



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 326
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. A. Miller

Paul Luzzi, Attorney

SUMMARY

- Allows a Public Employee Retirement System disability benefit recipient to continue to receive the benefit if the recipient is elected to a board of township trustees, a village legislative authority, a school district board of education, or an education service center governing board (current law terminates the benefit on election to office).
- Allows a School Employee Retirement System disability benefit recipient to continue to receive the benefit if the recipient is elected as a member of a board of education or a governing board of an education service center.

DETAILED ANALYSIS

Continuation of disability benefits for certain elected officials

Under the bill, a person is not disqualified from receiving a Public Employees Retirement System (PERS) or School Employees Retirement System (SERS) disability benefit if the person is elected to any of the following offices, provided the benefit has not otherwise terminated as described under “**Background**,” below:

- A board of township trustees;
- A village legislative authority;
- A board of education of a city, local, or exempted village school district;
- An educational service center governing board.¹

¹ R.C. 145.364 and 3309.41(E).

An elected official who has employees in PERS may elect to be a member of PERS (membership is not automatic). School board members, however, may elect to be members of SERS (as school employees are in SERS or the State Teachers Retirement System). Currently, a PERS disability benefit ceases if the recipient is restored to service by, or elected to an office with, any PERS employer. Since boards of township trustees and the legislative authorities of villages are PERS employers, a PERS disability benefit automatically ceases when the recipient is elected to serve as a member of either entity. Similarly, a SERS disability benefit ceases if the recipient is employed by a SERS employer, including a board of education or educational service center.²

Background

PERS members in the defined benefit plan or the combined plan who have five years of service credit have coverage for long-term disability. Coverage also is provided, regardless of length of service, for on-duty illness or injury of PERS members who are law enforcement or public safety officers. SERS provides disability coverage to each member who has at least five years of total service credit.

A member generally must apply for a PERS or SERS disability benefit within two years from the date contributing service ends.

A PERS or SERS member who applies for a disability benefit must undergo a medical examination conducted by a competent disinterested physician to determine whether the member is mentally or physically incapacitated to perform the duties of the member's most recent position by a disabling condition either permanent or presumed to be permanent. If the physician determines that a member qualifies for a disability benefit, the applicable board concurs with the determination, and the member agrees to medical treatment (and vocational rehabilitation in the case of SERS), the member is granted a disability benefit.³

A PERS or SERS disability benefit terminates at the earliest of the following dates:

- The effective date of an age and service retirement as calculated under continuing law;
- The later of the following:
 - The last day of the month in which the recipient attains an age provided in statute (65 for SERS and between 65 and 67 for PERS, depending on the recipient's transition group);
 - The last day of the month in which the benefit period ends according to a statutory schedule.
- The date the allowance is terminated by the applicable board as described below.⁴

² R.C. 145.362 and 3309.41(E)(1) and R.C. 145.01, 145.20, 3309.01, and 3309.012, not in the bill.

³ R.C. 145.35 and 3309.39, not in the bill.

⁴ R.C. 145.361 and 3309.401, not in the bill.

A PERS or SERS disability benefit recipient must undergo periodic (in the case of SERS, annual) medical examinations, unless the applicable board waives the requirement. After the examination, the examining physician must report to the applicable board or, in the case of PERS, the Board's medical consultant, whether the recipient meets the applicable standard for termination of disability benefits. If the physician reports that the recipient meets the standard, and the applicable board concurs, disability benefits cease no more than three months after the concurrence.⁵

For a PERS disability recipient whose application was received by the PERS Board on or after January 7, 2013, and who (1) was not a law enforcement officer when disabled, (2) received a benefit for three years or longer, and (3) is not receiving rehabilitative services acceptable to the Board's examining physician, the standard for termination is that the recipient is physically and mentally capable of performing the duties of a position that meets all of the following criteria:

- Replaces not less than 75% of the recipient's final average salary (adjusted each year by the actual average increase in the Consumer Price Index);
- Is reasonably to be found in the recipient's regional job market;
- Is one that the recipient is qualified for by experience or education.⁶

The standard for termination described above applies to a SERS disability recipient who (1) began receiving a benefit on or after January 7, 2013, (2) has been receiving the benefit for three years or longer, and (3) is not receiving rehabilitative services acceptable to the SERS board's physician or medical consultant.⁷

For a PERS or SERS disability benefit recipient listed below, the standard for termination is that the recipient is physically and mentally capable of resuming the service from which the recipient was found disabled:

- A PERS disability recipient who applied for a benefit before January 7, 2013;
- A SERS disability recipient whose benefit effective date was before January 7, 2013;
- A PERS or SERS disability recipient who, on or after January 7, 2013, has been receiving the benefit for less than three years or has been receiving the benefit for less than five years and is receiving rehabilitative services acceptable to the applicable board's examining physician or consultant;

⁵ R.C. 145.362 and 3309.41(B) and (C).

⁶ R.C. 145.362(B).

⁷ R.C. 3309.41(A)(2) and (C).

- A PERS disability recipient who at the time service terminated was a law enforcement officer.⁸

PERS and SERS disability benefits also terminate if a recipient refuses to undergo a medical examination for a year after the applicable board orders the examination. Benefits also terminate if the recipient fails to submit a statement of earnings, current medical information, or any other information required under rules adopted by the applicable board for one year after being ordered to submit the statement or information.⁹

HISTORY

Action	Date
Introduced	08-28-19

H0326-I-133/ec

⁸ R.C. 145.362(A) and 3309.41(C).

⁹ R.C. 145.362 and 3309.41(B) and (D).