

145-1-09

Staff authority.

- (A) The public employees retirement board authorizes its staff to make determinations required under Chapter 145. of the Revised Code, including, but not limited to, membership, exemptions or exclusions from membership, earnable salary, benefits, and employer reporting. Membership determinations may be appealed to the retirement board pursuant to rule 145-1-11 of the Administrative Code. Determinations mandated by statute may not be appealed to the board.
- (B) The public employees retirement board authorizes its staff to establish payment plans with public employers within staff's discretion to satisfy employer billings issued pursuant to Chapter 145. of the Revised Code.

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Certification

Date

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4/24/07 (Emer.), 8/9/07, 1/1/11, 1/7/13 (Emer.),
3/24/13

145-1-26 **Definition of earnable salary.**

- (A) This rule amplifies and is in addition to the provisions of division (R) of section 145.01 of the Revised Code.
- (B) As used in division (R)(1)(e) of section 145.01 and section 145.296 of the Revised Code, "sponsored by the employer" means the employer funded a program in whole or in part.
- (C) For purposes of section 145.016 of the Revised Code, the earnable salary for each month upon which a member's service credit is allowed shall be the salary reported by the employer for all pay period end dates in each calendar month or more frequent interval.
- (D) Provided the amount is not otherwise excluded from earnable salary under section 145.01 of the Revised Code or this rule, for the purposes of the calculations required pursuant to sections 145.47, 145.48, and 145.49 of the Revised Code, a public employee's salary, wages, or earnings shall include amounts:
- (1) Treated as deferred income for federal income taxation under Internal Revenue Code section 401(k), 403(b) or 457;
 - (2) Designated by the employer as picked-up contributions under Internal Revenue Code section 414(h)(2) by either a salary reduction method or the gross salary under a fringe benefit method; or
 - (3) Not treated as income for federal income taxation under Internal Revenue Code section 125 except as provided in paragraph (F)(5) of this rule.
- (E) For purposes of section 145.01 of the Revised Code and this rule:
- (1) "Conversion program" means the employer's annual program for conversion of sick leave, personal leave, and vacation leave, as described in division (R)(1)(b) of section 145.01 of the Revised Code, and that meets all of the following:
 - (a) The retirement system has received a copy of the employer's resolution, meeting minutes, or other formal documentation detailing the terms and adoption of the conversion program;
 - (b) The documentation described in paragraph (E)(1)(a) of this rule is submitted annually to the public employees retirement system to determine compliance with section 145.01 of the Revised Code and this

rule;

(c) Payments under the conversion program are not issued before the retirement system reviews and approves the program;

(d) Participation in the program is not based on the member's service credit in the retirement system or an agreement to retire.

(2) "During the year" means in the year or not later than one month following the year in which a payment is earned under a conversion program for its employees. Such earnable salary shall be reported on a report of retirement contributions for the year in which such payment was accrued.

(3) "Leave accrued, but not used" means the most recent leave accrued, but not used, during the calendar year on a last-in/first-out method of conversion.

(F) The following payments made by the public employer are "earnable salary":

(1) Payments for overtime worked and payments for accrued but unused compensatory time for overtime worked if such payments are made during the year in which the compensatory time is accrued.

(2) Payments made annually or more frequently as a supplement for longevity of service.

(3) Stipends paid to a student that are subject to federal income taxation.

(4) Payments made for assuming call or stand-by responsibility.

(5) Payments made in lieu of salary, wages, or other earnings for sick leave used under a donated sick leave program.

(G) The following payments made by the public employer are not "earnable salary":

(1) Payments made by the employer for accrued overtime worked or for compensatory time for overtime worked that are made at any time other than in the year in which the overtime or compensatory time is accrued;

(2) Payments made by the employer as a residency bonus to employees;

- (3) Payments made pursuant to an agreement and representing either one-time lump-sum payments or bonus payments made periodically but not related to or not made upon the basis of the individual employee's basic rate of pay;
- (4) Retroactive payments made by the employer within thirty-six months of the employee's effective date of retirement and with an understanding that the employee would retire;
- (5) Monetary amounts that are in excess of the employee's gross salary paid in lieu of a fringe benefit or a cash value placed on that fringe benefit;
- (6) The amount in excess of gross salary paid under a fringe benefit method as picked-up contributions under Internal Revenue Code section 414(h)(2);
- (7) Stipends paid to a student that are not subject to federal income taxation;
- (8) Payments made as honoraria that means a nominal payment made for services for which there is no binding legal obligation to pay;
- (9) Payments made as fees or commissions that are fixed charges or calculated as a percentage of an amount not directly related to work or services performed, including but not limited to, amounts paid to individuals who serve on a fee basis or compensation on a per page, per meeting, per inspection, or per emergency response event;
- (10) Payments paid by the employer to an individual who is not a public employee; ~~and~~
- (11) Payments for accrued, but unused sick leave, personal leave, or vacation leave that are made at the time of termination of employment; ~~and~~.
- (12) Reimbursement for expenses.

(H)

- (1) If a member or retirant is reinstated without interruption or loss of time to the member or retirant's former or comparable position of employment and awarded back wages pursuant to a final court order, arbitration or personnel board of review order, grievance award, or other settlement or order, the earnable salary upon which employee and employer contributions are due is the earnable salary that would have been due the employee for the entire

period of reinstatement. "Comparable position" includes positions with similar titles, grades, classifications, occupational categories or salaries.

- (a) Employee and employer contributions shall be reported and paid in the same amount as would have been contributed if the member or retirant had been reported to the retirement system during the period of reinstatement. If the member or retirant is reinstated to a comparable position, contributions for the period of reinstatement are based on the salary of the comparable position. If the amount of earnable salary cannot be reasonably determined, then the amount shall be the average earnable salary during the twelve-month period immediately preceding the date of termination.
 - (b) If a member had previously taken a refund of the member's accumulated contributions pursuant to section 145.40 of the Revised Code or article VIII of the combined plan document at the time of termination, the member may purchase the refunded service pursuant to section 145.31 of the Revised Code or rule 145-3-22 of the Administrative Code.
 - (c) If a member on or after the date of termination, applied for and received a benefit pursuant to section 145.32, 145.33, 145.332, 145.35, 145.36, 145.361, 145.37, or 145.46 of the Revised Code, article IX or X of the combined plan document, or article IX of the member-directed plan document, and any period of reinstatement is concurrent with a period for which the member received a benefit, section 145.362, 145.38, 145.382, or 145.383 of the Revised Code, whichever is applicable, shall apply.
- (2) If a member or retirant is awarded additional earnable salary pursuant to a final court order, arbitration or personnel board of review order, grievance award, or other settlement or order for any period of employment for which contributions were made, the earnable salary upon which employee and employer contributions are due is the additional earnable salary that would have been due for the period of the award. Employee and employer contributions shall be reported and paid in the same amount as would have been contributed if the member or retirant had been reported to the retirement system during the period of employment.
- (I)
- (1) Prior to remitting deductions on compensation on which there is a question of whether such compensation is earnable salary, the employer shall request a determination by the retirement board.

- (2) If the employer fails to request a prior determination and the board determines the salary, wage or earning to be earnable salary, then the employer shall be liable for employee and employer contributions pursuant to section 145.483 of the Revised Code if no deductions have been remitted.
- (3) If the employer fails to request a prior determination and the board determines the salary, wage or earning is not earnable salary, then ~~any contributions received prior to the determination shall be unauthorized and shall be refunded~~ the retirement system may do either of the following:-
- (a) Except as provided in paragraph (I)(3)(b) of this rule, refund up to a maximum of the current year plus three full calendar years of contributions prior to the current year;
- (b) For a member who is within one year of attaining age and service retirement eligibility, refund not more than twelve months of contributions.
- (4) ~~A determination by the board will be applicable to similar pending requests while the board amends this rule or one hundred twenty days, whichever occurs first.~~

Replaces: 145-1-48

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1/1/06, 1/1/07, 1/1/12, 1/7/13 (Emer.), 3/24/13, 1/1/14

145-1-28

Remittance of employer contributions.

(A) For the purposes of this rule and sections 145.294 and 145.47 of the Revised Code:

- (1) "Employee contribution" means the full amount of employee contributions due for a particular reporting period pursuant to section 145.47 of the Revised Code or employee deductions pursuant to section 145.294 of the Revised Code.
- (2) "Filed" means actual receipt by the public employees retirement system, the postmark date, or the date scheduled to pay via electronic payment.
- (3) "Report" means a record of the employee contributions that is free from errors or omissions and is in the form required by the public employees retirement board.
- (4) "Reporting period" means the monthly or more frequent interval for which an employer reports employee contributions that contains all pay period ending dates occurring in the calendar month.
- (5) "Supplemental report" means a report of employee contributions that is submitted by the employer in addition to the regular report due to the employer's need to report additional contributions for the employer's payment of a disability payment, retroactive salary payment, payment pursuant to a settlement agreement, longevity payment, or payment to a terminated or deceased employee.
- (6) The thirtieth day shall be computed in the method as described in section 1.14 of the Revised Code.

(B) The employer shall transmit for each reporting period subsequent to the date of coverage an amount equal to the applicable percent of each contributor's earnable salary. Both employee contributions to the retirement system and a corresponding report shall be filed with the system no later than the thirtieth day after the last day of the reporting period for which they are due.

(C) For employee contributions due on or after the effective date of this rule, if either an employee contribution or the corresponding report is not filed on or before the thirtieth day after the last day of the reporting period for which they were due, a penalty as described in section 145.47 of the Revised Code shall be added.

(D)

- (1) Upon submission of a supplemental report, the employer shall also submit additional documentation, as required by the retirement system, to substantiate the nature and reason for the supplemental report.
 - (2) Notwithstanding paragraph (B) of this rule, the supplemental report, the corresponding contributions, and the documentation required in paragraph (D)(1) of this rule shall be received by the system not later than the thirtieth day after the last day of the month during which the member was paid the supplemental amount.
 - (3) Failure to provide any of the items in paragraph (D)(2) of this rule by the date specified in that paragraph shall cause the deductions to be subject to the penalty described in paragraph (C) of this rule.
- (E) If a member elects to have additional contributions remitted to the retirement system pursuant to section 145.2916 of the Revised Code, the contributions shall be remitted concurrently with the period of denied salary.
- (F) Pursuant to division (A)(2) of section 145.01 of the Revised Code, the governmental unit with which the contract has been made as described in that section shall remain the employer for purposes of section 145.47 of the Revised Code and this rule.

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Rule Amplifies: 145.294, 145.2916, 145.47
Prior Effective Dates: 1/1/06, 1/1/11, 1/7/13 (Emer.), 3/24/13, 1/1/14

145-1-35 **Service purchase.**

(A) For purposes of Chapter 145. of the Revised Code and Chapters 145-1 to 145-4 of the Administrative Code:

(1) "Service purchase" means both of the following:

(a) For members participating in the traditional pension plan, payment for the purchase of service credit pursuant to section 145.20, 145.201, 145.28, 145.291, 145.292, 145.293, 145.299, 145.2915, 145.301, 145.302, 145.31, or 145.47 of the Revised Code, former section 145.295, 145.2911, or 145.2913 of the Revised Code as they existed prior to January 7, 2013, or rule 145-2-18 of the Administrative Code.

(b) For members participating in the combined plan, payment for the purchase of service credit pursuant to ~~rule 145-3-21 of the Administrative Code~~, section 145.20, 145.201, 145.291, 145.292, 145.293, 145.299, 145.2915, 145.302, or 145.47 of the Revised Code, former section 145.295, 145.2911, or 145.2913 of the Revised Code as they existed prior to January 7, 2013, rule 145-3-21, 145-3-22, or 145-3-40 of the Administrative Code, or section 3.11 or 3.12 of the combined plan document.

(2) "One-time or lump-sum payment" means a service purchase that is the full cost of the entire service credit to which a member is entitled and is paid directly to the public employees retirement system.

(3) "Partial payment" means a service purchase that is less than the full cost of the entire service credit to which a member is entitled and is paid directly to the retirement system.

(4) "Payroll deduction" means a service purchase made pursuant to section 145.294 of the Revised Code and rule 145-1-38 of the Administrative Code.

(5) A "statement of cost" means a bill prepared by the retirement system stating the cost of the service credit to be purchased. Other than statements of cost prepared under rules 145-2-18 and 145-3-40 of the Administrative Code, if a statement of cost described in this paragraph is not paid in full prior to its expiration, the member may complete the purchase of the remaining service credit by a lump sum or one-time partial payment of the cost, as recalculated by the system at the time of the final payment.

(B) A member participating in the traditional pension plan or combined plan may make a

service purchase, pursuant to Chapter 145. of the Revised Code and Chapters 145-1 to 145-4 of the Administrative Code and federal Internal Revenue Code section 415, either directly to the retirement system or by payroll deduction. A statement of cost issued on or after July 7, 2013, shall expire not later than five years after the date of the first payment or first deduction.

(C)

- (1) Except as otherwise provided in Chapter 145. of the Revised Code, the interest rate to be used in calculating the cost of a service purchase shall be six per cent compounded annually. Beginning on January 1, 2014, the interest rate shall be a per cent equal to the assumed actuarial rate of interest compounded annually. Interest shall be calculated under the applicable Revised Code section from the first date through the end of the month of payment;
- (2) Interest shall be applied to unpaid balances of service purchases by partial payment or payroll deduction at a rate equal to the assumed actuarial rate of interest compounded annually after the first payment or deduction. Interest shall be calculated from the date of the first payment through the last day of the month in which the cost statement expires.
- (3) The public employees retirement board may adjust the interest rates in paragraphs (C)(1) and (C)(2) of this rule. If adjusted, the new interest rate shall apply to any statement of cost issued or initial payroll deduction begun after the adjustment.

(D) If the retirement system is required to apply the member's contribution rate at the time the service occurred against the member's earnable salary in calculating the cost of a service purchase, such rate shall not exceed the maximum employee contribution limits that were applicable at the time the service occurred.

(E)

- (1) Service credit shall be granted following receipt of all lump-sum payments, partial payments, or payroll deductions received in a month.
- (2) Except as otherwise provided in Chapter 145. of the Revised Code, when a member makes a service purchase by partial payment or by payroll deduction, interest at a per cent equal to the assumed actuarial rate of interest compounded annually shall be applied to the unpaid balance. The minimum payment shall be the greater of one hundred dollars or the dollar amount determined by the system to be necessary to purchase a fraction or some

greater portion of the service credit. If interest has accrued since the member's last payment, the minimum payment shall be the sum of the amount described in this paragraph and the interest that accrued since the member's last payment. Service credit shall be granted by multiplying the service credit not yet purchased by a fraction having as the numerator the payment amount less current interest paid and as the denominator the unpaid balance on which the current interest was calculated.

(F)

In addition to the requirements specified in paragraph (B) of this rule, all service purchases shall be completed prior to issuance of the initial benefit payment. Subject to the requirements specified in paragraph (B) of this rule, a disability benefit recipient may purchase service credit after the issuance of the initial benefit payment while on a leave of absence described in section 145.362 of the Revised Code. Any service purchased by a disability benefit recipient during the leave of absence described in this paragraph shall take effect on the first day of the month following the date of purchase.

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(Emer.), 6/23/08, 1/1/12, 1/7/13 (Emer.), 3/24/13,
7/7/13 (Emer.), 9/16/13

TO BE RESCINDED

145-1-48

Board and commission members.

Membership is required for all appointed members of boards and commissions who receive salary for their services. Members who serve without pay, or who receive reimbursement for expenses, or who serve on a fee basis are not eligible for membership in the public employees retirement system.

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145-1-75 Re-employment of a retirant.**(A) Definitions**

For the purpose of this rule and section 145.362, 145.37, 145.38, 145.382, 145.384, or 145.385 of the Revised Code:

- (1) "PERS retirant" means any former member of the public employees retirement system who retires as provided in section 145.32, 145.331, 145.332, or 145.37 of the Revised Code and is receiving a retirement allowance as provided in section 145.33, 145.331, 145.332, or 145.46 of the Revised Code.
- (2) "Combined retirement" means retirement based upon section 145.37 of the Revised Code.
- (3) "A contract to provide services, or for services, as an independent contractor" means an agreement that establishes a relationship in which the individual is an independent contractor and not a public employee.
- (4) "Disability benefit recipient" means an individual defined in division (N) of section 145.01 of the Revised Code.
- (5) "Employed" means the relationship between a public employer and an individual who is a public employee rather than an independent contractor.
- (6) "Other system retirant" means an individual defined in division (A)(2) of section 145.38 of the Revised Code.

(B) Elective positions

- (1) The provisions of section 145.38 of the Revised Code, and this rule shall apply to an age and service or other system retirant who is elected to an office, or is appointed to an elective office, of the state or its political subdivisions covered by this retirement system.
- (2) The provisions of section 145.362 of the Revised Code, and these rules shall apply to a disability retirant who is elected to an office of the state or its political subdivisions covered by this retirement system.

(C) Employed positions

A PERS retirant who has received a retirement allowance for less than two months and who becomes employed by a public employer shall forfeit the retirement

allowance for any month in which such retirant is employed during the two month period immediately following such retirant's effective retirement benefit date.

(D) Employment by legislative authority

(1) A PERS retirant may be employed irrespective of the length of time such retirant has received a retirement benefit:

(a) In a position authorized by section 101.31, 121.03 or 121.04 of the Revised Code; or

(b) In a position to which appointment is made by the governor with the advice and consent of the senate; or

(c) As the head of a division of a state department.

(2) A retirant described in paragraph (D)(1) of this rule, upon employment, shall elect in writing to the retirement system to have such employment covered either by:

(a) Section 145.38 of the Revised Code; or

(b) Section 145.382 of the Revised Code and paragraph (D)(3) of this rule.

(3)

(a) A retirant described in paragraph (D)(1) of this rule who elects to have such employment covered by section 145.382 of the Revised Code, upon employment, shall become a member of the retirement system based upon such employment with all obligations and rights except those pursuant to section 145.45 of the Revised Code, and shall forfeit such retirant's retirement allowance.

(b) Upon termination of employment, the retirant shall have a retirement allowance recalculated based on an allowance described in section 145.33 or 145.46 of the Revised Code utilizing the retirant's original service and service after retirement covered by section 145.382 of the Revised Code.

(E) Health care coverage

- (1) The public employer for which a PERS retirant is employed on February 9, 1994, or after, shall provide health care coverage for such retirant if such coverage is provided to its employees doing comparable work or in a comparable position.
- (2) The employer shall notify the retirement system of the status of health care coverage for a PERS retirant who is re-employed.
- (3) If the retirant is covered under the employer's health care plan, health care claims paid by the retirement system shall be reduced by the benefits provided under the employer's health care plan. If the retirant should be covered under the employer's health care plan as required by section 145.38 of the Revised Code but fails to enroll in the employer's health care plan, the retirement system shall not pay any reduced or primary coverage claims for any period that the retirant failed to enroll in the employer's health care plan.

(F) Re-employment of a disability benefit recipient

- (1) ~~The retirement board shall terminate the benefit of~~ a disability benefit recipient ~~who~~ is employed by, ~~or who~~ provides services under a contract as an independent contractor for, is elected to an elective office with, or is restored to service as defined in rule 145-2-21 of the Administrative Code by, a public employer, the disability benefit shall cease. The termination of a disability benefit pursuant to this paragraph is not subject to the discretion of nor appeals to the retirement board as provided in rule 145-2-23 of the Administrative Code.
- (2) The retirement board shall review the employment of a disability benefit recipient who is employed or compensated by an employer other than a public employer in a position similar to the position the recipient held as a public employee to determine if the recipient must undergo a medical examination to determine if the disability is ongoing or whether the benefit should be terminated.

(G) Determinations

A retirant or benefit recipient may request a determination from the retirement system as to the effect on the benefit of the retirant or recipient of a return to employment covered by Chapter 145. of the Revised Code or other employment.

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8/1/98, 4/5/01, 2/14/02, 1/1/03, 1/1/06, 1/1/07, 1/1/09,
7/11/09, 1/7/13 (Emer.), 3/24/13

145-1-81 **Retirement plans.**

(A) As used in Chapters 145-1 through 145-4 of the Administrative Code:~~Traditional~~

(1) "Traditional pension plan" means the PERS defined benefit plan established under sections 145.201 to 145.79 of the Revised Code.

(2) "Combined plan" means the PERS combined defined benefit/defined contribution plan established under section 145.81 of the Revised Code. Unless specifically identified otherwise within the text of the Administrative Code, references to the combined plan document refer to the version that includes amendments adopted through July 7, 2013.

(3) "Member-directed plan" means the PERS defined contribution plan established under section 145.81 of the Revised Code. Unless specifically identified otherwise within the text of the Administrative Code, references to the member-directed plan document refer to the version that includes amendments adopted through July 7, 2013.

(B) The text of the combined and member-directed plan documents shall not be incorporated into this or any other rule of the Administrative Code. Current versions of the plan documents are available on the web site of the public employees retirement system at www.opers.org.

~~(B) "Combined plan" means the PERS combined defined benefit/defined contribution plan established under section 145.81 of the Revised Code.~~

~~(C) "Member-directed plan" means the PERS defined contribution plan established under section 145.81 of the Revised Code.~~

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145-2-02 **Additional liability for service purchases in the traditional pension plan.**

(A) This rule amplifies section 145.29 of the Revised Code.

(B) As used in this rule, “service credit” means both of the following:

- (1) Service credit that may be purchased or obtained under sections 145.20, 145.201, 145.28, 145.291, 145.292, 145.293, 145.299, and 145.47 of the Revised Code, as those sections existed on and after January 7, 2013.
- (2) Service credit that may be purchased or obtained under section 145.814 of the Revised Code or rule 145-2-18 ~~or 145-3-40~~ of the Administrative Code for an election that is effective on or after August 1, 2013, under section 2.03 of the combined or member-directed plan document, as amended on January 7, 2013.

(C)

- (1) The public employees retirement system shall calculate the cost to purchase service credit by using the greater of the member’s final average salary or the member’s earnable salary for the twelve months of contributing service under Chapter 145., 3307., or 3309. of the Revised Code immediately preceding the month in which the application to purchase is received by the system.
- (2) The public employees retirement board shall, based upon its actuary’s recommendation, establish the percentage rate for the cost of the service credit in the traditional pension plan.

(D) Payments made by a member to purchase service credit under section 145.29 of the Revised Code and this rule shall be credited to the employees’ savings fund and shall be considered the accumulated contributions of the member.

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145-2-11 Police and fire or highway patrol service.

- (A) This rule amplifies sections 145.295 and 145.2913 of the Revised Code.
- (B) Any payments made by a member to purchase credit pursuant to section 145.295 or 145.2913 of the Revised Code shall not be refunded to a member except as authorized or required under those sections or section 145.40 of the Revised Code.
- (C) A member who purchases or transfers credit under section 145.295 or 145.2913 of the Revised Code shall receive service credit in the public employees retirement system as follows:
- (1) For service earned as a police officer under Chapter 742. of the Revised Code or service earned under Chapter 5505. of the Revised Code, the service credit shall be treated as if it was earned in this system as a law enforcement officer.
 - (2) For service earned as a firefighter under Chapter 742. of the Revised Code, the service credit shall be treated as if it was earned in this system as a member who is not a law enforcement or public safety officer.
- (D) This paragraph applies to purchases and transfers initiated after January 7, 2013. The member's effective date of retirement or disability benefit shall be no earlier than the first day of the month following receipt by the retirement system of the first partial payment or total payment, if paid in full in one payment. The member's effective date of retirement or disability benefit shall be no later than the first day of the month following the ninetieth day after receipt by the retirement system of the first partial payment or total payment, if paid in full by one payment. If the member fails to retire, or terminate employment for purposes of a disability benefit, before the ninetieth day after the first partial payment or total payment is received, the retirement system shall return the amount paid by the member to the member. If the payment was transmitted to the retirement system by a financial institution, the amount received by the retirement system shall be ~~deposited in accordance with section 145.62 of the Revised Code~~ or returned to the financial institution.

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1/7/13 (Emer.), 3/24/13

145-2-16 **Conversion or proration of service credit to law enforcement service credit.**

(A) For purposes of this rule and section 145.2914 of the Revised Code:

- (1) "Law enforcement service credit" means service earned as a PERS law enforcement officer, as defined in section 145.01 of the Revised Code.
- (2) "Public safety service credit" means service credit earned as a PERS public safety officer, as defined in section 145.01 of the Revised Code.
- (3) "Regular service credit" means service credit earned as a contributor under section 145.47 of the Revised Code that is not concurrent with any public safety or law enforcement service credit, including service purchased under section 145.31, 145.312, 145.814, or for which contributions should have been deducted as described in section 145.483 of the Revised Code. "Regular service credit" does not include any other type of service credit that may be purchased or transferred under Chapter 145. of the Revised Code.
- (4) "Notice of the additional liability" is the cost statement provided to the member that specifies the number of years, or portions of a year, the member ~~has agreed to~~ may convert and includes the amount of service credit that may be prorated under paragraph (B)(1) of this rule, if applicable.

(B) ~~A~~ Subject to the requirements described in section 145.2914 of the Revised Code and this rule, a member who has contributed to the retirement system as a PERS public safety officer or PERS law enforcement officer and has regular service credit or public safety service credit that the member would like to be treated as law enforcement or public safety service credit may elect to do one of the following: convert up to five total years of regular service credit or public safety service credit, or a combination of both, if the member meets the requirements described in section 145.2914 of the Revised Code and this rule. If

- (1) To have the total amount of the regular service credit and public safety service credit reduced to an amount of public safety service credit or law enforcement service credit that has no additional liability to the system, which shall be referred to as proration;
- (2) To convert up to five total years of regular service credit or public safety service credit, or a combination of both types of credit.

If the member is eligible to retire as a PERS law enforcement officer or will be eligible to retire as a PERS law enforcement officer as a result of the proration or conversion, the member may prorate or convert regular service credit, public safety service credit, or both types of service credit to law enforcement service credit. If

the member is eligible to retire as a PERS public safety officer or will be eligible to retire as a PERS public safety officer as a result of the proration or conversion, the member may prorate or convert regular service credit to public safety service credit.

- (C) The cost to convert service credit under paragraph (B)(2) of this rule shall be an amount specified by the public employees retirement board that is not less than one hundred per cent of the additional liability resulting from the conversion of a year, or portion of a year, of service as recommended by the actuary for the board. The actuary shall recommend to the board a cost calculation to convert each of the types of service credit described in this rule. The cost calculation shall be based on the final average salary that will be used in calculating the member's monthly benefit as determined at the time the cost statement is prepared. The actuary may recommend modifications to the cost calculations if the actuary determines it is necessary to mitigate any negative financial impact on the retirement system.
- (D)
- (1) The retirement system shall not accept any other payments for the purchase or transfer of service credit after the issuance of the cost statement for proration or conversion of service credit, except for payments made pursuant to an irrevocable, pre-tax payroll deduction agreement.
 - (2) If a member converts only a portion of the service credit that is eligible for conversion or the member has more than five years of service credit that is eligible for conversion, the service credit that is converted shall be the most recent eligible regular service credit ~~that is not concurrent with any public safety or law enforcement service credit.~~
 - (3) A member who elects to prorate under paragraph (B)(1) of this rule shall prorate all regular service credit or public safety service credit.
 - (4) If a member has regular or public safety service credit that is concurrent with the public safety or law enforcement service credit and is not eligible for conversion or proration, the accumulated contributions for the concurrent service shall be paid as provided in section 145.332 of the Revised Code.
 - ~~(3)~~(5) Service credit converted under this rule shall be considered in determining the member's final average salary. Service credit prorated under this rule shall not be considered in determining the member's final average salary.
 - (6) For service credit prorated under this rule, contributing service credit, as defined in rule 145-4-01 of the Administrative Code, shall be determined based on the lesser of the number of months of contributing service prior to the proration

or the number of months of contributing service after the proration.

- (E) Not later than ninety days after receiving notice of the additional liability or of the prorated amount of service credit, the member shall agree to retire by submitting to the retirement system an executed cost statement and, if the member had elected conversion, the first partial or total payment for the service credit ~~conversion~~. The member may make direct payment to the retirement system for the cost of the conversion or ~~cause a the member's~~ financial institution to may transmit the amount directly to the retirement system.
- (F) ~~The~~ If a member has elected conversion, the member's effective date of retirement shall be no earlier than the first day of the month following receipt by the retirement system of the first partial payment or total payment, if paid in full in one payment. ~~The~~ If the member has elected proration, the member's effective date of retirement shall be no earlier than the first day of the month following receipt by the retirement system of the executed cost statement. In both instances, the member's effective date of retirement shall be no later than the first day of the month following the ninetieth day after receipt by the retirement system of the first partial payment or total payment, if paid in full by one payment, or the executed cost statement, whichever is applicable. If the member fails to retire ~~before the ninetieth day after the first partial payment or total payment is received~~ as described in this paragraph, the retirement system shall return the amount paid by the member to the member. If the payment was transmitted to the retirement system by a financial institution, the amount received by the retirement system shall be ~~deposited in accordance with section 145.62 of the Revised Code~~ or returned to the financial institution.
- (G) Notwithstanding rule 145-1-71 of the Administrative Code, a member who prorates or converts service credit and retires as provided in this rule may not withdraw his or her retirement application.
- (H) No amount paid under this rule to convert service credit shall be used in calculating the additional payment described in section 145.401 of the Revised Code.

Effective:

R.C. 119.032 review dates: 09/29/2016

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 145.09
Rule Amplifies: 145.2914, 145.33, 145.332, 145.401
Prior Effective Dates: 8/3/09 (Emer.), 10/19/09, 1/7/13 (Emer.), 3/24/13

145-3-23

Additional liability for service purchases in the combined plan.

(A) This rule amplifies section 145.29 of the Revised Code.

(B) As used in this rule, “service credit” means both of the following:

- (1) Service credit that may be purchased or obtained under sections 145.20, 145.201, 145.291, 145.292, 145.293, 145.299, and 145.47 of the Revised Code, as those sections existed on and after January 7, 2013.
- (2) Service credit that may be purchased or obtained under section 145.814 of the Revised Code or rule ~~145-2-18~~ or 145-3-40 of the Administrative Code for a plan change that is effective on or after July 7, 2013, under section 2.03 of the combined or member-directed plan document, as amended on January 7, 2013.

(C)

- (1) The public employees retirement system shall calculate the cost to purchase service credit by using the greater of the member’s final average salary or the member’s earnable salary for the twelve months of contributing service under the combined plan immediately preceding the month in which the application to purchase is received by the system.
- (2) The public employees retirement board shall, based upon its actuary’s recommendation, establish the percentage rate for the cost of the service credit under the combined plan.

(D) Payments made by a member to purchase service credit under section 145.29 of the Revised Code and this rule shall be credited to the employees’ savings fund and shall be considered the accumulated contributions of the member.

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