

Sec. 145.38. (A) As used in this section AND SECTION 145.384 OF THE REVISED CODE:

- (1) "PERS retirant" means a former member of the public employees retirement system who is receiving one of the following:
  - (a) Age and service retirement benefits under section 145.32, 145.33, 145.331, 145.34, or 145.46 of the Revised Code;
  - (b) Age and service retirement benefits paid by the public employees retirement system under section 145.37 of the Revised Code;
  - (c) Any benefit paid by the system under a plan established under section 145.81 of the Revised Code.

- (2) "Other system retirant" means both of the following:
  - (a) A member or former member of the Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, state highway patrol retirement system, or Cincinnati retirement system who is receiving age and service or commuted age and service retirement benefits or a disability benefit from a system of which the person is a member or former member;
  - (b) A member or former member of the public employees retirement system who is receiving age and service retirement benefits or a disability benefit under section 145.37 of the Revised Code paid by the school employees retirement system or the state teachers retirement system.

(B)(1) Subject to this section, a PERS retirant or other system retirant may be employed by a public employer. If so employed, the PERS retirant or other system retirant shall contribute to the public employees retirement system in accordance with section 145.47 of the Revised Code, and the employer shall make contributions in accordance with section 145.48 of the Revised Code.

(2) A public employer that employs a PERS retirant or other system retirant, or enters into a contract for services as an independent contractor with a PERS retirant shall notify the retirement board of the employment or contract not later than the end of the month in which the employment or contract commences. Any overpayment of benefits to a PERS retirant by the retirement system resulting from delay or failure of the employer to give the notice shall be repaid to the retirement system by the employer.

(3) On receipt of notice from a public employer that a person who is an other system retirant has been employed, the retirement system shall notify the retirement system of which the other system retirant was a member of such employment.

(4)(a) A PERS retirant who has received a retirement allowance for less than two months when employment subject to this section commences shall forfeit the retirement allowance for ANY MONTH the PERS RETIRANT IS EMPLOYED PRIOR TO THE

EXPIRATION OF THE TWO-MONTH period that begins on the date the employment commences and ends on the earlier of the date the employment terminates or the date that is two months after the date on which the retirement allowance commenced. Service and contributions for that period shall not be included in calculation of any benefits payable to the PERS retirant and those contributions shall be refunded on the retirant's death or termination of the employment.

(b) An other system retirant who has received a retirement allowance or disability benefit for less than two months when employment subject to this section commences shall forfeit the retirement allowance or disability benefit for ANY MONTH the OTHER SYSTEM RETIRANT IS EMPLOYED PRIOR TO THE EXPIRATION OF THE TWO-MONTH period that begins on the date the employment commences and ends on the earlier of the date the employment terminates or the date that is two months after the date on which the retirement allowance or disability benefit commenced. Service and contributions for that period shall not be included in the calculation of any benefits payable to the other system retirant and those contributions shall be refunded on the retirant's death or termination of the employment.

(c) CONTRIBUTIONS MADE ON COMPENSATION EARNED AFTER THE EXPIRATION OF THE TWO-MONTH PERIOD SHALL BE USED IN THE CALCULATION OF THE BENEFIT OR PAYMENT DUE UNDER SECTION 145.384 OF THE REVISED CODE.

(5) On receipt of notice from the Ohio police and fire pension fund, school employees retirement system, or state teachers retirement system of the re-employment of a PERS retirant, the public employees retirement system shall not pay, or if paid, shall recover, the amount to be forfeited by the PERS retirant in accordance with section 742.26, 3307.35, or 3309.341 of the Revised Code.

(6) A PERS retirant who enters into a contract to provide services as an independent contractor to the employer by which the retirant was employed at the time of retirement or, less than two months after the retirement allowance commences, begins providing services as an independent contractor pursuant to a contract with another public employer, shall forfeit the pension portion of the retirement benefit for the period beginning the first day of the month following the month in which the services begin and ending on the first day of the month following the month in which the services end. The annuity portion of the retirement allowance shall be suspended on the day services under the contract begin and shall accumulate to the credit of the retirant to be paid in a single payment after services provided under the contract terminate. A PERS retirant subject to division (B)(6) of this section shall not contribute to the retirement system and shall not become a member of the system.

(7) As used in this division, "employment" includes service for which a PERS retiree or other system retiree, the retiree's employer, or both, have waived any earnable salary for the service.

(C) A PERS retiree who, prior to the effective date of this amendment SEPTEMBER 14, 2000, made an election under division (C)(1)(b) of this section as that division existed immediately prior to the effective date of this amendment SEPTEMBER 14, 2000, and a PERS retiree who elects under Section 6 of Am. Sub. S.B. No. 144 of the 123rd general assembly elects GENERAL ASSEMBLY to be subject to this section is a member of the public employees retirement system with all the rights, privileges, and obligations of membership, except that the membership does not include survivor benefits provided pursuant to section 145.45 of the Revised Code or, beginning on the ninetieth day after the effective date of this amendment SEPTEMBER 14, 2000, any amount calculated under section 145.401 of the Revised Code. The pension portion of the PERS retiree's retirement allowance shall be forfeited until the first day of the first month following termination of the employment. The annuity portion of the retirement allowance shall accumulate to the credit of the PERS retiree to be paid in a single payment after termination of the employment. The retirement allowance shall resume on the first day of the first month following termination of the employment. On termination of the employment, the PERS retiree shall elect to receive either a refund of the retiree's contributions to the retirement system during the period of employment subject to this section or a supplemental retirement allowance based on the retiree's contributions and service credit for that period of employment.

(D)(1) On termination of employment under this section, an other system retiree or a PERS retiree who is not subject to division (C) of this section may file an application with the public employees retirement system for a benefit under this division. The benefit shall consist of a single life annuity having a reserve equal to the amount of the retiree's accumulated contributions for the period of employment, other than the contributions excluded pursuant to division (B)(4) of this section, and an equal amount of the employer's contributions. The PERS retiree or other system retiree shall elect either to receive the benefit as a monthly annuity for life or a lump-sum payment discounted to the present value using the current actuarial assumption rate of interest, except that if the monthly annuity would be less than twenty-five dollars per month, the retiree shall receive a lump-sum payment.

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

(a) The last day for which compensation for employment subject to this section was paid;

(b) Attainment by the PERS retiree or other system retiree of age sixty-five;

(e) If the PERS retiree or other system retiree was previously employed under this section and is receiving or previously received a benefit under this division, completion of a period of twelve months since the effective date of the last benefit under this division.

(3)(a) If a PERS retiree or other system retiree dies while employed in employment subject to this section, a lump-sum payment calculated in accordance with division (D)(1) of this section shall be paid to the retiree's beneficiary under division (G) of this section.

(b) If at the time of death a PERS retiree or other system retiree receiving a monthly annuity has received less than the retiree 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 retiree's beneficiary under division (G) of this section.

(4)(a) A EXCEPT AS PROVIDED IN DIVISION (C) OF THIS SECTION, A PERS retiree or other system retiree subject to this division SECTION is not a member of the public employees retirement system, AND, EXCEPT AS SPECIFIED IN THIS SECTION does not have any of the rights, privileges, or obligations of membership, except as specified in this section, and, except EXCEPT as specified in division (D)(4)(b) (2) of this section, THE RETIREE is not eligible to receive health, medical, hospital, or surgical benefits under section 145.58 of the Revised Code for employment subject to this section. No amount received under this division shall be included in determining an additional benefit under section 145.323 of the Revised Code or any other post-retirement benefit increase.

(b) (2) A PERS retiree subject to this division SECTION shall receive primary health, medical, hospital, or surgical insurance coverage from the retiree's employer, if the employer provides coverage to other employees performing comparable work. Neither the employer nor the PERS retiree may waive the employer's coverage, except that the PERS retiree may waive the employer's coverage if the retiree has coverage comparable to that provided by the employer from a source other than the employer or the public employees retirement system. If a claim is made, the employer's coverage shall be the primary coverage and shall pay first. The benefits provided under section 145.58 of the Revised Code shall pay only those medical expenses not paid through the employer's coverage or coverage the PERS retiree receives through a source other than the retirement system.

(E) If the disability benefit of an other system retiree employed under this section is terminated, the retiree shall become a member of the public employees retirement system, effective on the first day of the month next following the termination with all the rights, privileges, and obligations of membership. If such person, after the termination of the disability benefit, earns two years of

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service credit under this system or under the Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system, the person's prior contributions as an other system retirant under this section shall be included in the person's total service credit as a public employees retirement system member, and the person shall forfeit all rights and benefits of this section. Not more than one year of credit may be given for any period of twelve months.

(F) A PERS retirant or other system retirant employed under this section may designate one or more persons as beneficiary to receive any benefits payable under 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.

(G) This section does not affect the receipt of benefits by or eligibility for benefits of any person who on August 20, 1976, was receiving a disability benefit or service retirement pension or allowance from a state or municipal retirement system in Ohio and was a member of any other state or municipal retirement system of this state.

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

SECTION 5. That existing Section 6 of Am. Sub. S.B. 144 of the 123rd General Assembly is hereby repealed.

SECTION 4. That Section 6 of Am. Sub. S.B. 144 of the 123rd General Assembly be amended to read as follows:

"Sec. 6. (A) As used in this section:

(1) "(C)(1)(b) election" means an election made under division (C)(1)(b) of section 145.38 of the Revised Code as that division existed immediately prior to the effective date of this section SEPTEMBER 14, 2000.

(2) "Reelected official" means a PERS retirant, as defined in section 145.38 of the Revised Code, described in division (C)(4) of that section as that division existed immediately prior to the effective date of this section SEPTEMBER 14, 2000.

(B) Notwithstanding division (C) of section 145.38 of the Revised Code, a reelected official who on the effective date of this section AMENDMENT is subject to a (C)(1)(b) election may elect to continue to be subject to that election or elect to cease to be subject to that election. AN ELECTION UNDER THIS SECTION SHALL BE MADE NOT LATER THAN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS AMENDMENT. A REELECTED OFFICIAL WHO FAILS TO MAKE AN ELECTION UNDER THIS SECTION SHALL CONTINUE TO BE SUBJECT TO THE (C)(1)(b) ELECTION.

If the reelected official elects to cease to be subject to the (C)(1)(b) election, all of the following apply:

(1) Any forfeiture or suspension required by division (C)(2) of section 145.38 of the Revised Code as that division existed immediately prior to the effective date of this section SEPTEMBER 14, 2000, that exceeds the forfeiture required by Section 5 of this act AM. SUB. S.B. 144 OF THE 123rd GENERAL ASSEMBLY shall cease on the later of the following:

(a) The earlier of the date the employment that caused the forfeiture and suspension terminates or the date that is two months after the date on which the person's retirement allowance commenced;

(b) The effective date of this section SEPTEMBER 14, 2000.

(2) The ANNUITY PORTION OF THE reelected official's retirement allowance that accumulated to the official's credit pursuant to division (C) of section 145.38 of the Revised Code shall be paid to the official in a single payment as soon as possible after the reelected official elects to cease to be subject to the (C)(1)(b) election.

(3) ANY CONTRIBUTIONS MADE BY THE REELECTED OFFICIAL DURING THE PERIOD OF FORFEITURE SHALL BE LEFT ON DEPOSIT WITH THE SYSTEM AND USED IN THE CALCULATION OF A BENEFIT. AN OFFICIAL MAY CHOOSE TO HAVE THOSE CONTRIBUTIONS USED IN THE CALCULATION OF A SUPPLEMENTAL RETIREMENT ALLOWANCE DESCRIBED IN DIVISION (C) OF SECTION 145.38 OF THE REVISED CODE OR A BENEFIT DESCRIBED IN SECTION 145.384 OF THE REVISED CODE.

(4) For the purpose of division (D) of section 145.38 of the Revised Code, the reelected official shall be treated as a reemployed retirant who made the election under division (C)(1)(a) of section 145.38 of the Revised Code as that division existed immediately prior to the effective date of this section SEPTEMBER 14, 2000."

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