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Legislative Budget
Office

H.B. 473
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. D. Thomas

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SUMMARY

- Prohibits a public employer from paying employee contributions on an employee's behalf to a state retirement system, except that the contributions may be treated as employer contributions for favorable tax purposes.
- Makes the payment of employee contributions by a public employer on an employee's behalf to a state retirement system not an appropriate subject for collective bargaining for future collective bargaining agreements.

DETAILED ANALYSIS

State retirement system employee contributions

The bill prohibits a public employer from paying employee contributions on an employee's behalf to a state retirement system. The employee contributions, however, may be treated as employer contributions for purposes of state and federal income tax deferred income provisions.¹

Employee contribution rates vary between the five state pension systems as follows:

¹ R.C. 145.47, 742.31, 3307.27, 3309.47, and 5505.15.

Employee contribution rates		
Retirement system	Contribution rate	Citation
Public Employees Retirement System	10%	R.C. 145.47 and 145.49; Employer Notice of Contribution Rates (PDF) ²
--Law Enforcement Division	12%	
--Public Safety Division	13%	
Ohio Police and Fire Pension Fund	12.25%	R.C. 742.31
State Teachers Retirement System	14%	R.C. 3307.27; STRS Contribution Rates ³
School Employees Retirement System	10%	R.C. 3309.47; Compensation and Contributions ⁴
State Highway Patrol Retirement System	14%	R.C. 5505.15; page 11 of Highway Patrol Retirement System 2024 Annual Comprehensive Financial Report (PDF) ⁵

Federal law allows an employer to pay, or “pick up,” an employee’s contributions to a pension plan and treats the “picked-up” employee contributions as employer contributions for income tax purposes. This means they are not taxable to the employee until the employee receives them either as a refund or as a retirement benefit. There are two types of pension pick-up plans: (1) salary reduction and (2) fringe-benefit arrangement. Under the salary reduction method, the employer reduces the employee’s gross salary by the amount of the employee’s contributions to the retirement system. Under the fringe-benefit arrangement, the employer does not deduct the contribution amount from the employee’s gross salary and funds the full cost of the employee’s contributions. Thus, the employee receives the entire salary and pays taxes on that salary. The bill prohibits a public employer from implementing a fringe-benefit arrangement, but it does not prohibit the salary reduction method. The bill also appears to ban

² Available by conducting a keyword “2025 contribution rates” search on the Public Employees Retirement System website: opers.org.

³ Available by conducting a keyword “contribution rates” search on the State Teachers Retirement System employer website: strsoh.org/employer.

⁴ Available by conducting a keyword “contributions” search on the School Employees Retirement System website: ohsers.org.

⁵ Available on the Ohio Retirement Study Council’s website, orosc.org, under Reports.

a “pickup on pickup,” which is a type of fringe-benefit arrangement where the fringe benefit payment is included in the employee’s compensation.⁶

Currently, employee contributions to the State Teachers Retirement System are the only contributions of the five systems that an employer has express authority to pay on behalf of an employee.⁷ Because school employees, unlike most other public employees, are employed through individual contracts, the bill’s prohibition applies to an employment contract with an employee of a school district or other public school that is entered into on or after the bill’s effective date.⁸

It is possible that such an arrangement exists for local employees via a collective bargaining agreement or other contractual arrangement. According to an Attorney General opinion, it appears a state agency currently cannot implement a fringe-benefit arrangement unless the arrangement is included in a collective bargaining agreement.⁹

Collective bargaining

For a collective bargaining agreement that is entered into on or after the bill’s effective date, the bill makes the payment of employee contributions by a public employer on an employee’s behalf to a state retirement system not an appropriate subject for collective bargaining.¹⁰ In most other cases, collective bargaining agreements prevail over a conflicting law unless the law provides otherwise (note that the law governing the retirement of public employees prevails over conflicting provisions of a collective bargaining agreement).¹¹

Compensation of municipal employees

If the bill were challenged, a court might examine its application to the compensation of municipal and charter county employees under two provisions of the Ohio Constitution: the Home Rule Amendment and Article II, Section 34. On one hand, the Home Rule Amendment allows a municipality to set the compensation of the municipality’s employees as part of the municipality’s powers of local self-government. The Home Rule Amendment limits the General Assembly’s ability to limit a municipality’s exercise of its local self-government authority (a

⁶ 26 United States Code 414(h)(2), IRS Revenue Ruling 2006-43, [Employer “Pick-Up” Contributions to Benefit Plans](#), which is available by conducting a keyword “Pick-up” search on the Internal Revenue Service website, [irs.gov](#), and [Employer Pickup Fact Sheet \(PDF\)](#), which is available by conducting a keyword “Employer pickup” search on the State Teachers Retirement System employer website, [strsoh.org/employer](#).

⁷ R.C. 3307.27.

⁸ Section 3.

⁹ See 1984 Ohio Atty.Gen.Ops. 84-036.

¹⁰ R.C. 4117.08.

¹¹ R.C. 4117.10, not in the bill.

charter county has the same home rule authority as municipality).¹² On the other hand, Section 34 allows the General Assembly to pass laws “providing for the comfort, health, safety and general welfare of all employees; and no other provision of the constitution shall impair or limit this power.”¹³ The Ohio Supreme Court has concluded that a law enacted under Section 34 takes precedence over a municipality’s home rule authority.¹⁴

HISTORY

Action	Date
Introduced	09-29-25

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¹² Ohio Constitution, Article X, Section 3, and art. XVIII, sec. 3; *United Brotherhood of Teamsters, Chauffeurs, Warehouseman, & Helpers, Local Union No. 377 v. City of Youngstown*, 64 Ohio St.2d 158, 160 (1980).

¹³ Ohio Const., art. II, sec. 34.

¹⁴ *State ex rel. Bd. of Trustees v. Bd. of Trustees*, 12 Ohio St.2d 105 (1967).