

Sec. 145.384. (A) As used in this section, "PERS retiree" means a PERS retiree who is not subject to division (C) of section 145.38 of the Revised Code. For purposes of this section, "PERS retiree" also includes both of the following:

- (1) A member who retired under section 145.383 of the Revised Code;
- (2) A retiree whose retirement allowance resumed under section 145.385 of the Revised Code.

(B)(1) An other system retiree or PERS retiree who has made contributions under section 145.38 or 145.383 of the Revised Code or, in the case of a retiree described in division (A)(2) of this section, section 145.47 of the Revised Code may file an application with the public employees retirement system to receive either a benefit, as provided in division (B)(2) of this section, or payment of the retiree's contributions made under those sections, as provided in division (H) of this section.

(2) A benefit under this section shall consist of an annuity having a reserve equal to the amount of the retiree's accumulated contributions for the period of employment, other than the contributions excluded pursuant to

division (B)(4)(a) or (b) of section 145.38 of the Revised Code, and an amount of the employer's contributions determined by the board.

(a) Unless, as described in division (I) of this section, the application is accompanied by a statement of the spouse's consent to another form of payment or the board waives the requirement of spousal consent, a PERS retiree or other system retiree who is married at the time of application for a benefit under this section shall receive a monthly annuity under which the actuarial equivalent of the retiree's single life annuity is paid in a lesser amount for life and one-half of the lesser amount continues after the retiree's death to the surviving spouse.

(b) A PERS retiree or other system retiree who is not subject to division (B)(2)(a) of this section shall elect either to receive the benefit as a monthly annuity or a lump sum payment discounted to the present value using a rate of interest determined by the board. A retiree who elects to receive a monthly annuity shall select one of the following as the plan of payment:

- (i) The retiree's single life annuity;
- (ii) The actuarial equivalent of the retiree's single life annuity in an equal or lesser amount for life and continuing after death to a surviving beneficiary designated at the time the plan of payment is selected.

If a retiree who is eligible to select a plan of payment under division (B)(2)(b) of this section fails to do so, the benefit shall be paid as a monthly annuity under the plan of payment specified in rules adopted by the public employees retirement board.

(c) Notwithstanding divisions (B)(2)(a) and (b) of this section, if a monthly annuity would be less than twenty-five dollars per month, the retiree shall receive a lump sum payment.

(C)(1) The death of a spouse or other designated beneficiary under a plan of payment described in division (B)(2) of this section cancels that plan of payment. The PERS retiree or other system retiree shall receive the equivalent of the retiree's single life annuity, as determined by the board, effective the first day of the month following receipt by the board of notice of the death.

(2) On divorce, annulment, or marriage dissolution, a PERS retiree or other system retiree receiving a benefit described in division (B)(2) of this section under which the beneficiary is the spouse may, with the written consent of the spouse or pursuant to an order of the court with jurisdiction over the termination of the marriage, elect to cancel the plan and receive the equivalent of the retiree's single life annuity as determined by the board. The election shall be made on a form provided by the board and shall be

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effective the month following its receipt by the board.

(D) Following a marriage or remarriage, a PERS retiree or other system retiree who is receiving a benefit described in division (B)(2)(b)(i) of this section may elect a new plan of payment under division (B)(2)(b) of this section based on the actuarial equivalent of the retiree's single life annuity as determined by the board. ~~The~~

If the marriage or remarriage occurs on or after the effective date of this amendment, the election must be made not later than one year after the date of the marriage or remarriage.

The plan elected under this division shall be effective the first day of the month following on the date of receipt by the board of an application on a form approved by the board, but any change in the amount of the benefit shall commence on the first day of the month following the effective date of the plan.

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

(1) The last day for which compensation for all employment subject to section 145.38, 145.383, or 145.385 of the Revised Code was paid;

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

(3) If the PERS retiree or other system retiree was previously employed under section 145.38, 145.383, or 145.385 of the Revised Code and is receiving or previously received a benefit under this section, completion of a period of twelve months since the effective date of the last benefit under this section;

(4) A date specified by the retiree.

(F)(1) If a PERS retiree or other system retiree dies while employed in employment subject to section 145.38, 145.383, or 145.385 of the Revised Code, a lump sum payment calculated in accordance with division (B)(2) of this section shall be paid to the retiree's beneficiary under division (G) of this section.

(2) If at the time of death a PERS retiree or other system retiree receiving a monthly annuity under division (B)(2)(b)(i) of this section has received less than the retiree would have received as a lump sum payment, the difference between the amount received and the amount that would have been received as a lump sum payment shall be paid to the retiree's beneficiary under division (G) of this section.

(3) If a beneficiary receiving a monthly annuity under division (B)(2) of this section dies and, at the time of the beneficiary's death, the total of the amounts paid to the retiree and beneficiary are less than the amount the

retiree would have received as a lump sum payment, the difference between the total of the amounts received by the retiree and beneficiary and the amount that the retiree would have received as a lump sum payment shall be paid to the beneficiary's estate.

(G) A PERS retiree or other system retiree employed under section 145.38, 145.383, or 145.385 of the Revised Code may designate one or more persons as beneficiary to receive any benefits payable under division (B)(2)(b) of this section due to death. The designation shall be in writing duly executed on a form provided by the public employees retirement board, signed by the PERS retiree or other system retiree, and filed with the board prior to death. The last designation of a beneficiary revokes all previous designations. The PERS retiree's or other system retiree's marriage, divorce, marriage dissolution, legal separation, withdrawal of account, birth of a child, or adoption of a child revokes all previous designations. If there is no designated beneficiary, the beneficiary is the beneficiary determined under division (D) of section 145.43 of the Revised Code. If any benefit payable under this section due to the death of a PERS retiree or other system retiree is not claimed by a beneficiary within five years after the death, the amount payable shall be transferred to the income fund and thereafter paid to the beneficiary or the estate of the PERS retiree or other system retiree on application to the board.

(H)(1) A PERS retiree or other system retiree who applies under division (B)(1) of this section for payment of the retiree's contributions and is unmarried or is married and, unless the board has waived the requirement of spousal consent, includes with the application a statement of the spouse's consent to the payment, shall be paid the contributions made under section 145.38 or 145.383 of the Revised Code or, in the case of a retiree described in division (A)(2) of this section, section 145.47 of the Revised Code, plus interest as provided in section 145.471 of the Revised Code, if the following conditions are met:

(a) The retiree has not attained sixty-five years of age and has terminated employment subject to section 145.38, 145.383, or 145.385 of the Revised Code for any cause other than death or the receipt of a benefit under this section.

(b) Three months have elapsed since the termination of the retiree's employment subject to section 145.38, 145.383, or 145.385 of the Revised Code, other than employment exempted from contribution pursuant to section 145.03 of the Revised Code.

(c) The retiree has not returned to public service, other than service exempted from contribution pursuant to section 145.03 of the Revised Code,

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during the three-month period.

(2) Payment of a retirant's contributions cancels the retirant's right to a benefit under division (B)(2) of this section.

(I) A statement of a spouse's consent under division (B)(2) of this section to the form of a benefit or under division (H) of this section to a payment of contributions is valid only if signed by the spouse and witnessed by a notary public. The board may waive the requirement of spousal consent if the spouse is incapacitated or cannot be located, or for any other reason specified by the board. Consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.

(J) No amount received under this section shall be included in determining an additional benefit under section 145.323 of the Revised Code or any other post-retirement benefit increase.

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