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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 308
133rd General Assembly

Final Analysis

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Version: As Passed by the General Assembly

Primary Sponsor: Rep. Patton

Effective date: April 12, 2021

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SUMMARY

- Creates the State Post-Traumatic Stress Fund in the state treasury and designates the Director of Budget and Management as the fund's trustee.
- Requires the fund to be used to pay lost wage compensation, medical benefits, and administrative costs associated with public safety officers who are diagnosed with post-traumatic stress disorder without an accompanying physical injury received in the course of, and arising out of, their employment.
- States that no payments will be made from the fund and no person is eligible for any claims and no liability accrues to any state party under the act.
- Prohibits an employer from discharging, demoting, reassigning, or taking any other punitive action against a public safety officer because the officer files a claim or institutes, pursues, or testifies in any proceedings related to compensation or benefits paid from the fund.
- Requires the Board of Trustees of the Ohio Police and Fire Pension Fund, in consultation with specified entities, to have prepared an actuarial valuation and report that answers specific questions about funding and administrative requirements associated with paying claims from the fund.

DETAILED ANALYSIS

State Post-Traumatic Stress Fund

The act creates the State Post-Traumatic Stress Fund in the state treasury and designates the Director of Budget and Management as the fund's trustee. The fund is to be used for the following purposes:

- Paying compensation for lost wages to a public safety officer who is disabled by post-traumatic stress disorder (PTSD) without an accompanying physical injury received in the course of, and arising out of, employment as a public safety officer;
- Paying for medical, nurse, therapy, and hospital services and medicines required to treat the public safety officer's PTSD without an accompanying physical injury; and
- Paying administrative costs associated with providing the lost wage compensation and medical benefits listed above.

The act states that no payments will be made from the fund and no person is eligible for any claims and no liability accrues to any state party under the act.

Under the act, an employer is prohibited from discharging, demoting, reassigning, or taking any other punitive action against a public safety officer because the officer files a claim or institutes, pursues, or testifies in any proceedings related to compensation or benefits paid from the fund. Any officer who believes the officer's employer has violated the prohibition may sue in the court of common pleas for the county where the officer is employed. In the lawsuit, if the officer was discharged, the officer may seek reinstatement with back pay. If the officer was demoted, reassigned, or subject to other punitive action, the officer may recover lost wages. The officer's award of back pay or lost wages is offset by any income earned by the officer after the discharge, demotion, reassignment, or punitive action. The officer also may recover reasonable attorney fees.

An officer is barred from suing if the officer fails to file the suit within 180 days immediately following the discharge, demotion, reassignment, or punitive action. An officer is also prohibited from suing when the employer has not received written notice of a claimed violation within the 90 days immediately following the discharge, demotion, reassignment, or punitive action.¹

Actuarial study and report

Report requirements

The act requires the Board of Trustees of the Ohio Police and Fire Pension Fund (OP&F), in consultation with the entities listed below, to have an actuarial valuation of the funding requirements of the State Post-Traumatic Stress Fund prepared by a disinterested third-party actuary. The actuary must complete the valuation in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American Academy of Actuaries. The Office of Budget and Management must reimburse the OP&F Board for the cost of the valuation, up to \$500,000. The actuary must prepare a report of the actuarial analysis that includes only the following:

- A description of lost wage compensation and medical benefit amounts evaluated;

¹ R.C. 126.65.

- A description of the participant group or groups included in the report;
- A projection of the number of participants eligible for lost wage compensation and medical benefits from the fund;
- A projection of the potential claims per year;
- A projection of the average benefit amount based on weekly wages;
- A projection of the cost of health care and pharmacy benefits;
- A cost comparison showing the projected administrative costs differentials based on the OP&F Board creating a program versus contracting with other private and public entities;
- A cost comparison as to which, if any, state retirement system or other administrator is best suited to administer the fund;
- A review of how other states administer funds that are similar to the fund;
- An analysis of whether an administrative appeals process is necessary or useful to the resolution of claims for compensation, benefits, or both from the fund;
- If it is determined that an administrative appeals process is necessary or useful to the resolution of claims, an analysis of which entity is best suited to administer the process;
- An analysis of any other issue identified by the consulting entities.²

The actuarial study and report must be completed by October 1, 2021. Immediately on completion, copies of the report must be sent to the OP&F Board, the Director of Budget and Management, the Speaker of the House, the House Minority Leader, the Senate President, and the Senate Minority Leader.³

Consulting entities

With respect to the study and report required by the act, the OP&F Board must consult with all of the following entities:

- The Ohio Chamber of Commerce;
- The National Federation of Independent Business;
- The Ohio Manufacturers' Association;
- The County Commissioners Association of Ohio;
- The Ohio Township Association;

² Section 2(A).

³ Section 2(C).

- The Ohio Municipal League;
- The Fraternal Order of Police of Ohio;
- The Ohio Association of Professional Firefighters;
- The Public Employees Retirement Board;
- The State Teachers Retirement Board;
- The School Employees Retirement Board;
- The State Highway Patrol Retirement Board.⁴

HISTORY

Action	Date
Introduced	06-28-19
Reported, H. Insurance	02-12-20
Passed House (74-22)	02-12-20
Reported, S. General Gov't and Agency Review	12-17-20
Passed Senate (32-0)	12-17-20
Motion to reconsider (31-1)	12-17-20
Passed Senate (32-0)	12-17-20
House concurred in Senate amendments (83-3)	12-22-20

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⁴ Section 2(B).