

Sec. 145.40. (A)(1) Subject to the provisions of section 145.57 of the Revised Code and except as provided in section 145.402 of the Revised Code and division (B) of this section, if a member elects to become exempt from contribution to the public employees retirement system pursuant to section 145.03 of the Revised Code or ceases to be a public employee for any cause other than death, retirement, receipt of a disability benefit, or current employment in a position in which the member has elected to participate in an alternative retirement plan under section 3305.05 of the Revised Code, upon application the public employees retirement board shall pay the member the member's accumulated contributions, plus any applicable amount calculated under section 145.401 of the Revised Code, provided that all both the following apply:

(a) Three months have elapsed since the member's public service subject to this chapter, other than service exempted from contribution pursuant to section 145.03 of the Revised Code, was terminated;

(b) The member has not returned to public service subject to this chapter, other than service exempted from contribution pursuant to section 145.03 of the Revised Code, during that three-month period;

(c) ~~The member is not a member of the school employees retirement system or the state teachers retirement system.~~

The payment of such accumulated contributions shall cancel the total service credit of such member in the public employees retirement system.

(2) A member described in division (A)(1) of this section who is married at the time of application for payment and is eligible for age and service retirement under section 145.32, 145.33, 145.331, or 145.34 of the Revised Code shall submit with the application a written statement by the member's spouse attesting that the spouse consents to the payment of the member's accumulated contributions. Consent shall be valid only if it is signed and witnessed by a notary public.

The board may waive the requirement of 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.

(B) This division applies to any member who is employed in a position in which the member has made an election under section 3305.05 of the Revised Code and due to the election ceases to be a public employee for purposes of that position.

Subject to section 145.57 of the Revised Code, the public employees retirement system shall do the following:

(1) On receipt of a certified copy of a form evidencing an election under section 3305.05 of the Revised Code, pay to the appropriate provider, in accordance with section 3305.051 of the Revised Code, the amount described in section 3305.051 of the Revised Code;

(2) If a member has accumulated contributions, in addition to those subject to division (B)(1) of this section, standing to the credit of the member's individual account and is not otherwise employed in a position in which the member is considered a public employee for the purposes of that position, pay, to the provider the member selected pursuant to section 3305.05 of the Revised Code, the member's accumulated contributions. The payment shall be made on the member's application.

(C) Payment of a member's accumulated contributions under division (B) of this section cancels the member's total service credit in the public employees retirement system. A member whose accumulated contributions are paid to a provider pursuant to division (B) of this section is forever barred from claiming or purchasing service credit under the public employees retirement system for the period of employment attributable to those contributions.

EFF!

10-1-02