code.

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

(H) (1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service of a member of the public employees retirement system since last becoming a member and, in addition thereto, restored service credit as provided by section 145.31 of the Revised Code; all his prior service credit; and all his military service credit computed as provided in Chapter 145. of the Revised Code. In addition, "total service credit" includes any period, not in excess of three years, during which a member was out of service and receiving benefits under Chapters 4121. and 4123. of the Revised Code. For the exclusive purpose of

satisfying the service credit requirement and of determining eligibility for benefits under sections 145.32, 145.33, 145.35, and 145.36 of the Revised Code, "five or more years of total service credit" means sixty or more calendar months of contributing membership in this system.

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

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

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

(I) "Regular interest" means interest at such rates for the respective funds and accounts as the public employees retirement board may determine from time to time except as follows:

(1) Subsequent to December 31, 1958, the retirement board shall discontinue the annual crediting of current interest to the individual accounts of members. The non-crediting of current interest shall not affect the rate of interest at retirement guaranteed under this division.

(2) The rate of interest credited on a member's contributions at retirement shall be four per cent per annum, compounded annually, to and including December 31, 1955; three per cent per annum, compounded annually, from January 1, 1956 to and including December 31, 1963; from January 1, 1964 to and including December 31, 1969 shall be three and one-quarter per cent per annum, compounded annually, and thereafter shall be four per cent per annum, compounded annually.

(3) In determining the reserve value for the purpose of computing the amount of the member's annuity, the rate of interest used in the annuity values shall be four per cent per annum, compounded annually, for members retiring before October 1, 1956

and after December 31, 1969; the interest rate shall be three per cent per annum, compounded annually, for members retiring between October 1, 1956 and December 31, 1963; and three and one-quarter per cent per annum, compounded annually, for members retiring from January 1, 1964 to December 31, 1969, inclusive. Interest on contributions from members within any one calendar year shall begin on the first day of the calendar year next following and shall be computed at the end of each calendar year, except in the case of a member who retires before the end of the year.

(J) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the employees' savings fund together with any current interest thereon, but shall not include the interest adjustment at retirement.

(K) (1) "Final average salary" means the sum of the annual earnings for the five highest calendar years of compensation for which contributions were made by the member, divided by five. If the member has a partial year of contributing service in the calendar year in which he terminates his employment and the partial year is at a rate of compensation which is higher than the rate of compensation for any one of the highest five full calendar years of annual earnings, the board shall substitute the compensation earned for the partial year for the compensation earned for a similar fractional portion in the lowest of the five high calendar years of annual earnings before dividing by five.

(2) Fees and commissions, except those provided under section 507.09 of the Revised Code, paid to employees for special services, over and above regular salary payments, or fees and commissions paid as sole compensation for services, shall not be used in computing "final average salary."

(3) If a member has less than five years of contributing membership the final average salary shall be the total compensation divided by the total number of years including any fraction of a year, of contributing membership.

(4) Except as provided in division (Y) of this section, when a member has been elected or appointed to an office, the term of which is two or more years, for which an annual salary is established and in the event that the salary of the office is increased and the member holding the office is denied the additional salary by reason of any constitutional provision prohibiting an increase in salary during his term of office, the member may elect to have the amount of his contributions calculated upon the basis of the increased salary for his office. A member so electing shall notify the board which shall compute the back payment of the additional amount the member would have contributed had he received the increased salary for the office he holds plus interest at the rate of three and one-quarter per cent per annum, compounded annually to the date of payment, subject to such rules and regulations relative to the amount and manner of payment as may be adopted

by the board, plus an additional payment of an equivalent amount, which shall be paid into the employers' accumulation fund. The additional payment into the employers' accumulation fund shall, in the event of service termination and application for refund of contributions be considered as accumulated contributions of the member. Upon the payment of the contributions as herein provided, the increased annual salary as provided by law for the office for the period during which the member paid contributions thereon, shall be considered his annual compensation for the purpose of computing his "final average salary."

(5) For the purpose of calculating benefits payable to a member qualifying for service credit under division [~~(AA)~~] (Z) of this section, "final average salary" means the total compensation earned while a contributing member divided by the total number of years during which contributions were made, including any fraction of a year. If contributions were made for less than twelve months, "final average salary" means the total amount of compensation earned while a contributing member.

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

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

(N) "Disability retirement" means retirement as provided in sections 145.35 and 145.36 of the Revised Code.

(O) "Age and service retirement" means retirement as provided in section 145.33 of the Revised Code.

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

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

(R) "Salary earnable" means salary or wages receivable during a payroll period for personal services plus such allowances for maintenance as are certified by the heads of departments. Fees and commissions, except those provided under section 507.09 of the Revised Code, paid to employees for special services, over and above regular salary payments or fees and commissions paid as sole compensation for services, shall not be used in computing "final average salary." Any additional terminal compensation paid

in excess of the regular compensation shall not be subjected to deductions under section 145.47 of the Revised Code, or used in computing "final average salary."

(S) "Pension reserve" means the present value computed upon the basis of such mortality and other tables adopted by the board of all payments to be made on account of any retirement allowance or benefit in lieu of any retirement allowance, granted to a member or beneficiary under this chapter.

(T) "Contributing service" means all service credited to a member of the system since January 1, 1935. In any year subsequent to the year 1934, WHEN SERVICE IS PART-TIME, fractional parts of a year's credit shall be allowed by the following formula:

~~[-(1) Determine the number of months]~~ FOR EACH MONTH for which the member was paid~~[-].~~

~~[-(2) Allow]~~ ALLOW ~~[the number]~~ A FRACTION of ~~[months as twelfths of a year]~~ A MONTH'S CREDIT. ~~[times a fraction, the]~~ THE numerator of ~~[which]~~ THIS FRACTION shall be the total compensation during ~~[such calendar year]~~ THE MONTH, the denominator ~~[of which]~~ is ~~[thirty-two hundred]~~ ONE HUNDRED FIFTY dollars; except that if his annual earnings are less than sixteen hundred dollars, the member's credit shall not be reduced below forty per cent of a year for a calendar year of employment during which he worked each month. THIS DIVISION SHALL NOT REDUCE ANY CREDIT EARNED BEFORE NOVEMBER 20, 1973.

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

(V) "Retirant" means any former member who retires and is receiving a monthly allowance as provided in sections 145.32, 145.33 and 145.34 of the Revised Code, or any member receiving a disability allowance.

(W) "Employer contribution" means the amount paid by an employer as determined by the employer rate including the normal and deficiency contribution rates.

(X) "Public service terminates" means the last day for which an employee is compensated for services performed for an employer or the date of his death, whichever occurs first.

(Y) When a member has been elected to the office of senator of the general assembly, for which an annual salary is established and in the event that the salary of the office is increased and the member is denied the additional salary by reason of any constitutional provision prohibiting an increase in salary during his term of office, the member may, upon notice to the board, have the amount of his contributions calculated upon the basis of the increased salary for his office. The board shall compute the additional

amount the member would have contributed had he received the increased salary for the office he holds, which amount shall be paid by the member plus an equivalent amount to be paid into the employers' accumulation fund by the employer. Upon the payment of the contributions as provided in this division, the increased annual salary as provided by law for the office for the period during which the member paid contributions thereon, shall be considered his annual compensation for the purpose of computing his "final average salary."

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

SECTION 3. Each benefit paid and calculated under former division (T) of Section 145.01 of the Revised Code on and after November 20, 1973, and before the effective date of this act shall be recalculated and paid henceforth in accordance with this act.

Section 145.01 of the Revised Code is amended by this act and also by Am. Sub. H. B. 1034 of the 110th General Assembly. Comparison of these amendments in pursuance of section 1.52 of the Revised Code discloses that they are not irreconcilable, so that they are required by that section to be harmonized to give effect to each amendment.