

Sec. 145.64. (A) As used in this section:

(1) "Plan A" means a plan of payment that is the same as "plan A" as described in section 145.46 of the Revised Code.

(2) "Plan B" means a plan of payment that is the same as "plan B" as described in section 145.46 of the Revised Code.

(3) "Plan F" means a plan of payment that is the same as "plan F" as described in section 145.46 of the Revised Code.

(B) A contributor who has not received a refund of amounts deposited under section 145.62 or the version of division (C) of section 145.23 of the Revised Code as it existed immediately prior to the effective date of this section may file an application with the public employees retirement system for a benefit under this section. The benefit shall consist of an annuity under a plan of payment described in division (A) of this section.

(1) Except as provided in division (B)(2) of this section, a contributor who is married at the time of application for a benefit under this section shall receive the benefit as a monthly annuity under "plan A."

(2) A contributor may receive a benefit under this section under a plan of payment other than "plan A" if one of the following is the case:

(a) The contributor is unmarried;

(b) The benefit application is accompanied by a statement of the spouse's consent to another plan of payment or the public employees retirement board waives the requirement that the spouse consent;

(c) A plan of payment providing for payment in a specified portion of the benefit continuing after the member's death to a former spouse is required by a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding division of marital

property prior to the effective date of the contributor's benefit application.

(3) If a member is subject to division (B)(2)(c) of this section and the board has received a copy of the order described in that division, the board shall accept the member's election of a plan of payment under this section only if the member complies with both of the following:

(a) The member elects a plan of payment that is in accordance with the order described in division (B)(2)(c) of this section.

(b) If the member is married, the member elects "plan F" and designates the member's current spouse as a beneficiary under that plan unless that spouse consents in writing to not being designated a beneficiary or the board waives the requirement that the current spouse consent.

(4) The contributor shall designate the beneficiary or beneficiaries under a plan of payment in writing at the time the plan is selected.

(5) A plan of payment, other than "plan B," shall be effective only if it is certified by an actuary engaged by the board to be the actuarial equivalent of the contributor's "plan B" annuity and is approved by the board.

(6) A contributor who is eligible to select a plan of payment under this section but fails to do so shall receive a monthly annuity under the plan of payment specified in rules adopted by the board.

(C) An annuity shall be paid monthly and consist of an amount determined by the public employees retirement system or the actuarial equivalent of that amount paid under a plan of payment described in this section.

Payments shall begin on whichever of the following applies:

(1) The effective date of the contributor's age and service retirement allowance;

(2) The effective date of a benefit under section 145.384 of the Revised Code;

(3) The date on which a member receiving disability retirement under section 145.36 of the Revised Code would have been eligible for an age and service retirement allowance.

(D) The consent of a spouse to a plan of payment other than "plan A" is valid only if it is in writing, 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.

(E)(1) The death of a spouse or any designated beneficiary shall cancel the portion of an annuity providing continuing lifetime payments to the deceased spouse or deceased designated beneficiary. The contributor shall

receive the actuarial equivalent of the contributor's remaining annuity, as determined by the board, based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary. The change shall be effective the month following receipt by the board of notice of the death.

(2) On divorce, annulment, or marriage dissolution, a contributor receiving an annuity under a plan of payment that provides for continuation of all or part of the annuity after death for the lifetime of the contributor's surviving 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 portion of the plan providing continuing lifetime payments to that spouse. The contributor shall receive the actuarial equivalent of the contributor's annuity as determined by the board based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary. The election shall be made on a form provided by the board and shall be effective the month following its receipt by the board.

(F)(1) Following a marriage or remarriage, both of the following apply:

(a) A contributor who is receiving payments under "plan B" may elect a new plan of payment based on the actuarial equivalent of the contributor's "plan B" annuity as determined by the board.

(b) A contributor receiving an annuity under this section pursuant to a plan of payment providing for payment to a former spouse pursuant to a court order as described in division (B)(2)(c) of this section may elect a new plan of payment under "plan F" based on the actuarial equivalent of the contributor's benefit as determined by the board if the new plan of payment does not reduce the payment to the former spouse.

(2) An election under division (F)(1) of this section must be made not later than one year after the date of the marriage or remarriage.

The plan elected shall become 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 annuity payment shall commence on the first day of the month following the effective date of the plan.

(G) If at the time of death a contributor receiving a monthly annuity under "plan B" has received less than the retirant's deposits under section 145.62 or the version of division (C) of section 145.23 of the Revised Code as it existed immediately prior to the effective date of this section, plus earnings on those deposits, the difference between the amount received and the amount of the contributor's deposits plus earnings shall be paid to the contributor's beneficiary under section 145.65 of the Revised Code. If any

designated beneficiary receiving a monthly annuity under this section dies and at the time of the beneficiary's death the amounts paid to the contributor and the beneficiary are less than the amount of the contributor's deposits plus earnings on those deposits, the difference between the amount received by the contributor and the beneficiary and the amount of the contributor's deposits plus earnings shall be paid to the beneficiary's estate.

(H) Receipt of the first month's annuity payment constitutes final acceptance of the plan of payment and may be changed only as provided in this section.

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