



**H.B. 272**

126th General Assembly  
(As Introduced)

Reps. Schneider, D. Evans, Reidelbach

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**BILL SUMMARY**

**PERS health care coverage**

- Changes the requirement that the Public Employees Retirement System (PERS) pay one half of the premium for hospital coverage equivalent to Medicare Part A for the spouse of a retirant or disability benefit recipient to a requirement that PERS pay a percentage determined by the PERS Board.
- Revises the provisions governing the coordination of PERS health care benefits with other available coverage and specifies the circumstances under which PERS coverage is primary.
- Requires PERS benefit recipients and sponsored dependents to report annually to the PERS Board or its designee on whether health care coverage is available from an employer.
- Makes certain individuals who have coverage available from an employer ineligible for PERS health care coverage.
- Authorizes PERS to establish a medical savings account program within the PERS defined benefit plan.

**PERS defined contribution plans**

- Provides that a new employee who already has funds on deposit with PERS from prior employment is ineligible to participate in a defined contribution plan, instead of applying the ineligibility only to employees with five or more years of PERS service credit.

- Permits a person who terminates employment in all positions subject to PERS and later becomes employed in a position subject to PERS to elect participation in the defined contributions plan only if the person received a refund of PERS contributions following termination of the former positions.
- Excludes from the contributions that may be transferred to a defined contribution plan for the benefit of a member any employer contributions attributable to the member for the period beginning the day the PERS Board first established a defined contribution plan, and provides that PERS will make the transfer only at the request of the member or contributor.
- Revises a provision requiring an elective official who becomes a PERS member on or after January 1, 2003, to elect whether to participate in a PERS defined contribution plan to do the following: (1) require the official to make the election within 180 days after membership in the system begins (not after applying for membership), (2) prohibit an election if the elected official previously made an election of this nature, and (3) create an exception to the general irrevocability of the election.
- Authorizes PERS defined contribution plan administrative expenses to be paid from the Defined Contribution Fund.

**Calculating full-time service**

- For calendar year 2007, increases to \$450 (from \$250) the amount a PERS member must earn in a month to receive full credit for that month. In each year thereafter, increases the amount based on increases in the cost of living.

**Credit for Cincinnati Retirement System service**

- Includes credit transferred or purchased from the Cincinnati Retirement System in the calculation of a member's years of service credit in determining eligibility for an enhanced refund of contributions under the PERS defined benefit plan.

**Employer contributions**

- Eliminates the option permitting an employer to pay the employer's obligation under the PERS law in installments that are less frequent than

monthly, but permits the PERS Board to lengthen the period of time for employers to comply with the employer obligation provisions.

- Revises the methods by which penalties and interest for late payment of the employer's obligation are calculated, authorizes the PERS Board to establish lesser penalties and interest rates, and permits the Board to enter into repayment agreements for employers to comply with the employer obligation provisions.
- Enacts transitional provisions regarding the employer obligation due under the revised employer obligation provisions for the months of October, November, and December of 2005 under which the employer may spread the transitional liability over three years.

#### **Purchase of an additional annuity**

- Revises the provision relating to making additional deposits to purchase an additional annuity to do all of the following: (1) permit payments to be made through payroll deduction, (2) specify the date on which payments begin, and (3) require the additional deposits to be refunded on withdrawal of accumulated contributions or death prior to retirement or on application under certain circumstances.
- Specifies the payment plans an additional annuity contributor may choose from, requires spousal consent for the selection of certain payment plans, and provides for changes in the payment plan due to specified changes in circumstances.
- Accounts for the disposition of the additional deposits a contributor has made if the contributor dies before commencement of benefits.

#### **Law enforcement officers**

- Creates in PERS a category to be known as PERS Public Safety Officers consisting of Hamilton County Municipal Court bailiffs and law enforcement officers whose primary duties are other than to preserve the peace, protect life and property, and enforce Ohio laws, but does not change eligibility for retirement under law enforcement officer provisions.
- Authorizes PERS law enforcement officers who meet certain age and service credit criteria as law enforcement officers to elect to have service

credit as a law enforcement officer used in calculating a benefit under the PERS law enforcement benefit provisions and credit for all service other than law enforcement used in calculating a benefit consisting of a single life annuity having a reserve equal to the amount of the member's accumulated contributions and an equal amount of employer contributions.

- Provides that the employee contribution rate for PERS law enforcement officers is to be the rate for public safety officers, which is set by the PERS Board (and is currently 9%), plus 1.1%, instead of the current statutorily established rate of 10.1% of the employees earnable salary.
- Requires a member participating in a PERS defined contribution plan at the time of commencing employment as a PERS law enforcement officer or PERS public safety officer to cease making contributions to that plan and permits such a member with contributions standing to the member's credit in a PERS defined contribution plan to have those contributions deposited and credited in the PERS defined benefit plan.

#### **Re-employed retirant annuity**

- Provides that if a retirant fails to designate a beneficiary for the annuity, statutorily designates as the beneficiary the beneficiary determined under the provisions governing the PERS defined benefit plan or the PERS defined contribution plan.
- Permits unclaimed benefits to remain in the Employees' Savings Fund.

#### **Contributions of member who dies before retirement**

- Permits the PERS Board to keep a deceased member's accumulated contributions that are not timely claimed in the Employees' Savings Fund.

#### **Expenses of PERS administration**

- Replaces a provision that requires contributors be charged a fee, not to exceed \$3, for the administration of PERS in the event that the Income Fund does not have an excess adequate to cover the expenses of PERS administration with a provision permitting the PERS Board to transfer amounts needed from the Employers' Accumulation Fund.

**Forfeited contributions**

- Permits any accumulated contributions forfeited by failure of a member, or a member's estate, to claim the contributions, to be kept in the Employees' Savings Fund.

**Delinquent contributions**

- Specifies that delinquent contributions paid by an employer are to be credited to the Employers' Accumulation Fund, except that, if the employee participates in a PERS defined contribution plan, those amounts may be credited to the Defined Contribution Fund.
- Shortens the period before which an employer who receives a delinquent contribution statement becomes subject to penalties and interest from 90 days after the end of the quarterly period in which the payments become the employer's obligation to 30 days after the end of the month in which the payments become an obligation.

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## CONTENT AND OPERATION

### *Background--PERS plans*

The Public Employees Retirement System (PERS) offers three plans under which members and their employers contribute toward members' future benefits: the defined benefit plan and two defined contribution plans.

The plan that has been in existence the longest and covers most members is identified in statute as the "PERS defined benefit plan"<sup>1</sup> and is designated by PERS as the "Traditional Plan." Under the defined benefit plan, with limited exceptions, a member receives a retirement benefit based on age, years of service, and the member's "final average salary."<sup>2</sup> This plan also provides for disability

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<sup>1</sup> *Revised Code (R.C.) section 145.01.*

<sup>2</sup> *Final average salary is generally determined by dividing the member's three highest years of salary by three (R.C. 145.01).*

and survivor benefits specified in the Revised Code and may include health care coverage.<sup>3</sup>

PERS is authorized to also establish one or more plans consisting of benefit options that provide individual accounts for each participating member. Plans established under this authority are referred to in statute as "PERS defined contribution plans."<sup>4</sup> PERS has established two defined contribution plans: the Member Directed Plan and the Combined Plan. Participation in these plans is open only to PERS members who had less than five years of PERS service on December 31, 2002, or became employed in covered positions after that date. For persons who were PERS members on December 31, 2002, the election to participate in a defined contribution plan had to be made by June 30, 2003. Persons beginning employment after that date have 180 days to elect to participate. A person who does not make an election remains in the PERS defined benefit plan.

Under the Member Directed Plan, employee and employer contributions are deposited in the member's individual PERS account and invested as directed by the member. The benefit is based on the performance of the investment options the member selects. This plan does not include disability or survivor benefits, but the vested portion of the member's account is available in the event of disability or may be paid to survivors. A portion of the employer's contribution is accumulated in an individual retiree medical account for qualified health care expenses.

The Combined Plan differs from the Member Directed Plan in that the member directs only the investment of the employee contributions. Investment of the employer contributions is directed by PERS. The other difference is that disability, survivor, and health care benefits are provided to the same extent as under the PERS defined benefit plan.

**COMMENT 1** compares the features of the three plans.

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<sup>3</sup> *PERS is authorized, but not required, to enter into contracts for health, medical, hospital, or surgical benefits. To be eligible, a retiree must have at least ten years of qualifying service. (R.C. 145.58.) Under a plan to be implemented by PERS in 2007, the portion of the cost of coverage that will be paid for by PERS will vary depending on length of service at retirement. The plan is described by PERS in Health Care Preservation Plan, September 9, 2004, [www.OPERS.org](http://www.OPERS.org), visited 3/10/05.*

<sup>4</sup> R.C. 145.01.

## *PERS health care coverage*

### *Medicare Part A-equivalent coverage*

(R.C. 145.325)

Under current law governing the defined benefit plan, PERS is required to make hospital insurance benefits available to any retirant or disability benefit recipient receiving a monthly allowance or benefit who is age 65 or older and not eligible for hospital insurance benefits under Medicare (Medicare Part A). PERS must also extend this coverage to a spouse, widow, or widower who meets the same criteria. One-half of the premium for the spouse's benefit is to be paid by PERS and one-half by the retirant or disability benefit recipient. The bill changes the amount of the premium for the spouse's benefit to be paid by PERS to an amount determined by the PERS Board. The retirant or recipient must pay the remainder of the premium.

### *Coordination of PERS health care coverage*

(R.C. 145.58(D))

Current law governing the defined benefit plan authorizes the PERS Board to enter into agreements for the issuance of a policy or contract of health, medical, hospital, or surgical benefits, or any combination thereof, for those recipients of age and service retirement or a disability or survivor benefit who subscribe to the plan. The policy or contract may include coverage for the recipient's spouse and dependant children and for any "sponsored dependents."<sup>5</sup>

The Board is authorized by current law to establish by rule requirements for the coordination of any health care coverage, payment, or benefit made available to the same recipient by another of the state's retirement systems.<sup>6</sup> The bill expands the coordination of benefits provisions by specifying that the rules must provide the following:

(1) In the case of a recipient of an age and service retirement or a disability or survivor benefit, the PERS coverage will pay medical expenses prior to

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<sup>5</sup> *The bill defines "sponsored dependent" as a spouse, dependent child, or, as the PERS Board considers appropriate, another dependent of the person. Consequently, in the bill, this provision refers simply to "sponsored dependent."*

<sup>6</sup> *The other retirement systems are the Ohio Police and Fire Pension Fund, School Employees Retirement System, State Teachers Retirement System, and State Highway Patrol Retirement System.*

payment under any coverage available from a source other than PERS if the available coverage<sup>7</sup> requires coordination with PERS coverage and is provided to the recipient as the spouse or dependent of another person.

(2) PERS coverage will pay only medical expenses not paid by any available coverage if any of the following apply:

(a) The available coverage does not require coordination with PERS coverage.

(b) In the case of a recipient of an age and service retirement or disability or survivor benefit, the available coverage requires coordination with PERS coverage, is not provided as a spouse or dependent of another person, and has been in effect for a longer time than the coverage under the PERS law.

(c) In the case of a sponsored dependent, the available coverage requires coordination with PERS coverage and either (i) is not provided as the spouse or dependent of another person or (ii) is provided as the spouse or dependent of another person but has been in effect for a longer time than the PERS coverage.

Each person who has PERS coverage as a recipient of age and service retirement or a disability or survivor benefit and each sponsored dependent must annually make a report to the PERS Board or an entity designated by the Board stating whether the recipient or dependent has available coverage. The report must include any information requested by the Board or entity.

### **Employer coverage**

(R.C. 145.58(B) and conforming changes in 145.01(D) and 145.38(D))

Under current law, a PERS retiree who is re-employed by a public employer<sup>8</sup> is to receive primary health, medical, hospital, or surgical insurance coverage from that employer, if the employer provides coverage to employees performing comparable work. This coverage may not be waived unless the retiree has comparable coverage from a source other than the employer or PERS. The bill relocates this provision from the re-employed retiree section (R.C. 145.38) to the health care coverage section (R.C. 145.58).

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<sup>7</sup> The bill defines "available coverage" as coverage from a source other than the PERS coverage authorized by current law.

<sup>8</sup> A public employer is an employer subject to PERS.

The bill establishes similar limitations for individuals who are employed by employers not subject to PERS. It provides that an individual who is (1) a recipient of a disability or survivor benefit, (2) a PERS retirant not re-employed by a public employer, or (3) a sponsored dependent of a retirant or disability benefit recipient is not eligible to receive primary health, medical, hospital, or surgical insurance coverage from PERS if the individual is employed and coverage is available through the employer.<sup>9</sup> Benefits provided under PERS are to pay only those medical expenses, or the portion of medical expenses, not payable from coverage available through the employer. Each individual subject to this provision must annually make a report to the Board or an entity designated by the Board stating whether health coverage is available to the individual through the public or private employer.

**Additional health care coverage limitations**

(R.C. 145.58(E))

The bill provides that the Board's rules on health care coverage may establish additional limitations on the coverage available to recipients, retirants, and sponsored dependents or provide for exceptions to the requirements specified in the bill.

**Medical savings accounts**

(R.C. 145.294(A), 145.583, and 145.83)

Current law authorizes PERS to establish a medical savings account program within a PERS defined contribution plan. A member participating in the plan may be required to accumulate in the account funds for health, medical, hospital, surgical, dental, or vision care expenses, including insurance premiums, deductible amounts, or co-payments.<sup>10</sup> To implement the program, the PERS Board may enter into agreements with insurance companies or other entities authorized to conduct business in Ohio.

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<sup>9</sup> "Employer" under the bill means a public or private entity that acts as an employer. "Employer" is not limited to the general PERS law definition of "employer," which means a public employer.

<sup>10</sup> The program may be a voluntary employees' beneficiary association, as described in Internal Revenue Code section 501(c)(9); a medical savings account; or a similar type of program under which an individual may accumulate funds for the purpose of paying certain health care expenses.

The bill extends this authorization to include establishment of a medical savings account program within the PERS defined benefit plan. Under the bill, the PERS defined benefit plan or a PERS defined contribution plan may include a medical savings account program under which a member participating in the plan or a member's employer is permitted to make additional deposits for the purpose of providing funds to the member or retiree for the payment of those health care expenses.<sup>11</sup> As with current law, to implement the medical savings account program, the PERS Board may enter into agreements with insurance companies or other entities authorized to conduct business in Ohio. If either the PERS defined benefit plan or a PERS defined contribution plan includes a medical savings account program, the PERS Board must adopt rules to establish and administer the program. The bill also expands the Board's existing authority to establish a payroll deduction plan to permit medical savings account plan deposits through payroll deduction.

### **PERS defined contribution plans**

#### **Eligibility and election**

(R.C. 145.19(D)(3) and 145.193)

The PERS Board first established a defined contribution plan on January 1, 2003. Since that date, with certain exceptions, an individual who becomes employed in a position covered by PERS has 180 days from the date of employment to elect to participate in a defined contribution plan. A member who does not make an election is deemed to have elected to participate in the defined benefit plan.

One exception in current law is that a member who previously contributed to PERS is not eligible to participate in a defined contribution plan if, as of the last day of the month prior to the date employment began, the member had five or more years of PERS service credit. The bill changes this exception to instead exclude any member who has contributions standing to the member's credit with PERS.<sup>12</sup>

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<sup>11</sup> Like the medical savings account plan that may be established under existing law, the program may be a voluntary employees' beneficiary association, as described in Internal Revenue Code section 501(c)(9); a medical savings account; or a similar type of program under which an individual may accumulate funds for the purpose of paying certain health care expenses.

<sup>12</sup> This would be the case if the member had left employment covered by PERS without retiring or requesting a return of contributions.

Under existing law, a member who terminates employment in all positions covered by PERS and later becomes employed in a PERS covered position may elect to participate in a defined contribution plan. The bill adds the additional requirement that the member has received a refund of the member's contributions for the earlier service.

**Transfer of contributions**

(R.C. 145.191(C) and (D) and 145.23(C))

A member or contributor<sup>13</sup> who had less than five years of service credit when PERS first offered a defined contribution plan (January 1, 2003) was permitted to transfer from the defined benefit plan to a defined contribution plan. On receipt of the member's election to transfer, current law requires PERS to credit to the defined contribution plan both the member's employee contributions and any employer contributions attributable to the member for the period beginning on the day the PERS Board first established a defined contribution plan. The bill requires PERS to make the transfer only at the request of the member and limits the contributions transferred to the employee contributions standing to the credit of the member in the Employees' Savings Fund (the employer contributions may no longer be transferred).<sup>14</sup>

**Elective officials**

(R.C. 145.20(A))

Under current law, state and local government officials holding elective office may join PERS, but are not required to do so. An elective official who becomes a PERS member on or after January 1, 2003 (the date PERS first established a defined contribution plan), is required, within 180 days after applying for PERS membership, to make an election of whether to participate in a defined contribution plan. The election is effective as of the date the official applies for PERS membership and is irrevocable on receipt by the system.

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<sup>13</sup> "Member" is defined in current law as a public employee covered by PERS or a disability benefit recipient. "Contributor" is defined as a person who has an account in the PERS Employee Savings Fund or, for certain purposes, is a participant in a defined contribution fund (R.C. 145.01).

<sup>14</sup> Since the deadline for making this election was June 30, 2003, and PERS was required to credit the contributions on receipt of the election, the intent and effect of this provision is not clear.

Under the bill (1) the official must make the election within 180 days after PERS membership begins (instead of "after applying for membership") and the election is effective as of that date, (2) no election may be made if the official has already made an election regarding participation in a PERS defined contribution plan, and (3) while the election generally remains irrevocable, the official may, in circumstances applicable to all PERS members, elect to participate in a different defined contribution plan or in the PERS defined benefit plan.

**Application of Revised Code provisions**

(R.C. 145.82(B))

The law governing the PERS defined benefit plan generally does not apply to a PERS defined contribution plan, although a defined contribution plan can incorporate provisions of that law as specified in the plan document. But certain PERS provisions do apply to a PERS defined contribution plan, including a provision dealing with employment of a retirant in a position appointed by the Governor with the advice and consent of the Senate and provisions regulating how a member who holds more than one PERS position can retire from one position and continue to contribute to PERS for another (R.C. 145.383). Under the bill, these provisions no longer automatically apply to a defined contribution plan, but a PERS defined contribution plan can still incorporate them as specified in the plan document.

Provisions added to the bill concerning transitional liability for payment of employee contributions to PERS (R.C. 145.52 and 145.53) apply to the defined contribution plans (see "**Transitional provisions**," below).

**Fund into which employer contributions are credited**

(R.C. 145.23(B) and (G))

PERS is required to maintain a number of funds for specified purposes, including accumulation of contributions and payment of benefits. Under existing law, employee and employer contributions for participants in a PERS defined contribution plan, together with any earnings, are accumulated in the Defined Contribution Fund. The bill permits these employer contributions to be accumulated in either the Defined Contribution Fund or the Employers' Accumulation Fund.

**Fund from which benefits are paid**

(R.C. 145.23(C) and (G))

Under existing law, benefits provided under a PERS defined contribution plan are to be paid from the Defined Contribution Fund. The bill provides that if the reserves have been transferred for that purpose, benefits payable under a defined contribution plan may be paid from the Annuity and Pension Reserve Fund.

**Expenses for administration of a defined contribution plan**

(R.C. 145.23(E) and (G))

Existing law specifies that the Expense Fund is the fund from which the expenses of administering the retirement system are paid, exclusive of amounts payable as retirement allowances and as other benefits. The bill permits the expenses for administration of a PERS defined contribution plan to be paid from the Defined Contribution Fund.

**Calculating full-time service**

**Current law**

(R.C. 145.01(T))

Under current law, credit for less than full-time service in PERS is calculated under the definition of "contributing service." "Contributing service" means all service credited to a PERS member for which contributions are made as required by the law governing PERS. Credit for service is allowed by the following formula:

(1) For each month for which the member's earnable salary<sup>15</sup> is \$250 or more, one month's credit.

(2) For each month for which the member's earnable salary is less than \$250, a fraction of a month's credit.<sup>16</sup>

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<sup>15</sup> "Earnable salary" means salary, wages, and other earnings paid a member for employment covered by PERS. "Earnable salary" does not include benefits such as life and health insurance and amounts paid in lieu of benefits (R.C. 145.01).

<sup>16</sup> The fraction is determined by dividing the member's earnable salary during the month by \$250. But, if the member's annual earnable salary is less than \$600, the member's credit cannot be reduced below 20% of a year for a calendar year of employment during

### The bill

(R.C. 145.01(T) and 145.016)

The bill establishes a new formula for determining contributing service after December 31, 2005, and relocates the existing formula provisions to new R.C. 145.016. Under the bill, for service after December 31, 2005, credit for contributing service is to be allowed in accordance with the following:

(1) In 2006, the amount that must be earned to receive a full month's credit is \$450.

(2) For each calendar year after 2006, the amount that must be earned to receive a full month's credit is the prior year's amount plus an amount determined by multiplying the prior year's amount by the average wage index,<sup>17</sup> rounded up to the next dollar, for the most recent year for which information is available on January 1 of the year for which the sum is being calculated.<sup>18</sup>

Generally, for each month that the member's salary is less than the monthly amount required in that year, a fraction of a month's credit is to be allowed. The fraction is to be determined by dividing the earnable salary for the month by the monthly amount in that year. The bill provides that this provision cannot reduce any credit earned before January 1, 2006.

If a member's annual earnable salary for calendar year 2006 is less than \$1,080, the bill prohibits the member's credit from being reduced below 20% of a year for a calendar year of employment during which the member worked each month. The \$1,080 amount is to be adjusted annually on the basis of the average wage index.

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*which the member worked each month. Also, this provision cannot reduce any credit earned before January 1, 1985. (R.C. 145.01.)*

<sup>17</sup> *The average wage index is calculated by the Social Security Administration and is based on wages subject to federal income taxation and contributions to deferred compensation plans. It is described in 20 Code of Federal Regulations 404.272.*

<sup>18</sup> *For example, if the average wage index for 2005 was 2% and was used to determine the 2007 amount, the 2007 amount would be \$450 plus 2% of \$450 (\$9) or \$459.*

### *Credit for Cincinnati Retirement System service*

(R.C. 145.401(A)(2), and R.C. 145.2911 and 145.40--not in the bill)

Under current law, a member participating in the defined benefit plan who ceases to be a member and receives a refund of accumulated contributions is entitled to an additional amount based on years of service credit, if the member has at least five years total service credit earned, purchased, or transferred. The bill allows service credit as a member of the Cincinnati Retirement System to be used in the calculation of the member's years of PERS service credit for this purpose.

### *Employer contributions*

#### *Existing law*

(R.C. 145.51)

Under existing law, employers must pay employer contributions to PERS in such monthly *or less frequent* installments as the PERS Board requires. Ninety days after the end of a quarterly period, any amounts that remain unpaid are subject to a 5% penalty for late payment. In addition, interest on past due amounts and penalties may be charged at a rate set by the PERS Board.

#### *The bill*

*General provisions* (R.C. 145.51). The bill changes the period within which the payments must be made and the penalties for failing to make timely payments. While the bill eliminates the option of making the payments in installments that are less frequent than monthly, it permits the Board to adopt rules permitting the Board to lengthen the periods of time for employers to comply with the employer obligation provisions.

Generally, the bill requires that all employer obligations be received by PERS not later than the 30th day after the last day of the calendar month for which related member contributions are withheld. Unless the Board adopts a rule establishing a different interest rate or penalty, interest and penalties for failing to pay this obligation when due are as follows:

(1) Interest, compounded annually and charged monthly, for each day after the due date that the employer obligation remains unpaid in an amount equal to 6% per annum of the past due amount of the obligation and any penalties imposed;

(2) The penalty for failing to pay the employer obligation when due is as follows: (a) at least 11 but not more than 30 days past due, an amount equal to 1%

of the past due obligation, (b) at least 31 but not more than 60 days past due, an additional amount equal to 1.5% of the past due obligation (or a total penalty of 2.5%), and (c) 61 or more days past due, an additional amount equal to 2.5% of the past due obligation (or a total penalty of 5%).

The bill authorizes the PERS Board to adopt rules to establish interest at a rate that does not exceed the statutory annual rate and establish penalties in amounts that do not exceed the statutory amounts. The bill also permits the Board to enter into repayment agreements for employers to comply with the employer obligation provisions.

**Transitional provisions** (R.C. 145.52 and 145.53 and a conforming change in R.C. 145.82). The bill enacts special provisions regarding the employer obligation due under the revised employer obligation provisions for the months of October, November, and December of 2005. This "transitional liability" is payable in three installments on or before December 31, 2006 (for the October, 2005, transitional liability), December 31, 2007 (for the November, 2005, transitional liability), and December 31, 2008 (for the December, 2005, transitional liability). Interest and penalties for failing to pay amounts when due under these transitional provisions is to be calculated in accordance with the bill's revised interest and penalty provisions.

From the employer obligation relating to defined contribution plans for the month of February, 2006, an amount equal to the portion of the employer obligation for the months of October, November, and December of 2005, must be credited to the PERS defined contribution plan to satisfy the portion of the transitional liability attributable to defined contribution plan employer contribution provisions. When this amount is credited to the PERS defined contribution plan, an equal amount must be added to the transitional liability to satisfy a portion of the February, 2006 employer obligation that is attributable to the PERS defined benefit plan. This amount must be paid as described in the preceding paragraph and must be prorated to correspond with the portion of the transitional liability due.

### **Purchase of an additional annuity**

#### **Current law**

(R.C. 145.23(C))

Current law permits any member participating in the PERS defined benefit plan to voluntarily deposit in the PERS Employees' Savings Fund amounts in addition to required employee contributions. At the time of age and service retirement, the member receives in return for those additional amounts either an

annuity having a reserve equal to the amount deposited or a cash refund with such interest as the PERS Board allows. The additional deposits and interest must be refunded in the event of death prior to retirement, withdrawal of accumulated contributions, or on application of the contributor prior to retirement. Current law specifies how interest is earned and requires the PERS Board to credit interest at the end of the calendar year in which it is earned. Any additional deposits made by a member participating in a PERS defined contribution plan must be credited to that defined contribution plan.

**The bill--making additional payments**

(R.C. 145.23(C), 145.294(A), 145.62, 145.63, and 145.64 and conforming changes in R.C. 145.471(A), and 145.472(A))

The bill relocates and revises the additional annuity provisions of current law. Under the bill, subject to rules adopted by PERS, a contributor participating in the PERS defined benefit plan or contributing as a result of being a re-employed retirant may deposit additional amounts in the Employees' Savings Fund. The additional deposits may be made either directly to PERS or by payroll deduction. In return, the contributor is to receive either an annuity having a reserve equal to the amount deposited or a refund of the amount deposited, together with earnings on those deposits as the PERS Board determines appropriate.

**Refunds.** If the annuity under the plan of payment selected by the contributor would be less than \$25 per month, the contributor must be paid the refund.

Deposits, together with earnings, must be refunded under any of the following circumstances:

- (1) Withdrawal of accumulated contributions following termination of employment covered by PERS;
- (2) Death prior to retirement;
- (3) In the case of a contributor participating in the PERS defined benefit plan, on application prior to attaining eligibility for age and service retirement;
- (4) In the case of a contributor who is a re-employed retirant, on application prior to attaining eligibility for a benefit;
- (5) In the case of an unmarried contributor who has attained eligibility for an age and service retirement benefit or a benefit payable to a re-employed retirant, on application;

(6) In the case of a married contributor who has attained eligibility for an age and service retirement benefit or a benefit payable to a re-employed retirant, on application if the application is accompanied by a statement of the spouse's consent to the refund or the Board waives the requirement that the spouse consent.<sup>19</sup>

**Annuities.** A contributor who has not received a refund of amounts deposited may file an application with PERS for an annuity under a plan of payment similar to those offered for age and service retirement benefits.

A contributor who is married at the time of application for a benefit will receive a monthly annuity under "Plan A,"<sup>20</sup> unless the application is accompanied by a statement of the spouse's consent to another plan or the PERS Board waives the requirement that the spouse consent.<sup>21</sup>

The contributor must designate a beneficiary under a plan of payment in writing at the time the plan is selected.

A plan of payment other than "Plan B"<sup>22</sup> is 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. A contributor who is eligible to select the form of benefit, but fails to do so, receives a monthly annuity under the plan of payment specified in rules adopted by the Board.

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<sup>19</sup> *The consent of a spouse to a refund is valid only if it is in writing, signed, and witnessed by a notary public. The Board may waive a requirement of consent if the spouse is incapacitated or cannot be located or for any other reason the Board specifies. Consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.*

<sup>20</sup> *"Plan A" is a monthly amount payable for life to the contributor with an amount equal to one half that amount continuing after the contributor's death to the surviving spouse for the spouse's life. The monthly amount paid the contributor is less than it would be if the annuity were paid only for the contributor's life.*

<sup>21</sup> *As with refund applications, the spouse's consent must be in writing, signed, and witnessed by a notary public. The Board may waive the consent requirement if the spouse is incapacitated or cannot be located, or for any other reason the Board specifies. Consent or waiver is effective only for the spouse who is the subject of the consent or waiver.*

<sup>22</sup> *"Plan B" is a single life annuity under which the contributor receives a specified amount monthly for life.*

An annuity is paid monthly and consists of an amount determined by PERS or the actuarial equivalent of that amount paid under another permissible plan of payment. Payments 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 paid to a re-employed retirant, or (3) the date on which a member receiving disability retirement would have been eligible for an age and service retirement allowance.

The death of a spouse or designated beneficiary under a plan of payment cancels the plan of payment. Effective the month following receipt by the Board of notice of the death, the contributor is to receive payments under "Plan B."

On divorce, annulment, or marriage dissolution, a contributor may, with written consent of the spouse or pursuant to an order of the court with jurisdiction over the termination of the marriage, elect to cancel a plan and instead receive payments under "Plan B." The election must be made on a form provided by the system and is effective the month following its receipt by the system. Following marriage or remarriage, a contributor receiving payments under "Plan B" may select a new plan of payment based on the actuarial equivalent of the contributor's Plan B, as determined by the PERS Board. The plan becomes effective the first day of the month following receipt by the system of an application on a form provided by the system.

If at the time of death a contributor receiving a monthly annuity under "Plan B" has received less than the contributor's deposits plus earnings on those deposits, the difference between the amount received and the amount of the contributor's deposits plus earnings must be paid to the contributor's beneficiary. If a beneficiary receiving a monthly annuity 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 must be paid to the beneficiary's estate.

Receipt of the first month's annuity payment constitutes final acceptance of the plan of payment and may be changed only as provided above.

*The bill--death of contributor before commencement of annuity*

(R.C. 145.65)

Should a contributor die before commencement of an annuity or other benefit from the additional deposits,<sup>23</sup> the additional deposits plus earnings must be paid to the person or persons the contributor has designated.<sup>24</sup> If the deposits of a deceased contributor are not claimed by a beneficiary or by the estate of the deceased contributor within five years after the death, the deposits must remain in the Employees' Savings Fund or may be transferred to the Income Fund and thereafter must be paid to the beneficiary or to the contributor's estate on application to PERS. The bill requires the PERS Board to adopt the necessary rules governing all designations of beneficiaries.

If the deceased contributor is not survived by a designated beneficiary, the following qualify with all attendant rights and privileges, in the following order of precedence, the contributor's: (1) surviving spouse, (2) children, share and share alike, (3) parents, share and share alike, and (4) estate. If a beneficiary under this provision is deceased or is not located within 90 days, the beneficiary ceases to qualify for any benefit and the beneficiary next in order of precedence qualifies as a beneficiary. Any payment made to a beneficiary as determined by the PERS Board constitutes a full discharge and release to the Board from any future claims.

If the validity of a marriage cannot be established to the satisfaction of the Board for the purpose of disbursing any amount due in regard to the additional deposits, the Board may accept a decision rendered by a court having jurisdiction in the state in which the contributor was domiciled at the time of death that the relationship constituted a valid marriage at the time of death, or the "spouse" would have the same status as a widow or widower for purposes of sharing the distribution of the contributor's intestate personal property.<sup>25</sup>

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<sup>23</sup> *Payments begin on the effective date of the contributor's age and service retirement or disability benefit or the effective date of a lump sum benefit paid to a contributor who is a re-employed retirant (R.C. 145.62).*

<sup>24</sup> *The designation must be in writing, duly executed on a form provided by PERS, signed by the contributor, and filed with PERS prior to the contributor's death. A contributor may designate two or more persons as beneficiaries to be paid jointly. The last designation of any beneficiary revokes all previous designations. The contributor's marriage, divorce, marriage dissolution, legal separation, or refund, or the birth of the contributor's child, or adoption of a child, constitutes an automatic revocation of the contributor's previous designation.*

<sup>25</sup> *Intestate personal property is personal property that is not disposed of by a will.*

If the death of a contributor or of any individual who by virtue of the death of a contributor would be eligible to receive a refund or an annuity payment from additional deposits is caused by a beneficiary, no amount due to that beneficiary may be paid to that beneficiary in the absence of a court order to the contrary filed with the Board.

### **Law enforcement officers**

#### **Background**

PERS has special provisions for members who are law enforcement officers. Under these provisions members with sufficient qualifying service may retire earlier than other PERS members and will receive a benefit calculated under a different benefit formula (see **COMMENT 2**). These law enforcement officers include a range of state, county, and township officers who, if they have 25 years of law enforcement service, qualify for full retirement at age 48 or 52, depending on the nature of their service. Those whose primary duties for all 25 years are preservation of the peace, protection of life and property, and enforcement of the law qualify at age 48; other law enforcement officers qualify at age 52. The employer and employee contribution rates for law enforcement officers are higher than those for other PERS members.

The bill makes no changes in retirement eligibility, but makes clearer in statute which officers can retire at age 48 and which are not eligible to retire until age 52.

#### **Definition of "PERS law enforcement officer" and "PERS public safety officer"**

(R.C. 145.01 and 145.33 and conforming changes in R.C. 145.19, 145.191, 145.193, and 145.35)

Existing provisions in the PERS law apply to PERS members in the law enforcement division and to Hamilton County Municipal Court bailiffs. These distinct provisions include provisions regarding (1) retirement eligibility and calculation of benefits and (2) eligibility to participate in a defined contributions plan. The bill creates a new category: "PERS public safety officers," consisting of Hamilton County Municipal Court bailiffs and members in law enforcement related positions whose primary duties are other than to preserve the peace, protect life and property, and enforce Ohio laws.<sup>26</sup> The bill retains the term "PERS law

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<sup>26</sup> Neither existing law nor the bill specifies how this distinction is made. It appears, however, that the employer determines which officers have as their primary duties preserving the peace, protecting life and property, and enforcing Ohio laws.

enforcement officer" for members eligible to retire at age 48 and uses "PERS public safety officer" for those eligible to retire at age 52. It does not change eligibility for retirement.

Thus, under the bill, "PERS law enforcement officer" means a sheriff, *or any of the following whose primary duties are to preserve the peace, protect life and property, and enforce Ohio laws* (italicized language is that added by the bill): a deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the mentally retarded and developmentally disabled, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer.

The bill defines "PERS public safety officer" as a Hamilton County Municipal Court bailiff, or any of the following whose primary duties are *other than to preserve the peace, protect life and property, and enforce Ohio laws*: a deputy sheriff, township constable or police officer in a township police department or district, drug agent, Department of Public Safety enforcement agent, Department of Natural Resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the mentally retarded and developmentally disabled, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer.

#### **Eligibility for age and service retirement**

(R.C. 145.33(B) and (E) and a conforming change in R.C. 145.49)

Under existing law, a member who meets the conditions described below may apply for an age and service retirement benefit under the law enforcement provisions:

(1) The member has attained age 48 and has at least 25 years of total service credit as a PERS law enforcement officer whose primary duties were to preserve the peace, protect life and property, and enforce the laws in the member's jurisdiction;

(2) The member has attained age 52, and has at least 25 years of total service credit as a PERS law enforcement officer, but the member's primary duties were *other than* to preserve the peace, protect life and property, and enforce the laws in the member's jurisdiction;

(3) The member has attained age 52 and has at least 25 years of total service as a Hamilton County Municipal Court bailiff;

(4) The member has attained age 62 and has at least 15 years of total service credit as either a PERS law enforcement officer or a Hamilton County Municipal Court bailiff.

The bill consolidates the preceding provision by using the terms "PERS law enforcement officer" and "PERS public safety officer," thereby replacing the distinction between (1) PERS law enforcement officers whose primary duties were to preserve the peace, protect life and property, and enforce the laws in the member's jurisdiction who may retire at age 48 and (2) those PERS law enforcement officers whose duties did not meet this standard and Hamilton County Municipal Court bailiffs who may not retire with full benefits until age 52. The bill also clarifies the retirement eligibility of a member with 25 years of service that was partly as a PERS public safety officer and partly as a PERS law enforcement officer. In such a case, the member must be age 52 to retire with full benefits.

### **Employee contribution rates**

(R.C. 145.49)

PERS employee contribution rates are established separately for law enforcement officers and other members.<sup>27</sup> The rate for a law enforcement officer who must be age 52 to retire with full benefits is set by the PERS Board and is currently 9% of earnable salary. The rate for a law enforcement officer eligible to retire with full benefits at age 48 is set in statute at 10.1% of earnable salary. The bill would provide that employee contribution rate for law enforcement officers eligible for full benefits at age 48 is the rate established by the board for those not eligible for full benefits until age 52, plus 1.1%. This would not change the

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<sup>27</sup> *The employee contribution rate for members who are not law enforcement officers currently is 8.5% of earnable salary, but PERS plans to phase in an increase to 10% by 2008. Contribution rates are listed at [www.opers.org/employers/reftables/index.shtml](http://www.opers.org/employers/reftables/index.shtml).*

current rates, but would cause both rates to increase if the Board raised the rate for those not eligible for full benefits until age 52.<sup>28</sup>

### **Defined contribution plans**

(R.C. 145.19(D)(5), 145.191(F)(2), 145.193(A) and (B), and 145.194)

Under existing law, PERS members in the law enforcement division and Hamilton County Municipal Court bailiffs are not eligible to participate in a PERS defined contribution plan. The bill makes clear that PERS members in the public safety officer category are also not eligible to participate in a defined contribution plan.

And, under the bill, a member participating in a PERS defined contribution plan at the time of commencing employment as a PERS law enforcement officer or PERS public safety officer is required to cease making contributions to that plan. During employment as a PERS law enforcement officer or a PERS public safety officer and any concurrent employment in a position covered by PERS, the member may contribute only to the PERS defined benefit plan. Such a member with contributions standing to the member's credit in a PERS defined contribution plan may elect to have those contributions deposited and credited in the PERS defined benefit plan.

### **Re-employed retirants**

#### **Re-employed retirant annuity**

(R.C. 145.384 and 145.386 and a conforming change in 145.385)

Under existing law, a retirant must make contributions while re-employed in a PERS covered position and will receive a benefit on termination of that re-employment. The benefit consists of an annuity having a reserve equal to the amount of the retirant's accumulated contributions for the period of re-employment and an equal amount of the employer's contributions.

The bill moves provisions regulating beneficiary designation by re-employed retirants from R.C. 145.384 to a separate section, R.C. 145.386 and revises those provisions. Existing law authorizes a PERS retirant or other system retirant re-employed under the PERS law's re-employed retirant provisions to designate one or more persons as beneficiary to receive any benefits payable due to death; the bill instead authorizes the re-employed retirant to designate one or

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<sup>28</sup> *If PERS raises the employee contribution rate for officers eligible to retire at 52 to 10%, the rate for those eligible to retire at age 48 will be 11.1%.*

more beneficiaries at any time prior to the commencement of the benefit. Under existing law, if there is no designated beneficiary, the beneficiary is the beneficiary determined under the provisions governing the PERS defined benefit plan. Under the relocated and revised provision, if there is no designated beneficiary, the beneficiary is the beneficiary determined under the provisions governing the PERS defined benefit plan or the PERS defined contribution plan.

Under existing law, if any benefit payable due to the death of the retirant is not claimed by a beneficiary within five years after the death, the amount payable must be transferred to the Income Fund and thereafter paid to the beneficiary or retirant's estate on application to the Board. The bill permits the unclaimed benefit to remain in the Employees' Savings Fund.

**Re-employed retirants under a defined contribution plan**

(R.C. 145.38)

The bill broadens the definitions of "PERS retirant" and "other system retirant" that apply to the re-employed retirant provisions to include a person receiving a distribution under a defined contribution plan by virtue of retirement. Thus, these provisions now apply to persons who retire under a defined contribution plan.

Similarly, the definitions of "pension" and "annuity" that apply to the PERS law are revised as they apply to a retirant who is retired under a PERS, STRS, or SERS defined contribution plan. Under this revised definition, the "pension portion of the retirement benefit" means the portion of the retirement benefit that is derived from contributions made by the employer and paid in monthly or less frequent installments. And the "annuity portion of the retirement benefit" is the portion of the retirement benefit that is derived from contributions made by the former member and paid in monthly or less frequent installments. The definitions apply in situations in which the pension portion of the benefit is forfeited and the annuity suspended during re-employment. This occurs for a period if re-employment occurs too soon after retirement or for the duration of re-employment in certain other circumstances.

**Disability benefits of other system retirants**

(R.C. 145.38(E))

"Other system retirant" includes a retirant who is receiving a disability benefit from a state retirement system other than PERS. The bill clarifies that an other system retirant employed under the PERS re-employed retirant provisions

participates in the PERS defined benefit plan if the retirant's disability benefit is terminated.

### **Contributions of member who dies before retirement**

(R.C. 145.43(A) and (B))

Generally, should a member die before age and service retirement, certain amounts must be paid to the person or persons the member has designated. Under existing law, these amounts are the member's accumulated contributions, any deposits for purchase of an additional annuity, any payment the member has made to restore previously forfeited service credit, and amounts payable based on the member's years of service credit.<sup>29</sup> The bill limits the scope of this provision to accumulated contributions and the amounts paid based on the member's years of service credit. Under the bill, for purposes of this provision, "accumulated contributions" has the same meaning as the term generally has in the PERS law (the sum of all amounts credited to a contributor's individual account in the Employees' Savings Fund together with interest credited to the contributor's account), except that it does not include additional amounts deposited in the Employees' Savings Fund for the purchase of an additional annuity. These additional amounts are refunded under the provisions described above under "**Purchase of an additional annuity.**"

Under existing law, if the accumulated contributions of a deceased member are not claimed by the beneficiary or by the deceased member's estate within five years, the contributions must be transferred to the Income Fund and thereafter paid to the beneficiary or the member's estate upon application to the Board. The bill permits the Board to keep the contributions in the Employees' Savings Fund. The bill also clarifies that the claim must be made within five years *after the death*.

### **Expenses of PERS administration**

(R.C. 145.54)

Under existing law, the expenses of PERS administration are paid from the Expense Fund. If the amount in the Income Fund exceeds the amount necessary to cover the ordinary requirements of that fund, the PERS Board may transfer from that excess an amount to cover the needs of the Expense Fund. If the Income Funds' excess is insufficient, the PERS Board may apportion the remaining amount needed to contributors in an amount not to exceed \$3 per contributor. The bill eliminates this apportionment provision and provides that if the Income Fund's excess is insufficient to cover the yearly expenses of the administration of PERS,

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<sup>29</sup> *These amounts are paid under R.C. 145.401 and come from employer contributions.*

the Board may transfer any amount required from the Employers' Accumulation Fund.

**Forfeited contributions**

(R.C. 145.23(A))

Under current law, any accumulated contributions forfeited by failure of a member, or a member's estate, to claim the contributions, must be transferred from the Employees' Savings Fund to the Income Fund. The bill permits these forfeited contributions to remain in the Employees' Savings Fund or be transferred to the Income Fund.

**Delinquent contributions**

(R.C. 145.23(B) and 145.483)

The bill requires that PERS credit to the Employers' Accumulation Fund the amounts paid by an employer as delinquent contributions, except that if the amounts paid are for members participating in a PERS defined contribution plan, the amounts may be credited to the Employers' Accumulation Fund or the Defined Contribution Fund.

The bill also shortens the period before which an employer becomes subject to penalties and interest. Under existing law, if delinquent contribution statements are not paid not later than 90 days after the end of the quarterly period in which they become an obligation of the employer, any balance remaining must be collected with penalties and interest. The bill shortens this period such that penalties and interest are triggered if the delinquent contribution statements are paid later than 30 days after the end of the month in which they become an obligation.

**Technical and clarifying changes**

The bill makes the following technical and clarifying changes:

(1) The bill reorganizes, but makes no substantive changes in, provisions dealing with the notice requirement for an official who plans to retire from elective office and be elected or appointed to the same office for the remainder of the term or the immediately following term. (R.C. 145.38(C) and (D), conforming change 145.473(C).)

(2) Existing law contains several references to the date on which the PERS Board first established a defined contribution plan; the bill specifies this date as January 1, 2003. References to 180 days after the Board established the plan are

replaced with the date of June 30, 2003. (R.C. 145.19(A), 145.191(A) and (E), and 145.20(A).)

(3) The bill makes clarifying changes regarding amounts credited to an individual's account under a defined contribution plan (R.C. 145.813).

(4) Under existing law, application for a disability benefit generally must be made within two years from the date the member's contributing service terminated or the date the member ceased to make contributions to the PERS defined benefit plan. The bill clarifies that the application made in relation to the date the member's contributing service terminated refers to contributing service under the PERS defined benefit plan. (R.C. 145.35(C).)

(5) The bill reorganizes several provisions in R.C. 145.814 in a nonsubstantive manner. This section deals with transfers from a defined contribution plan to the defined benefit plan.

(6) In the existing provision dealing with the consent that a married member participating in a PERS defined contribution plan must submit in order to change payment plans, the bill replaces the phrase "retirement allowance" with "benefit" and clarifies that the consent must be signed by the spouse, not the member (R.C. 145.38, 145.384, and 145.92).

(7) In the provision that authorizes a member participating in a defined contribution plan to pay to the system amounts withdrawn in accordance with R.C. 145.31, clarifies that the amounts paid must be in accordance with rules adopted under R.C. 145.80 (R.C. 145.97).

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## COMMENT

### 1. PERS Plans

The following chart compares the features of the defined benefit plan (Traditional Plan) with those of the two defined contribution plans (Member-Directed Plan and Combined Plan). It is adapted from a chart on the PERS web site.<sup>30</sup>

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<sup>30</sup> [www.opers.org](http://www.opers.org).

	<b>Traditional Plan (Defined Benefit)</b>	<b>Member-Directed Plan (Defined Contribution)</b>	<b>Combined Plan</b>
<b>What are the employee and employer contributions?</b> <sup>31</sup>  (See Ohio <i>PERS Member Handbook</i> for additional details not contained in this chart.)	Employee = 8.5% of earnable salary  Employer = 13.31% of earnable salary for State Division and 13.55% for Local Division.	Employee = 8.5% of earnable salary  Employer = 13.31% of earnable salary for State Division and 13.55% for Local Division, of which 8.5% is to be deposited into an individual OPERS account and the remainder to be credited to a Retiree Medical Account (RMA).	Employee = 8.5% of earnable salary  Employer = 13.31% of earnable salary for State Division and 13.55% for Local Division.
<b>Are voluntary after-tax contributions permitted?</b>	Yes. Contributions may be made to an additional annuity.	Yes. Contributions may be made to an individual PERS account.	Yes. Contributions may be made to an individual PERS account.
<b>Who directs the investments?</b>	PERS investment professionals manage the investment of member and employer contributions.	The member directs the investment of member contributions and employer contributions into professionally managed PERS investment options.	The member directs the investment of member contributions into professionally managed PERS investment options; PERS investment professionals manage the investment of employer contributions.
<b>What investment options are available?</b>	PERS manages the contributions and has diverse investments (e.g., stocks, bonds, cash, real estate).	Nine professionally managed options ranging from conservative to aggressive:  --OPERS Conservative portfolio  --OPERS Moderate portfolio	Same investment options as available in the Member-Directed Plan.

<sup>31</sup> *PERS has announced a phased-in increase of contribution rates to support the system's health care preservation plan. Effective January 1, 2008 the rates will be as follows: employees (other than law enforcement) 10%, employers (other than for law enforcement) 14%.*

	<b>Traditional Plan (Defined Benefit)</b>	<b>Member-Directed Plan (Defined Contribution)</b>	<b>Combined Plan</b>
		--OPERS Aggressive portfolio  --OPERS Stable Value Fund  --OPERS Bond Fund  --OPERS Stock Index Fund  --OPERS Large Cap Fund  --OPERS Small Cap Fund  --OPERS Non-US Stock Fund	
<b>How is the retirement benefit calculated?</b>	Benefit is based on a formula = Years of total service credit x 2.2% of final average salary (FAS is the average of the three highest years of annual salary) for each of the first 30 years of total service credit and, for each year in excess of 30, 2.5% of FAS.	Benefit is based on the performance of the PERS investment options selected by the member.	Benefit is based on a formula = Years of total service credit x 1.0% of final average salary (FAS) for each of the first 30 years of total service credit and, for each year in excess of 30, 1.25% of FAS. In addition, a benefit is provided based on the performance of the PERS investment options the member has selected for member contributions.
<b>Who bears the risk of investment performance?</b>	PERS takes responsibility for making sure funds are available to pay retirement benefits for life.	Benefits paid will depend on how investments selected by the member perform.	PERS takes responsibility for funding part of the retirement benefit, but part of the benefit will depend on how investments selected by the member perform.

	<b>Traditional Plan (Defined Benefit)</b>	<b>Member-Directed Plan (Defined Contribution)</b>	<b>Combined Plan</b>
<b>Will the member have access to health care in retirement?</b>	<p>Hospital and medical benefits, prescriptions, long-term care, plus dental and vision care are currently being provided.*</p> <p>*The member must have ten years of Ohio service credit to qualify for the health care plan. A new type of health care plan has been instituted for members employed after January 1, 2003.</p> <p><i>Ohio law permits (but does not require) OPERS to offer health care coverage to members.</i></p>	<p>A portion of employer contributions accumulated in an individual Retiree Medical Account (RMA) may be used to pay for qualified health care expenses.</p> <p>RMA contributions available as follows:</p> <p>After 1-2 years of service = 0%</p> <p>After 3 years of service = 30%</p> <p>After 4 years of service = 40%</p> <p>After 5 years of service = 50%</p> <p>After 6 years of service = 60%</p> <p>After 7 years of service = 70%</p> <p>After 8 years of service = 80%</p> <p>After 9 years of service = 90%</p> <p>After 10 years of service = 100%</p>	Same as Traditional Pension Plan.
<b>Will survivor(s) receive benefits?</b>  (See Ohio <i>PERS Member Handbook</i> for additional details not contained in this chart.)	Yes. Survivor(s) may be eligible for benefits. Benefits are based on the member's years of service and the number of qualified survivors. A member must have at least eighteen	No monthly survivor benefits are provided through PERS. The vested portion of the individual account balance is available to survivors.	Yes. Same as Traditional Pension Plan.

	<b>Traditional Plan (Defined Benefit)</b>	<b>Member-Directed Plan (Defined Contribution)</b>	<b>Combined Plan</b>
	months of service credit in the Plan for survivors to qualify for benefits.		
<b>Will the member receive disability benefits?</b>	Yes. Benefits are based on years of service and final average salary. A member must have at least five years of service credit in the Plan to receive disability benefits.	No monthly disability benefits are available through PERS. The vested portion of an individual account balance is available to a disabled member.	Yes. Same as Traditional Pension Plan.
<b>Is there a death benefit?</b>	Yes. A lump sum death benefit, ranging from \$500 to \$2,500 is provided, based on years of service.	No death benefit is available through PERS. The vested portion of the individual account balance is available to beneficiaries.	Yes. Same as Traditional Pension Plan.
<b>Is there a cost of living adjustment (COLA) after retirement?</b>	Yes, 3% of the base benefit annually.	No. But an individual account balance may be converted to a monthly annuity that includes a COLA.	Yes. Same as Traditional Pension Plan.
<b>When can a member withdraw contributions?</b>	Three months after PERS-covered employment ends, a member may receive a lump sum distribution of contributions and interest.  <i>Member contributions are 100% vested.</i>	Three months after PERS-covered employment ends, a member may receive a lump sum distribution of the vested portion of the individual OPERS account balance.  <i>Member contributions are 100% vested.</i>	Three months after PERS-covered employment ends, a member may receive a lump sum distribution of the vested portion of the individual OPERS account balance.  <i>Member contributions are 100% vested.</i>
<b>When can a member withdraw contributions made by the employer?</b>	Three months after PERS-covered employment ends, a member with at least five years of service credit may receive an additional amount equal to 33% of the member's eligible	Three months after covered employment ends, a member will receive a percentage of employer contributions based on years of participation, as follows:	Same as Traditional Pension Plan.

	<b>Traditional Plan (Defined Benefit)</b>	<b>Member-Directed Plan (Defined Contribution)</b>	<b>Combined Plan</b>
	contributions, and if the member has at least ten years of service the member may receive 67% of eligible contributions. The additional amount is paid from employer contributions.	1 year of participation = 20% 2 years of participation = 40% 3 years of participation = 60% 4 years of participation = 80% 5 years of participation = 100%	
<b>Can a member purchase service credit?</b>	Yes, for such service as military service and out-of-state government service.	Not applicable.	Yes.
<b>Is it mandatory that a member withdraw contributions on leaving public employment?</b>	No.	No, but the former member will be charged a monthly administrative fee of \$2 to \$6 for individual account balances under \$5,000.	No, but the former member will be charged a monthly administrative fee of \$2 to \$6 for individual account balances under \$5,000.
<b>Can a member change between retirement plans?</b>	Yes, at the following times during the member's public service career:  --Once prior to attaining five years of total service credit (after the 180-day enrollment period);  --Once after attaining five, but not more than ten, years of total service credit; and  --Once, at any point, after attaining ten years of total service credit.	Yes. Same as Traditional Pension Plan.	Yes. Same as Traditional Pension Plan.

	<b>Traditional Plan (Defined Benefit)</b>	<b>Member-Directed Plan (Defined Contribution)</b>	<b>Combined Plan</b>
<b>Can a member combine service credit with other Ohio retirement systems?</b>	Yes. A member may combine service credit earned as a member of the State Teachers Retirement System of Ohio (STRS) or the School Employees Retirement System of Ohio (SERS) with PERS service credit.	Not applicable.	Not applicable.
<b>Who pays the administrative fees?</b>	Administrative fees are paid from investment earnings.	Administrative fee of up to 0.1% of earnable salary will be deducted from the member's contributions.	Same as the Member-Directed Plan.
<b>When is a member eligible for retirement?</b>	A member may retire at:  --Any age with 30 years of total service credit;  --Age 55 with 25 years of total service credit;  --Age 60 with 5 years of total service credit.	A member may retire after age 55.	Same as Traditional Pension Plan.

## **2. Law Enforcement and Public Safety Officers**

The following chart shows the difference in contribution rates, retirement eligibility, and benefit calculations between regular PERS members, PERS law enforcement officers, and PERS public safety officers.

<b>PERS Feature</b>	<b>Regular PERS Members</b>	<b>PERS Law Enforcement Officers</b>	<b>PERS Public Safety Officers</b>
<b>Employee Contribution Rate</b> <sup>32</sup>	8.5 % of earnable salary	10.1% of earnable salary	9.0% of earnable salary
<b>Employer Contribution Rate</b>	State--13.31% of earnable salary  Local--13.55% of earnable salary	16.7% of earnable salary	16.7% of earnable salary
<b>Regular Retirement Eligibility</b>	At any age with 30 or more years of service  Age 65 with 5 years of service	Age 48 with 25 years of service  Age 62 with 15 years of service	Age 52 with 25 years of service  Age 62 with 15 years of service
<b>Early Retirement Eligibility</b>	Age 60 with 5 or more years of service  Age 55 with 25 or more years of service	Any age with 15 or more years of service, but payment of benefits is deferred until age 52	Any age with 15 or more years of service, but payment of benefits is deferred until age 52  Age 48 with 25 or more years of service
<b>Regular Retirement Benefit Formulas</b>	The greater of:  (a) \$86 x years of service;  (b) 2.2% final average salary (FAS) x years of service through 30 years, plus 2.5% FAS x years over	2.5% FAS x years of service through 25 years of service, plus 2.1% FAS x years over 25, not to exceed 90% of FAS	2.5% FAS x years of service through 25 years of service, plus 2.1% FAS x years over 25, not to exceed 90% of FAS

<sup>32</sup> PERS has announced a phased-in increase in contribution rates to support the system's health care preservation plan. Effective January 1, 2008, the rates will be as follows: (1) for regular PERS members, employees 10%, employers 14%, (2) for law enforcement officers, employees 10.1%, employers 18.1%.

<b>PERS Feature</b>	<b>Regular PERS Members</b>	<b>PERS Law Enforcement Officers</b>	<b>PERS Public Safety Officers</b>
	30, not to exceed 100% of FAS <sup>33</sup>		
<b>Early Retirement Benefit Formulas</b>	Less than 30 years of service, or under age 65, benefit is reduced 3% to 25%, depending on age and years of service	Under age 62 with at least 15 but less than 25 years of service, 1.5% FAS x years of service	Under age 62 with at least 15 but less than 25 years of service, 1.5% FAS x years of service  At least age 48 but less than age 52 with 25 years of service, benefit is reduced 7% to 25%, depending on age

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>	<b>JOURNAL ENTRY</b>
Introduced	05-19-05	p. 862

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<sup>33</sup> *With some exceptions, final average salary is the average of the three years of contributing service in which the member's earnable salary was highest (R.C. 145.01).*