

**OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM**  
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**MEMORANDUM**

**DATE:** August 4, 2006

**TO:** OPERS Retirement Board Members

**FROM:** Julie E. Becker, General Counsel  
Lauren Gresh, Associate Counsel

**RE:**       **IV.    Action Items:**  
          **C.    Five year rule review**  
              Rule 145-1-26, Definition of earnable salary  
              Rule 145-1-63, Guardianship and power of attorney  
              Rule 145-1-75, Re-employment of a retirant  
              Rule 145-2-01, Three years of contributing service or  
                                membership defined  
              Rule 145-2-02, Prior service credit claimed after retirement  
              Rule 145-2-04, Purchase of credit pursuant to section 145.293  
                                of the Revised Code  
              Rule 145-2-05, Free credit for military service  
              Rule 145-2-06, Purchase of military service credit  
              Rule 145-2-07, Purchase of additional service credit under  
                                section 145.201 of the Revised Code  
              Rule 145-2-08, Purchase of school board member service  
              Rule 134-2-09, Purchase of exempted service credit  
              Rule 145-2-11, Police and fire or highway patrol service  
              Rule 145-2-13, Purchase of leave of absence  
              Rule 145-2-15, Cincinnati retirement system  
              Rule 145-2-17, Purchase of firefighter service  
              Rule 145-2-18, Service credit for participation in combined plan  
                                or member-directed plan  
              Rule 145-2-21, Application for a disability benefit  
              Rule 145-2-23, Disability appeals  
              Rule 145-2-25, Combined disability benefits  
              Rule 145-2-27, Disability benefit recipient's annual statement  
              Rule 145-2-31, Proof of dependency  
              Rule 145-2-33, Educational benefits  
              Rule 145-2-35, Validity of marriage  
              Rule 145-2-37, Deferral of survivor benefits

**Rule 145-2-39, Survivors of law enforcement officer with non  
law enforcement service**  
**Rule 145-2-41, Bonus points eligibility**  
**Rule 145-2-42, Service credit established under retirement  
incentive plan**  
**Rule 145-2-43, Additional annuity payments**  
**Rule 145-2-45, Benefit payable pursuant to section 145.331 of  
the Revised Code**  
**Rule 145-2-49, Retirement benefits for law enforcement  
officers**  
**Rule 145-2-51, Effective date of benefits**  
**Rule 145-2-52, Application by a contributor for refund of  
accumulated contributions**  
**Rule 145-2-55, Death benefit payment**  
**Rule 145-2-57, Annual interest credited to contributor accounts**

Action requested: \_\_\_\_\_ moved, \_\_\_\_\_ seconded, to approve for submission to the Joint Committee on Agency Rule Review (JCARR) and the Legislative Service Commission (LSC), Rules 145-1-26, 145-1-63, 145-1-75, and 145-2-01 – 145-2-57, as set forth in this memorandum.

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## **I. Summary of five-year rule review amendments**

Ohio Revised Code Section 119.032 requires OPERS to review each of our administrative rules and determine whether they are to continue without change or be amended or rescinded every five years. The following rules have been evaluated by staff to ascertain whether the rules encompass the appropriate purpose, scope, and intent of the governing statutes. The following amendments are suggested.

### **(A) No amendments to the following rules, filed in current form**

The text of these rules has been excluded from this memo because they are not being amended.

Rule 145-2-01, Three years of contributing service or membership defined  
Rule 145-2-18, Service credit for participation in combined plan or  
member-directed plan

Rule 145-2-23, Disability appeals

Rule 145-2-31, Proof of dependency

Rule 145-2-33, Educational benefits

Rule 145-2-52, Application by a contributor for refund of accumulated  
contributions

Rule 145-2-55, Death benefit payment

Rule 145-2-57, Annual interest credited to contributor accounts

**(B) Technical amendments only**

- Rule 145-2-02, Prior service credit claimed after retirement
- Rule 145-2-04, Purchase of credit pursuant to section 145.293 of the Revised Code
- Rule 145-2-05, Free credit for military service
- Rule 145-2-07, Purchase of additional service credit under section 145-201 of the Revised Code
- Rule 145-2-08, Purchase of school board member service
- Rule 145-2-09, Purchase of exempted service credit
- Rule 145-2-11, Police and fire or highway patrol service
- Rule 145-2-13, Purchase of leave of absence
- Rule 145-2-15, Cincinnati retirement system
- Rule 145-2-21, Application for a disability benefit
- Rule 145-2-25, Combined disability benefits
- Rule 145-2-27, Disability benefit recipient's annual statement
- Rule 145-2-35, Validity of marriage
- Rule 145-2-37, Deferral of survivor benefits
- Rule 145-2-39, Survivors of law enforcement officers with non law enforcement service
- Rule 145-2-41, Bonus points eligibility
- Rule 145-2-42, Service credit in the Traditional Pension Plan established under retirement incentive plan
- Rule 145-2-43, Additional annuity payments
- Rule 145-2-49, Retirement benefits for law enforcement officers
- Rule 145-2-51, Effective date of benefits

**(C) Substantive amendments**

- Rule 145-2-06, Purchase of military service – This rule was amended to clarify the different statutory service credit calculations used to purchase military service
- Rule 145-2-17, Purchase of firefighter service – Amendment clarifies that interest is calculated through the last day of the month in which payment for the service is made.
- Rule 145-2-45, Benefit payable pursuant to section 145.331 of the Revised Code – Amendment clarifies that the effective date of retirement immediately following a revised disability allowance is determined pursuant to R.C. 145.331, as the first day of the month following termination of the revised disability allowance.

## **II. Other amendments**

### **(A) Rule 145-1-26, Definition of earnable salary**

This rule was amended to clarify that reports of conversion program contributions are reported on regular contribution reports, not supplemental reports.

### **(B) Rule 145-1-63, Guardianship and power of attorney**

Sub. HB 246 (eff. 3/29/06) provided for certain powers that may be granted to an attorney in fact pursuant to a power of attorney. If specifically provided in the power of attorney, the attorney in fact shall be permitted to:

- Elect or change a retirement plan of payment
- Select a retirement plan (MD, CO, TPP)
- Apply for and receive a refund of the account

This rule currently permits an attorney in fact to perform only limited account maintenance on behalf of a member or benefit recipient and guardianship of estate was required to the significant account decisions. The rule is amended to reflect the new powers that may be granted to an attorney in fact.

### **(C) Rule 145-1-75, Re-employment**

The amendments to paragraph (F) of this rule are provided to clarify how OPERS reviews the employment of disability recipients who return to employers that are not covered by OPERS (private and other retirement system employers). If the employment is similar, OPERS may request a reexamination to determine if the disability is ongoing. If the disability has terminated, the benefit will terminate as required by R.C. 145.362.

**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 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 (E)(5) of this rule.
- (D) 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 time, as described in division (R)(1)(b) of section 145.01 of the Revised Code, and for which 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;
  - (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 ~~supplemental~~ report of retirement contributions for the year in which such payment was accrued.
- (E) 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.

145-1-26 (continued)

- (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.
- (F) 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 ~~which~~ 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 ~~which~~ 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 ~~which~~ that are fixed charges or calculated as a percentage of an amount not directly related to work or services performed;
  - (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 that are made at the time of termination of employment.
- (G) (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 ~~which-that~~ would have been due the employee for the entire period of reinstatement.

- (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 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, ~~such-the~~ member may purchase ~~such-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, 145.34, 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 ~~which-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.
- (H) (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.

145-1-26 (continued)

- (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.
- (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.

Promulgated Under: 111.15.

Statutory Authority: 145.01, 145.09.

Rule Amplifies: 145.01, 145.47, 145.48, 145.49.

Rule Review Date: 9/29/10; 9/29/05.

~~Replaces: 145-3-07.~~

Effective Date History: 1/1/06; 1/1/03; 11/2/00;

9/27/97; 6/1/96; 8/31/92; 8/31/91; 3/17/89;

10/31/88; 5/27/88; 8/28/86, 6/18/86 (Emer.).



**145-1-63      Guardianship and power of attorney**

- (A) For the purpose of this rule, “recipient” means a member, ~~a contributor, a retirant, or a beneficiary who is eligible to receive a benefit or a payment~~ as provided in Chapter 145. of the Revised Code.
- (B) ~~Guardianship~~ Unless expressly authorized by the language in a power of attorney or in division (F) of this rule, guardianship of the estate shall be required and the guardian shall obtain a court order approving a change of retirement plan, selection of a plan of payment, designation of a beneficiary, or application for and receipt of a refund if:
- (1) ~~The~~ the recipient is eighteen years of age or older and suffers from a legal disability as defined in division (B), (C), or (D) of section 2131.02 of the Revised Code; ~~or~~
- (2) ~~The recipient is a beneficiary and is under eighteen years of age.~~
- (C) Except as provided in division (F) of this rule, guardianship of estate shall be required for receipt of a survivor benefit or refund if the recipient is a beneficiary and is under eighteen years of age. If applying for a refund, the guardian shall also obtain a court order approving the guardian’s application and receipt of payment on behalf of the beneficiary.
- (D) An attorney in fact granted general power with respect to retirement plan transactions is permitted to do the following:
- (1) Authorize the release of account information;
- (2) Provide and update bank account information for direct deposit of a recipient’s benefits;
- (3) Update the address of a recipient;
- (4) Receive correspondence on behalf of a recipient;
- (5) Make additional deposits and purchase service credit;
- (6) Make an initial plan selection under section 145.19 of the Revised Code;
- (7) Direct the OPERS investment options for participants in the combined and member-directed plans;
- (8) Select a plan of payment and designate a beneficiary(ies) under section 145.46 of the Revised Code, section 9.02 or 9.03 of the combined plan document, or section 9.02 of the member-directed plan document that meets the minimum requirements of a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property that requires the member or contributor to elect the plan of payment under which a portion of the member’s or

contributor's benefit continues, after the death of the member or contributor, to the member's or contributor's former spouse;

(E) If expressly authorized by the language in a power of attorney, an attorney in fact may do any of the following:

- (1) Elect or change a retirement allowance plan of payment under section 145.46 of the Revised Code, other than a joint and survivor annuity leaving one-half to the spouse if the member is married, a single life annuity if the member is single, or any plan that includes a partial lump sum option payment;
- (2) Elect to participate in a different defined contribution plan or the PERS defined benefit plan, as provided under section 145.814 of the Revised Code;
- (3) Apply for and receive a refund of a member's accumulated contributions and any applicable amounts pursuant to section 145.40 of the Revised Code or article VIII of the member-directed or combined plan document;
- (4) Designate a beneficiary.

~~(C)~~(F) Notwithstanding paragraph paragraphs (B), (C), and (D) of this rule, guardianship shall not be required if power of attorney and guardianship of estate shall not be required if:

- ~~(1)~~ The lump sum amount payable to a recipient, regardless of the recipient's legal disability or age and when the recipient who is in the care of the recipient's parent, that does not exceed ten thousand dollars per recipient.
- ~~(2)~~ ~~The lump sum amount payable to a recipient regardless of legal disability or age who is in the care of someone other than the recipient's parent or child does not exceed one thousand dollars.~~
- ~~(3)~~ The annual amount payable to a recipient under eighteen who is in the care of the recipient's parent will not exceed five thousand dollars per recipient.
- ~~(4)~~ (3) A court of competent jurisdiction has issued an a limited order pursuant to section 2111.02, 2111.021, 2111.05 or 2111.131 of the Revised Code or a comparable non-Ohio statute that directs the retirement system to issue a recipient's payment to a specific person or entity and specifies the address and direct deposit routing and account numbers for the financial institution to receive such payment.
- ~~(5)~~ (4) The recipient is a member who is eligible to receive a refund pursuant to section 145.40 of the Revised Code or article VIII of the member-directed or combined plan document and is under eighteen years of age and otherwise competent.

~~(D) When the recipient has designated an attorney in fact with the authority to act pursuant to a power of attorney, or, a durable power of attorney if the recipient is mentally incapacitated as~~

evidenced by a physician's statement, the retirement system may permit a recipient's attorney in fact to authorize the release of account information, provide and update bank information for direct deposit of the recipient's benefits, update the recipient's address, receive correspondence on the recipient's behalf, and make changes to the recipient's health care coverage.

- (G) The retirement system shall accept the direction of the guardian of the estate or attorney in fact until such time as the retirement system receives a copy of the court order terminating the guardianship or the written instrument signed by the principal that revokes the authority granted to the attorney in fact.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.32, 145.35, 145.36, 145.361, 145.384, 145.40, 145.43, 145.45, 145.46.

Rule Review Date: 9/29/10; 9/29/05.

Replaces: ~~145-13-06~~.

Effective Date History: 1/1/06; 12/24/04; 1/1/03; 5/29/95; 8/31/92; 1/1/90; 12/9/88; 9/27/85; 10/17/73.

## **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, or 145.37 of the Revised Code and is receiving a retirement allowance as provided in section 145.33, 145.331, 145.34 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 ~~which~~ ~~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 division (A) of section 145.33 or section 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.

145-1-75 (continued)

- (3) If the retirant is or should be covered under the employer's health care plan, health care claims paid by the retirement system shall be reduced by the benefits provided or available under the employer's health care plan.

(F) Re-employment of a disability benefit recipient

- (1) The retirement board shall terminate the ~~allowance benefit~~ of a disability benefit recipient who is employed by, or who provides services under a contract as an independent contractor for, ~~an a public employer covered by Chapter 145. of the Revised Code.~~
- (2) The retirement board shall review the ~~case~~ employment of a disability benefit recipient who is employed or is compensated by a ~~nonpublic~~ an employer other than a public employer in a position similar to the position the recipient held as a public employee to determine if ~~his~~ 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 public service employment covered by Chapter 145. of the Revised Code; or other employment, ~~may have on the retirant or recipient's benefit.~~

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.38.

Rule Amplifies: 145.362, 145.37, 145.38, 145.382.

Rule Review Date: 9/29/10; 9/29/05.

~~Replaces: 145-19-11.~~

Effective Date History: 1/1/06; 1/1/03; 2/14/02;  
4/5/01; 8/1/98; 1/31/98; 3/17/94; 2/1/93; 8/1/92;  
9/6/88; 2/19/60.

**145-2-02      Prior service credit claimed after retirement**

A retirant shall be permitted to reopen ~~his~~the retirant's case for the purpose of receiving additional prior service credit, as defined in section 145.01 of the Revised Code, not claimed at the time of retirement. The increased allowance on such additional service credit shall become payable the month after evidence is submitted to and accepted by the public employees retirement board.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.01.

Rule Review Date: 9/29/11; 9/29/06.

~~Replaces: 145-9-02.~~

Effective Date History: 1/1/03; 12/4/89; 7/14/55.

**145-2-04      Purchase of credit pursuant to section 145.293 of the Revised Code**

- (A) For the purpose of section 145.293 of the Revised Code:
- (1) “Comparable service position” means ~~service in~~ a comparable public position ~~which that~~ if it had been performed for an Ohio public employer would have been covered by an Ohio state retirement system;
  - (2) “First year of Ohio service” means first twelve successive months of full-time contributing service in the public employees retirement system subsequent to the termination date of the service to be purchased.
- (B) (1) The retirement system shall prepare a statement of the cost, including interest, for the service to be purchased based on the request of a member who shall provide a certification of the service on a form provided by the retirement system.
- (2) Interest at a rate set by the public employees retirement board shall be charged from the first day of membership in the retirement system subsequent to the termination date of the service to be purchased through the last day of the month in which payment is made.
- (C) Service credit under section 145.293 of the Revised Code may be purchased if such credit cannot be purchased in another Ohio state retirement system and will not exceed the limitations of section 145.293 of the Revised Code.
- ~~(D) The limitation of division (D) of section 145.293 of the Revised Code shall apply to service credit purchased after July 24, 1990.~~

Promulgated Under: 111.15.  
Statutory Authority: 145.09.  
Rule Amplifies: 145.293.  
Rule Review Date: 9/29/11; 9/29/06.  
~~Replaces: 145-9-04.~~  
Effective Date History: 1/1/03; 8/6/90; 1/1/78;  
5/21/75.



**145-2-05      Free credit for military service**

(A) This rule amplifies section 145.30 of the Revised Code.

(B) Definitions

- (1) “Maintained ~~his~~ membership” means any of the following:
  - (a) The member’s contributions remained with the public employees retirement system during the military service;
  - (b) The member’s accumulated contributions before ~~his~~ the member’s military service were refunded pursuant to section 145.40 of the Revised Code and redeposited pursuant to section 145.31 of the Revised Code; ~~or~~
  - (c) The member was exempt from membership or not a contributor to the retirement system before ~~his~~ the member’s military service, but Chapter 145. of the Revised Code authorizes a retroactive payment to establish membership before ~~his~~ the member’s military service.
- (2) “Military service” means active duty in the branches of the armed forces as defined in section 145.30 of the Revised Code.
- (3) “Total service credit as defined in section 145.01 of the Revised Code of twenty years” means twenty years of Ohio credit exclusive of military or uniformed service.
- (4) “Was a member” means membership before the member’s military service was established in the same manner as defined in paragraph (B)(1) of this rule.
- (5) “Was or is out of active service as a public employee by reason of having become a member of the armed forces” means:
  - (a) On or before November 13, 1965, the member established membership in the retirement system with one deduction and no more than three months had elapsed between the termination of the member’s contributing service and the date ~~he~~ the member entered military service.
  - (b) After November 13, 1965, the member established one year of service credit in the retirement system and no more than three months have elapsed between the termination of the member’s contributing service and the date ~~he~~ the member entered military service.

145-2-05 (continued)

- (c) For military service ~~which~~that begins before November 13, 1965, and terminates after such date, free military service credit shall be granted if the member meets the eligibility requirements pursuant to section 145.30 of the Revised Code in effect during each period of military service before and after November 13, 1965, and not more than three months had elapsed between the termination of the member's contributing service and the date ~~he~~the member entered military service.
- (C)
  - (1) The service credit to which a member is entitled shall be calculated from the date the member entered military service through the date the military service terminated.
  - (2) The member shall submit report(s) of separation (form DD214) or other satisfactory documentation as evidence of ~~his~~ military service and discharge to the retirement system.
- (D) Military service shall be the equivalent of prior service credit only if the member made the one-half additional payment as required by section 145.31 of the Revised Code to the employers' accumulation fund, as defined in section 145.23 of the Revised Code, during the period between November 30, 1953, and August 20, 1976.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.30.

Rule Review Date: 9/29/11; 9/29/06.

~~Replaces: 145-9-05.~~

Effective Date History: 1/1/03; 11/2/00; 3/27/99;  
11/2/96; 1/2/90; 7/13/72.

**145-2-06      Purchase of military service credit**

- (A) This rule amplifies sections 145.301 and 145.302 of the Revised Code.
- (B) The member shall submit report(s) of separation (form DD214) or other satisfactory documentation to the public employees retirement system as evidence of the member's military service and discharge to the retirement system.
- (C) If a member has been in military service more than once as evidenced by more than one report of separation or service and wishes to purchase credit under section 145.302 of the Revised Code for more than one period of military service, interest as set in rule 145-1-35 of the Administrative Code shall be charged from the date the member last terminated military service.
- (D)
  - (1) ~~The limitation of division (F) of section 145.301 of the Revised Code shall apply to military service purchased on or after July 24, 1990.~~
  - (2) For military service purchased ~~on or after March 17, 2000~~ under section 145.301 of the Revised Code, ~~this the~~ retirement system shall calculate the cost ~~to purchase military service credit~~ by using the member's earnable salary for the twelve months of contributing service under Chapter 145., 3307., ~~and/or or~~ 3309. of the Revised Code immediately preceding the month in which the application to purchase is received by the system.
  - (3) Annually the public employees retirement board shall set the percentage rate for the cost of service allowed under section 145.301 of the Revised Code, based upon its actuary's recommendation.
- (E) Where applicable, the member's public employer shall certify information including, but not limited to, the earnable salary the member would have earned during the member's military service on a form provided by the retirement system.
- (F) The employer contributions due pursuant to section 145.302 of the Revised Code shall be billed to the employer for payment after the member has paid all or part of the employee contributions due. If the employer fails to make the payments required, any employer amounts not paid shall be certified for collection and subject to the same penalty and interest described in section 145.51 of the Revised Code.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.301, 145.302.

Rule Review Date: 9/29/11; 9/29/06.

~~Replaces: 145-9-06.~~

Effective Date History: 1/1/03; 5/4/00; 11/2/96; 8/6/90; 1/2/90; 1/1/78; 8/15/73.

**145-2-07      Purchase of additional service credit under section 145.201 of the Revised Code**

- (A) This rule amplifies the provisions of section 145.201 of the Revised Code.
- (B)
  - (1) The public employees retirement system shall prepare a statement of cost for the additional service credit to be purchased based on the request of an eligible member.
  - (2) The statement of cost shall be based on thirty-five per cent of all eligible full-time service.
  - (3) The retirement system shall issue a statement of cost ~~which~~ that shall include full calendar years of eligible service and may include a partial calendar year if the partial calendar year is:
    - (a) The only eligible service;
    - (b) The first year of a term of eligible service; or
    - (c) The last year of a term of eligible service.
- (C) “Full-time service” does not include ~~that~~ service computed as part time pursuant to division (T) of section 145.01 of the Revised Code.

Promulgated Under: 111.15.  
Statutory Authority: 145.09.  
Rule Amplifies: 145.201.  
Rule Review Date: 9/29/11; 9/29/06.  
~~Replaces: 145-9-07.~~  
Effective Date History: 1/1/03; 9/6/88; 4/7/88.

**145-2-08      Purchase of school board member service**

- (A)    This rule amplifies section 145.299 of the Revised Code.
- (B)    (1)    The member shall submit a written request ~~which~~that shall include a certification of the service on a form provided by the public employees retirement system.
- (2)    A member shall purchase credit for such service only by a lump-sum payment as defined in rule 145-1-35 of the Administrative Code.
- (3)    A member may purchase credit only for such qualified service ~~which~~that occurred prior to June 30, 1991.

Promulgated Under: 111.15.  
Statutory Authority: 145.09, 145.299.  
Rule Amplifies: 145.299.  
Rule Review Date: 9/29/11; 9/29/06.  
~~Replaces: 145-9-09.~~  
Effective Date History: 1/1/03; 9/30/91.

**145-2-09      Purchase of exempted service credit**

- (A) (1) For service which would have been covered by Chapter 145. of the Revised Code, but was exempted, a member shall make a request to purchase credit for this service on a form provided by the public employees retirement system.
- (2) ~~The member should have the~~ employer for which the service was performed shall complete the certification of such service on the form and. ~~The employer shall~~ attach to the form a copy of each approved written exemption from membership on file with the employer for such member.
- (3) After receipt of the completed form, the retirement system shall determine the amount of service credit ~~which that~~ would have been earned had the service not been exempted.
- (B) For service which would have been covered by Chapter 3307. or 3309. of the Revised Code, but was exempted and must be purchased in this system, this retirement system shall request certification from the other retirement system that such service was exempted and the amount of the credit for such service, which shall be determined from a certification of the employer for which the service was performed.
- (C) The service credit purchased pursuant to section 145.28 of the Revised Code and this rule shall be adjusted to the extent:
- (1) The service is concurrent with any other service ~~which that~~ will be used in calculating a benefit;
- (2) The purchase of the service credit results in more than twelve months of credit in a year.
- (D) (1) This retirement system shall calculate the cost to purchase exempted service credit by using the member's earnable salary for the twelve months of contributing service under Chapter 145., 3307., ~~and/or or~~ 3309. of the Revised Code immediately preceding the month in which the application to purchase is received by this system.
- (2) Annually, the public employees retirement board shall set the percentage rate for the ~~costs~~ cost of such service credit in the traditional pension plan, based upon its actuary's recommendation, and the interest rate to be charged if the service credit is purchased in more than one payment.

Promulgated Under: 111.15.  
Statutory Authority: 145.09, 145.28.  
Rule Amplifies: 145.28.  
Rule Review Date: 9/29/11; 9/29/06.  
~~Replaces: 145-9-10.~~  
Effective Date History: 1/1/03; 8/1/92; 5/21/92 (Emer.).

**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) ~~Before September 16, 1998, “former member” as used in section 145.295 of the Revised Code means a member who was not then currently contributing to the public employees retirement system.~~
- ~~(C)~~ (1) Any payments made by a member to purchase credit pursuant to section 145.295 of the Revised Code shall not be refunded to a member except as authorized under section 145.40 or division ~~(C)~~ (D) of section 145.295 of the Revised Code.
- (2) Any payments made by a member to purchase credit pursuant to section 145.2913 of the Revised Code shall not be refunded to a member except as authorized under section 145.40 of the Revised Code.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.295.

Rule Amplifies: 145.295, 145.2913.

Rule Review Date: 9/29/11; 9/29/06.

~~Replaces: 145-9-11.~~

Effective Date: 1/1/03; 3/22/02; 9/27/98; 12/9/95;  
4/5/93.

**145-2-13      Purchase of leave of absence**

- (A) This rule amplifies section 145.291 of the Revised Code.
- (B) A member can purchase service credit for a leave of absence period ~~which~~that occurred during a period of contributing service for which the member received a refund of contributions pursuant to section 145.40 of the Revised Code, only if the member has made a redeposit of the -refund pursuant to section 145.31 of the Revised Code.
- (C) The service credit purchased pursuant to section 145.291 of the Revised Code shall be adjusted to the extent:
  - (1) The service is concurrent with any other service ~~which~~that will be used in calculating a benefit;
  - (2) The purchase of the service credit results in more than twelve months of credit in a year.
- (D)
  - (1) The member's employer at the time the member was off the payroll shall certify the member's earnable salary for the period, and the member's authorized leave or resignation.
  - (2) A member purchasing service credit for a period of time when the member was off the payroll due to resignation because of pregnancy shall submit a certified copy of the child's birth certificate; or, because of adoption of a child, shall submit evidence of such adoption.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.291.

Rule Review Date: 9/29/11; 9/29/06.

~~Replaces: 145-9-12.~~

Effective Date History: 1/1/03; 11/2/00; 3/27/99.



**145-2-15      Cincinnati retirement system**

- (A) This rule amplifies sections 145.2910, 145.2911, and 145.2912 of the Revised Code.
- (B) “Eligible service credit” means service earned under this system or the Cincinnati retirement system or military service credit purchased or obtained in this system or the Cincinnati retirement system.
- (C)
  - (1) A member of this system, who is eligible to obtain eligible service credit in this system for service credit with the Cincinnati retirement system, shall make a request to obtain credit for such service on a form provided by this system.
  - (2) Except as otherwise provided in this rule, a member shall make payments required under division (C)(1) of section 145.2911 of the Revised Code pursuant to rule 145-1-35 or 145-1-38 of the Administrative Code. A member may use an eligible rollover distribution for such payments as allowed by rule 145-1-37 of the Administrative Code.
  - (3) Service credit for a member who obtains credit pursuant to section 145.2911 of the Revised Code and this rule shall accrue in the same amount as described in division (T)(1) of section 145.01 of the Revised Code upon payment of the following amounts:
    - (a) Any required amounts due from the member under section 145.2911 of the Revised Code and this rule; and,
    - (b) The required amounts due from the Cincinnati retirement system under division (C)(2) of section 145.2911 of the Revised Code.
  - (4)
    - (a) If the Cincinnati retirement system fails to transfer those amounts required under division (C)(2) of section 145.2911 of the Revised Code, this system shall notify the member, and shall not grant the service credit.
    - (b) The member may choose to receive a return of any payments made by the member to this system, or have such payments accrue in an additional annuity pursuant to section 145.23 of the Revised Code and rule 145-2-43 of the Administrative Code.
- (D)
  - (1) This system shall transfer those amounts required under section 145.2912 of the Revised Code for a member or former member of this system, who is eligible to obtain eligible service credit in the Cincinnati retirement system for service credit with this system pursuant to section 145.2912 of the Revised Code, after:
    - (a) Receiving notification from the Cincinnati retirement system that the member has requested such transfer;

145-2-15 (continued)

- (b) The member has paid any required amounts to this system; and,
  - (c) This system has notified the member.
- (2) If a member's request for a transfer under division (B) of section 145.2912 of the Revised Code is for less than the member's total eligible service credit with this system, any benefits or payments to which the member or the member's beneficiary or beneficiaries may be entitled shall be based on the remaining service credit with this system.

Promulgated Under: 111.15.  
Statutory Authority: 145.09.  
Rule Amplifies: 145.2910, 145.2911, 145.2912.  
Rule Review Date: 9/29/11; 9/29/06.  
~~Replaces: 145-9-13.~~  
Effective Date History: 1/1/03; 2/14/02; 11/30/01  
(Emer.).

**145-2-17      Purchase of firefighter service**

A firefighter employed before May 1, 1991, who is or becomes a member of the public employees retirement system on May 1, 1991, may purchase ~~his~~ firefighter service before May 1, 1991 for any year of non-contributing service as a firefighter not covered by an approved exemption. The cost of such service shall equal the amount of employee contributions at the contribution rate at the date of payment plus interest through the ~~date of payment~~ last day of the month in which payment is made pursuant to section 145.29 of the Revised Code.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.01, 145.012, 145.03.

Rule Review Date: 9/29/11; 9/29/06.

~~Replaces: 145-5-07.~~

Effective Date History: 1/1/03; 8/1/92; 5/1/91;  
10/30/78; 1/21/76.

**145-2-21      Application for a disability benefit**

- (A) For the purpose of sections 145.35, 145.36, 145.361, and 145.37 of the Revised Code and PERS rules:
- (1) “Disability” means presumed permanent mental or physical incapacity for the performance of a member’s present duty or similar service ~~which~~that is the result of a disabling condition ~~which~~that has occurred or has increased since an individual became a member.
  - (2) “Has not attained age sixty” means a member has filed an application for a disability ~~benefit~~retirement with the public employees retirement system and not become sixty years old before the last day public service terminated.
  - (3) “On-duty illness or injury” means an illness or injury that: (a) occurred during or resulted from performance of duties under the direct supervision of a member’s appointing authority, and (b) is not an exacerbation of an existing illness or injury medically diagnosed before the first day of employment with the employer reporting to the retirement system.
  - (4) “Original disability plan” means the plan ~~which~~that provides a benefit pursuant to section 145.36 of the Revised Code.
  - (5) “Revised disability plan” means the plan ~~which~~that provides a benefit pursuant to section 145.361 of the Revised Code.
  - (6) “Examining physician” means a physician appointed by the PERS board.
- (B) A member shall make application for a disability benefit on a form provided by the retirement system.
- (1) Consideration of a member’s application shall be limited to the disabling condition(s) listed in the application or disclosed by the examination of the physician(s) selected by the retirement system.
  - (2) Upon receipt of a completed application, report of employer, report of attending physician(s), report of examining physician(s) and, if available, reports of employment physical examinations, the retirement system’s medical consultant(s) shall review all such documentation and prepare a recommendation to the public employees retirement board.
    - (a) Payment of any fees for the preparation of the report of the attending physician(s) shall be the responsibility of the member.
    - (b) Payment of any fees for the preparation of the report of the examining physician(s) shall be the responsibility of the retirement system.

- (C) The board at its regular meetings shall review disability applications and the written recommendations of its medical examiners and medical consultant. The determination by the board on any application is final.
- (1) The retirement board may approve a member's application contingent on the following conditions.
- (a) The medical consultant determines that:
- (i) The member has a disability as defined in section 145.35 of the Revised Code and this rule; and
- (ii) Additional medical treatment offers an expectation of improvement of the disabling condition to the extent a member may return to the member's previous or similar job duties.
- (b) Such additional medical treatment shall be of common medical acceptance and readily available, and may include, but is not limited to, medicine, alcohol ~~and/or~~ or drug rehabilitation, or mechanical devices but would exclude surgery or other invasive procedures.
- (c) Such additional medical treatment is an allowable medical expense under the retirement system's health care plan.
- (d) The member, prior to receipt of disability benefits, shall agree in writing on a form provided by the retirement board to obtain the recommended treatment and submit required medical reports during the treatment period.
- (2) (a) After receipt of the member's signed agreement, the retirement system shall begin payment of benefits due pursuant to section 145.35, and 145.36 or 145.361 of the Revised Code. The period for recommended treatment shall begin the month following receipt of the member's signed agreement.
- (b) If the member fails to submit a required medical report or does not continue treatment the member's disability benefit shall be suspended until such report is received by the retirement system, the member resumes treatment or the physician providing the treatment certifies, and the medical consultant concurs, that treatment is no longer helpful or advisable. If such failure continues for one year, the disability benefit shall be terminated.

- (D) The retirement board may require a member to submit to a subsequent medical examination by a physician selected by the retirement board provided the medical consultant recommends such examination in order to evaluate continued eligibility for disability benefits.
- (E) After the retirement board has acted on a member's application it shall notify, by regular mail, the member and the member's last employer reporting to the retirement system of its action.
- (F) A member may withdraw an application for a disability benefit prior to receipt of the initial ~~interim~~-benefit payment in the same method as described in rule 145-1-65 of the Administrative Code.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.35, 145.36, 145.361, 145.37.

Rule Review Date: 9/29/11; 9/29/06.

~~Replaces: 145-11-01.~~

Effective Date History: 12/24/04; 1/1/03; 1/5/01;  
9/27/98; 10/4/93; 2/1/93; 6/30/61.

**145-2-25      Combined disability benefits**

- (A) This rule amplifies section 145.37 of the Revised Code.
- (B) If a member of the public employees retirement system files an application for a disability benefit pursuant to section 145.35 of the Revised Code, and also chooses to apply for a combined disability benefit with the state teachers retirement system ~~and/or~~ or school employees retirement system, the following shall apply.
  - (1) This system shall request and pay for the examining physician(s) report(s) if:
    - (a) The member's last public service was covered by this system, and ~~he~~ the member was not contributing concurrently to such other retirement system(s) as of the last covered date of public service, or;
    - (b) The member's contributions to this system for Ohio service credit during the twelve months preceding an application are greater than such contributions to such other retirement system(s) during the same period and ~~he~~ the member was contributing concurrently to such other system(s) as of ~~his~~ the last covered date of public service.
  - (2) If this system is paying for the examining physician(s) report(s), disability for performance of duty shall be determined on the basis of the duties for the most recent service covered by this system.
  - (3) If this system is requesting the examining physician(s) report(s), it shall determine the projected service credit, if any, to be used in a benefit calculated under the original disability plan. Such credit shall be paid for by this system only if the member's service credit is greater in this system excluding any projected service credit.
  - (4) If this system paid for the original examining physician(s) report(s), it shall provide and pay for any examining physician(s) report(s) required subsequent to a disability benefit recipient's effective benefit date, and notify the other retirement system(s) of the results of such report(s).

Promulgated Under: 111.15.  
Statutory Authority: 145.09.  
Rule Amplifies: 145.35, 145.37.  
Rule Review Date: 9/29/11; 9/29/06.  
~~Replaces: 145-11-03.~~  
Effective Date History: 1/1/03; 2/1/93; 6/30/61.

**145-2-27      Disability benefit recipient's annual statement**

- (A) ~~A~~ On or before April fifteenth of each year, a disability benefit recipient shall file ~~by April fifteenth of each year~~ a notarized statement with the public employees retirement system providing information including, but not limited to: work performed during the preceding calendar year, compensation received for work performed, and current medical information.
- (B) The recipient's statement shall be made on a form provided by the retirement system.
- (C) The failure of a recipient to file such statement shall result in the suspension of a disability benefit until such statement is filed. If such failure continues for one year, the disability benefit shall be terminated.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.362.

Rule Amplifies: 145.35, 145.36, 145.361, 145.362, 145.37.

Rule Review Date: 9/29/11; 9/29/06.

~~Replaces: 145-11-04.~~

Effective Date History: 1/1/03; 9/27/98; 2/1/93; 6/4/82.



**145-2-35      Validity of marriage**

In the absence of a valid marriage certificate, the public employees retirement board will accept only a decision rendered by a court, having jurisdiction in the state in which the member was domiciled at the time of death, that the relationship constituted a valid marriage at time of death, or the “spouse” would have the same status as a widow or widower for purposes of sharing in the distribution of the member’s or retirant’s intestate personal property.

Promulgated Under: 111.15.  
Statutory Authority: 145.09.  
Rule Amplifies: 145.43.  
Rule Review Date: 9/29/11; 9/29/06.  
~~Replaces: 145-13-07.~~  
Effective Date History: 1/1/03; 5/4/00.

**145-2-37      Deferral of survivor benefits**

- (A) This rule applies to the payment of a benefit to a surviving spouse who has not attained age sixty-five and who elects, pursuant to division (A) of section 145.45 of the Revised Code, to defer receipt of such benefit.
- (B)
  - (1) The benefit ~~amount payable~~ shall be calculated as if payable on the first day of the month following the death of the member.
  - (2) Notwithstanding paragraph (B)(1) of this rule, the monthly benefit will accumulate and be paid in a single sum no earlier than the first of the month following the surviving spouse's attainment of age sixty-five.
  - (3) Interest shall accumulate during the time of deferral at the interest rate described in division (B) of section 145.473 of the Revised Code.
- (C) The amount calculated under this rule shall not be reduced due to a later recalculation as provided in section 3 of Amended Substitute House Bill 268 of the 111<sup>th</sup> General Assembly.

Promulgated Under: 111.15.  
Statutory Authority: 145.09.  
Rule Amplifies: 145.45, 145.473.  
Rule Review Date: 9/29/11; 9/29/06.  
~~Replaces: 145-19-09.~~  
Effective Date History: 1/1/03; 11/2/00; 8/31/92;  
8/20/76.

**145-2-39      Survivors of law enforcement officers with non law enforcement service**

(A)      Definitions

- (1)      “Law enforcement officer” means a member defined in divisions (AA) to ~~(UU)~~ (VV) of section 145.01 of the Revised Code and described in division ~~(VV)~~ (WW) of section 145.01 of the Revised Code.
- (2)      “Law enforcement service” means service as a law enforcement officer.
- (3)      “Non law enforcement service” means service covered by the public employees retirement system ~~which~~ that is other than law enforcement service.

- (B)      If a member who has both law enforcement service credit and non law enforcement service credit dies prior to retirement, the member’s qualifying beneficiary or beneficiaries as determined in accordance with section 143.43 or 145.45 of the Revised Code may elect to have benefits paid pursuant to section 145.33, 145.43, or 145.45 of the Revised Code. If the benefit is calculated pursuant to division (E)(1)(b) of section 145.33 of the Revised Code, the beneficiary shall be paid a lump sum payment discounted to present value for the non law enforcement service.

Promulgated Under: 111.15.  
Statutory Authority: 145.09.  
Rule Amplifies: 145.01, 145.33, 145.43, 145.45.  
Rule Review Date: 9/29/11; 9/29/06.  
~~Replaces: Part of 145-5-14.~~  
Effective Date History: 1/1/03; 4/5/01; 2/3/00;  
12/6/93; 12/30/91; 7/31/89; 8/20/76.

**145-2-41      Bonus points eligibility**

The anniversary of the birth date must have been on or before August 31, 1976, to vest ~~bonus points~~ as described in division (A)(5)(b) of section 145.33 of the Revised Code as of September ~~first~~ 1, 1976.

Promulgated Under: 111.15.  
Statutory Authority: 145.09.  
Rule Amplifies: 145.33.  
Rule Review Date: 9/29/11; 9/29/06.  
~~Replaces: 145-15-03.~~  
Effective Date History: 1/1/03; 8/20/76.

**145-2-42      Service credit in the Traditional Pension Plan established under retirement incentive plan**

(A) For the purpose of this rule:

- (1) “Effective benefit date” means the first day of the month immediately following the later of:
  - (a) The last day for which compensation was paid; or
  - (b) The attainment of minimum age or service credit eligibility provided under Chapter 145. of the Revised Code.
- (2) “Employee” means each contributing member of the public employees retirement system who is an employee described in division (C) of section 145.297 of the Revised Code regardless of the years of service credit in the retirement system;
- (3) “Employing unit” means an employer as defined in division (A) of section 145.297 or division (A) of section 145.298 of the Revised Code, and if any subordinate designation of an employing unit is made then the retirement system shall be notified in accordance with paragraph (B) of this rule; and
- (4) “Retirement incentive plan” means a plan established pursuant to section 145.297 or 145.298 of the Revised Code.

- (B)
- (1)
    - (a) Upon adoption of a retirement incentive plan, an employing unit shall immediately notify the public employees retirement system of such adoption on a form provided by the public employees retirement board. A copy of the plan shall be attached to the form.
    - (b) Notwithstanding paragraph (B)(1)(a) of this rule, in the event a subordinate designation of an employing unit is made:
      - (i) If by a state entity, notice to the retirement system shall be submitted by the appointing authority and include the signatures of the fiscal officer reporting to the retirement system and head of the subordinate employing unit; or
      - (ii) If by a county board of commissioners, notice to the retirement system shall be submitted by the commissioners and include the signatures of the county auditor and head of the subordinate employing unit; or
      - (iii) If by a municipal corporation legislative authority, notice to the retirement system shall be submitted by the legislative authority

and include the signatures of the fiscal officer reporting to the retirement system and head of the subordinate employing unit.

- (2) The plan must be in writing and meet the following minimum requirements:
  - (a) Incorporate the approval of the employing unit;
  - (b) Provide for the employing unit's purchase and payment of service credit;
  - (c) Specify the maximum number of years that can be purchased, not to exceed five years, and in no event to exceed an amount of service credit equal to one-fifth of the total service credited to an eligible employee under Chapter 145. of the Revised Code, exclusive of service credit purchased under the plan;
  - (d) Be in effect for a minimum of one year except as provided in division (D) of section 145.298 of the Revised Code;
  - (e) No more than one plan shall be in effect at one time for an employing unit or subordinate employing unit;
  - (f) Be offered to not less than five per cent of the employing unit or subordinate employing unit's employees who are members of the retirement system as of the date the plan goes into effect;
  - (g) Provide a grievance procedure for timely and impartial resolution of disputes arising under the plan; and
  - (h) Provide thirty days prior notice to employees of the termination of the retirement incentive plan.
- (3) In addition to providing thirty days prior notice to its employees of the termination of a retirement incentive plan, the employing unit shall provide similar written notice to the retirement system at the same time.
- (4) Upon the written request of an employing unit or a subordinate employing unit, a retirement incentive plan may be extended beyond the date designated in the original plan. Such request shall be submitted in the same manner as notice of adoption of the original plan is required in this paragraph.
- (C) Requests by an employing unit for the cost of service credit to be purchased for an employee under a retirement incentive plan shall be submitted to the retirement system on a form provided by the retirement board.

145-2-42 (continued)

- (D) (1) The additional liability resulting from a retirement incentive plan is established under contract as an employer liability by the employee-employer agreement. The cost to the employing unit for each year or fraction of a year of credit to be purchased will be determined by factors recommended by the retirement system's actuary ~~which that~~ yield an amount equal to the additional liability for the service credit to be purchased. Factors to establish actuarial cost will be revised no more than once annually and after such revision is approved by the retirement board shall apply to new credit calculations. The cost shall be stated in a statement of cost to the employer ~~which that~~ shall be valid when computed for payment not earlier than three months preceding the effective benefit date.
- (2) Except as otherwise provided in this rule, the employing unit shall pay or contract to pay the cost of the service credit to be purchased by the earlier of either the last day of the month preceding the employee's effective benefit date, or the termination date of the retirement incentive plan:
- (a) In one payment, after notice by the retirement system to the employing unit of the cost; or,
  - (b) In equal quarterly or annual installment payments not to exceed the number of full years purchased under the retirement incentive plan.
- (3) Notwithstanding paragraph (D)(2) of this rule, a state employing unit ~~which that~~ has established a mandatory retirement incentive plan pursuant to section 145.298 of the Revised Code as the result of institutional closings shall pay or contract to pay the cost of the service credit to be purchased by the earlier of either the last day of the month preceding the employee's effective benefit date, or the termination date of the retirement incentive plan:
- (a) In one payment, after notice by the retirement system to the employing unit of the cost; or,
  - (b) In equal quarterly or annual installment payments with the first payment due not later than sixty days after announced closings.
- (4) Notwithstanding paragraph (D)(2) of this rule, a state employing unit ~~which that~~ has established a mandatory retirement incentive plan pursuant to section 145.298 of the Revised Code as the result of lay-offs shall pay or contract to pay the cost of the service credit to be purchased by the earlier of either the last day of the month preceding the employee's effective benefit date, or the termination date of the retirement incentive plan:

145-2-42 (continued)

- (a) In one payment, after notice by the retirement system to the employing unit of the cost; or,
  - (b) In equal quarterly or annual installment payments not to exceed the number of full years purchased under the retirement incentive plan.
- (5) Notwithstanding paragraph (D)(2) of this rule, an employing unit ~~which that~~ has established a voluntary retirement incentive plan pursuant to section 145.297 of the Revised Code, and ~~which that~~ is terminating operations as a whole or in part shall pay or contract to pay the cost of the service credit to be purchased by the earlier of either the last day of the month preceding the employee's effective benefit date, or the last day of operations:
  - (a) In one payment, after notice by the retirement system to the employing unit of the cost; or,
  - (b) In equal quarterly or annual installment payments with the first payment due not later than sixty days after the announced termination of operations.
- (6) Notwithstanding paragraph (D)(2) of this rule, an employing unit that does not receive revenue from a levy or direct tax settlement shall pay the cost of the service credit purchased in one payment, after notice by the retirement system to the employing unit of the cost, by the earlier of either the last day of the month preceding the employee's effective benefit date, or the termination date of the retirement incentive plan.
- (7) If an employing unit contracts to pay the cost in installment payments, interest shall be charged beginning with the employee's effective benefit date on the remaining installment payments at a rate set by the retirement board.
- (8) Once the initial installment payment is received by the retirement system, all remaining installment payments become due and payable in accordance with the original statement of cost to the employer.
- (9) Any amounts not paid timely by the employing unit shall be certified for collection pursuant to section 145.51 of the Revised Code.
- (E)
  - (1) The service credit contracted for purchase under the retirement incentive plan shall be credited to the employee by the retirement system under the terms of the employee-employer agreement and the employee shall retire within ninety days thereafter.
  - (2) If an employee dies prior to ~~his~~ an effective benefit date, a qualifying beneficiary shall be entitled only to those benefits provided by section 145.43 or 145.45 of the



145-2-42 (continued)

Revised Code exclusive of service credit ~~which~~that may have been available under a retirement incentive plan.

- (F) Except as provided in sections 145.297 and 145.298 of the Revised Code, an employee who retires with service credit purchased pursuant to a retirement incentive plan is subject to the rights, privileges and obligations under sections 145.01 to 145.59 of the Revised Code in effect at the time of retirement.
- (G) (1) “Total service credit” as used in section 145.297 or 145.298 of the Revised Code means all service that is credited pursuant to Chapter 145. of the Revised Code.
- (2) Third-party requests for the total service credit of a member shall be honored only if accompanied by the member’s written authorization ~~which~~that includes ~~his~~ the member’s federal identification number.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.297.

Rule Amplifies: 145.297, 145.298.

Rule Review Date: 9/29/11; 9/29/06.

~~Replaces: 145-15-04.~~

Effective Date History: 1/1/03; 10/9/00; 2/1/88;  
4/3/87; 12/22/86 (Emer.).

**145-2-43      Additional annuity payments**

- (A)    (1)    A member or contributor who makes a payment for an additional annuity, pursuant to section 145.23 of the Revised Code, shall remit the payment with a form provided by the public employees retirement system. The retirement system shall not accept a payment for less than one hundred dollars, nor more than one payment a month, except as provided in rule 145-1-37 of the Administrative Code.
- (2)    A member or contributor may designate a beneficiary to receive only the additional annuity account if the member or contributor dies while still a member or contributor.
- (a)    Such designation shall be made on a form provided by the retirement system, and may be changed only on a form provided by the retirement system.
- (b)    If a member fails to designate a beneficiary, or the beneficiary dies prior to the member, the beneficiary shall be the person determined to qualify for other payments pursuant to section 145.43 of the Revised Code.
- (c)    If a contributor fails to designate a beneficiary, or the beneficiary dies prior to the contributor, the beneficiary shall be the person determined to qualify for other payments pursuant to section 145.384 of the Revised Code.
- (B)    (1)    A member or contributor shall make application for an additional annuity payment on a form provided by the public employees retirement system. In the event a member or contributor is deceased, the qualifying beneficiary shall make ~~such~~ application.
- (2)    The retirement system may pay a one-time lump sum payment after receiving an application from ~~the a~~ member, a contributor or a beneficiary ~~who has requested such payment.~~
- (3)    The retirement system may pay monthly additional annuity benefits only if:
- (a)    The member has ~~requested such payment~~ applied for the additional annuity benefit and has applied for a retirement benefit pursuant to section 145.32 or 145.331 of the Revised Code; or
- (b)    A contributor has ~~requested such payment~~ applied for the additional annuity benefit and has applied for a monthly benefit pursuant to section 145.384 of the Revised Code.

145-2-43 (continued)

- (4) If a member makes an application for a monthly additional annuity benefit, the member shall select a plan of payment as described in section 145.46 of the Revised Code, and designate a beneficiary.
- (C) A member or contributor who makes a payment, for an additional annuity, pursuant to section 145.23 of the Revised Code, is eligible to receive an interim benefit payment as described in rule 145-1-65 of the Administrative Code.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.23.

Rule Amplifies: 145.23.

Rule Review Date: 9/29/11; 9/29/06.

~~Replaces: 145-15-06.~~

Effective Date History: 1/1/03; 3/22/02; 1/1/02 (Emer.); 10/9/00; 2/3/92.

**145-2-45      Benefit payable pursuant to section 145.331 of the Revised Code**

- (A) ~~After application by an eligible revised disability plan benefit recipient, benefits~~ Benefits available ~~pursuant to~~ under section 145.331 of the Revised Code shall be effective as provided in that section ~~the first day of the month following the later of:~~
- (1) ~~—The last day for which a disability benefit was paid pursuant to section 145.361 of the Revised Code;~~
- (2) ~~—The purchase of additional service credit; or~~
- (3) ~~—A date specified by the member.~~
- (B) ~~An eligible revised~~ A disability plan ~~benefit recipient who applies for retirement under~~ section 145.331 of the Revised Code shall select a plan of payment and designate a beneficiary pursuant to section 145.46 of the Revised Code. A plan of payment ~~and/or or~~ a beneficiary may be changed only pursuant to section 145.46 of the Revised Code and rule 145-2-47 of the Administrative Code.

Promulgated Under: 111.15.  
Statutory Authority: 145.09.  
Rule Amplifies: 145.331.  
Rule Review Date: 9/29/11; 9/29/06.  
~~Replaces: 145-15-08.~~  
Effective Date History: 1/1/03; 10/9/00; 2/1/93.

**145-2-49      Retirement benefits for law enforcement officers**

(A)    Definitions

- (1)    “Law enforcement officer” means a member defined in divisions (AA) to (VV) of section 145.01 of the Revised Code and described in division (WW) of section 145.01 of the Revised Code.
- (2)    “Law enforcement service” means service as a law enforcement officer.
- (3)    “Non-law enforcement service” means service covered by the public employees retirement system ~~which~~ that is other than law enforcement service.

(B)    If a law enforcement officer is eligible, applies for, and elects to receive retirement benefits pursuant to division (E)(1)(b) of section 145.33 of the Revised Code, the law enforcement officer shall elect to receive the benefit amount for the non-law enforcement service as one of the following:

- (1)    A monthly annuity for life;
- (2)    A lump sum payment discounted to the present value.

If the monthly annuity would be less than twenty-five dollars per month, the law enforcement officer shall receive a lump sum payment. If, at the time of the retirant’s death, the retirant has received a total amount of monthly benefits ~~which~~ that were less than the retirant would have received as a lump sum payment discounted to the present value of the non-law enforcement service benefit, the difference between the amount the retirant received and the amount the retirant would have received shall be paid to the retirant’s beneficiary in a lump sum payment.

Promulgated Under: 111.15.  
Statutory Authority: 145.09.  
Rule Amplifies: 145.33.  
Rule Review Date: 9/29/11; 9/29/06.  
~~Replaces: Part of 145-5-14.~~  
Effective Date History: 1/1/06; 1/1/03; 4/5/01;  
2/30/00; 12/6/93; 12/30/91, 7/31/89, 8/20/76.

**145-2-51      Effective date of benefits**

- (A) Benefits available pursuant to section 145.32, 145.33, 145.34, 145.35, 145.36, 145.361, 145.37, 145.43, 145.45 or 145.46 of the Revised Code shall be effective the first day of the month following the ~~later~~ latest of the following:
- (1) For a member:
    - (a) Termination of public employment;
    - (b) Eligibility by attaining the required minimum age;
    - (c) Eligibility by accumulating the required service credit, including purchase of any additional credit; ~~or~~
    - (d) A date specified by the member.
  - (2) For a beneficiary:
    - (a) The death of the contributor or retirant; ~~or~~
    - (b) Attainment of eligibility.
- (B) (1) When the application of paragraph (A) of this rule results in a retroactive effective benefit date, this rule shall apply even though such retroactive date is before August 20, 1976.
- (2) Retroactive benefits shall be calculated under the law in effect at the effective benefit date so established.
- (3) Benefit increases occurring after the established effective benefit date shall be included.

Promulgated Under: 111.15.  
Statutory Authority: 145.09.  
Rule Amplifies: 145.32, 145.33, 145.331, 145.34, 145.35, 145.36, 145.361, 145.37, 145.43, 145.45, 145.46.  
Rule Review Date: 9/29/11; 9/29/06.  
~~Replaces: 145-19-01.~~  
Effective Date History: 1/1/03; 9/27/98; 2/1/93; 8/1/92; 8/20/76.