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H.B. 492
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. K. Miller

Chris Edwards, Attorney

SUMMARY

- Requires the Public Employees Retirement System (PERS) Board to establish and administer a deferred retirement option plan for PERS law enforcement officers.

DETAILED ANALYSIS

Deferred retirement option plan for PERS law enforcement

The bill requires the Public Employees Retirement System (PERS) Board to establish and administer a deferred retirement option plan (DROP) for PERS law enforcement officers.¹ Under continuing law, PERS has special retirement and benefit provisions for PERS members who are considered law enforcement officers. These are officers whose primary duties are to preserve the peace, protect life and property, and enforce Ohio law. They include deputy sheriffs, township police officers, and university police officers.²

Under the bill, DROP is an optional program that allows a PERS law enforcement officer who is retirement eligible to accumulate an additional benefit for retirement while continuing to work. On being approved to participate in DROP, an officer's retirement allowance is calculated, and those payments accrue to the officer's benefit while participating in DROP. The officer continues in active service receiving a salary but does not earn service credit. During DROP participation, the officer and the officer's employer continue to contribute to PERS, and most of the officer's contributions accrue to the officer's benefit. All amounts accrued to the officer's benefit earn interest at a rate established by the Board. On ceasing DROP participation,

¹ R.C. 145.71.

² R.C. 145.01(Y) and 145.332, not in the bill.

in most cases the accrued amounts in the officer's DROP account are paid as a benefit that is in addition to the officer's retirement allowance.³

The Board must adopt rules to implement DROP. It must specify in the rules DROP's initial implementation date. It may specify in the rules a period during which an election to participate in DROP may be rescinded.

The Board, in establishing and administering DROP, may do all things necessary to meet federal Internal Revenue Code requirements applicable to governmental plans.⁴

Electing DROP participation

A PERS law enforcement officer who is eligible for retirement, at any time before applying for retirement, may elect to participate in DROP. However, eligibility for a reduced retirement allowance does not make an officer DROP eligible. The officer must make the election by filing with the Board an election form the Board provides. The election is effective on the first day of the employer's first payroll period immediately following the Board's receipt of the notice of election.

At the time of electing to participate, the officer also must elect a payment plan prescribed under continuing law for purposes of calculating the officer's retirement allowance. Payment plan options include single-, joint-, and multiple-life plans. This election is irrevocable from the date the Board receives it.

An officer electing to participate must agree to terminate active service and begin receiving the officer's retirement allowance not later than eight years after electing to participate. If the officer refuses or neglects to terminate active service under that agreement, the Board must consider the officer's service terminated for DROP purposes.⁵

Effect of electing DROP participation

While participating in DROP, a law enforcement officer is not considered to have elected retirement. The officer continues in active service but does not earn service credit. While in active service, the officer and the officer's employer must continue contributing to PERS. Currently, a PERS law enforcement officer contributes 13% of the officer's salary. The officer's employer contributes an amount equal to 18.1% of the officer's salary.⁶

After the officer elects to participate in DROP, the officer is ineligible to purchase service credit, such as credit for military service or a leave of absence. The officer also is ineligible to

³ R.C. 145.71 to 145.77.

⁴ R.C. 145.71, by reference to 26 United States Code (U.S.C.) 401(a).

⁵ R.C. 145.72, with a conforming change in R.C. 145.46.

⁶ R.C. 145.72(E) and 145.721(A), by reference to R.C. 145.49, not in the bill, and see [What is OPERS?](#), which may be accessed by conducting a keyword "what is OPERS" search on the Public Employees Retirement System website: opers.org.

transfer to PERS service credit earned under the Ohio Police and Fire Pension Fund, State Highway Patrol Retirement System, State Teachers Retirement System, School Employees Retirement System, or Cincinnati Retirement System.

While participating in DROP, neither the officer nor the officer's spouse or dependents are eligible for any health care benefits PERS otherwise offers to eligible benefit recipients meeting certain age and service credit requirements.

The officer is eligible to vote in elections for the employee members of the Board but not for the retirant Board members.⁷

Retirement allowance calculation and DROP accruals

On electing DROP participation, the Board must calculate the law enforcement officer's retirement allowance. The Board must use the officer's total service credit and final average salary as of the last day of the employer's payroll period immediately before the election's effective date. The benefit must be calculated using the payment plan the officer elected.⁸

During DROP participation, the officer's monthly retirement allowance accrues to the officer's benefit. Any cost-of-living increases the officer would be eligible for under continuing law as if the officer had retired are added to this amount.

The officer's employee contribution amounts are credited as follows:

- 10% of the officer's earnable salary accrues to the officer's benefit;
- Any amount of the officer's earnable salary that exceeds 10% is credited to the Employers' Accumulation Fund.

PERS must credit to the Employers' Accumulation Fund the amounts contributed by an employer on behalf of an officer participating in DROP.

During DROP participation, the amounts accruing to the officer's benefit under DROP earn interest at an annual rate established by the Board and is compounded annually using a method the Board establishes by rule.⁹

Ceasing DROP participation

A PERS law enforcement officer's DROP participation ceases on:

- Termination of active service as a PERS law enforcement officer;
- The end of the eight-year DROP participation period;
- The officer's acceptance of a PERS disability benefit; or

⁷ R.C. 145.721.

⁸ R.C. 145.722.

⁹ R.C. 145.73, with conforming changes in R.C. 145.23.

- The officer's death.¹⁰

Terminating active service

A law enforcement officer participating in DROP who terminates active service (either through terminating that service or because the DROP participation period has ended) must notify the Board of the termination date on a form the Board prescribes. The officer is not eligible to make another election to participate in DROP.

After ceasing DROP participation, the officer's retirement allowance must be paid to the officer. The payment begins on the day following the officer's last day of active service.

The officer also must select a distribution option provided under federal law as the method of distributing the amounts accrued to the officer's benefit under DROP. PERS must distribute the accrued amounts, including interest credited to the officer's benefit under DROP, except as follows:

- An officer who was younger than 52 years old when electing DROP participation forfeits the interest if the officer terminates active service before the date that is four years after the election's effective date. That officer must wait until the first day of the fourth year after the election's effective date to begin receiving the remainder of the amounts accrued under DROP.
- An officer who was 52 years or older when electing DROP participation forfeits the interest if the officer terminates active service before the date that is three years after the election's effective date. That officer must wait until the first day of the third year after the election's effective date to begin receiving the remainder of the amounts accrued under DROP.¹¹

Disability

A law enforcement officer participating in DROP who is disabled in the line of duty and qualifies for a PERS disability benefit may elect either to receive:

- The disability benefit; or
- The officer's retirement allowance, plus any amounts accrued to the officer's benefit under DROP.

If that officer elects to receive a disability benefit, the officer forfeits all amounts accrued to the officer's benefit under DROP. Those amounts are treated as if the officer had continued in active service and not participated in DROP. The officer receives service credit for the period the officer participated in DROP.

¹⁰ R.C. 145.74.

¹¹ R.C. 145.75 and 145.751, by reference to 26 U.S.C. 401(a).

If a participating officer becomes disabled but the disability did not occur in the line of duty, the officer receives the officer's retirement allowance, plus any amounts that have accrued to the officer's benefit under DROP.¹²

Death

If a law enforcement officer dies while participating in DROP, the amounts accrued to the officer's benefit under DROP must be paid to the officer's surviving spouse. If no surviving spouse exists, the amounts must be paid to the beneficiary designated by the officer on a form provided by the Board. An officer may designate an individual or a trust as a beneficiary. A surviving spouse or designated beneficiary may select a distribution option provided under federal law as the method of distribution. If no surviving spouse or designated beneficiary exists, the amounts must be paid to the officer's estate. A payment to an officer's estate must be made as a single lump-sum payment.

In addition, if an officer dies while participating in DROP, both of the following apply:

- Survivor benefits must be paid in accordance with continuing law requirements governing the payment of survivor benefits.
- A death benefit (that is paid under continuing law on the death of a retirant or disability benefit recipient) must be paid to the person or persons according to the order and in the amounts prescribed under continuing law.¹³

Vesting

For a person other than a law enforcement officer participating in DROP, the person's right to a retirement allowance or other benefit vests when the benefit is granted. An officer participating in DROP vests in the right to receive the amounts accrued to the officer's benefit under DROP when DROP participation ceases. Thus, on terminating active service, the officer is entitled to the officer's monthly retirement allowance and to the amounts accrued to the officer's benefit under DROP. As described above, however, the officer's entitlement to amounts accrued under DROP may be subject to forfeiture depending on the timing of an officer's termination of active service or whether the officer accepts a PERS disability benefit.¹⁴

Actuarial investigations

In addition to the periodic actuarial investigations required under continuing law, the bill requires the Board to have prepared by or under the supervision of an actuary an actuarial investigation of DROP every five years. The investigation must include an examination of the financial impact on PERS of offering DROP, if any. The actuary must prepare a report of the actuarial investigation. The report must include a determination of whether DROP has a

¹² R.C. 145.76, with a conforming change in R.C. 145.35.

¹³ R.C. 145.77, by reference to 26 U.S.C. 401(a) and R.C. 145.45 and 145.451, not in the bill.

¹⁴ R.C. 145.561.

negative financial impact on PERS and, if so, recommendations on how to modify DROP to eliminate the negative financial impact. The Board must modify DROP if the report indicates DROP has a negative financial impact on PERS. If the Board modifies DROP, the rights and obligations of law enforcement officers who have already elected to participate in DROP cannot be altered. The employer contributions to the Employers' Accumulation Fund cannot be increased to offset any negative financial impact of DROP.

The Board may include the report as part of the actuarial investigation report required under continuing law. If the Board does not do so, by November 1 following the last fiscal year of the period the report covers, the Board must submit the report to:

- The Ohio Retirement Study Council; and
- The House of Representatives and Senate standing committees with primary responsibility for retirement legislation.¹⁵

Ohio Public Safety Officers Death Benefit Fund

The bill addresses PERS law enforcement officers covered by the Ohio Public Safety Officers Death Benefit Fund who participate in DROP. The fund provides benefits to eligible survivors of most full-time public safety officers who are killed in the line of duty or die of injuries or diseases incurred in the performance of official duties. Under the bill, a PERS law enforcement officer covered by the fund who participates in DROP continues to be covered by the fund.¹⁶

HISTORY

Action	Date
Introduced	04-16-24

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¹⁵ R.C. 145.22.

¹⁶ R.C. 742.63.