



# Ohio Legislative Service Commission

## Bill Analysis

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### Sub. S.B. 11

131st General Assembly  
(As Passed by the Senate)

**Sens.** Eklund and LaRose, Seitz, Cafaro, Patton, Hughes, Jones, Williams, Uecker, Schiavoni, Beagle, Yuko, Hite, Gardner, Oelslager, Bacon, Balderson, Brown, Burke, Coley, Faber, Gentile, Hottinger, Lehner, Manning, Obhof, Peterson, Sawyer, Skindell, Tavares, Thomas, Widener

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## BILL SUMMARY

### Volunteer Peace Officers' Dependents Fund

- Creates the Volunteer Peace Officers' Dependents Fund to provide death benefits to survivors of volunteer, part-time, and reserve police officers, sheriffs' deputies, constables, and deputy marshals killed in the line of duty and disability benefits to such disabled officers and deputies.
- Makes each political subdivision with a police or sheriff's department that employs volunteer peace officers a member of the Fund and requires each Fund member to establish a volunteer peace officers' dependents fund board to administer claims for benefits from the Fund.
- Requires the following benefit amounts to be paid from the Fund: (1) surviving spouses, a lump-sum award of \$1,000, plus a benefit of \$300 per month, (2) dependent children, a benefit of \$125 per month, and (3) disabled volunteer peace officers, a disability benefit of \$300 per month.
- To pay for benefits disbursed by the Fund, requires each Fund member to pay the Treasurer of State an initial premium of \$300 to \$500, which is based on the member's assessed property valuation.
- If claims against the Fund have reduced it to 95% or less of its basic capital account, requires Fund members to pay additional premiums of \$90 to \$150, depending on the member's assessed property valuation.

## Ohio Public Safety Officers Death Benefit Fund

- Makes survivors of gaming agents and Department of Taxation investigators eligible for benefits from the Ohio Public Safety Officers Death Benefit Fund.

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## CONTENT AND OPERATION

### Volunteer Peace Officers' Dependents Fund

The bill creates the Volunteer Peace Officers' Dependents Fund (Fund) to provide death benefits to survivors of volunteer, part-time, and reserve police officers, sheriffs' deputies, constables, and deputy marshals killed in the line of duty and disability benefits to such officers and deputies who are totally and permanently disabled as a result of discharging their duties.<sup>1</sup> The bill is similar to the existing Volunteer Firefighters' Dependents Fund, which provides (1) death benefits to surviving spouses and dependent children of volunteer firefighters killed in the line of duty and (2) disability benefits to volunteer firefighters who are totally and permanently disabled as a result of discharging duties as a firefighter.<sup>2</sup>

The bill defines "volunteer peace officer" as any person who is employed as a police officer, sheriff's deputy, constable, or deputy marshal in a part-time, reserve, or volunteer capacity by a county sheriff's department or the police department of a municipal corporation, township, township police district, or joint police district and is not a member of the Public Employees Retirement System (PERS), Ohio Police and Fire Pension Fund (OP&F), State Highway Patrol Retirement System (SHPRS), or the Cincinnati Retirement System (CRS).<sup>3</sup>

The bill is referred to as the "Jason Gresko Act."<sup>4</sup> It specifies that it is to have no impact on PERS, OP&F, or SHPRS.<sup>5</sup>

### Volunteer peace officers' dependents fund boards

The bill makes each county, municipal corporation, township, township police district, and joint police district with a police or sheriff's department that employs volunteer peace officers a member of the Fund. Each Fund member must establish a

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<sup>1</sup> R.C. Chapter 143.

<sup>2</sup> R.C. Chapter 146., not in the bill.

<sup>3</sup> R.C. 143.01(C).

<sup>4</sup> Section 3.

<sup>5</sup> Section 5.



volunteer peace officers' dependents fund board. The boards administer claims for benefits from the Fund.

Each board is to consist of the following members:

(1) Two members, elected by the legislative authority of the Fund member that maintains the police or sheriff's department;

(2) Two members, elected by the volunteer peace officers of the police or sheriff's department;

(3) One member, elected by the members specified in (1) and (2), above. The member must be an elector of the Fund member in which the police or sheriff's department is located, but not be a public employee, member of the legislative authority, or peace officer of that police or sheriff's department.<sup>6</sup>

### **Election of members**

The legislative authority of the Fund member that maintains the police or sheriff's department must hold the election for the initial board members no later than 30 days after the bill's effective date. After that, the election of the board members specified in (1) above must be held each year between November 1 and the second Monday in December. The election of the member specified in (3) above is to be held each year on or before December 31.<sup>7</sup>

The board members specified in (2) above are to be elected on or before the second Monday in December. The board's secretary (or, in the case of the initial election, the legislative authority of the Fund member that maintains the department) must give notice of the election by posting it in a conspicuous place at the police or sheriff's department headquarters. Between 9 a.m. and 9 p.m. on the day designated, each person eligible to vote must send in writing the name of two persons eligible to be elected to the board who are the person's choices. The board (or, for the initial election, the legislative authority) is to count and record all votes cast at the election, and announce the result. The two persons receiving the highest number of votes are elected. If there is a tie vote for any two persons, the election is to be decided by lot or in any other way agreed on by the persons for whom the tie vote was cast.<sup>8</sup>

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<sup>6</sup> R.C. 143.02(A).

<sup>7</sup> R.C. 143.02(C)(1) and Section 4.

<sup>8</sup> R.C. 143.02(C)(2) and Section 4.

Except for initial terms of office, terms of office of board members are one year and begin the first day of January. For the initially elected members, a member's term begins on the day after the member is elected and ends on December 31 of the year in which the member is elected. Any vacancy occurring on a board is to be filled at a special election called by the board's secretary.<sup>9</sup>

## **Organization**

A Fund board is to meet promptly after election of its members and organize. The board must select from among its members a chairperson and secretary. The board's secretary is to keep a complete record of the board's proceedings, which must be maintained as a permanent file.

Board members are to serve without compensation. The legislative authority of the Fund member must provide sufficient meeting space and supplies for the board to carry out its duties.

The board's secretary must submit all of the following to the Director of Commerce: (1) the name and address of each board member and the group or authority that elected the member, (2) the names of the board chairperson and secretary, and (3) a certificate indicating the current assessed property valuation of the Fund member that is prepared by the clerk of the Fund member.<sup>10</sup>

Each board may adopt rules as necessary for handling and processing claims for benefits. The board must perform other duties as necessary to implement the law governing the Fund.<sup>11</sup>

The prosecuting attorney of the county in which a Fund member is located serves as the legal advisor for the board.<sup>12</sup>

## **Benefits**

### **Death benefits**

Under the bill, death benefits must be paid from the Fund to the surviving spouse or dependent children of a volunteer peace officer who is killed in the line of

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<sup>9</sup> R.C. 143.02(B) and (D) and Section 4.

<sup>10</sup> R.C. 143.03. The term "clerk" probably is a drafting error and should be replaced with "secretary."

<sup>11</sup> R.C. 143.04.

<sup>12</sup> R.C. 143.05.



duty, regardless of whether disability benefits were paid from the Fund to that officer. Death benefits are to be paid as follows:

--A surviving spouse receives a lump-sum award of \$1,000 and a benefit of \$300 per month.

--Each dependent child under age 18, or under age 22 if in school, receives a benefit of \$125 per month.<sup>13</sup>

"Killed in the line of duty" is defined as either (1) death in the line of duty or (2) death from injury sustained in the line of duty, including heart attack or other fatal injury or illness caused while in the line of duty.<sup>14</sup>

### **Disability benefits**

Under the bill a volunteer peace officer who is totally and permanently disabled as a result of discharging the duties of a volunteer peace officer receives a disability benefit from the Fund of \$300 per month. The bill provides, however, that no payment is to be made to a volunteer peace officer who is receiving the officer's full salary during the time of the officer's disability.<sup>15</sup>

The bill defines "totally and permanently disabled" as unable to engage in any substantial gainful employment for a period of not less than 12 months by reason of a medically determinable physical impairment that is permanent or presumed to be permanent.<sup>16</sup>

### **Application for benefits**

An individual eligible for benefits from the Fund must file a claim for benefits with the appropriate Fund board on a form provided by the board. All of the following information must be submitted with the claim:

(1) In the case of a totally and permanently disabled volunteer peace officer: (a) the name of the police or sheriff's department for which the officer was a volunteer peace officer, (b) the date of the injury, and (c) satisfactory medical evidence that the officer is totally and permanently disabled.

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<sup>13</sup> R.C. 143.09(B).

<sup>14</sup> R.C. 143.01(A).

<sup>15</sup> R.C. 143.09(A).

<sup>16</sup> R.C. 143.01(B).



(2) In the case of a surviving spouse or a parent, guardian, or other person in charge of a dependent child: (a) the deceased officer's full name, (b) the name of the police or sheriff's department for which the deceased officer was a volunteer peace officer, (c) the name and address of the surviving spouse, as applicable, (d) the names, ages, and addresses of any dependent children, and (e) any other evidence required by the board.<sup>17</sup>

All claimants must certify that neither the claimant nor the person on whose behalf the claim is filed qualifies for other benefits from any of the following based on the officer's service as a volunteer peace officer: PERS, OP&F, SHPRS, CRS, or the Ohio Public Safety Officers Death Benefit Fund.<sup>18</sup>

The bill requires initial claims to be filed with the board of the Fund member in which the officer was a volunteer peace officer. Thereafter, on request of the claimant or the board, claims may be transferred to a board near the claimant's current residence, if the boards concerned agree to the transfer.<sup>19</sup>

### **Consideration of claims**

Not later than five days after receiving a claim for benefits, a board must meet and determine the validity of the claim. If the board determines that the claim is valid, it must make a determination of the amount due and certify its determination to the Director of Commerce for payment. The certificate must show (1) the board's name and address, (2) the name and address of each beneficiary, (3) the amount to be received by each beneficiary, and (4) the name and address of the person to whom payments are to be made.

If the Board determines that a claimant is ineligible for benefits, it must deny the claim and issue to the claimant a copy of its order.<sup>20</sup>

The bill authorizes a board to make a continuing order for monthly payments to a claimant for a period not exceeding three months from the date of the determination. The determination may be modified after issuance to reflect any changes in the claimant's eligibility. If no changes occur at the end of the three-month period, the

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<sup>17</sup> R.C. 143.09(C).

<sup>18</sup> R.C. 143.09(D).

<sup>19</sup> R.C. 143.09(E).

<sup>20</sup> R.C. 143.10(A).



Director may provide for payment if the board certifies that the original certificate is continued for an additional three-month period.<sup>21</sup>

### **Exemption from garnishment and attachment**

Under the bill, an individual's right to the benefits provided by the bill (1) are exempt from execution, garnishment, attachment, and bankruptcy or insolvency laws, and (2) are unassignable, except for orders concerning the division of marital property and withholding orders to satisfy child support obligations.<sup>22</sup>

### **Funding of benefits**

#### **Initial premiums**

The Fund is to be maintained in the state treasury. All investment earnings of the Fund must be collected by the Treasurer of State and placed to the credit of the Fund.<sup>23</sup>

To pay for benefits disbursed by the Fund, the bill requires each Fund member to pay the Treasurer of State an initial premium, which is credited to the Fund. The amount of the premium depends on the member's assessed property valuation, as indicated in the table below.<sup>24</sup>

<b>Member's assessed property valuation</b>	<b>Initial premium amount</b>
Less than \$7 million	\$300
\$7 million or more, but less than \$14 million	\$350
\$14 million or more, but less than \$21 million	\$400
\$21 million or more, but less than \$28 million	\$450
\$28 million or more	\$500

#### **Additional premiums**

The bill makes the total of all initial premiums collected by the Treasurer of State the basic capital account of the Fund. No further contributions are required of its

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<sup>21</sup> R.C. 143.10(B).

<sup>22</sup> R.C. 143.11 and 2329.66.

<sup>23</sup> R.C. 143.06(A).

<sup>24</sup> R.C. 143.06(B).



members until claims against the Fund have reduced it to 95% or less of its basic capital account. In that event, additional premiums must be paid by Fund members and the Director must cause the following assessments, based on current property valuation, to be made and certified to the legislative authority of each member:<sup>25</sup>

<b>Member's assessed property valuation</b>	<b>Assessment amount</b>
Less than \$7 million	\$90
\$7 million or more, but less than \$14 million	\$105
\$14 million or more, but less than \$21 million	\$120
\$21 million or more, but less than \$28 million	\$135
\$28 million or more	\$150

### **Failure to pay premiums**

If a Fund member fails to pay the initial premium, the bill requires the Director to certify the failure as an assessment against the member to the auditor of the county within which the member is located. The county auditor is to (1) withhold the amount of the assessment plus interest at the rate of 6% from the due date of the premium, from the next ensuing tax settlement due the member and (2) pay the amount to the Treasurer of State to the credit of the Fund.

If a board secretary fails to submit to the Director a certificate of the member's current assessed property valuation, the Director must use the highest assessed property valuation (\$28 million or more) as a basis for the assessment. As a result, the member will pay an initial premium of \$500.<sup>26</sup>

If a member does not pay the additional premium within 45 days after receiving notice of the assessment, the Director must proceed with collection in accordance with the bill's procedures for collecting initial premiums that have not been paid.<sup>27</sup>

### **Ohio Public Safety Officers Death Benefit Fund**

The bill extends eligibility for benefits from the Ohio Public Safety Officers Death Benefit Fund to eligible survivors of gaming agents and Department of Taxation

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<sup>25</sup> R.C. 143.07.

<sup>26</sup> R.C. 143.08(A).

<sup>27</sup> R.C. 143.08(B).





investigators who are killed in the line of duty or die of injuries or diseases incurred in the performance of official duties.<sup>28</sup>

Gaming agents are peace officers 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>29</sup> Department of Taxation investigators have been delegated investigation powers by the Tax Commissioner to enforce the state's laws governing income, sales, use, storage, cigarette, fuel use, and motor fuel taxes.<sup>30</sup>

Currently, certain survivors of a number of different public safety officers who are killed in the line of duty or die of their injuries are eligible for benefits from the Death Benefit Fund, including survivors of police officers, firefighters, certain correction officers, and drug agents.

The Death Benefit Fund is administered by OP&F and financed through legislative appropriations. Survivors eligible to receive a Death Fund benefit are: the deceased officer's: (1) spouse, (2) unmarried children who are under age 18 or between 18 and 22 and in school, (3) a surviving child of any age who is mentally or physically disabled and was totally dependent on the officer at the time of the officer's death, (4) a dependent parent of the officer, if the officer died on or after January 1, 1980, and was not survived by a spouse or child.<sup>31</sup>

The death benefit amount depends on whether the officer had, at the time of death, reached the officer's retirement eligibility date, which is defined as the last day of the month in which a deceased officer would have first become eligible for the retirement pension of the retirement system to which the officer belonged.<sup>32</sup>

For survivors of a deceased officer who had not reached the retirement eligibility date prior to death, the death benefit generally equals the deceased officer's full monthly salary at the time of death, plus any salary increase that would have been granted had the officer not died, minus any survivor benefit from the officer's retirement system. The benefit is divided among the eligible survivors in accordance

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<sup>28</sup> R.C. 742.63(A)(1)(xiii) and (xiv).

<sup>29</sup> R.C. 3772.01(K), not in the bill.

<sup>30</sup> R.C. 5743.45.

<sup>31</sup> R.C. 742.63.

<sup>32</sup> R.C. 742.63(A)(10).



with a formula specified in statute. The benefit generally terminates on the deceased officer's retirement eligibility date.<sup>33</sup>

For a deceased officer who reached the retirement eligibility date prior to death, the benefit equals one-half of the monthly salary received by the officer before death. If the officer was a member of OP&F, the benefit is reduced by any amount a survivor receives from OP&F as a contingent dependent beneficiary. The benefit terminates on the death of the surviving spouse or surviving children or when the surviving children are no longer eligible, as applicable.<sup>34</sup>

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## HISTORY

ACTION	DATE
Introduced	02-02-15
Reported, S. Insurance	10-13-15
Passed Senate (32-0)	10-14-15

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<sup>33</sup> R.C. 742.63(B) to (E).

<sup>34</sup> R.C. 742.63(F) and (G).

