

Sec. 145.01. As used in this chapter:

(A) "Public employee" means:

(1) Any person holding an office, not elective, under the state or any county, 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, 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.

(2) A person 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 this chapter.

(3) Any person who performs or 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 this chapter, and his employer makes the payments required by sections 145.48 and 145.51 of the Revised Code.

(4) 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 this chapter, although such employees may be paid by federal funds.

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, 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 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.

Effective
7/24/90

pg 2 of 5

143 OH
Sub. S. B.
240

(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 contributing 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; credit purchased under section 145.293 of the Revised Code; all the member's prior service credit; all his military service credit computed as provided in this chapter; and all service credit established pursuant to section 145.297 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~~ MUNICIPAL CORPORATION which formerly operated its own retirement plan for its employees or a part of its employees, ~~providing~~ PROVIDED 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~~ MUNICIPAL CORPORATION 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.

(5) "Ohio service credit" means credit for service which was rendered to the state or any of its political subdivisions or any employer as defined in division (D) of this section.

(I) "Regular or current 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 noncrediting 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.

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

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

(3) For the purpose of calculating benefits payable to a member qualifying for service credit under division (Z) of this section, "final aver-

Effective
7/24/90

Page 3 of 5

age salary" means the total earnable salary on which contributions were made divided by the total number of years during which contributions were made, including any fraction of a year. If contributions were made for less than twelve months, "final average salary" means the member's total earnable salary.

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

(M) "Annuity reserve" means the present value, computed upon the basis of 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, 145.36, and 145.37 of the Revised Code.

(O) "Age and service retirement" means retirement as provided in sections 145.32, 145.33, 145.34, and 145.37 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)(1) Except as otherwise provided in this division, "earnable salary" means all salary, wages, and other earnings paid to a member by reason of his employment. Such salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the employees' savings fund under section 145.47 of the Revised Code and without regard to whether any of such salary, wages, or other earnings are treated as deferred income for federal income tax purposes. "Earnable salary" includes the following:

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

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

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

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

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

(f) Amounts included pursuant to divisions (K)(3) and (Y) of this section.

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

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

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

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

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

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

(f) PAYMENTS MADE TO OR ON BEHALF OF A MEMBER THAT ARE IN EXCESS OF THE ANNUAL COMPENSATION THAT MAY BE TAKEN INTO ACCOUNT BY THE RETIREMENT SYSTEM UNDER DIVISION (a)(17) OF SECTION 401 OF THE "INTERNAL REVENUE CODE OF 1986," 100 STAT. 2085, 26 U.S.C.A. 401(a)(17), AS AMENDED;

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

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

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

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

(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)(1) "Contributing service" means all service credited to a member of the system since January 1, 1935. In any year subsequent to 1934, when service is part-time, fractional parts of a year's credit shall be allowed by the following formula: for each month for which the member was paid,

143 OH
Sub. S.B.
240

Effective
7/24/90

allow a fraction of a month's credit. The numerator of this fraction shall be the earnable salary during the month, and the denominator shall be two hundred fifty dollars; except that if his annual earnable salary is less than six hundred dollars, the member's credit shall not be reduced below twenty per cent of a year for a calendar year of employment during which he worked each month. This division shall not reduce any credit earned before January 1, 1985.

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

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

(V) "Retirant" means any former member who retires and is receiving a monthly allowance as provided in sections 145.32, 145.33, 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 or appointed to an office, the term of which is two or more years, for which an annual salary is established and in the event that the salary of the office is increased and the member is denied the additional salary by reason of any constitutional provision prohibiting an increase in salary during 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. At the member's request, the board shall compute the total additional amount the member would have contributed, or the amount by which each of his contributions would have increased, had he received the increased salary for the office he holds. If the member elects to have the amount by which his contribution would have increased withheld from his salary, he shall notify his employer, and the employer shall make the withholding and transmit it to the retirement system. A member who has not elected to have such amount withheld may elect at any time to make a payment to the retirement system equal to the additional amount his contribution would have increased, plus interest on such contribution, compounded annually at a rate established by the board and computed from the date on which the last contribution would have been withheld from his salary to the date of payment. A member may make a payment for part of the period for which the increased contribution was not withheld in which case the interest shall be computed from the date the last contribution would have been withheld for the period for which the payment is made. Upon the payment of the increased contributions as provided in this division, the increased annual salary as provided by law for

the office for the period for which the member paid increased contributions thereon, shall be used in determining his earnable salary 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.

(AA) "Deputy sheriff" means any person who is commissioned and employed as a full-time peace officer by the sheriff of any county, and has been so employed since on or before December 31, 1965, and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of Ohio; or any person who is or has been commissioned and employed as a peace officer by the sheriff of any county since January 1, 1966, and who has received a certificate attesting to his satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of Ohio.

(BB) "Township constable or police officer in a township police department or district" means any person who is commissioned and employed as a full-time peace officer pursuant to Chapter 505. or 509. of the Revised Code, who has received a certificate attesting to his satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code, and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws of this state.

(CC) "Drug agent" means any person who either:

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

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

(DD) "Liquor control investigator" means a full-time employee of the department of liquor control who is engaged in the enforcement of Chapter 4301. of the Revised Code and is in compliance with section 109.77 of the Revised Code.

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

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

(GG) "Game protector" means a full-time employee of the department of natural resources who is designated a game protector under section

143 OL
Sub. S. B. 240

Effective
7/24/90

1531.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

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

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

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

(KK) "Municipal police officer" means a member of the organized police department of a municipal corporation who is employed full-time, is in compliance with section 109.77 of the Revised Code, and is not a member of the police and firemen's disability and pension fund.

(LL) "Ohio veterans' home policeman" means any person who is employed at the Ohio veterans' home as a policeman pursuant to section 5907.02 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(MM) "Special policeman for a mental health institution" means any person who is designated as such pursuant to section 5119.14 of the Revised Code and is in compliance with section 109.78 of the Revised Code.

(NN) "Special policeman for an institution for the mentally retarded and developmentally disabled" means any person who is designated as such pursuant to section 5123.13 of the Revised Code and is in compliance with section 109.78 of the Revised Code.

(OO) Notwithstanding section 2901.01 of the Revised Code, "law enforcement officer" means a sheriff, deputy sheriff, township constable or police officer in a township police department or district, drug agent, liquor control investigator, park officer, forest officer, game protector, state watercraft officer, park district police officer, conservancy district officer, Ohio veterans' home policeman, special policeman for a mental health institution, special policeman for an institution for the mentally retarded and developmentally disabled, or municipal police officer.

(PP) "Fiduciary" means a person who does any of the following:

(1) Exercises any discretionary authority or control with respect to the management of the system, or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) Has any discretionary authority or responsibility in the administration of the system.

Effective
7/24/90