



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Final Analysis

Christopher Edwards

### **Sub. H.B. 572**

132nd General Assembly  
(As Passed by the General Assembly)

- Reps.** Scherer and Howse, Schuring, K. Smith, Antonio, Boccieri, Brenner, Dever, Patterson, Ramos, Anielski, Arndt, Ashford, Barnes, Boyd, Brown, Celebrezze, Clyde, Craig, Edwards, Galonski, Gavarone, Ginter, Green, Holmes, Ingram, Kelly, Leland, Lepore-Hagan, Miller, O'Brien, Patton, Pelanda, Perales, Rezabek, Rogers, Sheehy, Sykes, West
- Sens.** Hottinger, Beagle, Bacon, Hackett, Burke, Eklund, Gardner, Kunze, Tavares, Uecker, Wilson, Yuko

**Effective date:** March 22, 2019

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## **ACT SUMMARY**

### **Public Employees Retirement System**

- Requires the Public Employees Retirement System (PERS) Board to grant a full year of service credit to a PERS member employed as a nonteaching school employee of a county board of developmental disabilities if the member performs full-time services in the position for at least nine months of the year and is paid earnable salary in each month of that year.
- Requires that service credit also be granted as described above for the period beginning January 1, 2017, through March 22, 2019 (the act's effective date) if specified conditions are met.
- Changes the minimum service a PERS member needs to qualify for a retirement allowance or disability benefit from 60 or more calendar months of contributing service to five years of contributing service.
- Specifies that the minimum service requirement described above does not apply to a member who, on March 22, 2019, has at least 60 months of contributing service and (1) is age 60 years or older or (2) is receiving disability benefits and later applies for a retirement allowance.

- Permits PERS to make a single payment of a retirement allowance, survivor benefit, or annuity if the monthly payment would be less than \$50.
- Permits the PERS Board to waive the requirement that a disability benefit recipient file required information with the Board for any reason specified in rules adopted by the Board.

### **Ohio Police and Fire Pension Fund**

- Provides that any appointed member of the Ohio Police and Fire Pension Fund (OP&F) Board of Trustees, including a member appointed to fill a vacancy, continues in office after the member's term expires until the member's successor takes office.
- Removes two outdated provisions related to a member of the OP&F Board who is a municipal fiscal officer.

### **State Teachers Retirement System**

- Permits, rather than requires, the State Teachers Retirement System (STRS) Board to require a disability benefit recipient to submit to an annual medical examination.
- Requires the Board to appoint a medical review board to evaluate a medical examiner's report if an examiner determines that a recipient is no longer incapable of returning to work following an examination.
- Authorizes the STRS Board to release personal history records containing confidential information on the request of specified outside entities.
- Permits a person who holds both an STRS position and a higher paid PERS or School Employees Retirement System (SERS) position to retire from the PERS or SERS position under coordination of benefits provisions or a defined contribution plan and continue in the STRS position.
- Removes the five-year limit on the amount of prior STRS defined contribution plan service credit that a member can purchase in the defined benefit plan.
- Specifies that a retirant may not elect a joint and survivor benefit that would result in a monthly payment of \$100 or less to a beneficiary after the retirant's death unless the retirant is required to select that benefit under continuing law.
- Requires all employee and employer contributions to be remitted at intervals required by STRS.



- Removes the requirement that the employer contribution amount be certified by the Secretary of the STRS Board.
- Removes a retirant's or disability benefit recipient's sponsored dependents from being eligible for health care coverage under an STRS policy or contract.

### **School Employees Retirement System**

- Provides that teachers and faculty members at community (charter) schools and science, technology, engineering, and mathematics (STEM) schools are not members of SERS.
- Permits SERS to provide information about a member, former member, contributor, former contributor, retirant, or beneficiary to specified outside entities.

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## CONTENT AND OPERATION

### PUBLIC EMPLOYEES RETIREMENT SYSTEM

#### Service credit for county developmental disabilities board employees

##### Change in service credit calculation

Under continuing law, a Public Employees Retirement System (PERS) member receives a full month of service credit for each month in which the member earns at least a specified earnable salary. "Earnable salary" is generally all salary, wages, and other earnings paid to a member, not including payments such as leave payments or maintenance allowances. The earnable salary amount is \$660 a month and is subject to adjustment under continuing law. Partial credit is granted for months in which a member earns less than that amount.<sup>1</sup>

For service after March 22, 2019 (the act's effective date), the act makes an exception to the earnable salary required for full service credit. It requires the PERS Board to grant a full year of service credit to a PERS member if the following conditions are met:

- (1) The member is employed by a county board of developmental disabilities;
- (2) The member's employment would be covered by the School Employees Retirement System (SERS) if the member was employed by an SERS-covered employer, such as a school district;
- (3) The member performs full-time services in the position for at least nine months of the year and is paid earnable salary in each month of that year.<sup>2</sup>

Continuing law grants a full year of service credit to an SERS member who is employed by an SERS-covered employer on a full-time basis for nine or more months of service within a year.<sup>3</sup>

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<sup>1</sup> R.C. 145.01(R) and 145.016 and Public Employees Retirement System, *OPERS Service Credit and Contributing Months*, <https://www.opers.org/pubs-archive/leaflets/ISL-F.pdf>.

<sup>2</sup> R.C. 145.018.

<sup>3</sup> R.C. 3309.30, not in the act.



## Application of service credit calculation beginning January 1, 2017

The act's service credit calculation applies to a PERS member for the period beginning January 1, 2017, and ending on March 22, 2019, if both of the following apply:

(1) The member received less than a full year of service credit for employment that would have qualified the member for a full year of service credit had the act taken effect January 1, 2017;

(2) Not later than June 20, 2019 (90 days after the act's effective date), the county board of developmental disabilities that employed the member during the period, acting through the county auditor, reports to PERS the member's name and any additional information required by PERS in the form PERS requires.<sup>4</sup>

### Benefit eligibility

The act changes to five years of contributing service credit the minimum service a PERS member must have to qualify for a retirement allowance or disability benefit. Under former law, a member was eligible for the allowance or benefit with 60 or more calendar months of contributing service.

A PERS member can have 60 months of contributing service without having earned five years of service credit because service credit is based on earnings, as described under "**Change in service credit calculation**," above. PERS adds the full and partial months of credit to determine a member's service credit. The act ties the five-year requirement to the method by which service credit is determined under continuing law. PERS calculates the five years of contributing service needed for a retirement allowance or disability benefit using the full and partial months of credit earned by a PERS member.

The act includes two exceptions to the five-year requirement. The requirement of 60 months of contributing service to qualify for a retirement allowance or disability benefit continues to apply to:

(1) A member who, on March 22, 2019, has at least 60 months of contributing service and is age 60 or older; and

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<sup>4</sup> Section 3.



(2) A member with at least 60 months of contributing service who is receiving disability benefits on March 22, 2019, if at some later time the member ceases to qualify for disability benefits and applies for a retirement allowance.<sup>5</sup>

## **Minimum monthly benefit amount**

### **Retirement allowance or survivor benefit**

Under the act, if a retirement allowance or a survivor benefit based on a retirement allowance payable by PERS would be less than \$50 a month, instead of a monthly payment, PERS must pay the greater of the following:

(1) A refund of the member contributions on which the allowance is based;

(2) An amount equal to the actuarial present value of the allowance or benefit as determined by PERS. (The actuarial present value is the amount the allowance or benefit is worth as a single payment rather than paid over time).<sup>6</sup>

### **Annuity**

Continuing law permits a retired state retirement system member who contributed to PERS as a re-employed retirant to choose to receive a post-retirement benefit after ceasing employment as either a monthly annuity or a lump sum payment. Under the act, the retirant receives the lump sum payment if the monthly benefit would be less than \$50, rather than less than \$25 as under former law. Similarly, if an annuity payable as a result of the member's extra voluntary deposits with PERS would be less than \$50 a month, the act requires PERS to refund the amount deposited plus earnings allowed by PERS. Under former law, PERS provided the refund if the annuity would be less than \$25 a month.

A member may have a combination of PERS service credit, PERS law enforcement credit, and PERS public safety credit. If a member has a combination of PERS service credit and qualifies for an allowance under the PERS law enforcement or public safety provisions, continuing law allows the member to receive a retirement allowance as a PERS law enforcement officer or PERS public safety officer and receive a monthly annuity based on the member's accumulated contributions for all service other than PERS law enforcement or public safety service. The act requires, if the annuity is

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<sup>5</sup> R.C. 145.01 and 145.016 and Ohio Public Employees Retirement System, "Service Credit and Contributing Months," <https://www.opers.org/pubs-archive/leaflets/ISL-F.pdf>.

<sup>6</sup> R.C. 145.33, 145.332, and 145.45.



less than \$50 per month, PERS to refund the amount of the contributions on which the annuity is based.<sup>7</sup>

### **Disability benefit statement of earnings**

Under the act, the PERS Board may waive the requirement that a disability benefit recipient file an annual statement of earnings and current medical information with the Board for any reason specified in rules adopted by the Board. Under continuing law the Board also may waive these requirements if the Board's medical consultant certifies that the recipient's disability is ongoing.<sup>8</sup>

## **OHIO POLICE AND FIRE PENSION FUND**

### **Appointed board members**

The Ohio Police and Fire Pension Fund (OP&F) Board of Trustees consists of both elected and appointed members. Under the act, any appointed member of the Board, including a member appointed to fill a vacancy, holds office until the end of the term for which the member was appointed. The member continues in office until the member's successor takes office. Under former law, an investment expert member appointed to fill a vacancy continued in office after the term expired until the member's successor took office or until 60 days had elapsed, whichever occurred first.<sup>9</sup>

### **Municipal fiscal officers**

The act removes the following two provisions related to a member of the OP&F Board who is a municipal fiscal officer:

- A provision that caused a Board vacancy if a member who was a municipal fiscal officer ceased being a municipal fiscal officer;
- A provision that required the Governor to appoint a person to fill a vacancy on the Board left by a municipal fiscal officer.<sup>10</sup>

The requirement to have a municipal fiscal officer serve on the Board was eliminated in 2004 by S.B. 133 of the 125th General Assembly.

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<sup>7</sup> R.C. 145.332, 145.384, and 145.62.

<sup>8</sup> R.C. 145.362.

<sup>9</sup> R.C. 742.03.

<sup>10</sup> R.C. 742.05.



## STATE TEACHERS RETIREMENT SYSTEM

### Disability benefit eligibility and calculation

The act permits the State Teachers Retirement System (STRS) Board to require a disability benefit recipient to submit to an annual medical examination. Under former law, the STRS Board had to require a recipient to submit to an examination unless the Board's physician determined that the recipient's disability was ongoing.

If, after an examination, a recipient is determined to be no longer incapable of returning to work, the act requires the STRS Board to appoint a medical review board consisting of at least three disinterested physicians to evaluate the examiner's report. The medical review board must report its finding to the STRS Board, who must terminate a recipient's disability benefit if it concurs in the medical review board's finding. The act requires that a recipient's disability benefit be terminated when the recipient is no longer incapable of resuming service. Former law specified that the recipient's disability benefit be terminated when the recipient was no longer "physically and mentally" incapable of resuming service.

Under the act, a service retirement benefit beginning after a disability benefit terminates is effective the first day of the next month following the termination of the disability benefit and the individual attaining eligibility for service retirement (the individual has at least five years of service credit and has attained age 65 for an unreduced benefit or age 60 for a reduced benefit). Under former law, service retirement began following the termination if the recipient had five or more years of service credit.

In determining the service retirement benefit amount for an individual who was previously receiving a disability benefit, the act uses a three-year final average salary to calculate a service retirement benefit effective on or after August 1, 2015, that is preceded by a disability benefit effective before that date and with no break in benefits. Formerly, an individual's five-year final average salary was used to calculate service retirement benefits. For all other service retirement benefits effective on or after August 1, 2015, continuing law requires a five-year final average salary to be used.<sup>11</sup>

### Disclosure of personal history records

The act authorizes the STRS Board to release personal history records of a member, former member, contributor, former contributor, retirant, or beneficiary to any of the following entities:

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<sup>11</sup> R.C. 3307.48, 3307.501, and 3307.58.



- The U.S. Social Security Administration;
- The U.S. Centers for Medicare and Medicaid Services;
- The Ohio Public Employees Deferred Compensation Program;
- The other state retirement systems;
- The Cincinnati Retirement System;
- A municipal or township police department, a sheriff's office, the State Highway Patrol, federal law enforcement, a county prosecuting attorney, the U.S. Attorney's Office, or a state or local governmental body that enforces criminal laws and that has employees who have a statutory arrest power;
- Any third party that STRS has contracted with to administer any part of the system.

Under continuing law, an individual's personal history record includes the individual's address, email address, telephone number, Social Security number, record of contributions, correspondence with STRS, and any other information STRS determines is confidential, as well as information identifying by name and address the amount of an allowance or benefit paid to the individual. Confidential information can only be released with an individual's permission or if STRS is statutorily permitted to share it.<sup>12</sup>

### **Retiring from a higher paid PERS or SERS position**

Continuing law provides for coordination of benefits between STRS, PERS, and SERS. Coordination of benefits permits a government employee who has contributed to more than one retirement system to retire using service credit from more than one system. The employee retires under the system in which he or she has earned the most service credit. An STRS member can retire under STRS coordination of benefits provisions and continue in an STRS position.

The act permits an STRS member to continue in an STRS position after retiring under PERS or SERS coordination of benefits provisions from a higher paying PERS or

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<sup>12</sup> R.C. 3307.20, by reference to R.C. 149.435, not in the act.



SERS position. The act also permits an STRS member to continue in STRS after retiring under a PERS or SERS defined contribution plan.<sup>13</sup>

### **Purchasing service credit**

The act removes the limit on the amount of service credit for which a member previously made contributions to the STRS defined contribution plan that the member may purchase under the defined benefit plan. Under former law, a member was ineligible to purchase five or more years of credit for service for which the member contributed to the defined contribution plan.<sup>14</sup>

### **Minimum payment under joint and survivor benefit**

Under continuing law, on retirement a retirant may elect to receive a single lifetime benefit paid solely to the retirant until death, or may elect a plan of payment that provides a lesser benefit payable for life and continuing after the retirant's death to one or more beneficiaries, known as a joint and survivor benefit. The act specifies that an individual may not elect a joint and survivor benefit that would result in a monthly payment of \$100 or less to the beneficiary unless the individual is married and must elect a joint and survivor benefit.<sup>15</sup>

### **STRS contributions**

The act requires all employee and employer contributions to be remitted at intervals required by STRS and removes the requirement that the Secretary of the STRS Board certify the employer contribution amount. Former law specified that teacher contributions were to be remitted annually by June 30 and employer contributions be remitted annually (but the law did not specify the date by which employer contributions had to be remitted).<sup>16</sup>

### **Health care for sponsored dependents**

The act removes a retirant's or disability benefit recipient's sponsored dependents from being eligible for health care coverage under an STRS policy or contract. Under rules adopted by the STRS Board, a sponsored dependent is a disabled adult child of the retirant or recipient who is 26 or older and meets other specified criteria. Continuing law allows STRS to provide health care coverage to retirants and

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<sup>13</sup> R.C. 3307.351.

<sup>14</sup> R.C. 3307.74.

<sup>15</sup> R.C. 3307.60.

<sup>16</sup> R.C. 3307.26 and 3307.28.

recipients of survivor or disability benefits, including dependent children under age 26. Although eligible for coverage, dependents do not receive a premium subsidy and are responsible for the full cost of the premium for that coverage.<sup>17</sup>

## SCHOOL EMPLOYEES RETIREMENT SYSTEM

### Definition of employee

The act stipulates that any person employed as a teacher or faculty member in a community (charter) school or a science, technology, engineering, and mathematics (STEM) school is not a member of SERS. Subject to a narrow exception for certain community school teachers who contribute to Social Security, continuing law makes teachers and faculty in community and STEM schools members of STRS.<sup>18</sup>

### Information sharing

The act permits SERS to provide information about a member, former member, contributor, former contributor, retirant, or beneficiary to specified outside entities, similar to the STRS Board under "**Disclosure of personal history records**," above, except that SERS may share information with a third party under contract with the SERS Board to administer any part of the SERS Law. Additionally, SERS is not permitted to share information with a law enforcement agency.<sup>19</sup>

### Technical, conforming, and other changes

The act also makes all of the following changes:

- Replaces "filing" information with the STRS Board with "submitting" information to the Board throughout the law governing STRS (the act maintains the requirement that information must be filed with other entities, such as the Secretary of State).<sup>20</sup>
- Clarifies that the interest an individual pays to STRS to restore withdrawn service credit is proportionally divided between the member's account and the Employer's Trust Fund based on the amount to restore the credit

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<sup>17</sup> R.C. 3307.39, Ohio Administrative Code 3307:1-11-01, and State Teachers Retirement System, *STRS Ohio Health Care Program Guide 2018* (effective January 1, 2019), <https://www.strsoh.org/pdfs/health-care/12-229-18.pdf>.

<sup>18</sup> R.C. 3309.01(B) and 3309.011, by reference to R.C. 3307.01, not in the act.

<sup>19</sup> R.C. 3309.22.

<sup>20</sup> R.C. 3307.25, 3307.251, 3307.352, 3307.44, 3307.48, 3307.562, 3307.58, 3307.60, 3307.62, and 3307.66.



representing the employee's contributions and that of the employer's contributions.<sup>21</sup>

- Revises the definition of "retirant" to reflect terminology used by SERS.<sup>22</sup>
- Removes obsolete provisions in the law governing STRS.<sup>23</sup>
- Makes other conforming and technical changes.<sup>24</sup>

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## HISTORY

ACTION	DATE
Introduced	03-22-18
Reported, H. Aging & Long Term Care	06-05-18
Passed House (93-0)	06-27-18
Reported, S. Insurance & Financial Institutions	12-04-18
Passed Senate (29-0)	12-06-18
House concurred in Senate amendments (92-0)	12-12-18

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<sup>21</sup> R.C. 3307.71.

<sup>22</sup> R.C. 3309.01(G).

<sup>23</sup> R.C. 3307.14, 3307.23 (repealed), 3307.231, 3307.241 (repealed), 3307.96 (repealed), 3307.97 (repealed), and 3307.98 (repealed).

<sup>24</sup> R.C. 145.571, 3307.05, 3307.20, 3307.351, 3307.56, 3307.562, 3307.60, 3307.761, and 3309.671.

