

(E) The public employees retirement board may adopt rules to carry out this section.

Sec. 145.384. (A) As used in this section, "PERS retirant" means a PERS retirant who is not subject to division (C) of section 145.38 of the Revised Code. For purposes of this section, "PERS retirant" also includes both of the following:

- (1) A member who retired under section 145.383 of the Revised Code;
- (2) A retirant whose retirement allowance resumed under section 145.385 of the Revised Code.

(B)(1) An other system retirant or PERS retirant who has made contributions under section 145.38 or 145.383 of the Revised Code or, in the case of a retirant described in division (A)(2) of this section, section 145.47 of the Revised Code may file an application with the public employees retirement system to receive either a benefit, as provided in division (B)(2) of this section, or payment of the retirant's contributions made under those sections, as provided in division (H) of this section.

(2) A benefit under this section shall consist of an annuity having a reserve equal to the amount of the retirant's accumulated contributions for the period of employment, other than the contributions excluded pursuant to division (B)(4)(a) or (b) of section 145.38 of the Revised Code, and an amount of the employer's contributions determined by the board.

(a) Unless, as described in division (I) of this section, the application is accompanied by a statement of the spouse's consent to another form of payment or the board waives the requirement of spousal consent, a PERS retirant or other system retirant who is married at the time of application for a benefit under this section shall receive a monthly annuity under which the actuarial equivalent of the retirant's single life annuity is paid in a lesser amount for life and one-half of the lesser amount continues after the retirant's death to the surviving spouse.

(b) A PERS retirant or other system retirant who is not subject to division (B)(2)(a) of this section shall elect either to receive the benefit as a monthly annuity or a lump sum payment discounted to the present value using a rate of interest determined by the board. A retirant who elects to receive a monthly annuity shall select one of the following as the plan of payment:

- (i) The retirant's single life annuity;
- (ii) The actuarial equivalent of the retirant's single life annuity in an equal or lesser amount for life and continuing after death to a surviving beneficiary designated at the time the plan of payment is selected.

If a retirant who is eligible to select a plan of payment under division

(B)(2)(b) of this section fails to do so, the benefit shall be paid as a monthly annuity under the plan of payment specified in rules adopted by the public employees retirement board.

(c) Notwithstanding divisions (B)(2)(a) and (b) of this section, if a monthly annuity would be less than twenty-five dollars per month, the retirant shall receive a lump sum payment.

(C)(1) The death of a spouse or other designated beneficiary under a plan of payment described in division (B)(2) of this section cancels that plan of payment. The PERS retirant or other system retirant shall receive the equivalent of the retirant's single life annuity, as determined by the board, effective the first day of the month following receipt by the board of notice of the date of death.

(2) On divorce, annulment, or marriage dissolution, a PERS retirant or other system retirant receiving a benefit described in division (B)(2) of this section under which the beneficiary is the 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 plan and receive the equivalent of the retirant's single life annuity as determined by the board. The election shall be made on a form provided by the board and shall be effective the month following its receipt by the board.

(D) Following a marriage or remarriage, a PERS retirant or other system retirant who is receiving a benefit described in division (B)(2)(b)(i) of this section may elect a new plan of payment under division (B)(2)(b) of this section based on the actuarial equivalent of the retirant's single life annuity as determined by the board.

If the marriage or remarriage occurs on or after ~~the effective date of this amendment~~ June 6, 2005, the election must be made not later than one year after the date of the marriage or remarriage.

The plan elected under this division shall be 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 benefit shall commence on the first day of the month following the effective date of the plan.

(E) A benefit payable under division (B)(2) of this section shall commence on the latest of the following:

(1) The last day for which compensation for all employment subject to section 145.38, 145.383, or 145.385 of the Revised Code was paid;

(2) Attainment by the PERS retirant or other system retirant of age sixty-five;

(3) If the PERS retirant or other system retirant was previously employed under section 145.38, 145.383, or 145.385 of the Revised Code

and is receiving or previously received a benefit under this section, completion of a period of twelve months since the effective date of the last benefit under this section;

(4) Ninety days prior to receipt by the board of the member's completed application for retirement;

(5) A date specified by the retirant.

(F)(1) If a PERS retirant or other system retirant dies while employed in employment subject to section 145.38, 145.383, or 145.385 of the Revised Code, a lump sum payment ~~calculated in accordance with division (B)(2) of this section~~ shall be paid to the retirant's beneficiary under division (G) of this section. The lump sum shall be calculated in accordance with division (H) of this section if the retirant was under age sixty-five at the time of death. It shall be calculated in accordance with division (B)(2) of this section if the retirant was age sixty-five or older at the time of death.

(2) If at the time of death a PERS retirant or other system retirant receiving a monthly annuity under division (B)(2)(b)(i) of this section has received less than the retirant would have received as a lump sum payment, the difference between the amount received and the amount that would have been received as a lump sum payment shall be paid to the retirant's beneficiary under division (G) of this section.

(3) If a beneficiary receiving a monthly annuity under division (B)(2) of this section dies and, at the time of the beneficiary's death, the total of the amounts paid to the retirant and beneficiary are less than the amount the retirant would have received as a lump sum payment, the difference between the total of the amounts received by the retirant and beneficiary and the amount that the retirant would have received as a lump sum payment shall be paid to the beneficiary's estate.

(G) A PERS retirant or other system retirant employed under section 145.38, 145.383, or 145.385 of the Revised Code may designate one or more persons as beneficiary to receive any benefits payable under division (B)(2)(b) of this section due to death. The designation shall be in writing duly executed on a form provided by the public employees retirement board, signed by the PERS retirant or other system retirant, and filed with the board prior to death. The last designation of a beneficiary revokes all previous designations. The PERS retirant's or other system retirant's marriage, divorce, marriage dissolution, legal separation, withdrawal of account, birth of a child, or adoption of a child revokes all previous designations. If there is no designated beneficiary, the beneficiary is the beneficiary determined under division (D) of section 145.43 of the Revised Code. If any benefit payable under this section due to the death of a PERS retirant or other

system retirant is not claimed by a beneficiary within five years after the death, the amount payable shall be transferred to the income fund and thereafter paid to the beneficiary or the estate of the PERS retirant or other system retirant on application to the board.

(H)(1) A PERS retirant or other system retirant who applies under division (B)(1) of this section for payment of the retirant's contributions and is unmarried or is married and, unless the board has waived the requirement of spousal consent, includes with the application a statement of the spouse's consent to the payment, shall be paid the contributions made under section 145.38 or 145.383 of the Revised Code or, in the case of a retirant described in division (A)(2) of this section, section 145.47 of the Revised Code, plus interest as provided in section 145.471 of the Revised Code, if the following conditions are met:

(a) The retirant has not attained sixty-five years of age and has terminated employment subject to section 145.38, 145.383, or 145.385 of the Revised Code for any cause other than death or the receipt of a benefit under this section.

(b) Three months have elapsed since the termination of the retirant's employment subject to section 145.38, 145.383, or 145.385 of the Revised Code, other than employment exempted from contribution pursuant to section 145.03 of the Revised Code.

(c) The retirant has not returned to public service, other than service exempted from contribution pursuant to section 145.03 of the Revised Code, during the three-month period.

(2) Payment of a retirant's contributions cancels the retirant's right to a benefit under division (B)(2) of this section.

(I) A statement of a spouse's consent under division (B)(2) of this section to the form of a benefit or under division (H) of this section to a payment of contributions is valid only if signed by the spouse and witnessed by a notary public. The board may waive the requirement of spousal 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.

(J) No amount received under this section shall be included in determining an additional benefit under section 145.323 of the Revised Code or any other post-retirement benefit increase.

Sec. 145.39. Whenever the limits established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended, are raised, the public employees retirement board shall increase the amount of the pension, benefit, or allowance of any person whose