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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 542  
133<sup>rd</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Carfagna and Cera

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### SUMMARY

- Authorizes the Ohio Police and Fire Pension Fund (OP&F) Board of Trustees to assign other health care professionals, in addition to physicians, to conduct examinations of OP&F members applying for disability benefits.
- Permits the Board to (1) grant disability benefits based solely on a member's application and supporting medical documentation or (2) require, before granting benefits, the member to undergo a medical examination, vocational evaluation, or both, conducted by a physician, other health care professional, or vocational evaluator.
- Requires, for a member's disabling condition to be considered permanent, that the condition be expected to last for at least a continuous 12-month period after a disability benefit application is filed.
- Removes the requirement that the pre-employment examination of a prospective member be conducted by a physician.

### DETAILED ANALYSIS

#### Ohio Police and Fire Pension Fund disability retirement

The Ohio Police and Fire Pension Fund (OP&F) provides annual benefits to OP&F members determined to be permanently disabled. The benefit amount varies depending on whether the permanent disability is total or partial and whether it was incurred on-duty or off-duty. The OP&F Board of Trustees makes disability determinations based on medical and

vocational information provided by the member, the member's employer, and the Board's experts.<sup>1</sup>

OP&F membership includes full-time municipal police officers and full-time firefighters.<sup>2</sup>

### **Medical and vocational experts**

The bill expands the types of experts the Board can assign to conduct examinations of a member applying for disability benefits. Continuing law requires the Board to adopt rules providing for it to assign competent and disinterested physicians and vocational evaluators to conduct examinations of disability benefit applicants. The bill requires the Board's rules to also provide for assigning other competent and disinterested health care professionals. It also requires the Board to adopt rules specifying the types of health care professionals the Board may assign.<sup>3</sup>

### **Granting disability benefits**

The bill permits the Board to grant disability benefits to a member based solely on a review of a disability benefit application and supporting medical documentation. The Board, before granting disability benefits, alternatively may require the member to undergo a medical examination, vocational evaluation, or both. Any medical examination or vocational evaluation must be conducted by a physician, other health care professional, or vocational evaluator the Board has assigned.<sup>4</sup>

While current law is silent regarding whether a member is to undergo an examination or evaluation before being granted disability benefits, it requires the Board to adopt rules establishing objective criteria under which the Board makes a disability determination. A rule the Board has adopted currently requires a member applying for disability benefits to undergo an examination conducted by a medical examiner and vocational evaluator unless medically inadvisable to do so.<sup>5</sup>

### **Permanent disabling condition**

As indicated above, the Board cannot grant disability benefits to a member unless the disabling condition is permanent, which under continuing law means it must be one from which there is no present indication of recovery. Under the bill, it also must be expected to last for at least a continuous 12-month period after a disability benefit application is filed. Current law

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<sup>1</sup> R.C. 742.38; OP&F, *Member's Guide to Disability Benefits*, <https://www.opf.org/Files/MGDisabilityBenefits.pdf>.

<sup>2</sup> R.C. 742.01(A) and (B), not in the bill.

<sup>3</sup> R.C. 742.38(C).

<sup>4</sup> R.C. 742.38(D).

<sup>5</sup> Ohio Administrative Code 742-3-05(B)(1) and (C)(5).

does not specify a minimum period with respect to which the disabling condition is expected to continue for it to be considered permanent.<sup>6</sup>

### **Pre-employment examinations and physicians**

An employer under continuing law must require a prospective member to submit to a pre-employment physical examination on entry into a police or fire department. The bill removes the requirement that a physician administer the pre-employment examination.<sup>7</sup>

### **Technical changes**

The bill makes several technical changes to OP&F's disability retirement law.<sup>8</sup> It also removes a current law disqualification from receiving disability benefits for a member who elected to receive benefit and pension payments from a former police or firemen's relief and pension fund under rules in effect on April 1, 1947.<sup>9</sup>

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## **HISTORY**

Action	Date
Introduced	03-10-20

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H0542-I-133/ec

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<sup>6</sup> R.C. 742.38(D).

<sup>7</sup> R.C. 742.38(A) and (B).

<sup>8</sup> R.C. 742.38(B) and (C).

<sup>9</sup> R.C. 742.38(D), by reference to R.C. 742.37(A) and (B), not in the bill.