Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 520 of the 131st G.A.

Date: May 11, 2016

Status: As Introduced

Sponsor: Reps. Schuring and Ramos

Local Impact Statement Procedure Required: No

Contents: To revise the law governing the state's public retirement systems

State Fiscal Highlights

- No direct fiscal effect on the state.
- The provision related to the alternative retirement program mitigating rate requirements would increase certain retirement systems' administrative costs associated specifically with the actuarial study requirement, and decrease revenue to at least two of the systems.
- Changes to survivor benefit eligibility would likely increase system liabilities for three of the retirement systems.
- Other provisions, especially those that affect disability benefits, would decrease the retirement systems' benefit expenditures. Overall, the bill is likely to decrease the retirement systems' expenditures and future liabilities, thus generating savings for the systems. Any decrease in liabilities could decrease future state and political subdivisions' spending associated with pension benefits for their employees.

Local Fiscal Highlights

- The provision that requires any legal action commenced against OP&F and STRS be filed in the appropriate courts in Franklin County may increase the county courts' administrative expenses due to a potential increase in the number of court hearings. Any increase is likely to be minimal as some of the costs would be offset by fees and fines imposed by the courts.
- Overall the bill is likely to decrease the retirement systems' expenditures and future liabilities, which could decrease future spending by political subdivisions on pension benefits for employees.

Detailed Fiscal Analysis

The bill makes various changes to the law governing the state's public retirement systems – the Public Employees Retirement System (PERS), State Teachers Retirement System (STRS), School Employees Retirement System (SERS), Ohio Police and Fire Pension Fund (OP&F), and State Highway Patrol Retirement System (SHPRS). Please see the LSC Bill Analysis for a complete description of the bill's provisions. The bill has no significant direct fiscal effect on the state and local governments. The following are provisions that have a fiscal effect on political subdivisions or the retirement systems.

Mitigating rate for an alternative retirement program

The bill revises the mitigating rate calculations associated with an alternative retirement program (ARP). The mitigating rate is the percentage of an ARP participant's compensation that must be allocated by a public institution of higher education to PERS, STRS, or SERS to mitigate any financial impact of the ARP on the retirement system. Under the bill, the board of each of the systems is required to contract with an independent actuary to complete an actuarial study to determine the mitigating rate for that system. The initial study must be completed and submitted by the board to the Department of Higher Education not later than December 31, 2016. A subsequent study must be completed and submitted not later than the last day of December of every fifth year thereafter. The bill provides a statutory formula that must be used by the actuary in determining the mitigating rate. The bill also specifies that the maximum percentage of an ARP participant's compensation that must be contributed by a public institution of higher education to mitigate any financial impact of the ARP on the systems is 4%.

Currently, a public institution of higher education must contribute the following percentage of an ARP participant's compensation to the retirement system to mitigate any financial impact of the ARP on the system: PERS – 0.77%, STRS – 4.5%, and SERS – 6%. Existing law also allows the Ohio Retirement Study Council to adjust the rate to reflect an actuary's determination under the required ARP triennial independent actuarial study, but the proposed maximum mitigating rate under the bill is less than the current mitigating rate under STRS and SERS. Based on data from the three retirement systems, 7,090 and 203 higher education employees who otherwise would be subject to memberships in STRS and SERS, respectively, contributed into an ARP in FY 2015 and 8,120 employees who otherwise would be subject to membership in PERS participated in an ARP in calendar year 2015.

Survivor benefit eligibility

The bill expands survivor benefits eligibility for a surviving child of a member of PERS, STRS, or OP&F who died before retirement. Under the bill a surviving child is eligible to continue receiving monthly benefits until age 22, regardless of whether the child is attending an institution of learning or training in a program. The bill also provides that such surviving child is eligible to continue receiving a death benefit under the Ohio Public Safety Officers Death Benefit Fund until age 22 or upon marriage, beginning January 1, 2017. The fund provides benefits to eligible survivors of public safety officers who are killed in the line of duty or die of diseases or injuries incurred in the performance of official duties. The Death Benefit Fund is administered by the OP&F board, and receives cash transfers from GRF appropriation item 090575, Police and Fire Death Benefits, in the Treasurer of State's budget.

Concurrent service credit

The bill eliminates the provisions under which a PERS, STRS, or SERS member with concurrent service receives partial service credit from each system.

Legal actions against OP&F or STRS

The bill specifies that any action brought against STRS or OP&F, their board of trustees or officers, employees, or board members in their official capacities must be brought in the appropriate court in Franklin County, Ohio.

Changes affecting PERS

The bill authorizes the PERS board to require any disability benefit recipient to undergo a periodic, instead of an annual, medical examination, as determined by the board's medical consultant or as specified in rules adopted by the board. The bill also specifies that a disability benefit recipient who fails, rather than refuses, to file the required information under existing law will have his or her disability benefit suspended or terminated. The bill adds conditions for a PERS member to purchase or transfer service credit between PERS and the Cincinnati Retirement System (CRS).

Changes affecting OP&F

The bill specifies conditions for withdrawing the OP&F member's accumulated contributions. Currently, an OP&F member who voluntarily resigns or is removed from active service in a police or fire department and is not receiving an OP&F benefit or pension is allowed to withdraw the member's accumulated contributions. The bill specifies that payment of the member's accumulated contributions cancels the member's total service credit in OP&F. The bill also specifies that accumulated contributions of a deceased OP&F member that are not claimed within seven years by a survivor of the member or by the member's or survivor's estate must be transferred to the Guarantee Fund and paid to the survivor or estate on application to the OP&F board. The Guarantee Fund is the fund to which OP&F investment earnings are credited.

The bill specifies that any money that is due or will become due to an individual from OP&F is not subject to the existing operation of bankruptcy or insolvency laws. However, such money is subject to orders for division of marital property, in addition to the other exceptions in current law. The bill also makes changes to the administrative process for applying for benefits.

Changes affecting STRS

"Compensation" is used to determine an STRS member's final average salary, which in turn is used to determine retirement and disability benefits. Under existing law governing STRS, "compensation" includes amounts paid to a teacher by an employer as a retroactive payment of earnings, damages, or back pay under a court order or a settlement agreement if STRS receives certain teacher and employer contributions, plus interest. The bill excludes from "compensation" any portion of the retroactive payment that is for an amount, benefit, or payment excluded from compensation under continuing law. Amounts excluded from compensation under continuing law include payments for accrued but unused sick and vacation leave and certain retroactive increases in salary, wages, and other earnings.

Under current law, both employer and employee contributions on earnings that are excluded from compensation are treated as additional deposits to a member's account and used to provide additional annuity income in retirement. The bill eliminates the use of the employer contributions in calculating the additional annuity income. Thus, only employee contributions will be used in calculating such income.

The bill modifies provisions concerning STRS disability benefit. Under existing law, the STRS board is allowed to require any disability benefit recipient to submit to an annual medical examination by a physician selected by the board, except that the board may forgo the medical examination if the board's physician determines that the recipient's disability is ongoing or may require additional examinations if the board's physician determines that additional information should be obtained. If a disability benefit recipient refuses to submit to a medical examination, the recipient's disability benefit will be suspended until the recipient withdraws the refusal. If the refusal continues for one year, the entire recipient's rights under and to the disability benefit will be terminated as of the effective date of the original suspension. The bill specifies that if the disability benefit is terminated for any reason during the one-year period the benefit also terminates on that date.

The bill modifies the formula used to calculate the amount of STRS disability retirement benefits, which may reduce benefits in some cases. Under existing law, a qualified STRS member who is under 60 may retire on disability and receive an annual benefit consisting of an annuity based on the member's accumulated contributions and a pension. The pension is calculated as the difference between the annuity and an annual amount determined by adding the number of years until the member turns 60 to the member's Ohio service credit, then multiplying this sum by the greater of $86 or 2% of the member's final average salary. The bill eliminates the $86 multiplier.

The bill makes a recipient of a retirement allowance beginning on or after August 1, 2013, that was immediately preceded by a disability benefit that was terminated on or after that date, eligible for a cost-of-living adjustment (COLA) on the date that would have been the disability benefit's next anniversary date. The bill clarifies that a recipient whose allowance or benefit began on or after July 1, 1971, but before August 1, 2013 (instead of after June 30, 1971), is eligible for a COLA on receiving an allowance or benefit for 12 months.[1]

The bill excludes from qualifying service credit military service credit transferred to STRS from OP&F, SHPRS, or CRS unless the service credit was for military service that interrupted the member's employment by the State Highway Patrol or a police or fire department.

The bill authorizes the STRS board to establish a plan for retirants re-employed as teachers that offers investment options similar to a defined contribution plan. Under the plan, STRS contributions made as a re-employed retirant would be invested at the retirant's direction in accordance with investment options established by the board. If the board establishes such a plan, STRS must transfer each retirant's contributions to it. Under existing law, such re-employed retirants contribute to STRS for the period of re-employment and receive a separate annuity or lump sum payment based on those contributions when re-employment ends.

The bill requires STRS to withhold or recover any amount to be forfeited under CRS requirements if it receives notice from CRS that an STRS retirement or disability benefit recipient has been employed in a position subject to CRS.

The bill eliminates several requirements regarding purchasing credit for service as a school board member. The cost of purchasing service credit is supposed to equal 100% of the actuarial liability of the credit purchased, so these changes affect only administrative costs of STRS, which may increase slightly due to the changes generally making it easier for a board member to purchase service credit.

The bill also potentially increases the benefit paid to a survivor of a deceased member who was receiving a disability benefit at the time of death. An increase could occur if a post-retirement increase was granted to all or a specified group of STRS retirants. Sometimes referred to as an "ad hoc" increase, such an increase was granted in 2000. The bill also eliminates the monthly minimum dollar amount related to survivor benefits.

Changes affecting SERS

The bill provides that certain nonteaching community school employees who meet certain requirements are excluded from contributing into SERS. The primary requirement is that the employer must be making contributions to Social Security for the employees, making them eligible for Social Security benefits. The change affects only community school employees who are former employees of the community school operator and are re-employed by the same operator on or after July 1, 2016.

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[1] For those receiving an allowance or benefit beginning on or after August 1, 2013, the bill retains the provision that a recipient is eligible for a COLA on receiving the allowance or benefit for 60 months, unless the allowance or benefit was immediately preceded by a disability benefit that was terminated on or after that date.

The bill specifies conditions for an SERS member to elect a purchase or transfer of service credit from OP&F or SHPRS to SERS and between SERS and CRS. The bill also requires SERS to withdraw any credit obtained and refund all amounts paid or transferred to OP&F, SHPRS, or CRS to obtain the credit if the member fails to retire or accept a disability benefit within 90 days after receiving notice from SERS that credit has been obtained or the member's application for a disability benefit is denied.[2]

Changes affecting SHPRS

The bill requires an SHPRS member to have at least five years of service credit according to rules adopted by the SHPRS board to be eligible for retirement on the basis of disability not incurred in the line of duty (known as "off-duty disability"); under current law, there is no service credit requirement to be eligible for off-duty disability retirement. The bill also requires a disability pension to be terminated if an SHPRS disability retirant is re-employed as a law enforcement officer. The SHPRS board must adopt a rule to define "law enforcement officer" for purposes of the bill's termination provision.

The bill specifies procedures associated with payment of accumulated contributions, refund of cost-of-service credit, lump sum death benefit, and return of amounts accrued in the deferred retirement option plan (DROP) of a deceased SHPRS member or retirant. The bill allows a member or retirant to designate an individual or a trust as a beneficiary of such payments of refunds. The bill also specifies that if the retirant's accumulated contributions are not claimed by an eligible person or by the estate of the retirant within seven years, they must be transferred to the income fund of the system. After the transfer, the contributions must be paid from that fund to an eligible person or estate upon application to the SHPRS board.

The bill specifies that a surviving spouse of a deceased SHPRS member or retirant is eligible for a monthly pension based on the member's or retirant's age and service only if the member or retirant had 20 or more years of service.

The bill allows individuals receiving an allowance, pension, or benefit from SHPRS to authorize the system to make deductions for the payment of dues and other membership fees to any retirement association or other organization composed primarily of retired State Highway Patrol employees, or retired employees and their spouses, if certain conditions are met, and allows SHPRS to charge the association for its costs in making the deductions. The bill also removes the requirement that actions of the SHPRS board be approved by a majority of the board's members.

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[2] The requirement does not apply to service credit that CRS obtains from SERS or amounts paid or transferred from SERS to CRS.

Fiscal effect

The bill has no direct fiscal effect on the state. Amounts paid by the state to the retirement systems generally are determined by an actuary, subject to statutory limits. For example, the current amounts that employers pay to PERS for benefits are 14% of compensation, for most employees. The bill does not change the basic framework for determining payment amounts, so it does not directly affect the payment amounts. Similarly, the bill has no direct fiscal effect on most political subdivisions in Ohio, for the same reasons.

However, the provision that requires any legal action commenced against OP&F and STRS be filed in the appropriate courts in Franklin County may minimally increase the county courts' administrative expenses due to a potential increase in the number of court hearings. There may be revenue from filing fees that would offset such costs, in whole or in part.

Many of the provisions would have fiscal effects on the various retirement systems. Some of those effects involve only administrative costs, which LSC believes will be minimal. Some of the provisions would affect benefit costs, and therefore future liabilities of the systems. Any significant changes in benefit costs have the potential to affect future actuaries' determinations about the funding requirements of the plans, and hence could indirectly increase or decrease future contributions to the retirement systems by the state and by political subdivisions. The provision related to the ARP mitigating rate requirements would increase certain retirement systems' administrative costs associated specifically with the actuarial study requirement, and would decrease revenue at least to STRS and SERS. Provisions that expand eligibility for benefits for surviving children would increase liabilities for PERS, STRS, and OP&F. Most other provisions would decrease the retirement systems' benefit expenditures, especially those that allow greater retirement system control over disability benefits. Overall, the bill is likely to decrease the retirement systems' expenditures and future liabilities, thus generating savings for the systems. As noted above, any net decrease in liabilities carries the potential for an actuary to determine that contribution rates could be reduced. Therefore the net indirect effect of the bill may be to decrease future state and political subdivisions' spending associated with pension benefits to their employees.

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