Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 284 of the 131st G.A.

Date: May 26, 2016

Status: As Passed by the House

Sponsor: Reps. Dovilla and Anielski

Local Impact Statement Procedure Required: No

Contents: To add extortion and perjury and certain federal offenses to the offenses that may result in forfeiture or termination of public retirement system benefits

State Fiscal Highlights

- The bill may increase the Attorney General's administrative expenses due to requirements related to certain offenses that require forfeiture of future retirement system benefits or disability benefits or the termination of existing retirement system disability benefits. Any such cost would be paid from GRF line item 055321, Operating Expenses.
- Any benefits forfeited under the bill's provisions would reduce the retirement systems' or plans' liabilities, thus creating a minimal decrease in their expenditures to provide benefits.
- The bill may minimally increase the systems' or plans' administrative expenses related to notification and hearing requirements for the additional types of offenses.

Local Fiscal Highlights

- The bill may minimally increase the counties' administrative expenses due to a potential increase in the number of court hearing and notification requirements related to the additional offenses that require loss of benefits.

Detailed Fiscal Analysis

Under current law, a court is required to order the forfeiture and termination of the right to future retirement or disability benefits or existing disability benefits of a member of the Public Employees Retirement System (PERS), Ohio Police & Fire Pension Fund (OP&F), State Teachers Retirement System (STRS), Ohio School Employees Retirement System (SERS), State Highway Patrol Retirement System (SHPRS), or Cincinnati Retirement System (CRS), or of a participant in an alternative retirement plan (ARP) who is convicted of, or pleads guilty to, any of certain specified offenses while serving in a "position of honor, trust, or profit." For these purposes, a "position of honor, trust, or profit" means state and local elected officials, members of state boards or commissions that are appointed by the Governor or the Attorney General, public officials and employees required to file a disclosure statement under Ohio's ethics law, public prosecutors, peace officers, the Highway Patrol Superintendent and troopers, and public employees with the authority to spend over $100,000 per year in public funds.

The bill expands the types of offenses under existing law for which forfeiture and termination of the right to receive such benefits is required. The bill expands the types of offenses to include the felony offenses of extortion and perjury, and certain federal offenses committed on or after the bill's effective date. The bill clarifies that the penalty for committing the existing and new offenses would also apply to retired members who have been re-employed by a public employer. The bill also specifies procedures related to such forfeiture and termination of benefits.

The bill requires a person, who has been allegedly committing any of the federal offenses as specified by the bill within the context of the member's public employment in a position of honor, trust, or profit, and who was a member of one of the systems at the time of any of the federal offenses, to send a written notice to the system and the Attorney General that such charges have been filed against the person. The bill specifies that if such person knowingly fails to comply with the notice requirements the person is considered committing an offense of a fourth degree misdemeanor.

Upon receiving the notice of a person's conviction of or guilty plea to a covered federal offense, the bill specifies that the Attorney General must determine whether the federal court has issued an order of forfeiture of the person's right to a retirement allowance, pension, disability benefit, or other right or benefit or writ of garnishment on the person's contribution in an alternative retirement plan. If it has not, the Attorney General must bring an action in the Court of Common Pleas of Franklin County requesting the court to order a forfeiture to the retirement system or plan in which the offender was a member. The bill also requires the court to notify the offender of the action and order the forfeiture if certain conditions apply to such offender. The bill requires the court to send a copy of the journal entry imposing the forfeiture order to the appropriate retirement system or plan in which the offender was a member. Upon receipt of the journal entry, the system or plan must comply with the forfeiture order on application for a refund of the accumulated contributions of the member.

The bill provides that an offender may request a hearing regarding the forfeiture. If such a request is made, the court must conduct the hearing. The court must also notify the offender, the United States attorney who handled the case in which the offender was convicted of or pleaded guilty to the federal offense for which the forfeiture order will be imposed, the Attorney General who commenced the action in the court, and the appropriate retirement system or plan provider of the hearing.

Fiscal effect

The bill may increase the Attorney General Office's expenditures related to implementing the duties of that office under the bill. Any such cost would be paid from GRF line item 055321, Operating Expenses. The bill may also increase the counties' administrative expenses due to a potential increase in the number of court hearing and notification requirements related to the additional types of felonies for which benefit forfeitures would be required. Any increase is expected to be minimal.

The bill would not have a fiscal impact on the state or local governments as employers of members of the retirement systems. For example, the state generally pays 14% of pay to PERS on behalf of member employees, a percentage currently limited by law; local governments as employers generally pay the same 14%. There is no fiscal impact in this context because the bill does not affect payroll or these percentages.

The bill may have minimal fiscal impacts on the retirement systems. Any forfeited benefits would reduce the systems' or plans' liabilities, thus generating minimal savings to the systems or plans. The bill may also increase the systems' or plans' administrative expenses due to requirements related to the additional types of felonies. However, any increase is expected to be minimal.

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