

Page 24

Sec. 145.01. As used in this chapter:

(A) "Public employee" means:

(1) Any person holding an office, not elective, under the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state 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, 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 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code.

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

(3) Any person who is an employee of a public employer, notwithstanding that his THE PERSON'S compensation for that employment is derived from funds of a person or entity other than the employer. Credit for such service shall be included as total service credit, provided that the employee makes the payments required by this chapter, and his THE 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 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 public employee other than a public employee excluded or exempted from membership in the retirement system by section 145.03, 145.031, 145.032, 145.033, 145.034, 145.035, or 145.38 of the Revised Code. "Member" includes a PERS retirant who becomes a member under division (C)(2) of section 145.38 of the Revised Code. "Member" also includes a disability benefit recipient.

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

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

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

(3) When the member is paid on an hourly basis, the service credit for any single year of 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 using two thousand hours as a denominator.

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

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

(H)(1) "Total service credit," except as provided in section 145.37 of the Revised Code, means all service credited to a member of the retirement system since last becoming a member, including restored service credit as provided by section 145.31 of the Revised Code; credit purchased under sections 145.293 and 145.299 of the Revised Code; all the member's prior service credit; all his THE MEMBER'S military service credit computed as provided in this chapter; all service credit established pursuant to section 145.297 of the Revised Code; and any other service credited under this chapter. In addition, "total service credit" includes any period, not in excess of three years, during which a member was out of service and receiving benefits under Chapters 4121. and 4123. of the Revised Code. For the exclusive purpose of satisfying the service credit requirement and of determining eligibility for benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, and 145.361 of the Revised Code, "five or more years of total service credit" means sixty or more calendar months of contributing service in this system.

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

(3) Where a member also is a member of the state teachers retirement system or the school employees retirement system, or both, except in cases of retirement on a combined basis pursuant to section 145.37 of the Revised Code, 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 that was rendered to the state or any of its political subdivisions or any employer as defined in division (D) of this section.

Effective 11-6-96

(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 contributors. 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 contributor'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; three and one-quarter per cent per annum, compounded annually, from January 1, 1964, to and including December 31, 1969; and thereafter four per cent per annum, compounded annually.

In determining the reserve value for the purpose of computing the amount of the contributor's annuity, the rate of interest used in the annuity values shall be four per cent per annum, compounded annually, for contributors retiring before October 1, 1956, and after December 31, 1969; three per cent per annum, compounded annually, for contributors retiring between October 1, 1956, and December 31, 1963; and three and one-quarter per cent per annum, compounded annually, for contributors retiring from January 1, 1964, to December 31, 1969. Interest on contributions from contributors 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 contributor who retires before the end of the year.

(J) "Accumulated contributions" means the sum of all amounts credited to a contributor's individual account in the employees' savings fund together with any current interest thereon, but does 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~~ THE MEMBER'S employment terminates and ~~his~~ THE MEMBER'S earnable salary for the partial year is higher than for any comparable period in such three years, ~~his~~ THE MEMBER'S earnable salary for the partial year shall be substituted for ~~his~~ THE MEMBER'S earnable salary for the comparable period during such three years in which ~~his~~ THE MEMBER'S earnable salary was lowest.

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

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

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

(M) "Annuity reserve" means the present value, computed upon the basis of 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)(1) "Disability retirement" means retirement as provided in section 145.36 of the Revised Code.

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

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

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

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

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

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

(R)(1) Except as otherwise provided in this division, "earnable salary" means all salary, wages, and other earnings paid to a contributor by reason of ~~his~~ employment in a position covered by the retirement system. 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 contributor;

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

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

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

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

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

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

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

(b) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or ~~his~~ THE CONTRIBUTOR'S family, or amounts paid by the employer to the contributor 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 contributor 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 contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended;

(g) Payments made under division (B) or (D) of section 5923.05 of the Revised Code or Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly;

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

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

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

(3) The retirement board shall determine by rule whether any compensation not enumerated in 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.

Effective 11-6-96

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

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

(b) For each month for which the member's earnable salary is less than two hundred fifty dollars, allow a fraction of a month's credit. The numerator of this fraction shall be the earnable salary during the month, and the denominator shall be two hundred fifty dollars, except that if his THE MEMBER'S annual earnable salary is less than six hundred dollars, the member's credit shall not be reduced below twenty per cent of a year for a calendar year of employment during which he THE MEMBER 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, 145.331, 145.34, and 145.46 of the Revised Code.

(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 a public employee is compensated for services performed for an employer or the date of the employee's death, whichever occurs first.

(Y) When a member has been elected or appointed to an office, the term of which is two or more years, for which an annual salary is established, and in the event that the salary of the office is increased and the member is denied the additional salary by reason of any constitutional provision prohibiting an increase in salary during a term of office, the member may elect to have the amount of the member's contributions calculated upon the basis of the increased salary for the office. At the member's request, the board shall compute the total additional amount the member would have contributed, or the amount by which each of the member's contributions would have increased, had the member received the increased salary for the office the member holds. If the member elects to have the amount by which the member's contribution would have increased withheld from the member's salary, the member shall notify the employer, and the employer shall make the withholding and transmit it to the retirement system. A member who has not elected to have that amount withheld may elect at any time to make a payment to the retirement system equal to the additional amount the member's contribution would have increased, plus interest on that contribution, compounded annually at a rate established by the board and computed from the date on which the last contribution would have been withheld from the member's salary to the date of payment. A member may make a payment for part of the period for which the increased contribution was not withheld, in which case the interest shall be computed from the date the last contribution would have been withheld for the period for which the payment is made. Upon the payment of the increased contributions as provided in this division, the increased annual salary as provided by law for the office for the period for which the member paid increased contributions thereon shall be used in determining the member's earnable salary for the purpose of computing the member's "final average salary."

(Z) "Five years of service credit," for the exclusive purpose of satisfying the service credit requirements and of determining eligibility for benefits under section 145.33 of the Revised Code, means employment covered under this chapter or under a former retirement plan operated, recognized, or endorsed by the employer prior to coverage under this chapter, or under a combination of 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 this state; any person who is or has been commissioned and employed as a peace officer by the sheriff of any county since January 1, 1966, and who has received a certificate attesting to 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; or any person deputized by the sheriff of any county and employed pursuant to section 2301.12 of the Revised Code as a criminal bailiff or court constable who has received a certificate attesting to 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.

146 O.L.

Am. Sub-H.B. 379

(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 is either of the following:

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

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

(DD) "Liquor control investigator" means a full-time employee of the department of public safety who is engaged in the enforcement of Chapters 4301. and 4303. 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) "Wildlife officer" means a full-time employee of the department of natural resources who is designated a wildlife officer under section 1531.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

Effective 11-6-96

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

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

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

(OO) "STATE UNIVERSITY LAW ENFORCEMENT OFFICER" MEANS ANY PERSON WHO IS EMPLOYED FULL-TIME AS A STATE UNIVERSITY LAW ENFORCEMENT OFFICER PURSUANT TO SECTION 3345.04 OF THE REVISED CODE AND WHO IS IN COMPLIANCE WITH SECTION 109.77 OF THE REVISED CODE.

(PP) "HAMILTON COUNTY MUNICIPAL COURT BAILIFF" MEANS A PERSON APPOINTED BY THE CLERK OF COURTS OF THE HAMILTON COUNTY MUNICIPAL COURT UNDER DIVISION (A)(3) OF SECTION 1901.32 OF THE REVISED CODE WHO IS EMPLOYED FULL-TIME AS A BAILIFF OR DEPUTY BAILIFF, WHO HAS RECEIVED A CERTIFICATE ATTESTING TO THE PERSON'S SATISFACTORY COMPLETION OF THE PEACE OFFICER TRAINING SCHOOL AS REQUIRED BY DIVISION (C) OF SECTION 109.77 OF THE REVISED CODE, AND WHOSE PRIMARY DUTIES ARE TO PRESERVE THE PEACE, TO PROTECT LIFE AND PROPERTY, AND TO ENFORCE THE LAWS OF THIS STATE.

(QQ) 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, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, Ohio veterans' home ~~policeman~~ POLICE OFFICER, special

~~policeman~~ POLICE OFFICER for a mental health institution, special ~~policeman~~ POLICE OFFICER for an institution for the mentally retarded and developmentally disabled, STATE UNIVERSITY LAW ENFORCEMENT OFFICER, HAMILTON COUNTY MUNICIPAL COURT BAILIFF, or municipal police officer.

~~(PP)~~ (RR) "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.

SECTION 3. As used in this section, "state university law enforcement officer" and "Hamilton County Municipal Court bailiff" have the same meanings as in section 145.01 of the Revised Code, as amended by this act.

Not later than 90 days after the effective date of this act, each state university law enforcement officer and each Hamilton County Municipal Court bailiff who is a member of the Public Employees Retirement System shall indicate to the system, on a form supplied by the retirement system, a choice of whether to receive benefits under division (A) of section 145.33 of the Revised Code or division (B) of that section.

146 O.L.

Am. Sub. H. B. 379

Effective 11-6-96