



Ohio Legislative Service Commission

Bill Analysis

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H.B. 520

131st General Assembly
(As Introduced)

Reps. Schuring and Ramos

BILL SUMMARY

Changes affecting multiple systems

- Establishes a formula for calculating the percentage of an alternative retirement program (ARP) participant's compensation that must be paid by a public institution of higher education to the Public Employees Retirement System (PERS), State Teachers Retirement System (STRS), or School Employees Retirement System (SERS) to mitigate any financial impact of the ARP on the retirement system and specifies that the percentage is $\frac{1}{4}$ of the percentage calculated, not exceeding 4%.
- Provides survivor benefits until age 22 to the qualified child of a PERS, STRS, or Ohio Police and Fire Pension Fund (OP&F) member who dies before retirement regardless of whether the child is attending an institution of learning or training.
- Provides death benefits from the Ohio Public Safety Officers Death Benefit Fund until age 22 to the surviving child of a public safety officer regardless of whether the child is attending an institution of learning or training.
- Eliminates provisions under which a PERS, STRS, or SERS member who earns service credit in more than one system during the same time period receives partial credit from each system in which credit is earned.
- Requires that any legal action commenced against OP&F or STRS be filed in Franklin County.

Public Employees Retirement System

- Requires a PERS disability benefit recipient to undergo a periodic, rather than annual, medical examination.

- Suspends or terminates the PERS disability benefit of a recipient who fails, rather than refuses, to file required information with the PERS Board.
- Reduces to two months (from three) the time a PERS member or re-employed retirant must wait to receive a refund of the member or retirant's PERS contributions.
- Specifies that the last established beneficiary of a deceased PERS member who was also a member of STRS or SERS is the sole beneficiary in all the systems if a survivor benefit may be paid under provisions coordinating PERS, STRS, and SERS benefits.
- Requires for transfer to PERS or purchase of Cincinnati Retirement System (CRS) credit in PERS that a PERS member have more PERS service credit than the amount of CRS credit to be transferred or purchased.
- Requires for transfer of PERS credit to CRS that a CRS member have more CRS service credit than the amount of PERS credit to be transferred.

Ohio Police and Fire Pension Fund

- Establishes as conditions for return of contributions of an OP&F member who terminates active service that two months have elapsed and the member has not returned to active service during the two-month period.
- Requires a deceased member's accumulated contributions that are not claimed within seven years to be transferred to the Guarantee Fund and paid to the member's survivor or the member's or survivor's estate on application to the OP&F Board.
- Specifies that money due or to become due to an individual from OP&F is not subject to the operation of bankruptcy or insolvency laws but is subject to an order for division of marital property.
- Requires an application submitted to OP&F to be in the form and manner specified by the Fund.

State Teachers Retirement System

- Excludes from "compensation" for purposes of STRS contributions and benefits any portion of the amount paid to a teacher as a retroactive payment of earnings, damages, or back pay under a court order or settlement agreement that is excluded from compensation under continuing law.
- Revises when the STRS Board terminates payment of a disability benefit.



- Eliminates the dollar amount multiplier that may be used to calculate the pension portion of an STRS disability retirement benefit.
- Allows an STRS member to receive credit for the period as a recipient of an STRS disability benefit if the member has become a contributor to the STRS defined contribution plan and earns at least two additional years of service credit.
- Makes a recipient of an STRS allowance or benefit beginning on or after August 1, 2013, that was immediately preceded by a disability benefit that was terminated on or after that date, eligible for a cost-of-living adjustment on the date that would have been the disability benefit's next anniversary date.
- Excludes from use in determining eligibility for STRS retirement, disability, or survivor benefits, certain military service credit transferred to STRS from OP&F, State Highway Patrol Retirement System (SHPRS), or CRS.
- Requires that only employee contributions, rather than both employee and employer contributions, be used to calculate an additional annuity paid when certain earnings for which contributions were made are excluded from an STRS member's final average salary, which is used to determine retirement eligibility and benefits.
- Authorizes the STRS Board to establish a plan for retirants re-employed as teachers under which the retirant's STRS contributions are invested at the retirant's direction in accordance with investment options established by the Board and, if the Board establishes a plan, requires STRS to transfer each retirant's contributions to it.
- Requires STRS to withhold or recover from the recipient of an STRS retirement or disability benefit who is employed in a position subject to CRS any amount that is to be forfeited under CRS requirements.
- Eliminates provisions under which an STRS member may purchase credit for school board service only if the member is or will be eligible to retire and retires within 90 days after purchasing the credit.
- Requires certain STRS members who purchase service credit for an absence or leave due to illness, injury, or professional reasons to purchase the credit by paying STRS instead of the member's employer.
- Includes in the benefit used to calculate future cost-of-living adjustments paid a survivor of a deceased STRS member who was receiving a disability benefit any increases the member received while receiving the disability benefit.

- Eliminates the minimum survivor benefit dollar amount for qualified STRS survivors whose benefits are based on the number of qualified survivors.
- Clarifies that any return of contributions or unpaid disability benefits payable to a deceased STRS member's beneficiaries are to be paid to the beneficiaries designated by the member.

School Employees Retirement System

- Causes certain future community (charter) school nonteaching employees to be excluded from SERS.
- Establishes conditions for an SERS member to elect a purchase or transfer of service credit from OP&F or SHPRS to SERS and between SERS and CRS.

State Highway Patrol Retirement System

- Requires an SHPRS member to have at least five years of service credit to be eligible for off-duty disability retirement.
- Requires a disability pension to be terminated if an SHPRS disability retiree is re-employed as a law enforcement officer.
- Provides for designation of beneficiaries by SHPRS members and retirees.
- Specifies that a surviving spouse of a deceased SHPRS member or retiree is eligible for a monthly pension based on the member's or retiree's age and service only if the member or retiree had at least 20 years of service credit.
- Clarifies that only SHPRS members who are eligible for retirement with an unreduced pension may elect to participate in the system's deferred retirement option plan (DROP).
- Changes the effective date of a member's election to participate in DROP to the first day of the first payroll period immediately following the SHPRS Board's receipt of the election (instead of the date the member files the election).
- Permits SHPRS retirees to authorize dues checkoffs on behalf of certain organizations composed of retired State Highway Patrol employees.
- Removes the requirement that actions of the SHPRS Board be approved by a majority of the Board's members.

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CONTENT AND OPERATION

CHANGES AFFECTING MULTIPLE SYSTEMS

ARP mitigating rates

The bill revises how the mitigating rate for an alternative retirement program (ARP) is calculated by establishing a statutory formula. The mitigating rate is the percentage of an ARP participant's compensation that must be paid by a public institution of higher education to the Public Employees Retirement System (PERS), State Teachers Retirement System (STRS), or School Employees Retirement System (SERS) to mitigate any financial impact of the ARP on the retirement system. Under the bill, the percentage that must be paid by the educational institution is $\frac{1}{4}$ of the percentage calculated using the formula, not exceeding 4%.

Continuing law permits a full-time employee of a public institution of higher education to elect to participate in an ARP rather than the public retirement system (PERS, STRS, or SERS) that otherwise covers the employee. Each ARP must be a defined contribution plan that provides retirement and death benefits through a number of investment options. An educational institution must contribute a percentage of the compensation of an employee electing to participate in an ARP to the public retirement system that would otherwise cover the employee. This contribution, referred to as the "mitigating rate," is to offset any negative financial impact of the ARP on the retirement system.

The bill replaces current law's provisions (see "**Current provisions**," below) with a different method of calculating the mitigating rate. It requires the PERS, STRS, and SERS Boards to each contract with an independent actuary to complete an actuarial study to determine the mitigating rate for ARPs based on the bill's formula. The initial study must be completed and submitted by each board to the Department of Higher



Education not later than December 31, 2016. Each subsequent study must be completed and submitted not later than December 31 of every fifth year.¹

To determine the mitigating rate for ARPs, the formula uses "compensation ratio" and "historical percentage" as defined by the bill. "Compensation ratio" is defined and calculated separately for each retirement system as follows:

Total compensation of all ARP electing employees \div (Total compensation of all retirement system defined benefit plan members $+$ Total compensation of all ARP electing employees).

The compensation ratio is based on the most recent full calendar for which information is available.²

"Historical percentage" is the percentage that the unfunded actuarial accrued pension liability due to electing employees participating in an ARP is of the retirement system's total unfunded liability, as both are determined from the system's annual actuarial valuation that is the most recent at the time the initial study is conducted (December 31, 2016).³

Initial study

For the initial study, the bill requires the actuary to determine the ARP mitigating rate as follows:

(1) Calculate an amount necessary to amortize over a perpetual period:

(The unfunded actuarial accrued pension liability due to electing employees ARP participation)

+

(Compensation ratio \times the defined benefit plan's unfunded actuarial accrued pension liability).

(2) Determine the percentage of ARP electing employee compensation necessary to amortize over a perpetual period the amount calculated under (1), above.

¹ R.C. 145.222(B), 3307.514(B), and 3309.212(B).

² R.C. 145.222(A)(2), 3307.514(A)(1), and 3309.212(A)(1).

³ R.C. 145.222(A)(4), 3307.514(A)(3), and 3309.212(A)(3).

(3) The percentage to be contributed is $\frac{1}{4}$ of the greater of the historical percentage or the percentage calculated under (2), above, but not exceeding 4%.⁴

Subsequent studies

For each subsequent study, the bill requires the actuary to determine the mitigating rate for ARPs as follows:

(1) Calculate an amount necessary to amortize over a perpetual period:

(Historical percentage \times the system's total unfunded actuarial accrued liability under the annual actuarial valuation)

+

(Compensation ratio \times the defined benefit plan's unfunded actuarial accrued liability)

(2) Determine the percentage of ARP electing employee compensation necessary to amortize over a perpetual period the amount calculated under (1), above.

(3) The percentage to be contributed is $\frac{1}{4}$ of the greater of the historical percentage or the percentage calculated under (2), above, but not exceeding 4%.⁵

For all actuarial studies to determine the ARP mitigating rate, the bill requires the actuary to use the system's annual actuarial valuation that is most recent at the time the study is conducted.⁶

Current provisions

The bill eliminates several current law provisions regarding the ARP mitigating rate and how it is calculated. The eliminated provisions do all of the following:

--Freeze the PERS, STRS, and SERS mitigating rates for ARPs at current rates: the PERS mitigating rate is 0.77%, the rate for STRS is 4.5%, and the rate for SERS is 6.00%.

--Require the Ohio Retirement Study Council (ORSC) to complete an independent actuarial study every three years on any necessary adjustments to

⁴ R.C. 145.222(B) and (C), 3307.514(B) and (C), and 3309.212(B) and (C).

⁵ R.C. 145.222(D), 3307.514(D), and 3309.212(D).

⁶ R.C. 145.222(C)(4) and (D), 3307.514(C)(4) and (D), and 3309.212(C)(4) and (D).

the ARP mitigating rate and submit the study to the Department of Higher Education.

--Provide that the ARP mitigating rate is 6%, but may be adjusted by ORSC to reflect determinations made in the actuarial study completed by ORSC.

--Prohibit the mitigating rate for ARPs from exceeding the mitigating rate for the defined contribution plan of a retirement system (PERS and STRS have both defined benefit plans and defined contribution plans).

--Require the mitigating rate to continue until a system's unfunded actuarial accrued pension liability for all benefits, except for health care, is fully amortized.⁷

Survivor benefit eligibility

Survivor benefits for children

The bill makes a surviving child of a member of PERS, STRS, or Ohio Police and Fire Pension Fund (OP&F) who died before retirement eligible to continue receiving monthly benefits until age 22. Under current law, a child 18 or older is eligible to receive benefits until 22 only if attending an institution of learning or training in a program designed to complete at least two-thirds of the full-time curriculum. The change is effective when the bill takes effect, except that the change to OP&F law is effective on January 1, 2017. Under continuing law, the child must be unmarried.

For PERS and STRS, the bill requires benefits to a qualified child who is at least 18 but under 22 that never commenced or were terminated due to a lack of attendance at an institution of learning or training to commence or resume on the first day of the month immediately following receipt by the appropriate board of an application on a form provided by the board. The PERS Board must receive the application not later than one year after the bill's effective date. The STRS Board must receive the application not later than the 15th day of a month for the benefit to commence the next month.

For OP&F, the bill requires benefits to a surviving child who is at least 18 but under 22 that never commenced or were terminated due to a lack of attendance at an institution of learning or training and not commenced or resumed before January 1, 2017, to commence or resume on the first day of the month immediately following

⁷ R.C. 171.07 (repealed), 3305.052, 3305.06(D), 3305.061(repealed), and 3305.062 (repealed).

receipt by the OP&F Board of Trustees of an application on a form provided by the board if the application is received on or before December 31, 2017.⁸

Death benefits for children

The Ohio Public Safety Officers Death Benefit Fund provides benefits to eligible survivors of public safety officers who are killed in the line of duty or die of diseases or injuries incurred in the performance of official duties. The Death Benefit Fund is administered by OP&F and financed through legislative appropriations.⁹

Under current law, a surviving child 18 or older is eligible to receive a death benefit until 22 if the child is unmarried and attending an institution of learning or training in a program designed to complete at least two-thirds of the full-time curriculum. Beginning January 1, 2017, the bill makes a surviving child eligible to continue receiving a death benefit until age 22 or upon marriage.¹⁰

Benefits to a surviving child who is at least age 18 but under 22 that never commenced or were terminated due to lack of attendance at an institution of learning or training and not commenced or resumed before January 1, 2017, are to commence or resume on the first day of the month immediately following receipt of an application if the application is received on or before December 31, 2017.

Concurrent service credit

Under continuing law, a PERS, STRS, or SERS member who has contributions and service credit in two or more of those retirement systems may retire separately under each system or have service credit earned in two or all three systems combined to determine eligibility for a retirement or disability benefit and the benefit amount. A member who chooses to retire separately under two or more systems receives partial credit in each for any period during which there was service covered by more than one system. Such "concurrent service" occurs, for example, when a member of STRS works after school in a position covered by PERS. The credit is apportioned on the basis of the ratio of contributions to the system from which the member is retiring to the total contributions in two or three systems.

⁸ R.C. 145.45, 742.37(E), and 3307.66(B) and (E).

⁹ Ohio Police & Fire Pension Fund, *Ohio Public Safety Officers Death Benefit Fund*, https://www.op-f.org/Files/MGdeath_benefit.pdf (accessed April 19, 2016).

¹⁰ R.C. 742.63.



The bill eliminates the provisions under which a PERS, STRS, or SERS member with concurrent service receives partial service credit from each system.¹¹

Legal actions against OP&F or STRS

The bill requires that a legal action be filed in the appropriate court in Franklin County if the action is against STRS or the STRS Board or its officers, employees, or Board members or against OP&F or the OP&F Board or its officers, employees, or Board members.¹²

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Disability benefit eligibility

Medical examination

Under current law, a PERS disability benefit recipient must undergo an annual medical examination unless the PERS Board waives this requirement. The bill changes the medical examination to periodic, as determined by the Board's medical consultant or specified in Board rules.¹³

Annual filing of required information

Continuing law requires a disability benefit recipient to file an annual statement of earnings and other required information with the PERS Board unless the Board waives the requirement. A disability benefit recipient who refuses to file the statement or other information will have the benefit suspended until the information is filed. If the refusal continues for one year, the disability benefit is terminated on the effective date of the original suspension. Under the bill, a disability benefit recipient who fails, rather than refuses, to file the required information will have the benefit suspended or terminated.¹⁴ The bill does not include exceptions for recipients who are incapacitated or otherwise unable to file the information.¹⁵

¹¹ R.C. 145.01(H)(3), 3307.53, and 3309.30.

¹² R.C. 742.091 and 3307.131.

¹³ R.C. 145.362.

¹⁴ R.C. 145.362(B).

¹⁵ See, *State ex rel. Basile v. Ohio Public Employees Retirement System*, 10th Dist. No. 14AP-974, 2015-Ohio-5366.



Return of contributions

Under continuing law, a PERS member may receive a refund of the member's PERS contributions if the member elects not to contribute to PERS as a student or leaves public employment for a reason other than death, retirement, disability, or employment in a position subject to an ARP. Similarly, a retirant of one of the public retirement systems who is under age 65 and re-employed in a position covered by PERS may receive a refund of contributions made during re-employment. In either case, the refund cannot be made until three months have elapsed since termination of the employment or re-employment. The bill reduces to two months the time that must have elapsed since the employment or re-employment terminated.¹⁶

Beneficiary designation

Continuing law governing PERS, STRS, and SERS provides for coordination of benefits whereby service credit earned in two or all three of these retirement systems can be combined to determine eligibility for a retirement, disability, or survivor benefit and the amount of the benefit. The bill specifies that the last established beneficiary of a deceased PERS member is the sole beneficiary in all the systems, if a benefit may be paid to the survivor under coordination of benefits provisions.¹⁷

Transfers of service credit between PERS and the Cincinnati Retirement System

Credit in PERS for service under CRS

If certain conditions are met, continuing law permits a PERS member who has contributed to the Cincinnati Retirement System (CRS) to have CRS service credit transferred to PERS or, if the member received a refund of CRS contributions, to purchase PERS service credit for service under CRS. The bill establishes as an additional condition that the member's service credit in PERS is greater than the amount of credit that would be transferred from CRS or purchased.

Under continuing law, a member may transfer or purchase CRS credit if the following conditions are met:

(1) The member is eligible, or with the credit will be eligible, for a retirement or disability benefit;

¹⁶ R.C. 145.384 and 145.40.

¹⁷ R.C. 145.43, by reference to R.C. 145.37, 3307.57, and 3309.35, not in the bill.



(2) The member agrees to retire or accept a disability benefit not later than 90 days after receiving notice from PERS that the credit has been obtained;

(3) For each year of service, PERS receives from CRS or the member a specified amount of money for the service.¹⁸

Credit in CRS for service under PERS

Continuing law allows a person who is a PERS member or former member and is not currently contributing to or receiving a pension or benefit from PERS to have the person's PERS service credit transferred to CRS. The bill establishes as an additional condition that the member's service credit in CRS is greater than the amount of credit that would be transferred from PERS.

Under continuing law, a person may transfer PERS credit if the following conditions are met:

(1) The member is eligible, or with the credit will be eligible, for a retirement or disability benefit;

(2) The member agrees to retire or accept a disability benefit not later than 90 days after receiving notice that the credit has been obtained;

(3) For each year of service credit, PERS transfers to CRS a specified amount of money for the service credit.

The bill requires that the notice described in (2), above be from CRS, rather than PERS as under current law.¹⁹

OHIO POLICE AND FIRE PENSION FUND

Payment of accumulated contributions

Continuing law permits an OP&F member who resigns or is removed from active service in a police or fire department and is not receiving an OP&F benefit or pension to withdraw the member's accumulated contributions. The bill establishes both of the following as conditions for the withdrawal:

(1) That two months have passed since the member's active service terminated;

¹⁸ R.C. 145.2911.

¹⁹ R.C. 145.2912.



(2) That the member has not returned to active service during the two-month period.

The bill specifies that payment of the member's accumulated contributions cancels the member's total service credit in OP&F.²⁰

Unclaimed contributions

The bill requires a deceased OP&F member's accumulated contributions that are not claimed within seven years by a survivor (the member's surviving spouse, children, or parents) or by the member's or survivor's estate to be transferred to the Guarantee Fund and paid to the survivor or estate on application to the OP&F Board.²¹ The Guarantee Fund is the fund to which OP&F investment earnings are credited.²²

Exemption from bankruptcy and insolvency laws

Under current law, a sum of money that is due or will become due to an individual from OP&F is not subject to attachment, garnishment, levy, or seizure under any legal or equitable process or any other process of law, whether the money remains with OP&F or is in the course of being transmitted to the individual entitled to the money. Exceptions include child support and certain forms of restitution.

The bill adds that such a sum of money is not subject to the operation of bankruptcy or insolvency laws. However, these sums are subject to orders for division of marital property, in addition to the other exceptions in current law.²³

OP&F applications

The bill requires that an application made under the law governing OP&F be submitted in the form and manner specified by OP&F, which must determine whether the application is complete and properly submitted. The determination by OP&F is final.

If OP&F determines that an application is incomplete or not properly submitted, it may permit the applicant to correct any deficiency or may reject the application and

²⁰ R.C. 742.37(G).

²¹ R.C. 742.50.

²² R.C. 742.59(G), not in the bill.

²³ R.C. 742.47.

require that the application be resubmitted. OP&F must give the applicant written notice of rejection of an application.²⁴

STATE TEACHERS RETIREMENT SYSTEM

Retroactive pay

"Compensation," as defined in the law governing STRS, is used to determine an STRS member's contributions. It is also used to determine the member's final average salary, which in turn is used to determine retirement and disability benefits.

Under continuing law, "compensation" includes amounts paid to a teacher by an employer as a retroactive payment of earnings, damages, or back pay under a court order or a settlement agreement if STRS receives teacher and employer contributions, plus interest for (1) each year or portion of a year for which the amounts are paid and (2) each year or portion of a year not subject to (1), above, for which the Board determines the teacher was improperly paid, regardless of the teacher's ability to recover on any improperly paid amounts.

The bill excludes from "compensation" any portion of the retroactive payment that is for an amount, benefit, or payment excluded from compensation under continuing law. Amounts excluded from compensation under continuing law include payments for accrued but unused sick and vacation leave and certain retroactive increases in salary, wages, and other earnings.²⁵

Additional annuity

Continuing law excludes from compensation earnings from a "percentage increase" in the last years of service that exceeds previous increases. Employee and employer contributions are nonetheless required on the earnings. Under current law, both employer and employee contributions on earnings excluded from compensation are treated as additional deposits to the member's account and used to provide additional annuity income in retirement. The bill eliminates this use of the employer contributions, so only employee contributions are to be used in calculating the additional annuity income.²⁶

²⁴ R.C. 742.17.

²⁵ R.C. 3307.01(L).

²⁶ R.C. 3307.501(D).



Disability

Termination of disability benefit

The bill revises provisions concerning termination of an STRS disability benefit. An STRS disability benefit recipient is generally subject to an annual medical examination and must submit to the STRS Board an annual earnings statement, current medical information, and any other information the Board requires. If a recipient refuses to submit to the examination or file the statement or information, continuing law provides for the recipient's benefit to be suspended until the recipient withdraws the refusal or files the statement or information. If the refusal continues for one year, the benefit is terminated as of the effective date of the suspension. The bill adds that the benefit also terminates on that date if it is terminated for any reason during the one-year period.²⁷

Under continuing law, an STRS disability benefit recipient is considered to be on a leave of absence for the first five years after the benefit begins. Based on whether the leave of absence has ended, the bill revises the date the STRS Board terminates payment of a disability benefit because the recipient is no longer incapable of resuming teaching service. If the recipient does not resume employment as a teacher, the bill replaces a provision that the benefit terminates not later than the following August 31 with provisions specifying that it terminates as follows:

--If the member's leave of absence has not expired, the later of the last day of the third month following the Board's termination or the following August 31;

--If the member's leave of absence has expired, the last day of the third month following the Board's termination.

As under current law, if the recipient again becomes a teacher, the benefit terminates immediately.²⁸

Disability retirement benefits

Current law allows a qualified STRS member who is under 60 to retire on disability and receive an annual benefit consisting of an annuity based on the member's accumulated contributions and a pension. The pension is calculated as the difference between the annuity and an annual amount determined by adding the number of years until the member turns 60 to the member's Ohio service credit, then multiplying this

²⁷ R.C. 3307.48(C) and (F).

²⁸ R.C. 3307.48(C).



sum by the greater of \$86 or 2% of the member's final average salary. The bill eliminates the \$86 multiplier.²⁹

Service credit for period of disability

Under current law, an STRS member receives credit for the period the member is a recipient of an STRS disability benefit if the member has become a contributor to STRS or to SERS or PERS and completes at least two additional years of service credit. The bill specifies that this provision applies to a contributor to the STRS defined contribution plan, as well as a contributor to the STRS defined benefit plan.³⁰

Cost-of-living adjustment (COLA) eligibility

Continuing law requires the STRS Board to provide a cost-of-living adjustment (COLA) by annually increasing by 2% the retirement allowance or disability benefit paid to each allowance or benefit recipient under the STRS defined benefit plan.

The bill makes a recipient of an allowance beginning on or after August 1, 2013, that was immediately preceded by a disability benefit that was terminated on or after that date, eligible for a COLA on the date that would have been the disability benefit's next anniversary date.

The bill clarifies that a recipient whose allowance or benefit began on or after July 1, 1971, but before August 1, 2013, (instead of after June 30, 1971) is eligible for a COLA on receiving an allowance or benefit for 12 months. For those receiving an allowance or benefit beginning on or after August 1, 2013, the bill retains the provision that a recipient is eligible for a COLA on receiving the allowance or benefit for 60 months, unless the allowance or benefit was immediately preceded by a disability benefit that was terminated on or after that date.³¹

Qualifying service credit

STRS bases eligibility for retirement, disability, and survivor benefits on a member's "qualifying service credit." The bill generally excludes from qualifying service credit military service credit transferred to STRS from OP&F, State Highway Patrol Retirement System (SHPRS), or CRS unless the service credit was for military service that interrupted the member's employment by the State Highway Patrol or a police or fire department.

²⁹ R.C. 3307.63.

³⁰ R.C. 3307.48(J).

³¹ R.C. 3307.67(B).

Under continuing law, the following types of service credit are qualifying service credit: (1) credit for service for which the member made contributions to STRS, PERS, or SERS, (2) service credit restored under STRS, PERS, or SERS, and (3) service credit transferred to STRS from OP&F, SHPRS, or CRS, except as provided above.³²

Re-employment

Investment options for re-employed retirants

The bill authorizes the STRS Board to establish a plan for retirants re-employed as teachers that offers investment options similar to a defined contribution plan. Under the plan, STRS contributions made as a re-employed retirant would be invested at the retirant's direction in accordance with investment options established by the Board. If the Board establishes such a plan, STRS must transfer each retirant's contributions to it.³³

Continuing law permits a member of STRS or another of the state's retirement systems to retire and be re-employed as a teacher. The retirant contributes to STRS for the period of re-employment. When re-employment ends, the retirant receives a separate annuity or lump sum payment based on those contributions.³⁴

Re-employment notice

Under continuing law, the recipient of an STRS retirement or disability benefit who is employed in a position subject to PERS, OP&F, or SERS less than two months after the STRS benefit begins forfeits the benefit for any month in which employment occurs before the expiration of the two-month period. Continuing law prohibits STRS from paying (or, if paid, requires STRS to recover) the amounts to be forfeited if it receives notice of the employment from PERS, OP&F, or SERS. The bill requires STRS to withhold or recover any amount to be forfeited under CRS requirements if it receives notice from CRS that an STRS retirement or disability benefit recipient has been employed in a position subject to CRS.³⁵

³² R.C. 3307.58(A).

³³ R.C. 3307.354.

³⁴ R.C. 3307.35 and R.C. 3307.352, not in the bill.

³⁵ R.C. 3307.35.



Service credit

Credit for school board service

The bill eliminates several requirements regarding purchasing credit for service as a school board member. Continuing law permits an STRS member to purchase one-quarter of a year's credit for each year of service as a member of a school district board of education or educational service center governing board. The cost of the credit is an amount specified by the STRS Board equal to 100% of the actuarial liability to STRS resulting from the purchase of each year or portion of a year of credit, as determined by the Board's actuary.³⁶

The bill eliminates all of the following requirements regarding purchasing service credit for school board or governing board service:

- A requirement that an STRS member be eligible to purchase the credit only if the member is eligible to retire or will be eligible as a result of purchasing the credit;
- Requirements that the member agree to retire within 90 days after purchasing the credit and, if the member does not retire, STRS withdraw the credit and refund amounts the member paid;
- Requirements that STRS determine the additional liability to STRS for each quarter-year of credit a member is eligible to purchase and notify the member of the cost to purchase the credit;
- A requirement that an STRS member pay in full for the credit at the time of purchase.³⁷

Credit for leave of absence

Continuing law allows an STRS member who takes a leave of absence due to illness or injury or who has been granted a leave for educational, professional, or other reasons approved by the STRS Board to purchase up to two years of service credit for each period of absence or leave. If the member's absence or leave does not begin and end in the same year, the member pays the member's employer, which then transmits the member's payment to STRS.

³⁶ R.C. 3307.78 and 3307.70, not in the bill.

³⁷ R.C. 3307.78.



The bill requires that the member make the payment directly to STRS, rather than through the employer.³⁸

Survivor benefits

COLAs for survivor benefits

If a deceased member was receiving a disability benefit at the time of death, continuing law provides for an STRS survivor benefit to be increased by any COLAs granted while the deceased member was receiving the disability benefit, plus any additional amount the deceased member received while receiving the disability benefit.

The bill retains current law's provision that the benefit used to calculate any future COLAs paid to a survivor of the deceased member will be based on the plan of payment selected by the survivor, but adds that the benefit used includes any increases the deceased member received while receiving the disability benefit.³⁹ An increase could occur if a post-retirement increase was granted to all or a specified group of STRS retirants. Sometimes referred to as an "ad hoc" increase, such an increase was granted in 2000.⁴⁰

STRS minimum survivor benefits

Current law grants a qualified STRS survivor (spouse, child, or dependent parent) a monthly survivor benefit if the deceased member met service credit requirements or was receiving a disability benefit. A surviving spouse or other qualified survivor may elect to receive a benefit based on the number of qualified survivors or, if the member had 20 or more years of service, on the member's length of service. The amount of annual benefits is calculated as a percentage of the member's final average salary and a minimum dollar amount must be paid each month if the benefit is based on the number of qualified survivors. The bill eliminates the monthly minimum dollar amount.⁴¹

Beneficiaries

Current law allows an STRS member to designate beneficiaries to receive the member's accumulated contributions and any unpaid disability benefits should the

³⁸ R.C. 3307.77(D).

³⁹ R.C. 3307.66(C).

⁴⁰ Sub. S.B. 190 of the 123rd General Assembly.

⁴¹ R.C. 3307.66(C)(2) and (D).



member die before retiring. If a member designates two or more beneficiaries without specifying the percentage each is to receive, the amount is divided equally among the beneficiaries. The bill clarifies that the amount is divided equally among the beneficiaries designated by the member.⁴²

SCHOOL EMPLOYEES RETIREMENT SYSTEM

Community school employees in SERS

Current law includes a provision governing SERS membership of nonteaching community school employees who are employed by a community school operator that on or before February 1, 2016, was withholding and paying employee and employer Social Security taxes. (Community schools are commonly referred to as charter schools.)

Under this provision, a nonteaching community school employee is excluded from SERS if the school's operator withholds and pays Social Security taxes on behalf of employees and either of the following is the case:

(1) The employee is initially employed by the operator on or after July 1, 2016;

(2) The employee is a former employee of a community school operator and is re-employed by the same operator on or after July 1, 2016.

Current law includes an exception to (2), above. Under the exception, an employee is not excluded from SERS if both of the following apply:

(1) The employee was employed by the same operator at any time in the 12-month period preceding the date the operator for the first time withholds and pays Social Security taxes and the employee had previously only contributed to SERS;

(2) The employee's date of re-employment is not more than 12 months after the date the operator for the first time withholds and pays Social Security taxes.

The bill eliminates the exception with the result that these employees are excluded from SERS.

Purchase or transfer of credit from OP&F, SHPRS, or CRS

The bill establishes conditions for an SERS member to elect a purchase or transfer of service credit from OP&F or SHPRS to SERS and between SERS and CRS. Continuing law permits an SERS member who has contributed to OP&F, SHPRS, or CRS to have contributions and service credit transferred to SERS or, if the member received a refund

⁴² R.C. 3307.562.

of contributions to one of those systems, to purchase SERS credit for service under that system. Continuing law also permits a person with contributions in SERS to transfer those contributions and service credit to CRS or to purchase the service.

The bill permits a member to purchase the credit or have the contributions and service credit transferred only if all of the following conditions are met:

(1) The amount of the member's service credit in SERS (or the amount of the person's service credit in CRS, if the person elects a transfer of service credit from SERS to CRS) is greater than the amount of credit to be transferred.

(2) The member is eligible, or with the credit will be eligible, for a retirement or disability benefit.

(3) The member agrees to retire or accept a disability benefit not later than 90 days after receiving notice from SERS that the credit has been obtained.⁴³

The bill requires SERS to withdraw any credit obtained and refund all amounts paid or transferred to OP&F, SHPRS, or CRS to obtain the credit if the member fails to retire or accept a disability benefit within 90 days after receiving notice from SERS that credit has been obtained or the member's application for a disability benefit is denied.⁴⁴ The requirement does not apply to service credit that CRS obtains from SERS or amounts paid or transferred from SERS to CRS.

The bill eliminates a requirement that a member purchase credit in one payment for service under OP&F, SHPRS, or CRS.⁴⁵

STATE HIGHWAY PATROL RETIREMENT SYSTEM

Disability

Off-duty disability eligibility

To be eligible for retirement on the basis of disability not incurred in the line of duty (known as "off-duty disability"), the bill requires an SHPRS member to have at least five years of service credit according to rules adopted by the SHPRS Board.

⁴³ R.C. 3309.73, 3309.731, 3309.75(B), and 3309.76(A).

⁴⁴ R.C. 3309.73(I), 3309.731(I), and 3309.75(K).

⁴⁵ R.C. 3309.73(C), 3309.731(D), and 3309.75(H).



Current law does not require a member to have a certain amount of service to be eligible for off-duty disability retirement.⁴⁶

Disability pension termination

The bill requires a disability pension to be terminated if an SHPRS disability retiree is re-employed as a law enforcement officer. The SHPRS Board must adopt a rule to define "law enforcement officer" for purposes of the bill's termination provision. The bill retains current law's provision requiring a disability pension to terminate if, after examination, the disability retiree is found no longer incapable of performing the retiree's duties.⁴⁷

Beneficiaries

Under current law governing SHPRS, "beneficiary" is defined as any person, except a retiree, who is in receipt of a pension or other benefit payable from funds of the retirement system.⁴⁸ The bill replaces the definition with provisions authorizing SHPRS members and retirees to designate beneficiaries for specific circumstances and makes other changes with respect to beneficiaries as discussed below.

Return of accumulated contributions

Death of retiree

Under current law, any amount remaining as accumulated contributions at the time of death of an SHPRS retiree who leaves no surviving spouse or dependent children or parents is to be paid to the retiree's estate. The bill allows a retiree to nominate by written designation duly executed and filed with the Board a beneficiary or beneficiaries to receive such amounts. The bill specifies that the beneficiary may be an individual or a trust. If there is no designated beneficiary surviving the retiree the bill requires the retiree's accumulated contributions be paid according to the state law of descent and distribution. The bill further requires that a retiree's accumulated contributions be transferred to the SHPRS Income Fund if they are not claimed by an eligible person or the retiree's estate within seven years. After the transfer, the bill requires the accumulated contributions to be paid to an eligible person or estate upon application to the Board.⁴⁹

⁴⁶ R.C. 5505.18(A).

⁴⁷ R.C. 5505.18(F) and (G).

⁴⁸ R.C. 5505.01(D).

⁴⁹ R.C. 5505.17(A)(7).

Death when no pension is payable

The bill permits a member to designate an individual or a trust as beneficiary for the return of the member's accumulated contributions should the member die and no pension became payable.⁵⁰

Refund of cost of service credit

Under continuing law, the Board is required to refund to a retirant or surviving spouse the cost of restored or purchased service credit to the extent that the credit does not increase the pension provided to the retirant or surviving spouse. The bill allows a retirant to nominate a beneficiary, which can be an individual or a trust, to receive the amount if there is no surviving spouse. If no beneficiary is designated and there is no surviving spouse, the bill requires the Board to refund the amount to the retirant's estate.⁵¹

Lump sum death benefit

On the death of an individual who is receiving an SHPRS retirement or disability pension or participating in the deferred retirement option plan (DROP) (see "**Deferred Retirement Option Plan**," below), a lump sum payment of \$5,000 is paid under current law to the surviving spouse, or if there is no surviving spouse, the individual's estate. The bill allows an individual to designate a beneficiary, which can be an individual or a trust, to receive the payment if there is no surviving spouse. If there is no surviving spouse or designated beneficiary, the bill requires the payment be made to the individual's estate.⁵²

Return of amounts accrued in DROP

Under continuing law, on the death of a member while participating in the DROP, the amounts accrued to the member's benefit are to be paid to the member's surviving spouse, or if there is no surviving spouse, the beneficiary designated by the member. The bill specifies that the beneficiary may be an individual or a trust.

Under continuing law, if there is no surviving spouse or designated beneficiary, the amounts accrued to the member's benefit are to be paid to the member's estate. Current law provides that any payment is to be in the form of a single lump sum payment. The bill limits the lump sum to the estate and allows a surviving spouse or

⁵⁰ R.C. 5505.21.

⁵¹ R.C. 5505.29.

⁵² R.C. 5505.30 and 5505.59(D).

designated beneficiary to select one of the distribution options for governmental plans under the federal Internal Revenue Code.⁵³

Other changes

The bill eliminates a redundant provision⁵⁴ related to the payment of accumulated contributions of a deceased member.⁵⁵

Surviving spouse pension

The bill specifies that a surviving spouse of a deceased SHPRS member or retirant is eligible for a monthly pension based on the member's or retirant's age and service only if the member or retirant had 20 or more years of service.

Under continuing law, the surviving spouse of an SHPRS member who at the time of death was receiving or eligible to receive a pension receives a monthly survivor pension of the greater of the minimum monthly pension (\$900) or 50% of the monthly pension the member was receiving or would have received. If the member was not eligible for a pension at the time of death, the surviving spouse receives a monthly pension of \$900.⁵⁶

Deferred Retirement Option Program (DROP) eligibility

The bill clarifies eligibility for SHPRS member participation in the system's DROP. A DROP is an arrangement under which a member of a uniform retirement system (OP&F and SHPRS) who is eligible to retire and receive a pension continues to work. Instead of having continued salary and additional years of service taken into account for purposes of the retirement system's pension formula, the member has the pension, interest, and the member's employee contributions credited to a separate account during each year of the continued employment. On termination of employment, the member receives a lump sum distribution of the account, in addition to whatever pension the member is eligible to receive based on the member's salary and years of service at the time DROP participation began.

The bill clarifies that only SHPRS members who are eligible for retirement with an unreduced pension may elect to participate in DROP (and are under age 58, as under

⁵³ R.C. 5505.59(A).

⁵⁴ R.C. 5505.19.

⁵⁵ See R.C. 5505.21 for remaining provision.

⁵⁶ R.C. 5505.17(A)(3).

current law).⁵⁷ Under continuing law, a member is eligible to retire with an unreduced pension at age 48 with 25 or more years of service credit or age 52 with 20 or more years of service credit. A member is eligible for a reduced pension at age 48 with 20 or more years of service credit.⁵⁸ The bill specifies that a member participating in DROP is not considered to have elected retirement.

The bill changes the effective date of a member's election to participate in DROP to the first day of the State Highway Patrol's first payroll period immediately following the SHPRS Board's receipt of the election (from the date the member files the election as under current law).⁵⁹

Retirant dues deductions

The bill permits persons receiving an allowance, pension, or benefit from SHPRS to authorize SHPRS to make deductions for the payment of dues and other membership fees to any retirement association or other organization composed primarily of retired State Highway Patrol employees, or retired employees and their spouses, if certain conditions are met. SHPRS may make the deduction only if the association or organization adopts a resolution approving that method of payment and not fewer than 100 persons initially authorize the deduction for payment to the same association or organization. Authorization must be in writing and signed by the person giving it, and remains in effect until revoked in writing. SHPRS may charge the association or organization an amount not exceeding the actual costs it incurs in making the deductions, and must adopt rules establishing a method of collecting the amount charged, if any.⁶⁰

SHPRS Board quorum

The bill removes the requirement that actions of the SHPRS Board be approved by a majority of the Board's members. Under current law, a majority of the Board's members constitutes a quorum and any action taken must be approved by a majority of the Board's members.⁶¹

⁵⁷ R.C. 5505.51(B).

⁵⁸ R.C. 5505.16(A) and (B).

⁵⁹ R.C. 5505.51.

⁶⁰ R.C. 5505.35.

⁶¹ R.C. 5505.04.

Technical, conforming and other changes

The bill also makes all of the following changes:

- Specifies that service credit an SERS member purchases for an employer-approved leave is the equivalent of "Ohio service credit," which is credit for contributing service and is used to determine eligibility for SERS retirement allowances and disability benefits.⁶²
- Revises where STRS credits payments an STRS member makes to restore cancelled service credit.⁶³
- Specifies that the standards the STRS Board must comply with when reporting on the performance of investments are the performance presentation standards established by the CFA Institute (current law refers to the Association for Investment Management and Research, which was renamed the CFA Institute in 2004).⁶⁴
- Clarifies the meanings of "retirement" and "retirant" in the law governing SHPRS.⁶⁵
- Removes the requirement that an employer certify to the SERS Board the names of all employees who are in SERS.⁶⁶
- Makes other conforming and technical changes.⁶⁷

HISTORY

ACTION	DATE
Introduced	04-13-16

H0520-I-131.docx/emr

⁶² R.C. 3309.474.

⁶³ R.C. 3307.71.

⁶⁴ R.C. 3307.15; CFA Institute, History, www.cfainstitute.org/about/governance/history/Pages/index.asp (accessed May 1, 2016).

⁶⁵ R.C. 5505.01, 5505.16, and 5505.51.

⁶⁶ R.C. 3309.54 (repealed).

⁶⁷ R.C. 742.105, 742.3711(A), and 3307.501.

