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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 277  
133<sup>rd</sup> General Assembly

## Bill Analysis

[Click here for S.B. 277's Fiscal Note](#)

**Version:** As Reported by House Financial Institutions

**Primary Sponsor:** Sen. Schuring

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## SUMMARY

### Ohio Pooled Collateral Program

- Gives a public depository in the Ohio Pooled Collateral Program two business days to pledge additional securities to satisfy the minimum collateral requirement if the value of its existing pledged securities falls below that minimum.
- Exempts a public depositor, treasurer, or the public depositor's or treasurer's bonders or surety from liability for the loss of funds due to a public depository's failure to maintain sufficient pledged collateral.

### Unclaimed funds

- Requires all unclaimed funds to be turned in to the state, rather than allowing holders to retain 90% of funds valued at more than \$50.
- Requires all holders currently possessing unclaimed funds to transfer those funds to the state within one year of the effective date of the above change.
- Gives the Treasurer of State explicit, exclusive control over investment of unclaimed funds rather than allowing the Director of Commerce and holders of unclaimed funds to invest those funds.
- Allows the Treasurer of State to invest unclaimed funds in separately managed accounts.
- Revises the allocation of unclaimed funds in the state treasury in relation to the Housing Development Fund.

## Ohio Police and Fire Pension Fund disability retirement

- Authorizes the Ohio Police and Fire Pension Fund (OP&F) Board of Trustees to assign other health care professionals, in addition to physicians, to conduct examinations of OP&F members applying for disability benefits.
- Permits the Board to (1) grant disability benefits based solely on a member's application and supporting medical documentation or (2) require, before granting benefits, the member to undergo a medical examination, vocational evaluation, or both, conducted by a physician, other health care professional, or vocational evaluator.
- Requires, for a member's disabling condition to be considered permanent, that the condition be expected to last for at least a continuous 12-month period after a disability benefit application is filed.
- Removes the requirement that the pre-employment examination of a prospective member be conducted by a physician.

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## DETAILED ANALYSIS

### Ohio Pooled Collateral Program

The bill makes two changes to the Ohio Pooled Collateral Program (OPCP). The first change relates to minimum collateral requirements. Under current law, a public depository, must provide security for the repayment of those deposits in one of two ways. First, it may secure any uninsured public deposits of each public depositor separately. Or, it may secure any uninsured public deposits by establishing and pledging to the Treasurer of State a single pool of collateral for the benefit of every public depositor at the public depository.<sup>1</sup>

In other words, it may secure the deposits of each depositor separately or together. If it chooses the latter, it must follow the requirements of the OPCP. One requirement is that at all times, the total market value of the pledged securities must equal at least 102% of all uninsured public deposits at that institution or an amount determined by rules adopted by the Treasurer of State.<sup>2</sup>

The bill adds a requirement that if, on any day, the total market value of the securities pledged by the public depository is less than the applicable minimum requirement, the depository has two business days to pledge additional eligible securities having a market value sufficient, when combined with the market value of eligible securities already pledged, to satisfy the minimum requirement.<sup>3</sup>

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<sup>1</sup> R.C. 135.18, not in the bill.

<sup>2</sup> R.C. 135.182(B).

<sup>3</sup> R.C. 135.182(B)(3).

## Liability

The second change made by the bill relates to liability for loss of funds. Under current law, in order to accept public moneys, a public depository must, in addition to pledging collateral as described above, enter into an agreement with the Treasurer of State that meets certain requirements.<sup>4</sup> The bill explicitly exempts a public depository, treasurer (whether the Treasurer of State or the treasurer of a political subdivision), or the public depository's or treasurer's bonders or surety from liability for the loss of funds if a public depository fails to comply with the agreement's terms regarding the appropriate level of collateral.<sup>5</sup>

## Definitions

**"Public depository"** means an institution that receives or holds public moneys deposited pursuant to the Uniform Depository Act or the county depository law.<sup>6</sup>

**"Public deposits"** means public moneys deposited in a public depository pursuant to the Uniform Depository Act or the county depository law.<sup>7</sup>

**"Public moneys"** means the following:

- All moneys in the treasury of the state or any subdivision of the state, or moneys coming lawfully into the possession or custody of the Treasurer of State or of the treasurer of any subdivision;
- All moneys in the treasury of a county or moneys coming lawfully into the possession or custody of the county treasurer.<sup>8</sup>

## Unclaimed funds

### Overview

Institutions such as banks hold funds for other people, and, at times, the owners of the funds fail to give indication that they are still aware of the funds' existence. Such funds are designated as "unclaimed." Under the Unclaimed Funds Program, the holders of unclaimed funds reported their existence to the state, and the holder or the state holds the funds for the true owners. The bill requires all unclaimed funds to be turned in to the state rather than allowing holders to retain a portion of the funds, gives the Treasurer of State exclusive control over investment of unclaimed funds and expands the investment options, and revises the allocation of unclaimed funds in the state treasury in relation to the Housing Development Fund.

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<sup>4</sup> R.C. 135.182(D).

<sup>5</sup> R.C. 135.182(K) and 135.01.

<sup>6</sup> R.C. 135.182 and R.C. 135.01 and 135.31, not in the bill.

<sup>7</sup> R.C. 135.182 and R.C. 135.01 and 135.31, not in the bill.

<sup>8</sup> R.C. 135.182 and R.C. 135.01 and 135.31, not in the bill.

## **Control over and investment of unclaimed funds**

The bill gives the Treasurer of State explicit control over the investment of all unclaimed funds. Under current law, a holder of unclaimed funds may retain 90% of any item of unclaimed funds over \$50 and pay to the Director Commerce the remaining 10%, which the Director may deposit into the state treasury or a financial institution in an interest bearing account. Items in the amount of \$50 or less must be turned over in their entirety. Under the bill, all items of unclaimed funds must be paid to the Director and deposited in the state treasury. All unclaimed funds in the possession of a holder on the bill's effective date must be turned over to the Director within one year of that date.<sup>9</sup>

The Treasurer of State may invest unclaimed funds in the State Treasury Asset Reserve of Ohio separately managed accounts (so-called "STAR SMAs"). In addition, the bill exempts these accounts from the continuing law limitation on investment in debt interests other than commercial paper that requires the investments to be in debt interests that (1) are rated in the three highest categories by two nationally recognized standard rating services, (2) issued by entities that are organized under the laws of the U.S. or a state, or issued by a foreign nation diplomatically recognized by the U.S. government, or any instrument based on, derived from, or related to such interests, and (3) do not exceed in the aggregate 25% of the state's portfolio.

## **Allocation of unclaimed funds**

Under current law, 50% of unclaimed funds, whether in the state treasury or a financial institution, are allocated to the Development Services Agency's Mortgage Insurance Fund. After allocation of sufficient moneys to the Ohio Housing Finance Agency's (OHFA) Minority Business Bonding Fund, the remainder is allocated to OHFA's Housing Development Fund. The bill retains this allocation, but instead of allocating the remainder to the Housing Development Fund, the Director determines the amount of the remainder to be allocated to the Housing Development Fund.

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

The Ohio Police and Fire Pension Fund (OP&F) provides annual benefits to OP&F members determined to be permanently disabled. The benefit amount varies depending on whether the permanent disability is total or partial and whether it was incurred on-duty or off-duty. The OP&F Board of Trustees makes disability determinations based on medical and vocational information provided by the member, the member's employer, and the Board's experts.<sup>10</sup>

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<sup>9</sup> R.C. 169.05, 169.07, 169.08, and 122.58 and Section 3 of the bill and R.C. 135.143(A)(10)(a), not in the bill.

<sup>10</sup> R.C. 742.38; OP&F, *Member's Guide to Disability Benefits*, <https://www.opf.org/Files/MGDisabilityBenefits.pdf>.

OP&F membership includes full-time municipal police officers and full-time firefighters.<sup>11</sup>

### **Medical and vocational experts**

The bill expands the types of experts the Board can assign to conduct examinations of a member applying for disability benefits. Continuing law requires the Board to adopt rules providing for it to assign competent and disinterested physicians and vocational evaluators to conduct examinations of disability benefit applicants. The bill requires the Board's rules to also provide for assigning other competent and disinterested health care professionals. It also requires the Board to adopt rules specifying the types of health care professionals the Board may assign.<sup>12</sup>

### **Granting disability benefits**

The bill permits the Board to grant disability benefits to a member based solely on a review of a disability benefit application and supporting medical documentation. The Board, before granting disability benefits, alternatively may require the member to undergo a medical examination, vocational evaluation, or both. Any medical examination or vocational evaluation must be conducted by a physician, other health care professional, or vocational evaluator the Board has assigned.<sup>13</sup>

While current law is silent regarding whether a member is to undergo an examination or evaluation before being granted disability benefits, it requires the Board to adopt rules establishing objective criteria under which the Board makes a disability determination. A rule the Board has adopted currently requires a member applying for disability benefits to undergo an examination conducted by a medical examiner and vocational evaluator unless medically inadvisable to do so.<sup>14</sup>

### **Permanent disabling condition**

As indicated above, the Board cannot grant disability benefits to a member unless the disabling condition is permanent, which under continuing law means it must be one from which there is no present indication of recovery. Under the bill, it also must be expected to last for at least a continuous 12-month period after a disability benefit application is filed. Current law does not specify a minimum period with respect to which the disabling condition is expected to continue for it to be considered permanent.<sup>15</sup>

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<sup>11</sup> R.C. 742.01(A) and (B), not in the bill.

<sup>12</sup> R.C. 742.38(C).

<sup>13</sup> R.C. 742.38(D).

<sup>14</sup> Ohio Administrative Code 742-3-05(B)(1) and (C)(5).

<sup>15</sup> R.C. 742.38(D).

## Preemployment examinations and physicians

An employer under continuing law must require a prospective member to submit to a pre-employment physical examination on entry into a police or fire department. The bill removes the requirement that a physician administer the pre-employment examination.<sup>16</sup>

## Technical changes

The bill makes several technical changes to OP&F's disability retirement law.<sup>17</sup> It also removes a current law disqualification from receiving disability benefits for a member who elected to receive benefit and pension payments from a former police or firemen's relief and pension fund under rules in effect on April 1, 1947.<sup>18</sup>

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## HISTORY

Action	Date
Introduced	02-11-20
Reported, S. Insurance & Financial Institutions	06-03-20
Passed Senate (33-0)	06-03-20
Reported, H. Financial Institutions	12-02-20

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<sup>16</sup> R.C. 742.38(A) and (B).

<sup>17</sup> R.C. 742.38(B) and (C).

<sup>18</sup> R.C. 742.38(D), by reference to R.C. 742.37(A) and (B), not in the bill.