



# Ohio Legislative Service Commission

## Bill Analysis

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(As Reported by H. Health and Aging)

Reps. Schuring and Ramos

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## 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 4.5%.
- 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.
- Establishes conditions for an STRS or SERS member to elect a purchase or transfer of service credit between STRS or SERS and CRS.
- Requires that any legal action commenced against OP&F or STRS be filed in Franklin County.

## **Public Employees Retirement System**

- Includes in the PERS law enforcement and PERS public safety divisions PERS members whose full-time employment as any of the following starts on or after the bill's effective date: BCII investigators, gaming agents, Department of Taxation Investigators, special police officers for port authorities, or special police officers for municipal airports.
- Permits a PERS member who on the bill's effective date is employed full-time in one of the positions listed above to elect to participate in the PERS law enforcement or PERS public safety division rather than regular PERS for the member's future service.
- 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 retiree must wait to receive a refund of the member or retiree'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.
- Temporarily allows certain PERS members to transfer or purchase certain service credit from OP&F without requiring the member to have more PERS service credit than the amount of credit to be transferred or purchased.
- 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.
- Temporarily removes a requirement that a person who has service credit in OP&F and is a PERS law enforcement officer be in the active service of a police or fire department to be eligible to purchase credit in OP&F for service under PERS, STRS, or SERS or have credit for that service transferred to OP&F.
- 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 or election 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.
- Suspends or terminates the STRS disability benefit of a recipient who fails, rather than refuses, to submit to a medical examination or file required information with the STRS Board.
- 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.



- Requires a recipient of an SERS disability benefit granted on or after the bill's effective date who is enrolled in SERS retiree health care coverage to apply for Medicare, as well as Social Security Disability Insurance (SSDI) payments if eligible.
- Suspends a recipient's disability benefit for failure to apply for Medicare or to file with SERS copies of documents associated with the application.
- Requires a disability benefit recipient whose Medicare application is approved to enroll and makes the recipient ineligible for SERS retiree health care coverage until Medicare enrollment.
- Requires an SERS disability benefit recipient whose benefit is granted on or after January 7, 2013, but before the bill's effective date, to apply for SSDI payments only if enrolled in SERS retiree health care coverage.
- Requires any married SERS member who is eligible to retire and seeks a refund of SERS contributions to obtain the consent of the member's spouse.

### **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).
- Allows SHPRS members participating in DROP to vote for the employee members, rather than retiree members, of the SHPRS Board.

- Permits SHPRS retirants 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 4.5%. According to analyses conducted by



the actuaries for PERS, STRS, and SERS, the bill will result in the following ARP mitigating rates: PERS – 2.44%, STRS – 4.43%, and SERS – 3.48%.<sup>1</sup>

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.<sup>2</sup>

Current law freezes, at existing rates for an indefinite period, the mitigating rates for ARPs. The STRS mitigating rate is 4.5%, the PERS mitigating rate is 0.77%, and the SERS mitigating rate is 6.00%.<sup>3</sup> Current law also includes several provisions regarding the ARP mitigating rate that are not currently implemented because the freeze provision overrides them.

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.<sup>4</sup>

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

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<sup>1</sup> Ohio Retirement Study Council, *Legislative Analysis of H.B. 520 of the 131<sup>st</sup> General Assembly*, <http://www.orsc.org/Assets/EventFile/461.pdf> (accessed November 7, 2016).

<sup>2</sup> R.C. 3305.06 and R.C. 3305.01 and 3305.02, not in the bill.

<sup>3</sup> R.C. 3305.062.

<sup>4</sup> R.C. 145.222(B), 3307.514(B), and 3309.212(B).



Total compensation of all ARP electing employees

÷

(total compensation of all of the applicable retirement system's defined benefit plan members ÷ Total compensation of all ARP electing employees)

The compensation ratio is based on the most recent full fiscal year for which information is available.<sup>5</sup>

"Historical liability" is the portion of the retirement system's total unfunded actuarial accrued pension liability attributed to the difference between:

(1) The cumulative mitigating rate contributions received from electing employees since the ARP's establishment; and

(2) The cumulative contributions that would have been applied toward the retirement system's unfunded actuarial accrued liability had the electing employees been members of the retirement system's defined benefit plan.<sup>6</sup>

### **Initial study**

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

(1) Calculate the percentage necessary to amortize the historical liability over an indefinite period:

(2) Calculate the percentage necessary to amortize over a 30-year period the amount resulting from the following calculation:

Compensation ratio

×

(the defined benefit plan's unfunded actuarial accrued pension liability minus the historical liability)

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<sup>5</sup> R.C. 145.222(A)(2), 3307.514(A)(2), and 3309.212(A)(2).

<sup>6</sup> R.C. 145.222(A)(4), 3307.514(A)(4), and 3309.212(A)(4).



(3) The percentage to be contributed is  $\frac{1}{4}$  of the sum of the percentages calculated under (1) and (2), above, but not exceeding 4.5%.<sup>7</sup>

### **Subsequent studies**

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

(1) Calculate the percentage necessary to amortize over a 30-year period:

Compensation ratio

×

(the defined benefit plan's unfunded actuarial accrued pension liability minus the historical liability)

(2) The percentage to be contributed is  $\frac{1}{4}$  of the sum of the percentage calculated under (1), above, and the percentage necessary to amortize the historical liability over an indefinite period (determined under the initial study), but not less than the percentage necessary to amortize the historical liability over an indefinite period and not exceeding 4.5%.<sup>8</sup>

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.<sup>9</sup>

### **Current provisions**

The bill eliminates the rate freezes described above. It also eliminates provisions of current law that are overridden by the mitigating rate freeze that do all of the following:

- Require the Ohio Retirement Study Council (ORSC) to complete an independent actuarial study every three years on any necessary adjustments to the ARP mitigating rate and submit the study to the Department of Higher Education.

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<sup>7</sup> R.C. 145.222(C), 3307.514(C), and 3309.212(C).

<sup>8</sup> R.C. 145.222(D), 3307.514(D), and 3309.212(D).

<sup>9</sup> R.C. 145.222(C)(4) and (D), 3307.514(C)(4) and (D), and 3309.212(C)(4) and (D).

- 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 each system's ARP mitigating rate to continue until a system's unfunded actuarial accrued pension liability for all benefits, except for health care, is fully amortized.<sup>10</sup>

## **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 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.<sup>11</sup>

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<sup>10</sup> R.C. 171.07 (repealed), 3305.052, 3305.06(D), 3305.061(repealed), and 3305.062 (repealed).

<sup>11</sup> R.C. 145.45, 742.37(E), and 3307.66(B) and (E).

## 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.<sup>12</sup>

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.

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.<sup>13</sup>

## 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.

The bill eliminates the provisions under which a PERS, STRS, or SERS member with concurrent service receives partial service credit from each system.<sup>14</sup>

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<sup>12</sup> Ohio Police & Fire Pension Fund, *Ohio Public Safety Officers Death Benefit Fund*, [https://www.op-f.org/Files/MGdeath\\_benefit.pdf](https://www.op-f.org/Files/MGdeath_benefit.pdf) (accessed November 16, 2016).

<sup>13</sup> R.C. 742.63.

<sup>14</sup> R.C. 145.01(H)(3), 3307.53, and 3309.30.



## Purchase or transfer of credit from CRS

The bill establishes conditions for an STRS or SERS member to elect a purchase or transfer of service credit between STRS or SERS and CRS. Continuing law permits an STRS or SERS member who has contributed to CRS to have contributions and service credit transferred to STRS or SERS or, if the member received a refund of contributions to CRS, to purchase STRS or SERS credit for service under CRS. Continuing law also permits a person with contributions in STRS or 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 STRS or SERS (or the amount of the person's service credit in CRS, if the person elects a transfer of service credit from STRS or 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 STRS or SERS that the credit has been obtained.<sup>15</sup>

The bill requires STRS or SERS to withdraw any credit obtained and refund all amounts paid or transferred to CRS to obtain the credit if the member fails to retire or accept a disability benefit within 90 days after receiving notice from STRS or SERS that credit has been obtained or the member's application for a disability benefit is denied.<sup>16</sup> The requirement does not apply to service credit that CRS obtains from STRS or SERS or amounts paid or transferred from STRS or SERS to CRS.

## 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.<sup>17</sup>

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<sup>15</sup> R.C. 3307.763(B) and (C), 3307.764(B) and (C), 3309.75(B), and 3309.76(A).

<sup>16</sup> R.C. 3307.763(K) and 3309.75(K).

<sup>17</sup> R.C. 742.091 and 3307.131.



## PUBLIC EMPLOYEES RETIREMENT SYSTEM

### PERS law enforcement and public safety divisions

PERS has special retirement and benefit provisions for PERS members who are law enforcement officers or public safety officers. There are more than 20 types of PERS law enforcement officers and public safety officers, including deputy sheriffs, township police, and university police officers. The distinction between law enforcement and public safety officers is that to be considered a PERS law enforcement officer a member's primary duties must be to preserve the peace, protect life and property, and enforce Ohio laws.<sup>18</sup>

The bill includes in the PERS law enforcement division and PERS public safety division certain PERS members who have completed peace officer training and are employed full-time in any of the following positions: Bureau of Criminal Identification and Investigation (BCII) investigators, gaming agents, Department of Taxation Investigators, special police officers for port authorities, and special police officers for municipal airports.<sup>19</sup>

Under the bill, a member who starts employment in any of the above positions on or after the bill's effective date is automatically included in the PERS law enforcement division or PERS public safety division. A member who on the bill's effective date is employed in one of the positions may elect to participate in the PERS law enforcement or PERS public safety division rather than regular PERS. To make an election, a member must notify PERS on a form provided by the PERS Board and PERS must receive the notice not later than 90 days after the bill's effective date. The election, once made, causes the member to be considered a PERS law enforcement officer or PERS public safety officer for future service and is irrevocable. Any service credit the member earned before the first day of the first month following the system's receipt of the election will be treated as regular PERS credit, but service credit earned on or after that date will be considered credit as a PERS law enforcement officer or PERS public safety officer.<sup>20</sup>

A PERS member who is employed in one of the added positions on the bill's effective date and close to retirement may find it more advantageous to remain in regular PERS than make the election described above because, in determining eligibility for retirement under the law enforcement officer and public safety provisions, typically

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<sup>18</sup> R.C. 145.01(Y) and (AAA).

<sup>19</sup> R.C. 145.01(T) to (Y) and (AAA).

<sup>20</sup> R.C. 145.01(Y) and (AAA) and 145.334.



only law enforcement and public safety service credit is considered.<sup>21</sup> A member with both regular service credit and law enforcement or public safety credit can retire under regular PERS but receives no additional benefit for the higher contributions made for law enforcement or public safety service (discussed below).

Currently, retirement and disability benefit eligibility and allowances for PERS members who are PERS law enforcement officers or PERS public safety officers differ from those for regular PERS members. For example, PERS law enforcement officers in Group A (for purposes of retirement eligibility, PERS members are placed into one of three groups) are eligible to retire with an unreduced allowance at age 48 with 25 or more years of service credit or age 62 with 15 or more years of service. PERS public safety officers in Group A may retire with an unreduced allowance at age 52 with 25 or more years of service credit or age 62 with 15 or more years of service. Regular PERS members in Group A may retire with an unreduced allowance at any age with 30 or more years of service credit or age 65 with five or more years of service credit.<sup>22</sup>

PERS law enforcement and PERS public safety officers also have higher employee and employer contribution rates than regular PERS members. The employee contribution rate is 13% of earnable salary for PERS law enforcement officers and 12% for PERS public safety officers. The employer contribution rate for both types of officers is 18.10% of earnable salary. For regular PERS, the employee contribution rate is 10% of earnable salary and the employer contribution rate is 14%.<sup>23</sup>

## Positions

BCII investigators are investigators commissioned as special agents to assist law enforcement officers or provide emergency assistance to peace officers.<sup>24</sup> Gaming agents are employed by the Casino Control Commission to enforce the state's casino gaming laws and conduct investigations into casino gaming and maintenance of gaming equipment.<sup>25</sup> Department of Taxation investigators have been delegated investigation

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<sup>21</sup> R.C. 145.32 and 145.33.

<sup>22</sup> R.C. 145.32(A) and 145.332(A), not in the bill.

<sup>23</sup> R.C. 145.47, 145.48, and 145.49 not in the bill and Ohio Public Employees Retirement System, "Member & Employer Contributions," <https://www.opers.org/members/fag/contributions.shtml> (accessed November 15, 2016).

<sup>24</sup> R.C. 145.01(TT), by reference to 109.541, not in the bill.

<sup>25</sup> R.C. 145.01(UU), by reference to R.C. 3772.03, not in the bill.



powers by the Tax Commissioner to enforce the state's laws governing income, sales, use, storage, cigarette, fuel use, and motor fuel taxes.<sup>26</sup>

Special police officers for a port authority protect the property, grounds, buildings, equipment, and facilities under the port authority's control.<sup>27</sup> Special police officers for municipal airports are employed by a municipal corporation at a municipal airport or other municipal air navigation facility that (1) has scheduled operations and (2) must be under a security program and is governed by aviation security rules of the Transportation Security Administration of the U.S. Department of Transportation.<sup>28</sup>

## **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.<sup>29</sup>

### **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.<sup>30</sup> The bill does not include exceptions for recipients who are incapacitated or otherwise unable to file the information.<sup>31</sup>

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<sup>26</sup> R.C. 145.01(VV) by reference to R.C. 5743.45, not in the bill.

<sup>27</sup> R.C. 145.01(WW), by reference to R.C. 4582.04 and 4582.28, not in the bill.

<sup>28</sup> R.C. 145.01(XX).

<sup>29</sup> R.C. 145.362.

<sup>30</sup> R.C. 145.362(B).

<sup>31</sup> 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.<sup>32</sup>

## **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.<sup>33</sup>

## **Inter-system service credit transfers**

### **Purchase or transfer of credit from OP&F**

Continuing law allows a PERS member who has contributed to OP&F to have OP&F contributions and service credit transferred to PERS or, if the member received a refund of contributions from OP&F, to purchase PERS service credit for OP&F service.

A member may 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 PERS 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.

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<sup>32</sup> R.C. 145.384 and 145.40.

<sup>33</sup> R.C. 145.43, by reference to R.C. 145.37, 3307.57, and 3309.35, not in the bill.



(3) 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.<sup>34</sup>

The bill temporarily allows a PERS member to obtain credit without meeting condition (1) above (that the member has more PERS service than the amount of credit to be transferred) for one of the following:

--If the member, on the bill's effective date, is a PERS law enforcement officer or PERS public safety officer, service for which the member contributed to OP&F as a member of a police department;

--If the member was a PERS member who, on May 4, 1992, was employed as a firefighter in a position requiring firefighter training and elected to remain in PERS as a firefighter, service for which the member contributed to OP&F as a member of a fire department.

The member must apply to PERS not later than 90 days after the bill's effective date to obtain the service credit. A PERS member is ineligible to obtain this service credit if the member is eligible to obtain service credit from OP&F as described below.<sup>35</sup>

### **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 must be 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;

(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;

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<sup>34</sup> R.C. 145.295, not in the bill.

<sup>35</sup> R.C. 145.295, not in the bill, and Section 3.

(3) For each year of service, PERS receives from CRS or the member a specified amount of money for the service.<sup>36</sup>

### **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 must be 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.<sup>37</sup>

## **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;

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

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<sup>36</sup> R.C. 145.2911.

<sup>37</sup> R.C. 145.2912.



The bill specifies that payment of the member's accumulated contributions cancels the member's total service credit in OP&F.<sup>38</sup>

### **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.<sup>39</sup> The Guarantee Fund is the fund to which OP&F investment earnings are credited.<sup>40</sup>

### **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.<sup>41</sup>

### **Purchase or transfer of credit from PERS, STRS, or SERS**

Continuing law permits an OP&F member who has contributed to PERS, STRS, or SERS to have contributions and service credit transferred to OP&F or, if the member received a refund of contributions to one of those systems, to purchase OP&F credit for service under that system. Continuing law also permits an OP&F member to elect a transfer or purchase of certain PERS, STRS, or SERS credit that was originally purchased or obtained from OP&F or State Highway Patrol Retirement System (SHPRS) before the member commenced employment with an OP&F-covered employer.<sup>42</sup>

Currently, an OP&F member who elects to transfer or purchase this credit must be in the active service of a police or fire department. The bill temporarily allows an

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<sup>38</sup> R.C. 742.37(G).

<sup>39</sup> R.C. 742.50.

<sup>40</sup> R.C. 742.59(G), not in the bill.

<sup>41</sup> R.C. 742.47.

<sup>42</sup> R.C. 742.21 and 742.214, not in the bill.

OP&F member to obtain the credit without meeting the active service requirement if the member is a PERS law enforcement officer on the bill's effective date and is eligible or with the credit will be eligible to retire from OP&F.<sup>43</sup>

To obtain the service credit, the member must apply to OP&F not later than 90 days after the bill's effective date.

The bill revises the amount of employer contributions that must be paid to OP&F to transfer or purchase the credit. Currently, the amount of employer contributions that must be transferred or paid to OP&F is the lesser of the employer's contributions to PERS, STRS, or SERS or the contributions that the employer would have made had the member been in OP&F at the time of service. The bill provides that the amount of employer contributions to be paid or transferred is the appropriate OP&F employer contribution.<sup>44</sup>

### **OP&F applications or elections**

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

If OP&F determines that an application or election is incomplete or not properly submitted, it may permit the person who submitted the application or election to correct any deficiency or may reject the application or election and require that the application or election be resubmitted. OP&F must give that person written notice of the rejection.<sup>45</sup>

## **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

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<sup>43</sup> Section 3.

<sup>44</sup> R.C. 742.21, not in the bill, and Section 3.

<sup>45</sup> R.C. 742.17.



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.<sup>46</sup>

### **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.<sup>47</sup>

### **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. Under current law, if a recipient refuses to submit to the examination or file the statement or information, the recipient's benefit is 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.

Under the bill, a disability benefit recipient who fails, rather than refuses, to submit to an examination or file the required information will have the benefit

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<sup>46</sup> R.C. 3307.01(L).

<sup>47</sup> R.C. 3307.501(D).



suspended or terminated. The bill also terminates the benefit on the effective date of the suspension if it is terminated for any reason during the one-year period.<sup>48</sup>

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.<sup>49</sup>

### **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 sum by the greater of \$86 or 2% of the member's final average salary. The bill eliminates the \$86 multiplier.<sup>50</sup>

### **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

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<sup>48</sup> R.C. 3307.48(C) and (F).

<sup>49</sup> R.C. 3307.48(C).

<sup>50</sup> R.C. 3307.63.



plan, as well as a contributor to the STRS defined benefit plan. Regarding PERS, it applies only to a contributor to the PERS defined benefit plan.<sup>51</sup>

### **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.<sup>52</sup>

### **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, 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.

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.<sup>53</sup>

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<sup>51</sup> R.C. 3307.48(J).

<sup>52</sup> R.C. 3307.67(B).

<sup>53</sup> R.C. 3307.58(A).



## **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.<sup>54</sup>

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.<sup>55</sup>

### **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.<sup>56</sup>

## **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

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<sup>54</sup> R.C. 3307.354.

<sup>55</sup> R.C. 3307.35 and R.C. 3307.352, not in the bill.

<sup>56</sup> R.C. 3307.35.

resulting from the purchase of each year or portion of a year of credit, as determined by the Board's actuary.<sup>57</sup>

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.<sup>58</sup>

### **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.

The bill requires that the member make the payment directly to STRS, rather than through the employer.<sup>59</sup>

### **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

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<sup>57</sup> R.C. 3307.78 and 3307.70, not in the bill.

<sup>58</sup> R.C. 3307.78.

<sup>59</sup> R.C. 3307.77(D).

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.<sup>60</sup> 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.<sup>61</sup>

### **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.<sup>62</sup>

### **Beneficiaries**

Current law allows an STRS member to designate beneficiaries to receive the member's accumulated contributions and any unpaid disability benefits should the 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.<sup>63</sup>

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<sup>60</sup> R.C. 3307.66(C).

<sup>61</sup> Sub. S.B. 190 of the 123rd General Assembly.

<sup>62</sup> R.C. 3307.66(C)(2) and (D).

<sup>63</sup> R.C. 3307.562.

## 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.<sup>64</sup>

### Medicare and SSDI for disability benefit recipients

The bill requires certain SERS disability benefit recipients to apply for Medicare and revises current law's requirement that disability benefit recipients apply for Social Security Disability Insurance (SSDI) payments.

Continuing law requires an SERS disability benefit recipient whose benefit is granted on or after January 7, 2013, to apply for SSDI payments if the recipient is eligible for them. The bill limits this requirement to those disability benefit recipients who are enrolled in SERS retiree health care coverage.

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<sup>64</sup> R.C. 3309.013.



In addition to applying for SSDI payments, under the bill, a recipient of an SERS disability benefit granted on or after the bill's effective date who is enrolled in SERS retiree health care coverage also must apply for Medicare if eligible.<sup>65</sup>

Unless the Board determines that good cause exists to exempt the recipient, the bill requires a recipient to apply for SSDI and Medicare at the following times, as applicable:

- If the recipient is enrolled in SERS retiree health care coverage on the bill's effective date, not later than 180 days after that date;
- If the recipient enrolls in SERS health care coverage on or after the bill's effective date, not later than 90 days after enrolling.<sup>66</sup>

Current law requires a recipient to apply for SSDI within 90 days after the recipient is granted an SERS disability benefit unless the SERS Board determines from the member's medical records that the member is physically or mentally unable to apply.

Under continuing law, an SERS disability benefit recipient who is required to apply for SSDI must file with SERS copies of the completed SSDI application, Social Security's acknowledgement of the application's receipt, and Social Security's final action on the application. The bill requires a recipient who must apply for Medicare to file with SERS copies of the Medicare application, Social Security's acknowledgement of the application's receipt, and the final action taken on the application.

Continuing law suspends the disability benefit of a recipient who fails without just cause to apply for SSDI or to file with SERS copies of the SSDI application and acknowledgement. The suspension lasts until the recipient applies for SSDI and files the application and acknowledgement. Under the bill, the recipient's disability benefit also is suspended until the recipient files with SERS a copy of Social Security's final action on the recipient's SSDI application.

Similarly, under the bill, if a recipient fails without just cause to apply for Medicare or to file with SERS copies of the Medicare application and acknowledgement and Social Security's final action on the application, the recipient's disability benefit is

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<sup>65</sup> R.C. 3309.392(A) and (B).

<sup>66</sup> R.C. 3309.392(C).

suspended until the recipient applies for Medicare and files copies of the application and acknowledgement and the final action.<sup>67</sup>

The bill also requires a recipient whose Medicare application has been approved by the Social Security Administration to enroll in the coverage. If a recipient fails to enroll in Medicare, the recipient is not eligible for SERS retiree health care until the recipient enrolls.

The bill authorizes the SERS Board to adopt rules as necessary to implement the above provisions.<sup>68</sup>

### **Spousal consent for refund of contributions**

Continuing law requires a married SERS member who applies for a refund of the member's SERS contributions to submit a written statement of consent from the member's spouse only if the member would be eligible for age and service retirement at the time of the application had the member not been subject to a forfeiture order. The bill requires any SERS member who is eligible for age and service retirement at the time of application for a refund to have the consent of the member's spouse.

Under continuing law, the spouse's consent to a refund of the member's contributions is valid only if signed and witnessed by a notary public. The bill permits the consent to instead be signed and witnessed by a SERS employee.<sup>69</sup>

## **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. Current law does not require a member to have a certain amount of service to be eligible for off-duty disability retirement.<sup>70</sup>

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<sup>67</sup> R.C. 3309.392(D) and (E)(1).

<sup>68</sup> R.C. 3309.392(E)(2) and (F).

<sup>69</sup> R.C. 3309.42.

<sup>70</sup> R.C. 5505.18(A).



## **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.<sup>71</sup>

## **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.<sup>72</sup> 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.<sup>73</sup>

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<sup>71</sup> R.C. 5505.18(F) and (G).

<sup>72</sup> R.C. 5505.01(D).

<sup>73</sup> 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.<sup>74</sup>

### **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.<sup>75</sup>

### **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.<sup>76</sup>

### **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

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<sup>74</sup> R.C. 5505.21.

<sup>75</sup> R.C. 5505.29.

<sup>76</sup> 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.<sup>77</sup>

### **Other changes**

The bill eliminates a redundant provision<sup>78</sup> related to the payment of accumulated contributions of a deceased member.<sup>79</sup>

### **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.<sup>80</sup>

### **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

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<sup>77</sup> R.C. 5505.59(A).

<sup>78</sup> R.C. 5505.19.

<sup>79</sup> See R.C. 5505.21 for remaining provision.

<sup>80</sup> R.C. 5505.17(A)(3).



current law).<sup>81</sup> 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.<sup>82</sup> 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).<sup>83</sup>

### **SHPRS Board elections**

The bill makes SHPRS members participating in DROP eligible to vote for the employee members of the SHPRS Board but not for the retirant members. The Board's membership includes five employee members and two retirant members. Current law allows members participating in DROP to vote only for the retirant members.<sup>84</sup>

### **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.<sup>85</sup>

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<sup>81</sup> R.C. 5505.51(B).

<sup>82</sup> R.C. 5505.16(A) and (B).

<sup>83</sup> R.C. 5505.51.

<sup>84</sup> R.C. 5505.52 and 5505.041, not in the bill.

<sup>85</sup> R.C. 5505.35.

## 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.<sup>86</sup>

## 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.<sup>87</sup>
- Revises where STRS credits payments an STRS member makes to restore cancelled service credit.<sup>88</sup>
- Clarifies that STRS may suspend the benefit of an incapacitated person if no other person or entity has legal authority to act or receive benefits on the person's behalf, and must resume benefits on presentation of satisfactory evidence that a person or entity has that legal authority.<sup>89</sup>
- 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).<sup>90</sup>
- Clarifies the meanings of "retirement" and "retirant" in the law governing SHPRS.<sup>91</sup>

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<sup>86</sup> R.C. 5505.04.

<sup>87</sup> R.C. 3309.474.

<sup>88</sup> R.C. 3307.71.

<sup>89</sup> R.C. 3307.42.

<sup>90</sup> R.C. 3307.15; CFA Institute, History, [www.cfainstitute.org/about/governance/history/Pages/index.asp](http://www.cfainstitute.org/about/governance/history/Pages/index.asp) (accessed May 1, 2016).

<sup>91</sup> R.C. 5505.01, 5505.16, and 5505.51.



- Removes the requirement that an employer certify to the SERS Board the names of all employees who are in SERS.<sup>92</sup>
- Repeals obsolete provisions in the law governing SERS.<sup>93</sup>
- Makes other conforming and technical changes.<sup>94</sup>

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## HISTORY

ACTION	DATE
Introduced	04-13-16
Reported, H. Health & Aging	11-15-16

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<sup>92</sup> R.C. 3309.54 (repealed).

<sup>93</sup> R.C. 3309.01(I)(1) and (2), 3309.342 (repealed), 3309.371 (repealed), 3309.372 (repealed), and 3309.373 (repealed).

<sup>94</sup> R.C. 742.105, 742.3711(A), and 3307.501.

