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# Annual Report 2004

## Evaluations and Recommendations Regarding the Operations of the State Retirement Systems and Their Funds

**The 125th General Assembly  
January 1, 2003 - December 31, 2004**

**February, 2005**

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ANNUAL REPORT

THE 125TH GENERAL ASSEMBLY

JANUARY 1, 2003 - DECEMBER 31, 2004

February, 2005

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## Introduction

The Ohio Retirement Study Council (ORSC) is pleased to submit this report on the five state retirement systems and the fund for volunteer firefighters for the period beginning January 1, 2003 and ending December 31, 2004. This report is submitted pursuant to section 171.04(B) of the Revised Code, which requires the ORSC to “*make an annual report to the governor and the general assembly covering its evaluation and recommendations with respect to the operations of the state retirement systems and their funds.*”

The State of Ohio has a long and successful track record regarding its five statewide retirement systems. The oldest of these retirement systems is the State Teachers Retirement System (STRS), which was created in 1920 for teachers in the public schools, colleges, and universities. The Public Employees Retirement System (PERS) was created in 1935 for state employees, with local government employees added in 1938. The School Employees Retirement System (SERS) was created in 1937 for non-teaching employees of the various local school boards. The Highway Patrol Retirement System (HPRS) was created in 1941 by the withdrawal of all state troopers from PERS. The Ohio Police and Fire Pension Fund (OP&F) was created in 1967 after the abolition of 454 local police and fire relief and pension funds, many of which predated the Social Security System created in 1935 and many of which were on the verge of financial insolvency. A special retirement program administered by PERS was subsequently created in 1975 for certain law enforcement officers, including sheriffs, deputy sheriffs, township police and various others. Today the five systems have combined assets of over \$129 billion; approximately 701,000 active contributing members, 532,000 inactive members, and 341,000 beneficiaries and recipients. The January 24, 2005 issue of Pensions and Investments included a list of the top 200 public and private pension funds in the nation. Four of Ohio’s five public retirement systems are listed in the top 200. PERS ranked 16th out of all public and private funds; STRS 17th; OP&F 115th; and SERS 121st.

Created in 1968, the ORSC was one of the first permanent pension oversight commissions in the nation. The Council was designed to develop legislative leadership in the area of retirement pensions for public employees. Legislators are programmed to think in terms of two-year budgets rather than 30-year funding periods and the next election rather than the next generation. The ORSC focuses on the impact legislation will have on the retirement systems and their members over the long-term to ensure that sound public policy continues to govern the operations of the state retirement systems for future beneficiaries and taxpayers.

The Council is empowered to make an impartial review of the laws governing the administration and financing of Ohio’s five public retirement systems and to recommend to the General Assembly any changes it may find desirable with respect to the allowances and benefits, the sound financing of the cost of benefits, the prudent investments of funds, and the improvement of the language, structure and organization of the laws. It must report to the Governor and the General Assembly concerning its evaluation and recommendations with respect to the operations of the systems. The Council is required to study all statutory changes in the retirement laws proposed to the General Assembly and report to the General Assembly on their probable cost, actuarial implications, and desirability as a matter of public policy.

The Council evaluates the operations of the systems on a continuing basis. Throughout the summer of 2003, a number of concerns regarding the administration and operations of the retirement systems were raised at the ORSC meetings. This led to the introduction of pension reform bills in both the House and the Senate (H.B. 227 and S.B. 133), with the Senate version being enacted.

During the past two years the Council also reviewed the retirement systems' governance, investment performance, actuarial condition, health care funding status, and disability procedures. In addition, ORSC staff presented to the Council analyses of legislation and updates on administrative rules filed by the systems. The analyses of legislation always contain staff recommendations. For example, one of the staff recommendations, which was included in both S.B. 133 and H.B. 227, is that fiduciary audits be conducted on all five retirement systems. The Council is currently conducting audits of STRS and OP&F. Additionally, PERS, OP&F, and HPRS presented their budgets to the ORSC for the first time in 2004 as required by S.B. 133. STRS and SERS are on July 1 - June 30 fiscal years and will present their budgets to the Council in the first part of 2005.

This report is a compilation of the evaluations and recommendations the Council made throughout the 125th General Assembly (January 1, 2003 - December 31, 2004). It provides a summary of the ORSC reports completed during 2003-2004, pending public retirement issues, and staff recommendations. It also provides a preview of issues that the legislature will face during the 126th General Assembly. For example, the Council will continue reviewing the actuarial funding of pension benefits and the effects of raising contributions and/or the retirement age. Finally, the report provides a historical record of legislative action taken by the 125th Ohio General Assembly on bills affecting PERS, STRS, SERS, OP&F, HPRS and the Volunteer Fire Fighters' Dependents Fund (VFFDF).

The report is divided into eight sections: Systems' Investment Performance; Status of Health Care Funds; Actuarial Reviews; Reports on Enacted Pension Legislation; Pending Pension-Related Issues; Documents Submitted by the Retirement Systems; Subject Index of Pension Bills Introduced; and Status of Pension Legislation.

The Systems' Investment Performance section provides a summary of the investment performance reviews completed by Milliman USA during 2003-2004. The full reports can be obtained from the ORSC office or on the ORSC website: [www.orsc.org](http://www.orsc.org).

The Status of the Health Care Funds provides a summary of the major changes made to the systems' health care benefits for 2005 as well as a summary of a recent court decision regarding the discretionary nature of these benefits. The summaries of health care plan changes include an overview of changes the systems made relative to prescription drugs, benefits, premiums, eligibility, and plan design. In addition, it provides information regarding the amount of employer contributions allocated to health care during 2003-2004.

The Actuarial Reviews section provides a summary of the actuarial reviews completed by the ORSC actuary Milliman USA during 2003-2004.

The Reports on Enacted Pension Legislation section provides a detailed examination of each pension bill enacted into law during the 125th Ohio General Assembly, including the name of the principal sponsor, a description of its contents, its fiscal impact, the ORSC position, and its effective date. These reports are intended to give the reader an awareness and understanding of all substantive changes made to the state retirement plans; they are not intended to serve as a substitute for the statutory laws governing these plans.

The Pending Pension-Related Issues section provides a summary of relevant public retirement issues and prior recommendations that have been made by staff, but not acted upon by the legislature. The section includes an update as to whether any of the issues were acted upon during the 125th General Assembly.

The Documents Submitted by the Retirement Systems section provides information on all reports that the retirement systems are required to submit to the ORSC during the 125th Ohio General Assembly.

The Subject Index of Pension Bills Introduced provides a listing of legislation under subject headings and a key word description within the subject heading. Bills that cover more than one subject area are listed under all appropriate headings. All subject headings are listed at the beginning of the index for quick reference.

The Status of Pension Legislation provides a record of the legislative action taken on pension bills at each step of the legislative process from the date of introduction to the date of enactment, including the committee assignments in each house of the Ohio General Assembly, the date reported by the committees, the date passed by each house and the date reported by a conference committee and/or concurred in by the other house. Also provided are a brief description of the subject of the pension bill and the ORSC position on the bill. A key to all abbreviations used in the Status of Pension Legislation is found on the last page.

SYSTEMS' INVESTMENT PERFORMANCE

THE 125TH GENERAL ASSEMBLY

JANUARY 1, 2003 - DECEMBER 31, 2004

Section 171.04(D) of the Revised Code requires the ORSC to conduct a semiannual review of the policies, objectives, and criteria of the systems' investment programs. These reports are submitted to the Governor and General Assembly. The following is a summary of the investment reviews completed during 2003-2004:

**Investment Performance Review (Fourth Quarter 2002), April 9, 2003 -**

This report, which was presented at the April 9, 2003 ORSC meeting, reflected the investment performance for all five retirement systems over the nine-year period beginning January 1, 1994 and ending December 31, 2002. The findings of this report are summarized as follows:

- The year ending 12-31-02 was a difficult and volatile period for all of the funds. All experienced negative results, ranging from -8.42 (HPRS) to -11.58 (SERS and STRS). All of the funds ranked below the median public retirement system in a broad universe of such funds. The highest ranking fund for the year was HPRS, with a 55th percentile rank. The other funds ranged from 73rd percentile (OP&F) to 88th percentile (SERS and STRS).
- Longer term, the impact of three years of negative returns has been meaningful. All of the funds now have nine-year annualized returns that are below their actuarial interest-rate assumptions. While the funding implications of lowering assumptions may be severe, one must question if it is realistic to maintain assumed rates of return that are, in general, significantly higher than actual experience over what is now nearly a decade. On the other hand, when they performed their analysis for the period ending December 1999, all of the funds had six-year returns that were significantly in excess of their actuarial assumptions. Using the returns of the recent past to forecast the future is not a prudent practice.
- Also longer term, only OP&F had results that were ahead of its own benchmark for the nine-year measurement period (1-1-94 to 12-31-02). HPRS had the worst nine-year results relative to benchmark, underperforming by 2.67%.
- SERS had the best absolute results over the full measurement period, achieving an average return of 7.31%.
- HPRS, which has experienced the lowest return over the entire measurement period, has shown dramatic signs of improvement over the past year. The fund's -8.42% return over the past twelve months not only represents the smallest loss experienced by any of the systems for the year, but compares favorably to its -11.58% benchmark return for the twelve months ending 12-31-02.
- Milliman compared the Ohio funds' results to three "peer" universes. First, they compared them to a broad Total Fund universe, which includes roughly 1,100 private and public plans, both large and small. Second, they compared them to a Public Fund universe, which includes 158 plans with an average size of over \$2 billion. Finally, they compared them to a Large Plan universe, which includes 67 plans with an average size of \$6.8 billion. For the last five-year cumulative period, all of the funds are in the bottom half of every one of those universes. While it is true that this comparison is less relevant than a comparison to individual benchmark returns, these poor relative results are troubling nonetheless.

**Investment Performance Review (Second Quarter 2003), November 6, 2003 -**

This report, which was presented at the November 6, 2003 ORSC meeting, reflected the investment performance for all five retirement systems over the nine and one-half-year period

beginning January 1, 1994 and ending June 30, 2003. The findings of this report are summarized as follows:

- The six-months ending 6-30-03, the period since Milliman's last report, was extremely positive for the systems. All experienced positive results, ranging from 9.96% (HPRS) to 9.06% (SERS). All of the funds except OP&F outperformed their target policies for the period, with excess results ranging from 0.52% (HPRS) to 0.15% (PERS). All of the funds also ranked well above the median public retirement system in a broad universe of such funds. The highest ranking fund for the six months was HPRS (15th percentile). The other funds ranged from the 16th percentile (PERS) to the 34th percentile (SERS).
- Longer term, only SERS and OP&F have outperformed their respective policy benchmarks for the past five years. The other three funds experienced results that lagged behind their benchmarks in annualized amounts ranging from 0.32% (STRS) to 1.77% (HPRS).
- The impact of the three years of negative returns from 2000 to 2002 has not been erased by this year's good results. All of the funds still have long-term (nine and one-half year) annualized returns that are below their actuarial interest-rate assumptions.
- HPRS, which experienced the lowest return over the entire measurement period, continues to show signs of improvement. The fund's 9.96% return over the past six months compares favorably to the 9.44% return for its policy benchmark. It is now also ahead of its benchmark for trailing one and three year periods.

#### **Investment Performance Review (Fourth Quarter 2003), May 12, 2004 -**

This report, which was presented at the May 12, 2004 ORSC meeting, reflected the investment performance for all five retirement systems over the ten-year period beginning January 1, 1994 and ending December 31, 2003. The findings of this report are summarized as follows:

- The six months ending 12-31-03, the period since the last investment report, was extremely positive for the systems. All experienced positive results, ranging from 14.17% (PERS) to 12.72% (SERS). All of the funds except OP&F outperformed their target policies for the period, with excess results ranging from 0.88% (HPRS) to 0.47% (SERS). All of the funds also ranked well above the median public retirement system in a broad universe of such funds. The top-performing funds for the six months were OP&F and PERS (8th percentile). The other funds ranged from the 10th percentile (HPRS) to the 22nd percentile (SERS).
- Longer term, OP&F, SERS, and STRS have now outperformed their respective policy benchmarks for the past five years. PERS was essentially in line with its benchmark, while HPRS underperformed by 0.33%.
- The impact of the three years of negative returns from 2000 through 2002, while not entirely erased by this year's good results, has been significantly reduced. OP&F and SERS have 10-year returns that are above their actuarial interest rate assumption. STRS trails its current actuarial assumption by only three basis points, however, it is outperforming its blended ten-year actuarial interest rate of 7.60% by 37 basis points. The HPRS and PERS performance is still below their actuarial interest rate, but the two funds have narrowed that spread significantly over the past twelve months.

- HPRS, which experienced the lowest return over the entire measurement period, continues to show signs of improvement. The fund's 13.94% return over the past six months compares favorably to the 13.06% return for its policy benchmark. It is now also ahead of its benchmark for trailing one and three year periods.

**Investment Performance Review (Second Quarter 2004), November 17, 2004 -**

This report, which was presented at the November 17, 2004 ORSC meeting, reflected the investment performance for all five retirement systems over the ten and one-half-year period beginning January 1, 1994 and ending June 30, 2004. The findings of this report are summarized as follows:

- The six months ending 6-30-04, the period since the last investment report, was positive for the systems. All experienced positive results, ranging from 3.07% (PERS) to 3.90% (OP&F). HPRS, OP&F, and STRS outperformed their respective policies for the six-month period while PERS and SERS slightly lagged their policies. All of the funds also ranked well above the median public retirement system in a broad universe of such funds. The top-performing fund for the six months was OP&F (12th percentile). The other funds ranged from the 17th percentile (HPRS) to the 40th percentile (PERS).
- Longer term, OP&F, PERS, SERS, and STRS have now outperformed their respective policy benchmarks for the past five years. HPRS underperformed by 0.54%.
- The systems have not entirely recovered the losses from the bear market of 2001 and 2002, however, long-term ten-year results have improved as a result of strong gains in 2003. OP&F, SERS, and STRS have ten-year returns that are above their actuarial interest rate assumption. The HPRS and PERS performance is still below their actuarial interest rate, but the two funds have narrowed that spread significantly over the past twelve months.
- HPRS, which experienced the lowest return over the entire measurement period, continues to show signs of improvement. The fund's 18.26% return over the past twelve months compares favorably to the 17.03% return for its policy benchmark. It is now also ahead of its benchmark for trailing one and three year periods.
- All of the systems have been enjoying positive results in recent years. Except for HPRS, all of the total fund results have exceeded their policy benchmarks for the past five years, and HPRS has exceeded its policy for the past three years by a significant margin. If there is one message to be derived from this report it is that all of the systems are currently doing very well when compared to the most important measure - their own custom policy benchmarks.

STATUS OF HEALTH CARE FUNDS  
THE 125TH GENERAL ASSEMBLY  
JANUARY 1, 2003 - DECEMBER 31, 2004

In 1974, the five state retirement boards were given broad discretionary authority to provide health care coverage to retirees and their dependents. Unlike pension benefits, which become vested upon retirement, health care benefits are not a vested right under Ohio's public pension laws. Therefore, the boards are authorized to change the premiums, eligibility and level of health care benefits at any time. A recent ruling by the Tenth District Court of Appeals (Ohio Association of Public School Employees, et al. v. School Employees Retirement System Board, et al.) upheld the discretionary nature of health care benefits in a lawsuit that had attempted to prevent the SERS Board from making changes to its health care plan.

Since 1974 each system has provided some level of comprehensive hospital, medical and prescription drug coverage. In 1977, the systems were required statutorily to reimburse benefit recipients for Medicare Part B premiums (medical). Retirees who do not qualify for Medicare Part A (hospital) are provided equivalent coverage under the systems' health care plans.

Controlling health care costs has been and continues to be a major concern for Ohio's retirement systems. In 2003, the total retiree health care costs paid by the retirement systems were over \$1.7 billion. As shown in the table below, prescription drug costs represented 40% of that figure.

System	2003 Total Health Care Cost	2003 Total Prescription Drug Cost
PERS	\$901,213,474	\$379,711,938
STRS	\$443,060,362	\$146,371,648
SERS	\$204,930,737	\$99,249,656
OP&F	\$168,060,654	\$65,229,773
HPRS	\$7,181,129	\$2,771,135
Total (All Systems)	\$1,724,446,356	\$693,334,150

By law, any health care costs borne by the retirement systems must be financed by employer contributions only. The retirement systems' actuaries review annually the amount of contributions required to fund vested pension benefits. Contributions in excess of what is needed to support those benefits can be allocated to health care. The following chart indicates the percentage of employer contribution each system will allocate to health care during 2005.

Ohio Retirement System	Percentage of Employer Contribution Allocated to Health Care in 2005
PERS	4.00%
STRS	1.00%
SERS*	3.43%
OP&F	7.75%
HPRS	3.50%

\*Does not include employer health care surcharge of up to 1.5% of total active member payroll.

The period between late 2000 and early 2003 was extremely trying for Ohio's public retirement systems. Poor investment returns and rapidly escalating medical and health care costs made it necessary for the pension funds to reexamine how they could best continue to provide discretionary health care benefits to their members. In early 2004, each of the five retirement systems enacted changes to their respective health care plans. While some of these changes were more extensive than others, they represented a commitment on the part of Ohio's retirement systems to preserve a meaningful health care benefit for their members, as they have since the inception of discretionary health care in 1974.

During the latter half of 2003 and throughout 2004, however, Ohio's retirement systems saw their investment earnings increase substantially. The combination of positive investment returns and health care plan changes enacted in January 2004 allowed the pension funds to make relatively minor adjustments to their health plans for 2005. These adjustments represent what will likely become a common occurrence: retirement systems revisiting their health care plans frequently to determine whether their respective health care stabilization fund balances and solvency periods remain within the limits they have set for themselves. Below is a description of the changes to each system's health care plan effective January 1, 2005.

## **PERS**

The adoption of the Choices Plan in December 2001 represented a significant change in the way PERS would provide health care to future generations of public employees. It became clear however, that as health care costs continued to rise and solvency periods for the PERS Health Care Stabilization Fund continued to decline, the Choices Plan could not, by itself, shore up the finances of the PERS health plan. In response to these difficult financial conditions, the PERS Board set out to construct a Health Care Preservation Plan (HCPP) to preserve a meaningful health care benefit for current and future retirees of the system. On September 9, 2004, the PERS Board voted to adopt the HCPP. The HCPP represented more than two years of discussion and formulation in which the system attempted to involve all of its various constituent groups. While the HCPP does not fully take effect until January 1, 2007, the system is continuing with efforts to educate its membership on the HCPP and how it will be implemented in order to give its members, especially those who are at or near retirement, additional time to prepare for the changes that the HCPP will bring.

The new HCPP continues the concepts of a graded monthly allocation and a cafeteria-style health plan introduced in the Choices Plan, but it goes a step further by extending them to all member groups instead of just to employees hired after January 1, 2003. The HCPP divides the membership of PERS into three groups for the purpose of providing a health care benefit. These three groups are: current retirees and members who will retire before January 1, 2007, active members hired before January 1, 2003 who will retire after January 1, 2007 and members hired after January 1, 2003. All members of PERS will still be eligible to receive a health care benefit after ten years of service, however the initial monthly allocation and ultimate subsidy they can earn for the purchase of health care coverage will depend on which of these three member groups they fall into.

Members who are currently retired or are eligible to retire before January 1, 2007 will receive a full monthly allocation (100%) with 10 years of service. A full allocation is equal to the amount that PERS spends, on average, to pay health care expenses for a retiree for one month. The spouse of a

member in this group will receive between 75% and 90% of the retiree's monthly allocation based on the retiree's years of service between 15 and 30 years. For example, if a current, non-medicare retiree had 15 years of service, that retiree would pay no premium for their health care coverage. If this retiree chose to cover a spouse, the spouse would receive 75% of the retiree's monthly allocation. Changes to spouse premiums will be phased in over five years.

Members who are eligible to retire after January 1, 2007 and who were hired before January 1, 2003 will receive a 50% monthly allocation with 10 years of service graded to a 100% allocation between 15 and 30 years of service. The covered spouse of a member in this group will receive 50% of the retiree's allocation with 10 years of service graded to 75% between 15 and 30 years. A covered spouse will receive an additional 1.5% of the retiree allocation for each of the retiree's years of service in excess of 30, up to 90% of the retiree's monthly allocation at 40 years of service.

Members hired after January 1, 2003 with no prior service credit will receive a 25% monthly allocation at 10 years of service graded to 100% between 15 and 30 years of service. A covered spouse will receive 50% of the retiree's monthly allocation at 10 years of service and will be eligible to receive an additional 1.5% of the retiree allocation for each of the retiree's years of service in excess of 30, up to 65% of the retiree allocation at 40 years of service.

Beginning in 2007, a retiree's graded monthly allocation will increase each year by wage inflation (approximately 4 percent). This is an important change given the recent double digit increases in health care inflation. If health care inflation exceeds wage inflation, the benefit recipient may be responsible for up to 5% of the excess health care inflation as part of their monthly premium.

Benefit recipients can use their graded monthly allocations to purchase health care products and services. If their allocation exceeds the cost of the coverage options they select the balance will be deposited into a Retiree Medical Account for future use. In contrast to the current PERS health plan's one level of coverage, the HCPP will offer three different options for members to choose from: Enhanced, Standard and Basic. This cafeteria-style approach to providing health care benefits allows members to customize a health plan to suit their own needs in terms of coverage and premium amounts. Changes in cafeteria plan design offerings will be allowed only every 24 months, at Medicare eligibility, or after certain relevant "life events." A PERS retiree must select at least one level of medical benefits under the cafeteria plan in order to receive a monthly allocation. Retirees not making a plan design selection will be defaulted to the Enhanced Plan (highest level of benefits.)

The HCPP also calls for an increase in employee and employer contribution rates, as well as an eventual increase in the portion of the employer contribution that PERS will allocate to health care. As the January 1, 2007 effective date of the HCPP draws near, PERS will begin phasing-in these changes so as to minimize their impact on public employers and their employees. The following schedules illustrate these increases.

**Employee Contribution Rate Increases**

	PERS Local	PERS State	PERS-LE
2005	8.50%	8.50%	10.10%*
2006	9.00%	9.00%	

2007	9.50%	9.50%	
2008	10.00%	10.00%	

\*The rate contributed by PERS-LE members is established in statute.

### **Employer Contribution Rate Increases**

	PERS Local	PERS State	PERS-LE
2005	13.55%	13.31%	16.70%
2006	13.70%	13.54%	16.93%
2007	13.85%	13.71%	17.17%
2008	14.00%	14.00%	17.40%
2009	14.00%	14.00%	17.63%
2010	14.00%	14.00%	17.87%
2011	14.00%	14.00%	18.10%

The HCPP also includes provisions for a Low Income Discount Program, which will reduce health care premiums for individuals below certain income levels. The basis of this program is that those retirees who earn less than 150% of the federal poverty level will receive a flat 30% reduction in their health care premiums. The Low Income Discount Program identifies three levels of household income (single, two-party and family) and takes into account all reportable categories of income for all persons in the household as identified by the Internal Revenue Service.

Below is a description of the changes made to PERS' health care plan for 2005.

#### **PREMIUMS**

For members of PERS' traditional health care plan (administered by Medical Mutual of Ohio or Aetna PPOs) monthly premiums are unchanged or have been lowered almost across the board; only monthly premiums for covered children will increase. However, premiums for coverage under PERS' alternative health plans/HMOs will increase in most cases. PERS will continue to reimburse the full Medicare Part B monthly premium, which is \$78.20 in 2005.

#### **ELIGIBILITY**

In accordance with Ohio Administrative Code 145-4-02, effective January 1, 2005, the definition of an eligible dependent will change. This rule will only affect dependents who newly enroll in health care coverage on or after January 1, 2005. Under the current rule, retirees can enroll eligible dependents in PERS' health care plans. These dependents include the benefit recipient's legal spouse and biological or legally adopted children, stepchildren, or grandchildren. Also included are other children who are financially dependent on the benefit recipient for support and live with the recipient in a regular parent-child relationship. Under the new rule however, PERS benefit recipients may enroll only their legal spouse, eligible biological or legally adopted child(ren), and eligible grandchild(ren) if they are ordered by the court to provide health care coverage for them. Also under the new rule, surviving spouses or beneficiaries of deceased retirees receiving monthly

benefits may only enroll the biological or legally adopted children of the deceased member or retiree. In order for children to be eligible for dependent health care coverage they must be unmarried and under age 18, or under age 22 if they are attending school on at least two-thirds of a full-time basis. Coverage may also be extended if the child is mentally or physically incapacitated, and the mental or physical incapacitation occurred prior to age 18, or, if over 18, prior to age 22 if the child was attending school on at least two-thirds of a full-time basis.

## BENEFITS

Beginning in January 2005, PERS will no longer provide coverage for over-the-counter drugs with the exception of diabetic supplies. Diabetic supplies and insulin will still be covered by the PERS health plan. Also, PERS will no longer provide coverage for non-sedating antihistamines as there are similar medications available over-the-counter. Medications used to treat impotency will now be covered up to six doses per 30-day period instead of the 12 doses per 30-day period covered in 2004.

For more information on the HCPP or the PERS health plan in general, please visit the system's website at [www.opers.org](http://www.opers.org).

## STRS

### PREMIUMS

For 2005, STRS retirees and their spouses who are eligible to receive Medicare Part A will see a slight decrease in their monthly premiums. Conversely, the premiums of most non-medicare eligible retirees and spouses will increase slightly. For example, an STRS retiree with 30 years of service will pay an additional \$9 a month for the Medical Mutual Plus Plan or an additional \$24 a month for the Aetna Plus Plan. Spouses of STRS retirees who are not eligible for Medicare will pay an additional \$59 a month (\$486 total) for coverage under the Medical Mutual Plus Plan and an additional \$71 a month (\$506 total) if they enrolled in the Aetna Plus Plan. The STRS Retirement Board also approved changes to the Medical Mutual and Aetna Catastrophic Plans that include lower premiums for all categories of enrollees, including spouses. For 2005, STRS will reimburse Medicare Part B premiums on a sliding scale from \$29.90 to \$52.83 based on the member's years of service at retirement.

### ELIGIBILITY

STRS made no changes to its health care eligibility requirements for 2005.

## BENEFITS

Participants in the Aetna and Medical Mutual Catastrophic Plans and Paramount HMO plan will have lower co-payments in 2005. The co-payments for Tier 2 (select brand-name) drugs drop from \$35 to \$25; while the retail co-payment for Tier 3 (other brand-name) drugs is reduced to \$50 from \$75. Mail-service co-payments for Tiers 2 and 3 drugs are also reduced in 2005. For a 90-day supply of Tier 2 drugs, the mail-service co-payment will drop from \$70 to \$50. The co-payment for a 90-day supply of Tier 3 drugs is reduced to \$100 from \$150. Members of the Aetna and Medical Mutual Plus plans and Paramount HMO plan will see their maximum out-of-pocket cost for prescription drugs drop from \$2,500 to \$1,500. In addition to lower premiums, the STRS Retirement Board also approved a reduction in the annual medical deductible for the Aetna and Medical Mutual Catastrophic Plans. For 2005, the annual medical deductible will be \$1,500 for in-

network services and \$3,000 for out-of-network services. These rates were reduced from \$2,000 and \$4,000 respectively. In 2005, STRS will also pay an additional \$750 per Aetna and Medical Mutual Catastrophic Plan enrollee for retail and mail prescription drug costs. The new amount STRS will pay is \$2,250 (versus a limit of \$1,500 in 2004) before the enrollee must assume 100% of the cost of prescriptions.

For more information on the STRS health plan, please visit the system's website at [www.strsoh.org](http://www.strsoh.org).

## **SERS**

### **PREMIUMS**

For 2005, the SERS Board voted to increase monthly health care premiums across the board. For example, an SERS member with 20 years of service who retired in 1994 and is not eligible for Medicare Part A coverage paid a monthly premium of \$151 in 2004. In 2005, that retiree's monthly premium has risen to \$172. Spouses and children who are ineligible for Medicare Part A coverage will also see slight increases in their monthly premiums if they elect coverage under the SERS health plan. If an SERS retiree chooses to cover a non-Medicare Part A spouse under the Aetna or Medical Mutual Indemnity plans they will pay \$301 per month, up from \$274 in 2004. If that retiree chooses to enroll children who are Medicare ineligible, they will pay a monthly premium of \$81, up from \$72 in 2004. SERS will also expand its Safety Net health care premium discount program for 2005. Beginning January 1, SERS members whose 2003 income was below 125% of the 2004 federal poverty guidelines will qualify for a 50% reduction in monthly health care premiums. In 2004, members were only eligible for this discount if their total income was below 100% of the federal poverty level. The amount that SERS reimburses for Medicare Part B premiums is set in statute at \$45.50 per month.

### **ELIGIBILITY**

SERS made no changes to its health care eligibility requirements for 2005.

### **BENEFITS**

SERS made no benefit changes to its health care plan for 2005.

For more information on the SERS health plan, please visit the system's website at [www.ohsers.org](http://www.ohsers.org).

## **OP&F**

### **PREMIUMS**

On January 1, 2005, OP&F moved into the second year of its five-year phase-in of health care subsidy level changes. This means that members retiring in 2005 will pay a higher percentage of their health care premiums and prescription drug contributions than members retiring in 2004. As an example, if a member retires on or after January 1, 2005, and their age at retirement plus their years of service at retirement equals at least 73, but not more than 77, the retiree will be responsible for paying 70% of the full health care premium and prescription drug contribution for their own coverage and 80% of the full premium and contribution for their spouse and children. In 2004, this same retiree would have paid 62.5% of the full health care premium and prescription drug

contribution for themselves and 75% of the full premium and contribution for their spouse and children. OP&F's premium subsidies will continue to decline until 2009 when a Level 1 retiree (age at retirement plus years of service at retirement equal at least 73, but not more than 77) will pay 100% of the full health care premium for themselves and for their spouses and children. The subsidy for Level 2 retirees (age at retirement plus years of service at retirement equal at least 78, but not more than 82) will also continue to decrease from 53.5% for a 2005 benefit recipient (56.25% in 2004) and 35% (37.5% in 2004) for their spouse and children to a 37.5% subsidy for a 2009 benefit recipient and a 25% subsidy for their spouse. Subsidies for Level 3 retirees (age at retirement plus years of service at retirement equal at least 83) are set at 75% for benefit recipients and 50% for spouses and children and will not change. OP&F will continue to reimburse the full Medicare Part B monthly premium, which is \$78.20 in 2005.

### ELIGIBILITY

Effective January 1, 2005, an OP&F benefit recipient who is also a benefit recipient (or a dependent of a benefit recipient) of another Ohio Retirement System may irrevocably waive OP&F health care benefits with intent to participate in the other system's health care plan. Also, OP&F benefit recipients may now enroll unmarried children under 18 years of age, or under age 23 if the child is enrolled for at least two-thirds of the minimum number of credit hours at an accredited school and dependent on the benefit recipient for support only if the children are the benefit recipient's biological children or have been legally adopted by the benefit recipient.

### BENEFITS

Members of OP&F's Option 2 PPO plan (administered by Aetna or Medical Mutual) will pay 20% of the cost for out-of-network physician services not available in network in 2005. In 2004, this benefit recipient paid 30% of the cost of these services.

For more information on the OP&F health care plan, please visit the system's website at [www.op-f.org](http://www.op-f.org).

### HPRS

#### PREMIUMS

For 2005, the only change made to HPRS' premium structure is an increase in monthly premium amounts paid by spouses of HPRS benefit recipients from \$70 per month to \$80 per month. HPRS will continue to reimburse the full Medicare Part B monthly premium, which is \$78.20 in 2005.

#### ELIGIBILITY

HPRS made no changes to its health care eligibility requirements for 2005.

#### BENEFITS

HPRS made no benefit changes to its health care plan for 2005.

For more information on the HPRS health care plan, please visit the system's website at [www.ohprs.org](http://www.ohprs.org).

ACTUARIAL REVIEWS  
THE 125TH GENERAL ASSEMBLY  
JANUARY 1, 2003 - DECEMBER 31, 2004

Ohio law establishes a maximum 30-year funding period for amortizing each system's unfunded actuarial accrued pension liabilities. This requirement is intended to maintain inter-generational equity among taxpayers by limiting the ability to fund benefit costs by simply extending the funding period beyond 30 years. As of the most recent actuarial valuations (June 30, 2004 for STRS and SERS; December 31, 2003 for PERS & HPRS; December 31, 2002 for OP&F), the systems had the following funding periods and funded ratios:

<b>System</b>	<b>Funding Period</b>	<b>Funded Ratio</b>
PERS	32	85.00%
STRS	42.2	75.90%
SERS	30	77.00%
OP&F	Infinite	82.63%
HPRS	40	77.70%

Section 742.311 of the Revised Code requires the ORSC to conduct an annual review of the police and fire contribution rates and make recommendations to the legislature that it finds necessary for the proper financing of OP&F benefits. In addition to the statutorily required review of the adequacy of the police and fire contribution rates, the Council voted to have Milliman review the adequacy of the contribution rates for the State Teachers Retirement System, the School Employees Retirement System, the Public Employees Retirement System, and the Highway Patrol Retirement System. Milliman's first report on OP&F, SERS, and STRS was completed in late 2003. The report on the contribution rates for HPRS and PERS was completed in early 2004 along with an addendum that provided an update to the original report on OP&F, SERS, and STRS. Also as part of their review, Milliman was asked by the Council to review the contribution rates that would be necessary to actuarially fund post-retirement health care benefits.

**Review of the Adequacy of the Contribution Rates to OP&F, SERS, and STRS, November 5, 2003** - Milliman presented these findings at the November 5, 2003 ORSC meeting.

The major findings and recommendations from this report are as follows:

- As of July 1, 2003, none of the systems satisfied the 30-year funding period required by law (in the case of OP&F, this means being on track to satisfy that requirement at the end of 2006). (SERS later reduced its allocation to health care in order to satisfy the 30-year funding requirement. See Addendum to the Review of the Adequacy of the Contribution Rates to OP&F, SERS, and STRS.)
- The funding period calculation required by law should be based on the actuarial costs of all benefits mandated by statute - the pension benefits and the Medicare Part B premium reimbursements. SERS is the only system that includes the statutorily mandated Medicare Part B premium reimbursements in the development of its funding period. We recommend that both OP&F and STRS include these statutorily mandated benefits when determining their funding periods in future actuarial valuations.
- Significant "excess" investment returns will be needed over the near term by each of the

systems to “catch-up” with the actuarial value of assets that is used by each of the systems to determine its funding period. For example, OP&F would need to earn annualized investment returns of approximately 11.7% over the next 5 years to “catch-up”. The comparable figures for SERS and STRS are 12.5% and 9.6%, respectively.

- The Capital Market Assumptions used by the systems for investment planning purposes anticipate that actual returns will fall short of the long-term actuarial investment return assumption over the next 10 years. (The actuarial investment return assumption is 8.25% for OP&F and SERS and 7.75% for STRS. As of June 30, 2003, STRS increased its actuarial investment return assumption to 8.0%; See Addendum to the Review of the Adequacy of the Contribution Rates to OP&F, SERS, and STRS.) Thus based on those Capital Market Assumptions, there is less than a 50% chance that the systems will even meet the long-term actuarial investment return assumption over the next 10 years, let alone earn “excess” returns to “catch-up” with the actuarial value of assets used for purposes of determining compliance with the 30-year limit required by law.
- If neither contributions nor benefits are modified, based on the average Capital Market Assumptions used by these systems for investment planning purposes, there is only a 17% probability that OP&F will be in compliance with the 30-year limit on the funding period even 10 years from now, in 2014. Based on the same assumptions, there is only about a 19% probability that SERS and a 28% probability that STRS would comply with the 30-year limit in 2014.
- If actual investment returns over the next 5 years are somewhat favorable so that they meet the long-term actuarial investment return assumption of the Boards (but do not produce “excess” returns to “catch-up” to the actuarial value of assets),
  - SERS could bring itself into compliance with the 30-year funding period limit by reducing its allocation to discretionary healthcare benefits from 5.83% to 1.0% and redirecting those contributions to mandated benefits. This would require a reduction in the discretionary healthcare benefits of roughly 65% (assuming that SERS continued to assess the employer healthcare surcharge);
  - Neither OP&F nor STRS could comply with the 30-year limit even if all contributions were allocated to mandated benefits. This would mean that no contributions would remain available to be allocated to discretionary healthcare benefits; and
  - If little or no contributions were allocated to discretionary healthcare benefits, those benefits would have to be significantly reduced immediately and eliminated when the healthcare fund is exhausted. (As of the most recent actuarial valuations, the healthcare fund in OP&F was adequate to pay healthcare benefits for 1.3 years. The comparable figures for SERS and STRS are 1.8 years and 6.9 years, respectively.) Alternatively, healthcare benefits could be offered to retirees with the retiree required to pay the full cost. This latter alternative would at least allow retirees to retain their current coverage if they choose to pay for it.
- If investment returns over the near term are quite favorable so that they meet the long term investment return assumptions of the boards and produce “excess” returns sufficient to “catch-up” with the actuarial value,

- Both OP&F and SERS could bring themselves into compliance with the 30-year limit on the funding period by reducing the contributions allocated to discretionary healthcare benefits and redirecting them to mandated benefits. In the case of OP&F, this would reduce the allocation to discretionary healthcare benefits from 7.75% to roughly 1.4% of payroll. Such a reduction in the contributions allocated to discretionary healthcare benefits would require a reduction in discretionary healthcare benefits of roughly 80%. The comparable figures for SERS are a reduction in the discretionary healthcare contribution rate from 5.83% to 4.8%, and a reduction in benefits of roughly 15% (assuming that SERS continued to assess the employer healthcare surcharge); and,
- STRS could not bring themselves into compliance with the 30-year limit on the funding period even if they completely eliminate the allocation to discretionary benefits and redirect all contributions to mandated benefits. Eliminating the allocation to discretionary healthcare benefits would force the elimination of these discretionary benefits as soon as the healthcare fund is exhausted.
- If the systems continue to allocate to discretionary healthcare benefits the portions of the employer contributions indicated in their most recent actuarial valuations, one or more of the following steps will need to occur.
  - The statutory employer and/or member contribution rate limitations will need to be increased.
  - State subsidies will need to be provided to the systems.
  - The benefits mandated by statute will need to be reduced.
  - The 30-year limit on the funding period required by law will need to be extended.
- If infinite funding periods were allowed to persist, the systems would be gradually defunded.

**Review of the Adequacy of the Contribution Rates to HPRS and PERS, February 11, 2004** - Milliman presented these findings at the February 11, 2004 ORSC meeting.

The major findings and recommendations from this report are as follows:

- Investment returns achieved by HPRS and PERS in 2003 were far in excess of their long-term actuarial assumed rate of return. However, due to the smoothing of investment losses from prior years and investment gains from 2003, Milliman estimates that, as of December 31, 2003 only PERS Local Division satisfied the 30-year funding period required by law. (Technically, the 30-year funding period limitation applies to PERS on an aggregate basis, including all Divisions. Throughout this report, they discuss the 30-year limitation as if it applied to each Division separately.)
- The funding period calculation required by law should be based on the actuarial costs of all benefits mandated by statute - the pension benefits and the Medicare Part B premium reimbursement benefits. Milliman recommends that both HPRS and PERS include these statutorily mandated Medicare Part B premium reimbursement benefits when determining

their funding periods in future actuarial valuations. (SERS is the only Ohio retirement system that has included these mandated Medicare Part B premium reimbursement benefits in its actuarial valuation. Milliman previously recommended that OP&F and STRS include them in future valuations also.)

- The Capital Market Assumptions used by the systems for investment planning purposes anticipate that the annualized returns will be approximately 7.2% in the case of HPRS and 7.3% in the case of PERS over the next 10 years based on their current asset allocation policies. These returns fall short of the long-term actuarial investment return assumption of 8.00% used by both systems.
- If neither contributions nor benefits are modified, based on the average Capital Market Assumptions used by the five Ohio Retirement Systems for investment planning purposes there is a 43% probability that HPRS will be in compliance with the 30-year limit on the funding period 10 years from now, in 2014. Based on these assumptions, the probabilities of PERS State, PERS Local and PERS Law being in compliance with the 30-year limit in 2014 are 49%, 53%, and 54% respectively.
- The current contribution rates to HPRS and PERS are less than the statutory maximum rates. As a result, HPRS and PERS-State and PERS-Local could each comply with the 30-year funding period limit by increasing the current contribution rates without reducing the portion of the employer contribution rates allocated to discretionary healthcare benefits and still remain within the maximum contribution rate limitations provided by statute.
- If investment returns over the near term are favorable so that the PERS actuarial value of assets grows to “catch-up” with the market value, PERS-LE and PERS-Public Safety could also bring themselves into compliance with the 30-year funding period limit by increasing member and/or employer contributions and still remain within the maximum contribution rate limitations provided by statute.
- If investment returns over the near term meet the actuarial investment return assumption but provide no “excess” returns, PERS-LE and PERS-Public Safety could bring themselves into compliance with the 30-year funding period limit by both (a) increasing member and/or employer contributions to the statutory maximum limitation and (b) slightly reducing the current allocation to discretionary healthcare benefits.

**Addendum to the Review of the Adequacy of the Contribution Rates to OP&F, SERS, and STRS, February 11, 2004** - This addendum to the Milliman report presented November 5, 2003 was in response to a request by the ORSC for some additional information. Milliman presented these findings at the February 11, 2004 ORSC meeting.

- **Summary Update on OP&F:**

- As a result of reduced resources to fund healthcare benefits as well as the rapid rate of increase in healthcare costs, OP&F has decreased the discretionary healthcare benefits it provides to retirees effective 2004 and increased the portion of healthcare costs retirees must pay.
- As a result of a rebound in the equity markets through the last six months of 2003, Milliman estimates that OP&F’s UAL decreased from \$1.8 billion as of June 30, 2003 to \$1.7 billion as of December 31, 2003 and that the funding period remains

infinite.

- Based on the updated investment returns through December 31, 2003, if neither contributions nor benefits are modified, the model estimates there is a 26% probability that OP&F will be in compliance with the 30-year limit on the funding period 10 years from now, in 2014. The corresponding figure from the November 5, 2003 report was 17%.

- **Summary Update on SERS:**

- In order to satisfy the 30-year funding period limitation, the allocation to discretionary healthcare benefits was decreased from 5.83% as of July 1, 2002 to 4.91% as of July 1, 2003.
- As a result of reduced resources to fund healthcare benefits as well as the rapid rate of increase in healthcare costs, SERS has decreased the discretionary healthcare benefits it provides to retirees effective 2004.
- Based on the updated investment returns through December 31, 2003, if neither contributions nor benefits are modified, the model estimates there is a 30% probability that SERS will be in compliance with the 30-year limit on the funding period 10 years from now, in 2014. The corresponding figure from the November 5, 2003 report was 19%.

- **Summary Update on STRS:**

- As a result of reduced resources to fund healthcare benefits as well as the rapid rate of increase in healthcare costs, STRS has decreased the discretionary healthcare benefits it provides to retirees effective 2004.
- Based on the favorable investment returns through December 31, 2003 and updated projections based on the new actuarial assumptions in use as of the July 1, 2003 actuarial valuation, the UAL was lowered from \$18.4 billion to \$17.0 billion as of July 1, 2003.
- Based on the updated investment returns through December 31, 2003, if neither contributions nor benefits are modified, the model estimates there is a 40% probability that STRS will be in compliance with the 30-year limit on the funding period 10 years from now, in 2014. The corresponding figure from the November 5, 2003 report was 28%.

**Review of Contribution Rates Necessary to Actuarially Fund Post-Retirement Healthcare Benefits for HPRS, OP&F, PERS, SERS, and STRS** - This report was prepared in response to a request made by the ORSC at the November 5, 2003 Council meeting. Milliman presented these findings at the February 11, 2004 ORSC meeting.

The major findings and recommendations from this review are as follows:

- Healthcare fund balances have generally been declining in recent years due to a combination of investment losses and negative cash flow (e.g. - contributions allocated to healthcare

benefits were less than benefits and administrative expenses).

- Current contribution rates allocated to discretionary healthcare benefits are on the order of 1/10 to 1/3 of the contribution rates needed to actuarially fund the plans so that the portion of the total cost of healthcare subsidized by the systems could be maintained.
- If the current healthcare contribution rates persist, or if the contribution rates allocated to healthcare are further decreased to shift funding back to mandated benefits, discretionary healthcare benefits would have to be significantly reduced.
- At a minimum, discretionary healthcare benefits could be offered to retirees with the retiree required to pay the full cost. This latter alternative would at least allow retirees to retain their coverage if they choose to pay for it.
- Medicare Part D reimbursements from the federal government beginning in 2006 will help defray the overall cost of prescription drugs somewhat, but are estimated to have a minimal effect on helping the systems move toward actuarial funding of post-retirement healthcare benefits. Alternatively, some, or all, of those reimbursements could be applied to reduce the portion of the premiums paid by retirees.
- Changes to post-retirement healthcare plan designs in response to increasing healthcare costs may reduce enrollments, and may also affect retirement patterns. Milliman did not attempt to estimate the potential effect of shifts in enrollment patterns or retirement patterns in preparing this report. To the extent that fewer/(more) retirees enroll for healthcare benefits than assumed or delay/(accelerate) retirement from the assumed ages, the contribution rates shown in this report would decrease/(increase).

REPORTS ON PENSION LEGISLATION ENACTED

THE 125TH GENERAL ASSEMBLY

JANUARY 1, 2003 - DECEMBER 31, 2004

**Am. Sub. H.B. 95 - Rep. Calvert**

Am. Sub. H.B. 95 generally makes appropriations for the operation of the state and education for the biennium beginning July 1, 2003 and ending June 30, 2005. This analysis describes only those provisions of the bill that relate to the Ohio public retirement systems. Listed below are appropriations included in the act for state subsidies to the Ohio Police & Fire Pension Fund and to the Ohio Public Safety Officers Death Benefit Fund:

<b>Appropriation Item</b>	<b>Fiscal Year 2004</b>	<b>Fiscal Year 2005</b>
090-524 Police and Fire Disability Pension	\$35,000	\$30,000
090-534 Police & Fire Ad Hoc Cost of Living	\$225,000	\$230,000
090-544 Police and Fire State Contribution	\$1,200,000	\$1,200,000
090-554 Police and Fire Survivor Benefits	\$1,320,000	\$1,260,000
090-575 Police and Fire Death Benefits	\$24,000,000	\$25,000,000

The bill also makes changes to the reemployment provisions of PERS, STRS, and SERS. If a member of PERS, STRS, or SERS retires from a position that is customarily filled by a vote of members of a board or commission or, for a PERS retiree, by the legislative authority of a county, municipal corporation, or township, the bill requires the board, commission, or legislative authority to take certain actions before the retiree can be rehired to the same position. The bill requires the board, commission, or legislative authority to (1) give public notice at least 60 days before the reemployment is scheduled to commence that the retiree is or will be retired and is seeking employment with the board, commission, or legislative authority and (2) hold a meeting on the issue of the reemployment between 15 and 30 days before the employment is to begin. The PERS, STRS, and SERS Boards are required to adopt rules to implement this provision.

Additionally, the act changes the deadline for an elected official who intends to retire and run for reelection to the same office to notify the county board of elections that the member intends to retire before the end of the current term. Prior law required the elected official to provide notice at least 90 days before the election. The act changes the deadline to at least 90 days before the primary election or, if no primary is scheduled, 90 days before the date on which a primary would have been held. Failure to notify the board of elections by the deadline results in forfeiture of the pension portion of the retirement allowance and suspension of the annuity portion if the retiree is elected to the same office for the term immediately following.

**Am. Sub. H.B. 95 - Rep. Calvert**

**ORSC Position** - The ORSC took no action on this bill.

**Effective Date** - June 26, 2003 (Emergency)

## **Sub. H.B. 98 - Rep. Willamowski**

Sub. H.B. 98 amends the existing laws governing the division of retirement benefits upon termination of marriage under the five state retirement systems relative to the following two issues: (1) the annual cost-of-living allowance (COLA); and (2) the continuation of benefits to an alternate payee (i.e., former spouse) after the member's death pursuant to a court order.

The bill also creates a new joint and survivor annuity payment plan under the state retirement systems: the Public Employees Retirement System (PERS), the State Teachers Retirement System (STRS), the School Employees Retirement System (SERS), the Ohio Police & Fire Pension Fund (OP&F), and the Highway Patrol Retirement System (HPRS).

Details of the bill follow.

**Annual COLA** - The bill provides that the annual COLA payable under the five retirement systems shall be apportioned between the alternate payee and the benefit recipient in the same proportion that the alternate payee's benefit amount bears to the recipient's benefit amount. Under existing law, the COLA is payable only to the benefit recipient in its entirety.

The bill also provides that under the new joint and survivor annuity plan providing continuing benefits after the member's death to two, three or four beneficiaries, the annual COLA shall be divided among the designated beneficiaries in accordance with the portion of the benefit each beneficiary has been allocated. (R.C. §§145.323, 742.3711, 742.3716, 742.3717, 3307.67, 3309.374, 5505.174)

**Continuing Benefits to Former Spouse under Court Order** - The bill provides an exception to the automatic 50% joint and survivor annuity for married members under PERS, STRS, SERS, and OP&F which provides for the actuarial equivalent of the member's retirement allowance in a lesser amount payable for the life of the member and 50% of such allowance continuing after death to the member's spouse.<sup>1</sup> Under the bill, the automatic 50% joint and survivor annuity is waived *if* a plan of payment providing a specified amount continuing after death to the member's former spouse is required by a court order issued prior to the member's effective date of retirement. (This provision also applies to participants in the defined contribution plans established under PERS, STRS and SERS.)

Under existing law, the automatic 50% joint and survivor annuity may be waived only with the consent of the member's spouse.<sup>2</sup> Moreover, benefits payable to a former spouse pursuant to a division of benefits order (DOBO) currently terminate upon the member's death.

The bill provides that if a member is subject to a court order dividing retirement benefits and the retirement board has received a copy of such order, the board shall accept the member's election of a plan of payment at retirement, provided both of the following are satisfied:

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<sup>1</sup>HPRS law does not include the automatic 50% joint and survivor annuity for married members since the surviving spouse is entitled to 50% of the member's pension as a survivor benefit funded by the retirement system.

<sup>2</sup>Spousal consent may be waived due to the absence or incapacity of the member's spouse or any other cause specified by the board.

**Sub. H.B. 98 - Rep. Willamowski**

- the member elects a plan of payment that is in accordance with the court order;
- if the member is married, the member elects the new joint and survivor annuity plan designating the member's current spouse as a beneficiary, along with the member's former spouse, unless the current spouse consents in writing to not being designated a beneficiary or the board waives the requirement that the current spouse consent. (This provision also applies to participants in the defined contribution plans established under PERS, STRS and SERS.)

(R.C. §§145.46, 145.92, 742.3711, 3307.60, 3307.87, 3309.46, 3309.92, 5505.162)

**New Joint and Survivor Annuity Plan** - The bill creates a new joint and survivor annuity plan under the five state retirement systems which shall consist of the actuarial equivalent of the member's retirement allowance in a lesser amount payable for the life and some portion of the allowance continuing after death to two, three or four surviving beneficiaries designated by the member at retirement and in such amount as allocated by the member at retirement. No portion allocated to any beneficiary under this plan shall be less than 10 percent unless compliance with a court order dividing retirement benefits requires the allocation of less than 10 percent to any beneficiary. The total of the portions allocated under this plan shall not exceed 100 percent of the member's lesser allowance.

Under existing law, monthly benefits may *not* be paid to more than one beneficiary under the various plans of payment provided by the state retirement systems.

The death of any designated beneficiary following the member's retirement shall cancel that portion of the plan of payment providing continuing benefits to the deceased beneficiary. The member shall receive the actuarial equivalent of the retiree's single life annuity based upon the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary.

Upon remarriage, a retiree receiving an allowance pursuant to a plan of payment providing for a former spouse may elect the new joint and survivor annuity plan providing for the current spouse as well, provided the new plan of payment elected does not reduce the payment to the former spouse. (R.C. §§145.46, 742.3711, 3307.60, 3309.46, 5505.162)

**Background** - Prior to Sub. H.B. 535 (eff. 1/1/02), the laws of all five retirement systems generally provided that retirement benefits, including lump sum payments, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever, and shall not be assignable except as follows:<sup>3</sup>

- Alimony and child support pursuant to a withholding order; and
- Restitution for theft in public office or certain sex offenses committed within the context of the offender's employment pursuant to a withholding order.

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<sup>3</sup>The specific language of OP&F law differs from that of the other four retirement systems relative to the non-alienation of benefits.

## Sub. H.B. 98 - Rep. Willamowski

Ohio domestic relations law provides that “marital property” shall include retirement benefits that are acquired by either or both of the spouses during the marriage (R.C. §3105.171). Accordingly, Sub. H.B. 535 was enacted to address the conflict between Ohio’s domestic relations law that recognizes retirement benefits acquired during the marriage as marital property subject to equitable division upon termination of the marriage and Ohio’s public pension laws that recognize only the member’s right to retirement benefits, including lump sum payments, with the limited exceptions noted above.<sup>4</sup>

Effective January 1, 2002, Sub. H.B. 535 required the five state retirement systems to comply with a division of benefits order (DOB0) issued by a court upon termination of marriage that meets all of the following requirements:

- The order must be on a form created jointly by the state retirement systems, the Ohio State Bar Association and the Ohio Domestic Relations Judges Association;
- The order must set forth the name and address of each retirement system made subject to the order;
- The order must set forth the names, social security numbers, and current addresses of the member and alternate payee;
- The order must specify the amount to be paid to the alternate payee as both a monthly dollar amount and as a percentage amount with the numerator being the number of years in which the member was both a member of the retirement system(s) and married to the alternate payee and the denominator being the member’s total years of service at the time the member elects to receive a benefit or lump sum payment;
- The order must specify the amount to be paid to the alternate payee from each benefit or lump sum payment if the member is eligible for more than one benefit or lump sum payment;
- The order must require the member or alternate payee to notify the retirement system in writing of any change in address;
- The order must notify the alternate payee of the following:
  - The alternate payee’s right to payment under the order is conditional upon the member’s right to a benefit or lump sum payment;

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<sup>4</sup>For a married member covered by any of the five state retirement systems, the automatic plan of payment upon service retirement is a 50% joint and survivor annuity that provides an actuarially-reduced pension for the member’s life and one-half of such pension continuing for the spouse’s life. The written consent of the member’s spouse is required should the member elect an optional plan of payment providing for less than the 50% joint and survivor annuity. Moreover, once elected, the member may cancel a joint and survivor annuity upon termination of marriage **only** upon the written consent of the former spouse or a court order.

## **Sub. H.B. 98 - Rep. Willamowski**

- The possible reduction in the amount paid to the alternate payee if the member's benefit or lump sum payment is or becomes subject to more than one DOBO and/or spousal or child support order. (In the case of more than one DOBO and/or spousal or child support order, spousal or child support orders have priority over all other orders. All other orders have priority in order of earliest retention by the retirement system);
- The possible termination of the alternative payee's rights to payment upon the earlier of the member's death, the alternate payee's death or termination of the member's benefit.
- The order must apply to payments made by the retirement systems after retention of the order;
- The benefit amount used to determine the amount to be paid to the alternate payee shall be the monthly benefit amount the member is receiving at the time the decree for divorce or dissolution becomes final or, if the member has not applied for a benefit, the monthly benefit amount calculated at the time the member elects to receive it;
- Payments to an alternate payee shall commence as soon as practicable if the member is receiving a benefit or has applied for, but not yet received a lump sum payment or upon application for a benefit or lump sum payment if the member has not yet applied for a benefit or lump sum payment;
- The order shall not require the retirement system to take any action or provide any benefit not authorized by the law governing the retirement system;
- The order shall authorize the retirement system to determine an amount necessary to defray the cost of administering the order and divide such charge equally between the member and the alternate payee;
- The total of the amounts to be paid to an alternate payee(s) shall not exceed 50% of the member's benefit or lump sum payment.

In an interesting development that occurred between the legislative enactment and the effective date of Sub. H.B. 535, the Ohio Supreme Court ruled in Erb v. Erb; Ohio Police & Fire Pension Fund (Erb II) (May 30, 2001) that OP&F must comply with the terms of a domestic relations order requiring it to pay directly to the member's former spouse that portion of the member's benefit that represents the former spouse's property interest pursuant to a division of marital property. According to this ruling, the anti-alienation provisions of OP&F law do not prohibit direct payments to a member's former spouse (i.e., non-member of the fund) who has been awarded a property interest in the pension fund pursuant to a division of marital property. The anti-alienation provisions are intended to protect member benefits from the creditors of persons to whom benefits are due; a member's former spouse who has been awarded a property interest in the member's benefit is not a creditor, but has an outright property interest in the benefit itself. Moreover, the changes enacted in Sub. H.B. 535 relative to the division of public pensions upon termination of marriage reflect the legislature's dissatisfaction with numerous courts' incorrect interpretations of the anti-alienation provisions which prohibited OP&F from making direct payments to a former

## **Sub. H.B. 98 - Rep. Willamowski**

spouse pursuant to a domestic relations order and simply clarify the law as it exists today. A subsequent motion for reconsideration of the Supreme Court's ruling was denied.

As previously noted in footnote #3, the specific language of the anti-alienation provisions under OP&F law differs from that of the other four retirement systems. In Patterson v. Patterson, (February 18, 2003), the Ohio Court of Appeals for the Twelfth Appellate District recognized the difference in specific language and overturned the trial court's application of the Erb II decision to PERS on that basis.

Pursuant to Section 11 of Sub. H.B. 535, the Ohio Retirement Study Council was required to have prepared a report that examines all of the following issues relative to the division of benefits provided by the five state retirement systems upon termination of marriage:

- Provision of benefits to a former spouse of a member or retirant of the retirement systems;
- Cost and feasibility of offering an optional plan of payment that provides for continuing benefits after the death of a retirant to more than one beneficiary;
- Cost and feasibility of providing a cost-of-living allowance or other post-retirement benefit adjustment to an alternate payee; and
- Any other issues related to the division of retirement benefits upon termination of marriage.

The report was presented by Milliman USA to the ORSC on January 9, 2002.

**Fiscal Impact** - H.B. 98 is intended to have an actuarial cost-neutral impact upon the five state retirement systems since the member's retirement allowance would be reduced on an actuarial basis in order to provide for continuing benefits to more than one beneficiary. Also, the allocation of the annual 3% COLA between the alternate payee and the benefit recipients would have no actuarial impact upon the retirement systems.

**ORSC Position** - At the May 14, 2003 meeting of the Ohio Retirement Study Council, the ORSC voted to recommend that the 125th Ohio General Assembly approve H.B. 98 upon the adoption of the following amendments:

- That the proposed changes be made to the Ohio Police and Fire Pension Fund and the Highway Patrol Retirement System in order to maintain the existing uniform and equal treatment of Ohio's public employees relative to the division of benefits upon termination of marriage (Included in Sub. H.B. 98);
- That the effective date of the bill be delayed to July 1, 2004, assuming the bill is enacted before the end of this year, in order to provide the retirement systems adequate time to implement the proposed changes under the bill (18-month delayed effective date included in Sub. H.B. 98)
- That certain technical corrections identified by ORSC staff be made (Included in Sub. H.B. 98).

**Effective Date** - October 27, 2006

## **Sub. H.B. 230 - Rep. Reinhard**

Sub. H.B. 230 generally makes changes to the laws governing the Department of Public Safety. This analysis describes only those provisions of the bill that relate to the Ohio public retirement systems.

Sub. H.B. 230 increases the mandatory retirement age for members of the Highway Patrol Retirement System (HPRS). Prior law required members of HPRS to apply for retirement at age 55. This bill increases the mandatory retirement age to 60. It continues to allow members who reach the mandatory retirement age to continue serving as a state trooper after reaching the mandatory retirement age but only until they attain 20 years of service.

### **Fiscal Impact**

A detailed fiscal analysis of this bill was not completed.

### **ORSC Position**

The Ohio Retirement Study Council took no action on Sub. H.B. 230.

### **Effective Date**

September 16, 2004; certain provisions effective July 1, 2004.

## **Am. Sub. H.B. 311 - Rep. Hagan**

Am. Sub. H.B. 311 would generally create the Ohio's Best Rx Program under which eligible residents of Ohio would receive discounted prices on covered prescription drugs. This analysis is limited to those provisions of the bill that relate to the five state retirement systems in Ohio: the Public Employees Retirement System (PERS), the State Teachers Retirement System (STRS), the School Employees Retirement System (SERS), the Ohio Police and Fire Pension Fund (OP&F), and the Highway Patrol Retirement System (HPRS).

The bill would require each retirement system to submit the following information to the Ohio Department of Job and Family Services (ODJFS):

- The name of each health care plan offered by the retirement system;
- The number of individuals eligible for benefits under each health care plan;
- The formula used to determine the per unit price for each drug covered by the plan and dispensed through means other than a mail order system, the per unit price for each drug, or both the formula and per unit price for each drug, if available;
- The per unit rebate for each drug covered by the plan and dispensed through a mail order system or other means.

In submitting the above information about drugs covered by the plan(s), the retirement systems would be required to do all of the following:

- Compute and submit information separately for each covered drug according to its national drug code number;
- Submit the formula, per unit price, or both the formula and per unit price, if available, for each covered drug after each change to the formula or per unit price *not less than weekly* should the formula or per unit price change more than once a week;
- Provide for the formula or per unit price information to reflect the formula or per unit price as most recently changed;
- Submit the information regarding per unit rebates once a year, including the per unit rebates for the previous calendar year.

(ODJFS would be required to use the above information, along with identical information submitted by the Department of Administrative Services, to compute weighted average prices and rebates and use those weighted averages in determining the discounted price for drugs covered under the Ohio's Best Rx Program and the amount paid thereunder to participating pharmacies.)

If a pharmaceutical manufacturer has not entered into a rebate agreement under the program with respect to a drug for which the retirement systems receive a rebate, ODJFS shall ask each retirement system to determine whether the drug should be placed for the following plan year on a prior authorization list.

**Staff Comments** - Since 1974, the legislature has granted the state retirement systems discretionary authority to offer retiree health care plans to the extent that resources not otherwise

**Am. Sub. H.B. 311 - Rep. Hagan**

required to fund the pension plans are available. This authority recognizes that post-retirement health care benefits (which are **not** guaranteed by statute) are secondary to pension benefits (which are guaranteed by statute upon the granting thereof) by allowing the individual retirement boards to change the level of coverage and the costs paid by benefit recipients at any time and to terminate such coverage, if necessary.

The retirement systems currently spend nearly \$670 million on prescription drugs costs alone, and have experienced double-digit increases in such costs over the last several years. These costs are summarized in the following table:

<b>Retirement System</b>	<b>Prescription Drug Costs</b>
PERS	\$314,213,257
STRS	\$200,000,000 (approx.)
SERS	\$99,249,656
OP&F	\$53,762,570
HPRS	\$2,650,000 (annualized)
<b>Total</b>	<b>\$669,875,483</b>

To give some perspective on the significance of the retirement systems' prescription drug costs, the total retiree health care costs paid by the retirement systems were over \$1.6 billion last year; prescription drug costs constituted 42 percent of these costs.

Under the proposed bill, the state retirement systems would be required to submit their negotiated prescription drug discounts and rebates from pharmaceutical manufacturers and distributors to the Ohio Department of Job and Family Services (ODJFS) which, in turn, would use this information as the basis for determining the discounted price for drugs covered under Ohio's Best Rx Program and the amount paid thereunder to participating distributors. This requirement would likely cause prescription drug costs to increase for the retirement systems by hampering their ability to negotiate for such discounts and rebates in the future, since manufacturers and distributors wishing to participate in the Ohio Best Rx Program would be required to offer the same terms to individuals enrolled in that Program as well. It is likely that fewer manufacturers and distributors will be willing or able to offer the same level of discounts or rebates previously achieved by the retirement systems. The likely effect will mean smaller discounts and rebates spread over a larger population and, thus, greater costs for the retirement systems and their participants.

A recent actuarial report prepared by Milliman USA on the adequacy of the contribution rates under OP&F, STRS and SERS generally shows that significant reductions in retiree health care benefits, including perhaps elimination thereof, will be necessary to place the retirement systems in compliance with the maximum 30-year funding period required by law *unless* contribution rates are increased, pension benefits are reduced and/or the funding periods are extended well beyond 30 years. A similar review of PERS and HPRS is under way. Potentially increasing the cost of retiree health care benefits at this critical juncture will only exacerbate the existing challenges facing the retirement boards as well as the legislature. It should be noted that to the extent that the retirement systems pay for retiree health care benefits, the law provides that such costs shall be

## **Am. Sub. H.B. 311 - Rep. Hagan**

included as part of the employer contribution rate.

The proposed bill could also add significant administrative costs to the retirement systems by requiring them to provide ODJFS with detailed, up-to-date reports on the cost of each drug covered under each plan offered by the systems, not less than weekly each time a drug cost changes. This raises a significant legal issue of whether the use of retirement system funds for purposes of enabling the ODJFS to administer the Best Rx Program is a breach of the retirement boards' fiduciary duty to discharge their duties with respect to the funds "solely in the interest of the participants and beneficiaries; for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the retirement system ...". Under the bill, each retirement system would be an integral part of the on-going administration of the Ohio Best Rx Program by serving as the pricing mechanism, along with DAS, for the discounts and rebates offered under the Program.

The proposed bill further provides that if a manufacturer has not entered into a rebate agreement with respect to a drug covered by a retirement system's health care plan that receives a rebate from that manufacturer, ODJFS shall ask the retirement system to determine whether the drug should be placed for the following plan year on a prior authorization list. As indicated above, each retirement board's discretionary authority to offer retiree health care plans and determine the type of coverage offered, if any, dates back some 30 years. As a matter of public policy, the legislature should be cautious about any implications that may be drawn by involving the retirement systems with any state-sponsored health care plans so as not to jeopardize the ability of the retirement systems to change or terminate their retiree health care plans, if necessary, and inadvertently cause the legislature to assume future responsibility for such plans. In this regard, it should be noted that unlike the authority of DAS which mandates the provision of health care coverage for all eligible state employees and elected officials as evidenced by the use of the word "shall" under R.C. §124.81, the authority of the retirement systems to provide health care coverage for their beneficiaries is generally permissive as evidenced by the use of the word "may" under R.C. §§145.58, 742.45, 3307.39, 3300.69 and 5505.28.<sup>5</sup>

**Fiscal Impact** - This bill would have no impact on the actuarial funding of the retirement systems because health care benefits are discretionary and could be discontinued if the systems no longer could afford to offer them in the future. However, there would be administrative costs incurred by the retirement systems and it is likely that prescription drug costs could increase for the systems and their participants.

**Staff Recommendation** - That the Ohio Retirement Study Council recommend that the 125th Ohio General Assembly remove the state retirement systems from the provisions of H.B. 311 for the following reasons:

- the retirement systems could see above normal price increases for prescription drugs as a result of this legislation which already constitute 42% of their total health care costs. Also, a recent actuarial report prepared by Milliman USA generally shows that significant reductions in retiree health care benefits, including perhaps elimination thereof, will be necessary to place the retirement systems in compliance with the 30-year funding period

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<sup>5</sup>The only mandate relates to reimbursements for Medicare Part B premiums under these sections (eff. 8/20/76).

**Am. Sub. H.B. 311 - Rep. Hagan**

required under existing law *unless* contribution rates are increased, pension benefits are reduced and/or the funding periods are extended well beyond 30 years.

- the bill raises a significant legal issue of whether the use of retirement system funds (administrative costs incurred by the retirement systems) for purposes of enabling the ODJFS to administer the Best Rx Program is a breach of the retirement boards' fiduciary duty to discharge their duties with respect to their funds "*solely in the interest of the participants and beneficiaries; for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the retirement system ...*"
- As a matter of public policy, the legislature should be very cautious about any implications that may be drawn by involving the retirement systems with any state-sponsored health care plans so as not to jeopardize the system's ability to change or terminate their retiree health care plans, if necessary, and inadvertently cause the legislature to assume future responsibility for such plans. In this regard, it should be noted that unlike the authority of DAS which mandates the provision of health care coverage for all eligible state employees as evidenced by the use of the word "shall" under R.C. §124.82, the authority of the retirement systems to offer health care coverage to their beneficiaries is generally permissive as evidenced by the use of the word "may" under R.C. §§145.58, 742.45, 3307.39, 3309.69 and 5505.28.

**ORSC Position** - The ORSC took no action on this bill.

**Effective Date** - December 18, 2003 (Emergency)

## **Am. Sub. H.B. 449 - Rep. Seitz**

Am. Sub. H.B. 449 makes the following changes to the laws governing the Public Employees Retirement System (PERS), the State Teachers Retirement System (STRS), the School Employees Retirement System (SERS), and the Ohio Police and Fire Pension Fund (OP&F)<sup>6</sup>:

- Allows a retiree who is reemployed in a position covered by PERS, STRS, SERS, or OP&F to receive a refund of contributions upon retirement from reemployment prior to age 65 in PERS, STRS, and SERS and age 60 in OP&F in lieu of a money purchase benefit for the period of reemployment.

Current law provides that a reemployed retiree who subsequently retires from reemployment may receive a money purchase benefit that consists of either a monthly benefit or a lump sum payment that begins on the last day for which compensation from the reemployed position was paid or age 65 in PERS, STRS, and SERS and age 60 in OP&F, whichever is later.

- Requires a married reemployed retiree in PERS or OP&F who retires from reemployment to receive a joint and survivor benefit providing 50% of the member's actuarially-reduced pension to the surviving spouse for life upon the member's death unless the spouse consents in writing to another form of payment.

Current PERS law permits a reemployed retiree who again retires to select a joint and survivor annuity but does not require a married retiree to do so. Current OP&F law does not allow a reemployed retiree who again retires to elect to receive a joint and survivor benefit.

- Provides that if a beneficiary in PERS or OP&F who is receiving a monthly annuity dies and the total amount paid to the retiree and the beneficiary is less than the amount the retiree would have received as a lump sum, the beneficiary's estate would receive the difference between the amounts.

Current law provides that if a retiree who is receiving a monthly annuity dies and the total amount paid to the retiree is less than the amount the retiree would have received as a lump sum, the retiree's beneficiary receives the difference between the amounts. There is not a similar provision regarding beneficiaries.

- Allows a reemployed retiree in PERS to specify the date that the money purchase benefit will commence.

Current law provides that the money purchase benefit begins on the last day for which compensation for the reemployment period was paid; when the reemployed retiree attains age 65; or if the reemployed retiree was previously reemployed and received a money purchase benefit, twelve months after the effective date of the last benefit, whichever is latest.

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<sup>6</sup>HPRS is not included in the bill because current law does not provide for the reemployment of retirees since persons over age 35 are ineligible to become state troopers.

## **Am. Sub. H.B. 449 - Rep. Seitz**

- Changes the calculation of the money purchase benefit that a reemployed retiree in PERS, STRS, and SERS receives upon termination of reemployment.

**Staff Comments** - Am. Sub. H.B. 449 would allow a reemployed retiree in a position covered by PERS, STRS, SERS, or OP&F who retires again from public service to receive a refund under certain circumstances if the retiree is under age 65 in PERS, STRS, or SERS and age 60 in OP&F. Prior to the enactment of Am. Sub. H.B. 449, a reemployed retiree who again retired from reemployment received a monthly benefit or a lump sum payment that began on the last day for which compensation from the reemployed position was paid or age 65 in PERS, STRS, and SERS and age 60 in OP&F, whichever was later. Therefore, if the re-retirement occurred prior to age 65 in PERS, STRS, or SERS and age 60 in OP&F, the retiree was required to wait until age 65 in PERS, STRS, or SERS and age 60 in OP&F to receive a benefit. Upon reaching eligibility the retiree received a money purchase benefit.

In order to receive a refund prior to age 65 from PERS and age 60 in OP&F, the bill provides that three months must have elapsed since termination of reemployment and the retiree must not have returned to public service other than exempted service. In order to receive a refund prior to age 65 from STRS and SERS, the retiree must have terminated employment for which the contributions were made for any reason other than death and, if the retiree had previously received a refund of contributions for reemployment after retirement, twelve months must have passed since the date of the refund. The refund amount for retirees in PERS, STRS, and OP&F equals the retiree's employee contributions made during the reemployment, plus interest. For SERS members, the refund amount equals the retiree's employee contributions made during the reemployment. If the retiree elects to receive a refund, the retiree is no longer eligible to receive a benefit for the period of reemployment. The refund provision of this bill would affect only reemployed retirees who again retire before reaching age 65 in PERS, STRS, or SERS and age 60 in OP&F. A reemployed retiree who again retires after age 65 in PERS, STRS, or SERS and age 60 in OP&F would continue to be subject to the money purchase provisions.

The bill also changes the calculation of the money purchase benefit in PERS, STRS, and SERS. Upon reaching eligibility under prior law, the retiree received a money purchase benefit that consisted of an annuity equal to the amount of the retiree's accumulated contributions for the period of reemployment, other than contributions excluded during the mandatory two month waiting period between first retirement and reemployment, and an equal amount of the employer's contributions, (plus interest at the current actuarial rate of interest for STRS and SERS). The benefit could be taken as either a monthly annuity or a lump sum payment discounted to the present value using the current actuarial assumption rate of interest. Am. Sub. H.B. 449 changes the calculation of the money purchase benefit in PERS, STRS, and SERS. Under the bill, the money purchase benefit in PERS is equal to the amount of the retiree's accumulated contributions for the period of employment, other than contributions excluded during the mandatory two month waiting period between first retirement and reemployment, plus an amount of the employer's contributions determined by the board. The money purchase benefit calculation for STRS and SERS reemployed retirees is changed to the amount of the retiree's accumulated contributions, excluding contributions made during the two-month waiting period, plus an amount determined by the board, plus interest at a rate determined by the board. Am. Sub. H.B. 449 provides that the lump sum payment for reemployed retirees of PERS, STRS, and SERS is discounted to the present value using a rate of interest determined by the board, rather than the current actuarial assumption.

Am. Sub. H.B. 449 also requires a married reemployed retiree in PERS or OP&F who retires

## **Am. Sub. H.B. 449 - Rep. Seitz**

from reemployment to receive a joint and survivor benefit that provides 50% of the member's actuarially-reduced pension to the surviving spouse for life upon the member's death unless the spouse consents in writing to another form of payment. The bill provides that the board can waive the requirement for written spousal consent if the spouse is incapacitated or cannot be located or for any other reason specified by the board. This provision is consistent with current law regarding the selection of a plan of payment upon retirement. When a married member retires for the first time, the automatic plan of payment is a joint and survivor annuity providing 50% of the member's actuarially-reduced pension to the surviving spouse for life upon the member's death unless the spouse consents in writing to the member's election of a different plan of payment or the spouse is incapacitated or cannot be located or for any other reason specified by the board. Reemployed retirees in PERS-covered positions were first given the option of selecting a joint and survivor annuity in 2002 (S.B. 247, eff. 10-1-02). At that time, however, no provision was included that would have required a married retiree to select a joint and survivor benefit. This provision would correct that oversight and extend the joint and survivor option, along with the spousal consent requirement, to OP&F.

**Fiscal Impact** - According to the PERS actuary, Gabriel, Roeder, Smith & Company, H.B. 449 would have no measurable effect on PERS. The option to elect a refund of contributions prior to age 65 would result in a small savings to the extent that subsequent retirants elected to forgo a more valuable money purchase annuity benefit at age 65. The requirement to obtain spousal consent to the retirant's plan of payment would be cost neutral. The potential lump sum payments to estates of beneficiaries would have a de-minimis financial effect.

The ORSC actuary, Milliman USA, has reviewed GRS' analysis and concurs with the findings.

**ORSC Position** - At the May 12, 2004 meeting of the Ohio Retirement Study Council, the Council voted to recommend that the 125th Ohio General Assembly approve H.B. 449 upon the adoption of an amendment that would allow reemployed retirees of STRS, SERS, and OP&F who subsequently retire to elect to receive a refund prior to age 65 in STRS and SERS and age 60 in OP&F.

*This amendment was adopted at the May 18, 2004 meeting of the House Banking, Pensions and Securities Committee.*

**Effective Date** - April 11, 2005

## **Sub. S.B. 133 - Sen. Wachtmann**

Sub. S.B. 133 is an omnibus pension reform bill that is intended to improve accountability, oversight and ethical standards with respect to the governance of the five state retirement systems in Ohio: the Public Employees Retirement System (PERS), the State Teachers Retirement System (STRS), the School Employees Retirement System (SERS), the Ohio Police & Fire Pension Fund (OP&F) and the Highway Patrol Retirement System (HPRS).

A description of the numerous changes follows:

### **Retirement System Lobbying Registration and Disclosure**

- Requires retirement system lobbyists and their employers to file a registration statement, along with any statement of expenditures and details of financial transactions, with the Joint Legislative Ethics Committee (JLEC). This requirement is modeled after existing law governing executive agency lobbyists. (R.C. §§101.90 to 101.99)

The initial registration statement shall be filed within 10 days following the engagement, and shall include the following: (1) the name, business address and occupation of the retirement system lobbyist; (2) the name and business address of the employer or the real party in interest on whose behalf the lobbyist is acting; (3) a brief description of the retirement system decision to which the engagement relates; and (4) the name of the retirement system(s) to which the engagement relates. Updated registration statements, including statements of expenditures and details of financial transactions, shall be filed no later than the last day of January, May and September of each year that confirm the continuing existence of the engagement and that list the specific retirement decisions the lobbyist sought to influence under the engagement during the period covered by the statement. Within 30 days following termination of any engagement, the lobbyist shall send written notice of the termination to the Joint Legislative Ethics Committee. A fee of \$25 shall be charged for filing an initial registration statement and a registration card shall be issued. The registration shall be valid from the date of issuance until the 31st day of January of the following year.

The statement of expenditures shall include the following information: (1) the name of the board member, state retirement system investment official or employee whose position involves substantial and material exercise of discretion in the investment of funds to whom the expenditures were made; (2) the total amount of the expenditures made; (3) a brief description of the expenditures made; (4) the approximate date the expenditures were made; (5) the retirement system decision, if any, sought to be influenced; and (6) the identity of the client on whose behalf the expenditures were made. (Expenditures filed by a retirement system lobbyist shall not include payment for meals and beverages to a board member, investment official or employee that, when added to previous payments in the same calendar year, are less than \$50; also, expenditures filed by an employer shall not include expenses for maintaining office facilities or compensation paid to retirement system lobbyists.) At least 10 days before filing the statement of expenditures, each retirement system lobbyist or employer shall deliver a copy thereof to the board member, investment official or employee listed in the statement as having received the expenditure. Retirement system lobbyists and employers shall retain receipts or maintain records for all expenditures required to be reported for a period ending on the last day of the second calendar year following the year in which the expenditures were made.

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Details of financial transactions shall include the following information: (1) the name of the board member, state retirement system investment official or employee whose position involves substantial and material exercise of discretion in the investment of funds involved in the transaction with the retirement system lobbyist or employer; (2) the purpose and nature of the transaction; and (3) the date the transaction was made. At least 10 days before filing the details of the transaction, each retirement system lobbyist or employer shall deliver a copy thereof to the board member, investment official or employee involved in the transaction.

If an employer who engages a retirement system lobbyist is the recipient of a contract, grant, lease or other financial arrangement to which funds of the state or retirement system are allocated, any failure on the part of such employer or lobbyist to comply with the above registration and disclosure requirements shall be considered a breach of a material condition of the contract, grant, lease or other financial arrangement. Each retirement system may require certification from any person seeking the award of a contract, grant, lease or other financial arrangement and such person's employer of compliance with the registration and disclosure requirements required above.

If a dispute arises between a board member, state retirement system investment official or employee and an employer or retirement system lobbyist with respect to an expenditure or financial transaction, the same may file a complaint with the Ohio Ethics Commission at least three days prior to the time the statement is required to be filed with JLEC. The Commission shall investigate the complaint, and notify the parties of its final decision by certified mail. If the Commission decides that the disputed expenditure or financial transaction should be reported, the employer or retirement system lobbyist shall include the matter in an amended statement and file it no later than 10 days after receiving notice of the decision. An employer or retirement system lobbyist who files a false statement of expenditures or financial transactions is liable in a civil action to any board member, official or employee who sustains damage as a result.

The above filing requirements do *not* apply to efforts to influence retirement system decisions or conduct retirement system lobbying activities through any of the following: (1) appearances at public hearings of a retirement system or any other public meetings; (2) news, editorial, and advertising statements published in bona fide newspapers, journals or magazines, or broadcast over radio or television; (3) gathering and furnishing information and news by bona fide reporters, correspondents, or news bureaus to news media; and (4) publications primarily designed for and distributed to members of bona fide associations or charitable or fraternal nonprofit corporations. Also, the above filing requirements do *not* prohibit a board member from soliciting or accepting a contribution from or an expenditure by any person if such contribution or expenditure is reported in accordance with the campaign finance laws.

The bill provides that no person shall engage any person to influence retirement system decisions or conduct retirement system lobbying activities on a contingent fee basis. However, this provision does *not* prohibit compensating retirement system lobbyists pursuant to an incentive compensation plan if such plan is the same plan used to compensate similarly situated sales employees who are not retirement system lobbyists.

The executive director of JLEC shall be responsible for reviewing registration statements

## **Sub. S.B. 133 - Sen. Wachtmann**

and determining whether they include all the information required under the bill. JLEC shall send written notice by certified mail to the person who filed the statement of any deficiencies or to the person who failed to file the statement of such failure. Any person so notified shall, no later than 15 days after receiving such notice, file a registration statement or an amended registration statement that includes all the required information. JLEC shall assess a late filing fee of \$12.50 per day, up to a maximum fee of \$100, upon any person who fails to file such statement or amended statement within this fifteen-day period, though the JLEC may waive the late filing fee for good cause shown.

No later than the fifteenth day of March of each year, the JLEC shall publish a report containing statistical information on the registration statements filed with it during the preceding year. The JLEC shall keep on file all statements required to be filed with it, which shall be public records and open to public inspection. The JLEC shall computerize these statements to make them readily available to the general public. The JLEC shall provide copies of such statements to the general public upon request, and may charge a reasonable fee not to exceed the cost of copying and delivering the statements. No later than the last day of February and October of each year, the JLEC shall compile a complete and updated list of registered retirement system lobbyists and their employers, and distribute such list to each member of the General Assembly, elected executive official, and the director of each retirement system who shall distribute the list to the appropriate personnel under the director's jurisdiction. The JLEC shall also provide copies of the list to the general public upon request.

The JLEC shall prescribe and make available the appropriate form for filing the statements required above. The form shall include the following notice in boldface: "ANY PERSON WHO KNOWINGLY FILES A FALSE STATEMENT IS GUILTY OF FALSIFICATION UNDER SECTION 2921.13 OF THE REVISED CODE, WHICH IS A MISDEMEANOR OF THE FIRST DEGREE." The JLEC shall also publish a handbook that explains in clear and concise language the above filing requirements and make it available free of charge to retirement system lobbyists, employers and any other interested persons.

The bill provides that the Attorney General or any assistant or special counsel designed by the Attorney General may investigate compliance with the above filing requirements and, in the event of an apparent violation, shall report the findings of such investigation to the prosecuting attorney in Franklin County, who shall institute appropriate proceedings.

Any person who knowingly fails to register, keep a receipt or maintain a record, or file a statement of expenditures or details of financial transactions is guilty of a misdemeanor of the fourth degree, along with any person who engages or is engaged as a retirement system lobbyist on a contingent fee basis. Any person who knowingly files a false statement is guilty of a misdemeanor of the first degree.

## **Financial Disclosure Statements Filed with Ohio Ethics Commission**

- Requires the board members and investment officers of the five state retirement systems to file a financial disclosure statement with the Ohio Ethics Commission. Investment officers include the chief investment officer, assistant investment officers, and any person in charge of a class of assets or in a substantially equivalent position. In addition, the bill requires members of the Ohio Retirement Study Council (ORSC) who are appointed by the

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Governor and ORSC employees other than employees who perform purely administrative and clerical duties to file financial disclosure statements. The financial disclosure statements would be considered public records because they are required to be filed pursuant to statute rather than administrative rule. (R.C. §102.02)

Currently, the chief executive officer of each system is required by statute to file a financial disclosure statement; board members of each system are required by administrative rule to file financial disclosure statements with the Ohio Ethics Commission and, therefore, such statements are considered confidential under current law.

The bill prohibits board members, investment officers and employees of the retirement systems whose position involves substantial and material exercise of discretion in the investment of retirement funds from accepting or soliciting payment of actual travel expenses, including lodging, meals, food and beverages. (R.C. §103.03)

The bill permits the Ohio Ethics Commission to share information gathered in the course of any investigation of a board member of any of the five state retirement systems who is accused of violating the Ohio ethics laws with the Attorney General and Auditor of State. The Commission shall report its findings to the ORSC if the Commission finds by a preponderance of the evidence that the facts alleged in the complaint are true and constitute a violation of the Ohio ethics laws (R.C. §102.06).

### **Civil Actions Filed by Attorney General for Breach of Fiduciary Duty**

- Authorizes the Attorney General to file a civil action against a board member of the five state retirement systems for breach of fiduciary duty. The Attorney General may recover damages or be granted injunctive relief, which shall include the enjoinder of specified activities and the removal of the member from the board. Any damages awarded shall be paid to the retirement system. The bill specifies that this authority is in addition to any other authority granted to the Attorney General under any other provision of the Revised Code. (R.C. §§109.98, 145.114, 742.114, 3307.152, 3309.157, 5505.065)

The Attorney General currently serves as the legal adviser for each retirement system.

### **Board Elections**

- Requires the retirement boards, following consultation with the Secretary of State, to adopt rules in accordance with Chapter 119 of the Revised Code governing the administration of elections of board members to the five state retirement systems; nominating petitions for elections; certification of the validity of nominating petitions for elections; and certification of the results of elections. Each board may contract with the Secretary of State or an independent firm to administer the elections, certify the validity of nominating petitions, and certify the results of the election. The Secretary of State and independent firm shall perform these services in accordance with rules adopted by the retirement boards. Each board shall provide information necessary for the Secretary of State or independent firm to certify the election, notwithstanding any other provision of retirement law that would otherwise prohibit the disclosure of such information. If the board contracts with an independent firm to administer the election, the Secretary of State may audit the election. (R.C. §§145.058, 742.045, 3307.075, 3309.075, 5505.047)

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Currently, all elections of board members are conducted under the supervision of the retirement boards.

- Provides that a successor employee or retiree board member who is elected to fill a vacancy shall hold office until the next board election that occurs not less than 90 days after the successor's election to the board. (R.C. §§145.06, 742.05, 3307.06, 3309.06, 5505.042)

Under existing law, the successor employee or retiree board member holds office for the remainder of the predecessor's term.

### **Reporting to ORSC**

- Requires the Ohio Ethics Commission to report its findings, in addition to the appropriate prosecuting authority and the appointing or employing authority of the accused under existing law, to the Ohio Retirement Study Council (ORSC) with respect to any violation of the ethics laws committed by a board member of the five state retirement systems under R.C. Chapter 102 of the Revised Code, including having an unlawful interest in a public contract under R.C. §2921.42 and soliciting or receiving improper compensation under R.C. §2921.43. (R.C. §102.06)
- Requires the Auditor of State to report to the ORSC on the results of an audit, including any special audit, of the five state retirement systems. (R.C. §117.10)

### **Board Composition**

- Removes the Attorney General and Auditor of State as statutory members of the PERS, STRS, SERS, and OP&F boards. The Auditor is also removed from the HPRS board; unlike the other four retirement boards, the Attorney General is not a statutory member of the HPRS board. Also, the municipal officer appointed by the Governor is removed from the OP&F board.

The bill adds the Treasurer of State's investment designee to each retirement board, who shall be appointed by the Treasurer of State for a term of four years and meet all of the following qualifications:

- must be a resident of the state;
- must not have been employed within three years immediately preceding the appointment by any of the five state retirement systems or any person, partnership or corporation that has provided services of a financial or investment nature thereto;
- must have direct experience in the management, analysis, supervision or investment of assets; and
- must not be currently employed by the state or any political subdivision thereof.

The bill adds two investment experts to each retirement board, one of whom shall be appointed by the Governor and the other shall be appointed jointly by the President of the

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Senate and the Speaker of the House of Representatives for four-year terms. The initial additional investment experts shall be appointed not later than 90 days after the effective date of the act, except that the investment expert appointed jointly by the President and Speaker shall not take office immediately if taking office would result in an even-number board. The investment experts shall continue in office subsequent to the expiration date of their terms until their successors take office or 60 days elapses, whichever occurs first. Each investment expert shall meet all of the following qualifications:

- must be a resident of the state;
- must not have been employed within three years immediately preceding the appointment by any of the five state retirement systems or any person, partnership or corporation that has provided services of a financial or investment nature thereto; and
- must have direct experience in the management, analysis, supervision or investment of assets.

The bill adds one additional retiree member to the PERS, STRS, SERS and HPRS boards; the OP&F board currently includes two retiree members, one representing retired police officers and the other representing retired firefighters. Not later than 90 days after the effective date of the act, the Governor shall appoint the initial additional retiree member to these boards, who shall hold office until the next board election that occurs not less than 90 days after the appointment.

The bill adds one additional employee member to the HPRS board.

The bill provides that the superintendent of public instruction may designate a person to serve on the STRS board in lieu of the superintendent who meets all of the following qualifications:

- must be a resident of the state;
- must not have been employed within three years immediately preceding the appointment by any of the five state retirement systems or any person, partnership or corporation that has provided services of a financial or investment nature thereto; and
- must have direct experience in the management, analysis, supervision or investment of assets.

The bill provides that any board member who is replaced as a result of the bill by an elected or appointed member shall remain in office until the replacement member is appointed or elected. However, the bill fails to specify who replaces whom on the boards.

(See the attached table for a comparison of the board compositions before and after the enactment of Sub. S.B. 133.)

(R.C. §§145.04, 742.03, 3307.05, 3309.05, 5505.04, Section 5, Section 7)

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The bill would also provide that if a vacancy of an employee or retirant member of the OP&F board occurs, all of the remaining members of the board shall elect a successor employee or retirant member. Current law provides that such election shall be made by only the remaining employee or retirant members of the board. (R.C. §742.05)

- Requires at least one of the three current gubernatorial appointees to the ORSC to be a person with investment expertise. The bill also provides that gubernatorial appointees shall continue in office until their successors are appointed and qualified, notwithstanding the expiration of the appointee's term of office. (R.C. §171.01)

Currently, the ORSC is composed of 14 members as follows: three Senators appointed by the President of the Senate, no more than two of whom may be of the same political party; three Representatives appointed by the Speaker of the House, no more than two of whom may be of the same political party; three members appointed by the Governor, with the advice and consent of the Senate, one representing the state and its employees, one representing non-state governments and their employees and one representing educational employers and their employees, no more than two of whom may be of the same political party; and the five executive directors of the retirement systems as non-voting members. Also, gubernatorial appointees may remain in office subsequent to the expiration of their terms for a period not to exceed 60 days.

- Specifies that the Attorney General is the legal adviser of the ORSC. (R.C. §171.06)

The Attorney General has served as the legal adviser for the ORSC since its creation in 1968.

## **Orientation and Continuing Education Program**

- Requires the boards of the five state retirement systems to jointly develop an orientation and continuing education program for board members and submit it to the ORSC. The education program shall cover the following topics: board member duties; member benefits and health care management; ethics and governance processes; actuarial soundness; investments; and any other subject matter reasonably related to the duties of board members. The boards shall jointly pay the costs associated with establishing and conducting the education programs which shall be held in Ohio. (R.C. §171.50)
- Requires each newly-elected board member and each individual appointed to fill a vacancy on the board to complete the orientation program established by the retirement boards no later than 90 days after commencing service as a board member. The bill also requires board members who have served one or more years to attend continuing education programs established by the retirement boards not less than twice each year. (R.C. §§145.041, 742.031, 3307.051, 3309.051, 5505.064)

## **Travel Expenses of Board Members**

- Provides that a person who has served as an elected or appointed member of the retirement boards for one or more entire fiscal years in 2000, 2001 and 2002 shall be ineligible for reelection or reappointment to the board if the person accepted reimbursements for travel

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and travel-related expenses that average more than \$10,000 annually for those fiscal years. (R.C. §§145.042, 742.032, 3307.052, 3309.052, 5505.49)

### **Campaign Financial Disclosure**

- Requires each candidate or campaign committee that receives contributions or in-kind contributions or makes expenditures totaling \$1,000 or more in connection with the candidate's election to the boards of the five state retirement systems to file with the Secretary of State two complete, accurate and itemized statements setting forth in detail the contributions, in-kind contributions and expenditures relative to the board election. The first statement shall be filed no later than twelve days before election day, and shall reflect contributions and in-kind contributions received and expenditures made to the close of business on the twentieth day before the election. The second statement shall be filed no sooner than eight days after the election and no later than 38 days after the election, and shall reflect contributions and in-kind contributions received and expenditures made during the period beginning on the nineteenth day before the election and ending on the close of business on the seventh day after the election. Every expenditure shall be vouched for by a receipted bill stating the purpose of the expenditure; a canceled check with a notation of the purpose of the expenditure shall be deemed a receipted bill.

The bill also requires each individual, partnership, or other entity that makes an independent expenditure in connection with the candidate's efforts to be elected to a retirement board to file such statements with the Secretary of State detailing the expenditures.

The Secretary of State shall prescribe forms for the campaign finance disclosure statements and the independent expenditure statements.

"Contribution" is defined to mean a loan, gift, deposit, forgiveness of indebtedness, denotation, advance, payment, transfer of funds, or transfer of anything of value, including the transfer of funds from an inter vivos or testamentary trust or decedent's estate, and the payment by any person other than the person to whom the services are rendered for personal services to another person, which contribution is made, received or used for the purpose of influencing the results of a board election. "Contribution" does not include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a person; ordinary home hospitality; and the personal expenses of a volunteer paid for by that volunteer campaign worker.

"In-kind Contribution" is defined to mean anything of value other than money that is used to influence the results of a board election or is transferred to or used in support of or in opposition to a candidate and that is made with the consent of, in coordination, cooperation or consultation with, or at the request or suggestion of the benefitted candidate. The financing of the dissemination, distribution, or republication, in whole or in part, of any broadcast or of any written, graphic or other form of campaign materials prepared by the candidate, the candidate's campaign committee, or their authorized agents is an in-kind contribution.

"Expenditure" is defined to mean the disbursement or use of a contribution for the purpose of influencing the results of a board election or the results of an election to fill a vacancy on

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the board.

“Independent expenditure” is defined to mean an expenditure by an individual, partnership, or other entity advocating the election or defeat of a candidate(s) that is not made with the consent of, in coordination, cooperation or consultation with, or at the request or suggestion of any candidate. An independent expenditure shall not be construed as being a contribution. (R.C. §§111.30, 145.053, 742.042, 3307.072, 3309.072, 5505.044)

- No person shall knowingly fail to file a complete and accurate campaign finance or independent expenditure statement. Whoever violates this provision shall be subject to a fine of not more than \$100 per each day of the violation. Any fines imposed shall be paid into the Ohio Ethics Commission fund. (R.C. §§111.30, 145.054, 145.99, 742.043, 742.99, 3307.073, 3307.99, 3309.073, 3309.99, 5505.045, 5505.99)
- No person, during the course of a person seeking nomination for or during the campaign for election to the retirement board, shall knowingly and with intent to affect the nomination or outcome of the campaign do any of the following by means of campaign materials, an advertisement on radio or television or in a newspaper or periodical, a public speech, press release or otherwise:
  - with regard to a candidate, identify the candidate in a manner that implies that the candidate is a member of the board or use the term “re-elect” when the candidate is not currently a member of the board;
  - make a false statement concerning the formal schooling or training completed or attempted by a candidate; a degree, diploma, certificate, scholarship, grant, award, prize, or honor received, earned or held by a candidate; or the period of time during which a candidate attended any school, college, community technical school, or institution;
  - make a false statement concerning the professional, occupational, or vocational licenses held by a candidate or concerning any position held by the candidate for which salary or wages were received;
  - make a false statement that a candidate or public official has been indicted or convicted of a theft offense, extortion, or other crime involving financial corruption or moral turpitude;
  - make a statement that a candidate has been indicted for any crime or has been the subject of a finding by the Ohio Elections Commission without disclosing the outcome of any legal proceedings resulting from the indictment or finding;
  - make a false statement that a candidate or official has a record of treatment or confinement for mental disorder;
  - make a false statement that a candidate or official has been subjected to military discipline for criminal misconduct or dishonorably discharged from the armed services;

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- falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a candidate by a person or publication;
- make a false statement concerning the voting record of a candidate or public official;
- post, publish, circulate, distribute, or otherwise disseminate a false statement concerning a candidate, either knowing the same to be false or with reckless disregard of whether it is false, if the statement is designed to promote the election, nomination or defeat of a candidate.

Whoever violates these provisions shall be imprisoned for not more than six months or fined not more than \$5,000, or both. (R.C. §§145.054, 145.99, 742.043, 742.99, 3307.073, 3307.99, 3309.073, 3309.99, 5505.045, 5505.99)

- Authorizes the Secretary of State or any person with personal knowledge and subject to the penalties of perjury to file a complaint with the Ohio Elections Commission alleging a violation of the campaign financial disclosure requirements. Upon receipt of the complaint, the Ohio Elections Commission shall hold a public hearing to determine whether the alleged violation has occurred. The Commission may administer oaths and issue subpoenas to any person in the state compelling the attendance of witnesses and the production of documents. Upon refusal to obey a subpoena or to be sworn and answer as a witness, the Commission may apply to the court of common pleas of Franklin County to obtain compliance. The Commission shall provide the person accused of the violation at least seven days prior notice of the time, date and place of the hearing. The accused may be represented by an attorney and shall have an opportunity to present evidence, call witnesses and cross-examine witnesses. If the Commission determines that a violation has occurred, the Commission shall either impose a fine as authorized above, refer the matter to the appropriate prosecutor, or enter a finding that good cause has been shown not to impose the fine or refer the matter to the appropriate prosecutor. (R.C. §§145.055, 742.044, 3307.074, 3309.074, 5505.046)

### **Felony Charges and Other Criminal or Ethical Violations; Vacancy & Removal**

- Provides that the office of any employee member or retirant member of the five state retirement boards who is convicted of or pleas guilty to a felony, a theft offense, a violation of the ethics laws and offenses against justice and public administration shall be deemed vacant.<sup>7</sup> A person who has pleaded guilty to or been convicted of the above offenses is

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<sup>7</sup>Theft offenses include aggravated robbery; robbery; aggravated burglary; burglary; breaking and entering; safecracking; tampering with coin machines; theft; unauthorized use of a vehicle; unauthorized use of property, computer, cable or telecommunications property or service; possession or sale of unauthorized cable television device; telecommunications fraud; unlawful use of telecommunications device; passing bad checks; misuse of credit cards; forgery and identification card offenses; criminal simulation; making or using slugs; trademark counterfeiting; medicaid fraud; tampering with records; securing writing by deception; impersonating an officer; defrauding creditors; insurance fraud; workers' compensation fraud; receiving stolen property; cheating; theft in office; any offense under an existing or former municipal ordinance or law of this or another state or of the United States involving robbery, burglary, breaking and entering, theft,

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ineligible for election to the retirement boards.

- Provides that any board member of the retirement systems who willfully and flagrantly exercises authority or power not authorized by law, refuses or willfully neglects to enforce the law or to perform any duty imposed by law, or is guilty of gross neglect of duty, gross immorality, drunkenness, misfeasance, malfeasance, or nonfeasance is guilty of misconduct in office. Upon a complaint and hearing as provided below, the board member shall have judgment of forfeiture of the office, creating a vacancy in the office to be filled as provided by existing law.

Proceedings for the removal of such board member shall be commenced by filing with the court of appeals of the district in which the board member resides a written complaint specifically setting forth the charge. The complaint shall be accepted if signed by the Governor or signed by eligible members or retirees constituting at least 10 percent of the number of votes cast in the election for such board member position with at least 20 signatures in at least five different counties (or if no election, the most recent election held for such board member position). The clerk of court shall submit the signatures to the board, which shall verify the validity of the signatures and report its finding to the court.

The clerk of court shall cause a copy of the complaint to be served on the board member at least ten days before the hearing. The court shall hold a public hearing not later than 30 days after the filing of the complaint. The court may subpoena witnesses and compel their attendance in the same manner as in civil cases. Process shall be served by the sheriff of the county in which the witness resides. Witness fees and other fees in connection with the proceedings shall be the same as in civil cases. The court may suspend the board member pending the hearing.

If the court finds that one or more of the charges in the complaint are true, it shall make a finding for removal of the board member. The court's finding shall include a full detailed statement of the reasons for the removal, and shall be filed with the clerk of court and be made a matter of public record. The board member has the right of review or appeal to the supreme court on leave first obtained. The supreme court shall hear the case in not more than 30 court days after granting leave. In all other respects, the hearing shall follow the regular procedure in appealable cases that originate in the court of appeals. No person who has been removed from the board pursuant to the above procedure shall be eligible for

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embezzlement, wrongful conversion, forgery, counterfeiting, deceit or fraud; and a conspiracy or attempt to commit, or complicity in committing any of the offenses listed above.

Offenses against justice and public administration include bribery; perjury; falsification; obstructing official business; having an unlawful interest in public contract; soliciting or receiving improper compensation; and dereliction of duty.

Ethical violations include duty to file financial disclosure statement with ethics commission; restrictions on present and former public officials and employees; compensation or services received other than from agency with which person employed; and confidentiality of information in disclosure statements.

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future board membership.

This provision is modeled after existing law governing the removal of public officers under R.C. §3.07, et al. (R.C. §§145.057, 742.046, 3307.061, 3309.061, 5505.048)

### **Investment Officers**

- Requires each retirement board to designate a person who is a licensed state retirement investment officer to be the chief investment officer for the retirement fund. Each board shall notify the Division of Securities in writing of its designation and of any change thereto within 10 calendar days of the designation or change.

The chief investment officer shall reasonably supervise licensed state retirement system investment officers and other persons employed by the retirement fund with a view toward preventing violations of federal and state securities laws, and the rules and regulations thereunder. The duty of reasonable supervision shall include the adoption, implementation, and enforcement of written policies and procedures reasonably designed to prevent such persons from misusing material, nonpublic information in violation of these laws, rules and regulations.

No chief investment officer shall be considered to have failed to satisfy the duty of reasonable supervision if the officer has done all of the following:

- Adopted and implemented written procedures and a system for applying the procedures that would reasonably be expected to prevent and detect, insofar as practicable, any violation;
- Reasonably discharged the duties and obligations incumbent upon the chief investment officer by reason of the established procedures and system for applying the procedures when the officer has no reasonable cause to believe that there was a failure to comply with the procedures and systems;
- Reviewed, at least annually, the adequacy of the policies and procedures established and the effectiveness of their implementation;

The chief investment officer shall establish and maintain a policy to monitor and evaluate the effectiveness of securities transactions executed on behalf of the board. No chief investment officer shall be considered to have failed to satisfy this duty if the officer has done both of the following:

- Implemented the policy adopted by the board that outlines the criteria used to select agents that execute securities transactions on behalf of the retirement system;
  - Reviewed, at least annually, the performance of agents that execute securities transactions on behalf of the retirement system. (R.C. §§145.094, 742.104, 3307.043, 3309.043, 5505.065)
- Prohibits each retirement board from employing an investment officer who does not hold a valid state retirement system investment officer license issued by the Division of Securities

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in the Department of Commerce, effective 90 days after the effective date of the bill. (R.C. §§145.09, 742.10, 3307.11, 3309.14, 5505.07)

- Defines “state retirement investment officer” to mean an individual employed by a state retirement system as a chief investment officer, assistant investment officer, or the person in charge of a class of assets, or in a position substantially equivalent thereto. (R.C. §1707.01)
- Prohibits any person from acting as a state retirement investment officers unless the person is licensed as a state retirement investment officer by the Division of Securities. The bill also prohibits a state retirement investment officer from acting as a dealer, salesperson, investment advisor or investment advisor representative. (R.C. §1707.162)
- Requires applicants for a state retirement system investment officer license to file with the Division of Securities the information, materials and forms specified in rules adopted by the Division. The bill provides that the Division may investigate any applicant and require any additional information it considers necessary to determine the applicant’s business repute and qualifications to act as an investment officer. If the application requires the Division to investigate outside of this state, the applicant may be required to advance sufficient funds to pay any of the actual expenses of the investigation.
- Provides that the Division of Securities shall by rule require an applicant to pass an examination designated by the Division or achieve a specified professional designation unless the applicant meets both of the following requirements:
  - (1) acts a state retirement system investment officer on the effective date of the amendment;
  - (2) has experience or equivalent education acceptable to the Division.

If the Division finds that the applicant is of good business repute, appears to be qualified to act as a state retirement system investment officer, and has complied with Chapter 1707 and the rules adopted thereunder, the Division shall issue a license upon payment of the applicable fee. (R.C. §1707.163)

- The license fee shall be \$50.00. The license of every state retirement system investment officer shall expire on the thirty-first day of June of each year. The license may be renewed on the filing with the Division of Securities of an application for renewal and the payment of the \$50.00 fee. The Division shall give notice, without unreasonable delay, of its action on any application for renewal. (R.C. §1707.17)
- The license of a state retirement system investment officer may be refused, suspended or revoked if the Division of Securities determines that the investment officer:
  - (1) is not of good business repute;
  - (2) is conducting an illegitimate or fraudulent business;
  - (3) is, in the case of a dealer or investment adviser, insolvent;

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- (4) has knowingly violated any provision of Chapter 1707 of the Revised Code, or any regulation or order made thereunder;
  - (5) has knowingly made a false statement of a material fact or an omission of a material fact in an application for a license or in any statement made to the Division;
  - (6) has refused to comply with any lawful order or requirement of the Division;
  - (7) has been guilty of any fraudulent act in connection with the sale of any securities or in connection with acting as a state retirement system investment officer;
  - (8) conducts business in purchasing or selling securities at such variations from the existing market as in the light of all the circumstances are unconscionable;
  - (9) conducts business in violation of such rules and regulations as the Division prescribes for the protection of investors, clients, prospective clients, or state retirement systems; and
  - (10) has failed to furnish to the Division any information with respect to acting as a state retirement system investment officer. (R.C. §1707.19)
- If a court of Common Pleas grants an injunction against any state retirement system investment officer for violation of Ohio's securities laws, the Director of Commerce, after consultation with the Attorney General, may request that the court order the state retirement system investment officer to make restitution to the retirement system. (R.C. §1707.261)
  - No state retirement system investment officer shall do any of the following:
    - (1) employ any device, scheme or artifice to defraud any state retirement system;
    - (2) engage in any action, practice or course of business that operates or would operate as a fraud or deceit on any state retirement system;
    - (3) engage in any act, practice or course of business that is fraudulent, deceptive or manipulative; (The Division of Securities may adopt rules reasonably designed to prevent such acts, practices, or courses of business as are fraudulent, deceptive, or manipulative.)
    - (4) knowingly fail to comply with any policy adopted by the retirement systems regarding state retirement investment officers.

**Internal Audit Committee**

- Requires each retirement board to appoint a committee to oversee the selection of an internal auditor and to employ such person(s) selected. The committee shall consist of the following board members: one retired member, one employee member, and one other member (PERS - Director of Administrative Services; STRS - ex officio member; HPRS -

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ex officio member). The committee shall annually prepare a report of its actions during the preceding year and submit it to the ORSC. (R.C. §§145.094, 742.104, 3007.032, 3309.032, 5505.111)

### **Travel & Compensation Policies; Operating Budget & Communication Plan**

- Requires each retirement board to review, in consultation with the Ohio Ethics Commission, its existing policies regarding travel of board members and employees and to adopt rules establishing a new or revised policy. The boards shall submit the rules to the ORSC not less than 60 days before adopting a new or revised policy.
- Requires each retirement board to adopt rules establishing a policy regard employee bonuses if the board intends to award bonuses to employees. The board shall provide copies of the rules establishing a policy for travel and employee bonuses to each member of the ORSC.
- Requires each retirement board to submit to the ORSC its proposed operating budget, along with the administrative budget for the board, for the next immediate fiscal year and to adopt such budget no earlier than 60 days after submission to the ORSC.
- Requires each retirement board to submit to the ORSC a plan describing how the board will improve the dissemination of public information pertaining to the board. (R.C. §§145.092, 742.102, 3307.041, 3309.041, 5505.062)

### **Ethics Training & Policy**

- Requires each retirement board to provide ethics training to board members and employees regarding the requirements and prohibitions under the ethics provisions under Chapter 102 of the Revised Code, along with sections 2921.42 (having an unlawful interest in a public contract) and 2921.43 (soliciting or receiving improper compensation) of the Revised Code. The bill also requires the board to adopt a procedure to ensure that each employee is informed of the procedure for filing a complaint with the Ohio Ethics Commission or appropriate prosecuting attorney.
- Requires each retirement board, in consultation with the Ohio Ethics Commission, to develop an ethics policy to govern board members and employees in the performance of their official duties and submit it to the Commission for approval. The Commission shall review the policy and, if the Commission determines that it is adequate, approve the policy. If the Commission determines that the policy is inadequate, it shall specify the revisions to be made and the board shall submit a revised policy. If the Commission approves the revised policy, the board shall adopt it. If not, the board shall make any further revisions required by the Commission and adopt the policy. The board shall submit it to the ORSC for review not less than 60 days before adopting the policy. (R.C. §§145.093, 742.103, 3307.042, 3309.042, 5505.063)

### **Investment Policy**

- Requires each retirement board to establish, at least annually, a policy with the goal to increase utilization of Ohio-qualified agents (i.e., licensed dealers) for the execution of

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domestic equity and fixed income trades, *provided such agents offer quality, services and safety comparable to other agents otherwise available to the board.* The board shall review the performance of the agents that execute securities transactions no less than annually, and shall determine whether an agent is an Ohio-qualified agent and whether the agent offers quality, services and safety comparable to other agents otherwise available to the board. The board's determination shall be final.

To be designated as an Ohio-qualified agent by the board, the agent must meet all of the following requirements: (1) must be subject to Ohio franchise or income tax; (2) must be authorized to conduct business in Ohio; and (3) must maintain a principal place of business in Ohio and employ at least five Ohio residents. The bill also requires each board to adopt and implement a written policy that establishes criteria and procedures used to select agents to execute securities transactions. The policy shall address all of the following: (1) commissions charged by the agent, both in the aggregate and on a per share basis; (2) execution speed and trade settlement capabilities of the agent; (3) the responsiveness, reliability and integrity of the agent; (4) nature and value of research provided by the agent; and (5) any special capabilities of the agent.

The bill requires each board to submit an annual report to the ORSC containing the following information: (1) the name of each agent designated as an Ohio-qualified agent; (2) the name of each agent that executes securities transactions on behalf of the board; (3) the amount of equity and fixed-income trades that are executed by Ohio-qualified agents, expressed as a percentage of all equity and fixed-income trades executed by agents; (4) the compensation paid to Ohio-qualified agents, expressed as a percentage of total compensation paid to all agents that execute securities transactions; (5) the amount of equity and fixed-income trades that are executed by agents that are minority business enterprises (i.e., owned and controlled by Ohio residents who are Black, American Indian, Hispanic, or Oriental), expressed as a percentage of all equity and fixed-income trades executed by all agents; and (6) any other information requested by the ORSC regarding the board's use of agents.

- Requires each retirement board to establish, at least annually, a policy with the goal to increase utilization of Ohio-qualified investment managers, *provided such managers offer quality, services and safety comparable to other managers otherwise available to the board.* The policy shall provide for a process whereby the board can develop a list of Ohio-qualified investment managers and their products and can give public notice to Ohio-qualified investment managers of its search for an investment manager that includes the search criteria. The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the manager offers quality, services and safety comparable to other managers available to the board. The board's determination shall be final.

To be designated as an Ohio-qualified investment manager, the manager must meet both of the following requirements: (1) must be subject to Ohio franchise or income tax; and (2) must have its corporate headquarters or principal place of business in Ohio, employ at least 500 individuals in Ohio, or have a principal place of business in Ohio and employ at least 20 Ohio residents.

The bill requires each board to submit an annual report to the ORSC containing the

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following information: (1) the name of each investment manager designated as an Ohio-qualified investment manager; (2) the name of each manager under contract with the board; (3) the amount of assets managed by Ohio-qualified investment managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers under contract with the board; (4) the compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers under contract with the board; and (5) any other information requested by the ORSC regarding the board's use of investment managers.

- Requires each retirement board to disclose the following information to the Ohio Ethics Commission: (1) anything of value received by the retirement system from an agent or anything given on behalf of the system by an agent; and (2) the name of any employee of the system with authority over the investment of retirement funds or any board member who deals with an agent regarding amounts described above. The disclosures shall be made annually in a report submitted by a date prescribed by the Ohio Ethics Commission. (R.C. §§145.11, 145.114, 145.115, 145.116, 742.11, 742.114, 742.115, 742.116, 3307.15, 3307.152, 3307.153, 3307.154, 3309.15, 3309.157, 3309.158, 3309.159, 5505.06, 5505.068, 5505.069, 5505.0610)

### **Public Records**

- Provides that upon the written request of any person, each retirement board shall make available all documents, including resumes, regarding the filling of a vacancy of an elected board member. The person making the request shall pay the cost of compiling, copying and mailing the documents. Such documents shall be deemed to be a public record. (R.C. §§145.27, 742.41, 3307.20, 3309.22, 5505.04)

The bill also provides that the board shall furnish the Secretary of State with the personal history records of plan participants for purposes of certifying board elections. The Secretary of State shall maintain the confidentiality of such records.

### **ORSC Authority**

- Authorizes the ORSC to establish a uniform format for reports required to be submitted to the ORSC by the five state retirement systems and regular reporting requirements. (R.C. §171.03) The bill also requires each retirement board to submit any required reports to the ORSC in that format. (R.C. §§145.09, 742.10, 3307.03, 3309.03, 5505.122)

This was one of the recommendations made by the Auditor of State to the Joint Legislative Committee to Study Ohio's Public Retirement Plans in 1997. The purpose is to allow legislators, board members and the public to make meaningful comparisons of the retirement systems, since many public policy issues involve all five retirement systems.

- Authorizes the ORSC to request the Auditor of State to perform or contract for the performance of a financial or special audit of a retirement system; (R.C. §171.03)
- Requires the ORSC to have conducted an independent fiduciary performance audit of each retirement system at least once every ten years to be paid by the retirement system audited;

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(R.C. §171.04)

- Requires the ORSC to review all proposed retirement rules and submit any recommendations to the Joint Committee on Agency Rule Review. (R.C. §171.04)

This requirement was recommended in an earlier draft of H.B. 648 (eff. 9/16/98), but was substantially modified to require only that the retirement boards submit a copy of any proposed rules to the ORSC when they file them with JCARR. The purpose of this requirement is to provide a public review process of such rules, similar to the current review process for proposed legislation, given the fact that the legislature has granted the retirement boards broad rule-making authority in various substantive areas of the current retirement laws, including the disability determination process, defined contribution plans and post-retirement health care benefits.

**Incorporation of Sub. H.B. 337** - The bill would make the following changes to the alternative retirement plans (ARP) for higher education employees:

- Make all full-time employees of a public institution of higher education eligible to elect an ARP.

Current law allows only full-time faculty or unclassified administrative staff members who are not receiving a benefit from a state retirement system to elect to participate in the ARP. (R.C. §3305.01)

- Give all eligible employees employed at a public institution of higher education on the effective date of the bill who have less than five years of service in a state retirement system and who were not previously eligible to select the ARP 120 days after the bill's effective date to elect to participate in the ARP. All eligible employees hired after the effective date of the bill would have 120 days from the date of employment to elect to participate in the ARP.

When the ARP was first established, it was available to new hires and current members with less than five years of total service credit. (R.C. §§3305.05, 3305.051)

- Allow an employee who is participating in an ARP and changes providers to transfer all or part of the account balance to the new provider except that a provider need not immediately transfer any part of an account invested in a fixed annuity account if the contract under which the investment was made permits the provider to make such a transfer over a period of time not exceeding ten years and the contract was filed with and approved by the department of insurance.

Current law requires the entire balance to be transferred to the new provider. (R.C. §3305.053)

- Change the employer contribution rate to an ARP to be equal to the percentage the employer would have contributed on behalf of that employee to the state retirement system that would otherwise cover the employee minus the percentage contributed by the employer as a supplemental contribution to the retirement system.

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Current law allows the board of trustees of each public institution to determine the employer contribution rate to an ARP. (R.C. §3305.06)

- Delay the effective date of this portion of the bill until August 1, 2005. (Section 4)

**Fiscal Impact** - The bill would have no measurable actuarial effect upon any of the five state retirement systems.

**ORSC Position** - At its meeting of November 13, 2003, the Ohio Retirement Study Council voted to recommend that the 125th Ohio General Assembly approve S.B. 133 upon the adoption of the following amendments:

- *that the retirement boards be given independent statutory authority to engage the services of outside legal counsel in those situations where the Attorney General is both legal adviser to the board as well as a plaintiff filing a civil action against the board; and*
- *that the provision denying the right of reelection or reappointment to the retirement boards for elected or appointed board members whose travel expenses averaged more than \$10,000 for fiscal years 2000, 2001 and 2002 be removed from the bill because of the general constitutional prohibition against the retroactive application of laws enacted by the General Assembly (Article II, Section 28, of the Constitution of Ohio)*

*Neither of the above recommendations was adopted.*

At its meeting of March 10, 2004, the Ohio Retirement Study Council voted to recommend that the 125th Ohio General Assembly approve H.B. 337 upon the adoption of the following amendments:

- *that participation in an ARP be limited to (1) full-time employees of a public institution of higher education hired after the effective date of H.B. 337, (2) current full-time employees of a public institution of higher education who were hired after the effective date of H.B. 586 (3-31-97), but before the effective date of H.B. 337 who have less than five years of service as of the effective date of H.B. 337, and (3) any eligible employee of a public institution of higher education who was employed by a public institution of higher education at the time H.B. 586 was enacted and who would have been eligible to participate under the provisions of H.B. 586 if it had been open to all full time employees; (Sub. H.B. 337 limits participation in an ARP to (1) full-time employees of a public institution of higher education hired after the effective date of H.B. 337 and (2) current full-time employees of a public institution of higher education as of the effective date of Sub. H.B. 337 who have less than five years of service as of the effective date of Sub. H.B. 337 and who did not have an opportunity to elect an ARP.)*
- *that H.B. 337 be amended to exclude all state university law enforcement officers from participation in an ARP; (Sub. H.B. 337 does not include this recommendation.)*
- *that the supplemental contribution rate for the ARP be set at the same rate established by the systems for their defined contribution plans and that any change in the supplemental contribution rate for the ARP rate would be effective on the same day the rate change for the defined contribution plan takes effect. This would be consistent with the requirement that the employee and employer contribution rates for members of the ARP are tied to the*

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*contribution rates established for members of the applicable retirement system; (Sub. H.B. 337 does not include this recommendation.)*

- *that the current statutory language be clarified to state that the supplemental contribution will resume if unfunded actuarial liabilities reemerge due to actuarial losses and that it would be payable over a time period set as the funding period reported in the most recent annual actuarial valuation of the retirement system minus an adjustment to decrease that period to reflect benefit increases subsequent to March 31, 1997; (Sub. H.B. 337 does not include this recommendation.) and*
- *that the above-mentioned technical changes be made to the bill. (This recommendation was incorporated into Sub. H.B. 337.)*

**Effective Date** - September 15, 2004, except that certain provisions pertaining to the alternative retirement plan for public institutions of higher education become effective on August 1, 2005.

PENDING PENSION-RELATED ISSUES  
THE 125TH GENERAL ASSEMBLY  
JANUARY 1, 2003 - DECEMBER 31, 2004

The ORSC staff keeps legislators abreast of relevant public retirement issues and of prior recommendations that have been made but not acted upon by the legislature. The legislature dealt with several of these issues during the 125th General Assembly, however, there remain a number of issues and recommendations that continue to warrant legislative consideration. What follows is a brief summary of each issue and of action taken by the legislature, if any, during the 125th General Assembly. Further background and detail is available through the ORSC web site [www.orsc.org](http://www.orsc.org).

**Actuarial Funding of Pension Benefits** - There are generally three sources of revenue for the Ohio retirement systems to fund, on an actuarial basis, their defined benefit pension benefits: (1) employee contributions; (2) employer contributions; and (3) investment earnings. The legislature guarantees the defined benefit pension benefits that are paid to participants and determines the maximum contribution rates. Investment earnings are typically the largest source of revenue for the Ohio retirement systems, funding up to 75 percent of the benefits paid.

The last semi-annual investment review required by law and presented at the ORSC meeting on November 17, 2004 indicates that the systems have not entirely recovered the losses suffered in 2001 and 2002, however, strong gains in 2003 have improved long-term ten-year results. Three of the five systems have ten-year annualized returns that are above their actuarial interest rate assumptions, while the remaining two funds have narrowed that spread significantly over the past year.

For funding purposes, the Ohio retirement systems smooth asset values and investment returns generally over four years in order to keep contribution rates and funded ratios relatively stable. The losses experienced during the recent market downturn will have an adverse impact over the next several years, having a dampening effect on any future gains that might occur, since these losses have not been fully recognized in the systems' actuarial value of assets and funded ratios. Moreover, the losses are likely to put upward pressure on the systems' contribution rates and/or funding periods for paying off unfunded liabilities.

Current law establishes a maximum 30-year funding period for each system to amortize its unfunded liabilities in order to maintain inter-generational equity among taxpayers. Should the retirement systems exceed the maximum 30-year funding period in any year, the retirement boards are required to report to the ORSC and the standing committees of both houses with primary responsibility for retirement legislation on how they plan to reduce their funding period to 30 years.

Recent actuarial reviews conducted by Milliman USA of all five retirement systems generally indicate that a 30-year funding period for amortizing unfunded accrued pension liabilities can be achieved by all five retirement systems within their current contribution rate structure by reducing or eliminating the amount currently allocated towards discretionary retiree health care benefits. Absent such a reduction in or elimination of discretionary health care funding, the actuarial reviews generally indicate that contribution rates must be increased and/or pension benefits must be reduced in order to achieve a 30-year funding period as required by existing law.

**Cost and Funding of Retiree Health Care Benefits** - Faced with double-digit increases for the foreseeable future, particularly in the area of prescription drugs, all of the retirement systems face significant challenges of controlling costs while maintaining meaningful coverage. Contributing factors to the double-digit increases include: the advent of "baby boomer" retirements, improved life expectancy of retirees, higher drug utilization, advances in medical technology, direct consumer advertising, and the general declining ratio of active members to retirees. The significant investment losses experienced from March 2000 to March 2003 by all investors have also

exacerbated the health care funding problem since the retirement systems must first fund guaranteed pension benefits, which will likely require a reduction in or elimination of the amount currently allocated to discretionary retiree health care benefits, given the current caps on contribution rates. The early retirement ages for many public employees create a significant cost for each retirement system's health care program.

**Joint Legislative Committee to Study Ohio's Public Retirement Plans** - In 1995, the Joint Legislative Committee to Study Ohio's Public Retirement Plans (JLC) was created to complete a comprehensive review of the laws and operations of all five retirement systems. It consisted of six senators and six representatives (including members of the ORSC), and was supported by the ORSC staff. The JLC reviewed each system, concentrating on the following major areas: disability statutes, procedures, and experience; cost and funding of retiree health care benefits; retirement eligibility and benefit provisions; investment authority and performance; and the level of contributions in relation to the level of benefits provided. In 1996, JLC issued a report in which ORSC staff made a number of recommendations. Many, but not all, of the recommendations have been acted upon by the legislature. The following recommendations were made by staff as part of the report, but have not been implemented:

- “That the normal retirement age be increased in the uniformed employee systems from 48 to 52 with a four-year phase-in and that benefits be reduced prior to normal retirement age.”
- “That the normal retirement age of 65 in the non-uniformed employee systems be increased in tandem with Social Security and that the 30-year service requirement be increased at the same rate and that benefits be reduced prior to normal retirement age or service.”
- “That the statutory reduction rates for early retirement be repealed and that reduction rates for early retirement be determined on an actuarial basis in all five systems.”
- “That disproportionate increases in salary prior to retirement be limited to a maximum percentage for purposes of determining final average salary in PERS, SERS, PFDPF and HPRS unless such increase results from employment with another employer or promotion to a position previously held by another employee.” (H.B. 180 (eff. 10-29-91) established a percentage limit in STRS.)
- “That the statutory authority to grant an annual lump sum supplemental benefit check (i.e., 13th check) be repealed in STRS and that ad hoc post-retirement increases be enacted on an as-needed basis by the legislature.”
- “That non-law enforcement service credit be excluded for purposes of determining eligibility for service retirement under PFDPF.” (H.B. 648 (eff. 9-16-98) requires members who establish membership in OP&F on or after 9-16-98 to pay the difference between both the employee and employer contributions that were made and the employee and employer contributions that would have been made had the member rendered the service in OP&F, plus annual compound interest thereon. Members who do not pay the difference receive pro-rated credit for their non-law enforcement service.)
- “That Medicare Part B reimbursements be capped in PERS, PFDPF (OP&F) and HPRS.” H.B. 648 (eff. 9-16-98) established a minimum reimbursement rate of \$29.90 per month as well as a maximum monthly reimbursement rate as determined by the STRS board, not to exceed 90% of the Medicare Part B monthly premium in STRS; S.B. 270 (eff. 4-9-01) established the monthly reimbursement rate at \$45.50 in SERS. The Medicare Part B

premium for 2005 is \$78.20 per month.)

- “That the five systems have prepared a study to determine the feasibility of pooling active members and retirees for purposes of health care coverage and submit their findings and recommendations to the standing committees of both houses of the Ohio General Assembly with primary responsibility for retirement and health care legislation and ORSC no later than December 31, 1996.”

Also, in testimony before the JLC in 1996, the Auditor of State recommended “that the legislature should require uniform reporting from all five systems. The Ohio Retirement Study Commission should prescribe the report format.” The rationale is to enable legislators, board members and the public to make meaningful comparisons of the systems since many public policy issues involve all five systems. S.B. 133 (eff. 9-15-04) includes a provision that would require the ORSC to establish a uniform reporting format for the five systems. As part of the fiduciary audits currently being conducted for STRS and OP&F, one of the requirements is for the consulting firm to identify items critical for the ORSC to review on a regular basis as part of its oversight duties and to develop a reporting format for those items so that meaningful comparison of all five systems can be made.

**Division of Benefit Orders (DOBOs)** - H.B. 535 (eff. 1-1-02) amended the laws of all five retirement systems to permit the division of retirement benefits upon termination of marriage. There were a number of unresolved issues between the legal community and the retirement systems relative to the bill, including the recognition of a “separate property interest” in the member’s former spouse, the creation of an optional payment plan that provides for continuing benefits to the member’s former spouse after the death of the member, and the provision of cost-of-living increases to the member’s former spouse.

H.B. 98 (eff. 10-27-06), which was enacted this session, generally amends the existing laws governing the division of retirement benefits upon termination of marriage in all five retirement systems with respect to the following two issues: the creation of an optional payment plan that provides for continuing benefits to the members’ former spouse after the death of the member and the provision of cost-of-living increases to the member’s former spouse. As introduced the bill applied only to PERS, STRS, and SERS. At its meeting of May 14, 2003 the ORSC voted to recommend that the 125th General Assembly approve the bill upon the adoption of an amendment that would extend its provisions to OP&F and HPRS in order to maintain the existing uniform and equal treatment of Ohio’s public employees relative to the division of benefits upon termination of marriage. This amendment was adopted in the Senate Health, Human Services and Aging Committee.

**Defined Contribution Plan for SERS Members** - Another staff recommendation included in the JLC final report was “that an alternative defined contribution plan be established, in conjunction with the existing defined benefit plan, in the three non-uniformed employee systems to provide greater portability and options for employees.” Alternative defined contribution (DC) plans have been established in STRS pursuant to S.B. 190 (eff. 7-13-00) and in PERS pursuant to H.B. 628 (eff. 9-21-00). No alternative DC plan has been established in SERS, though S.B. 270 (eff. 4-9-01) requires the SERS board to establish such plan.

According to SERS staff, the SERS board commissioned The Segal Company to statistically verify member interest and identify the costs of implementing a defined contribution plan in 2002. Segal surveyed 10,000 SERS members who had less than five years of service and would be eligible for the DC plan. They found that 1% of new SERS members were interested in a DC option based

solely on their own investments and 89% of new members preferred a guaranteed retirement. Segal found that the least expensive method of developing and implementing a DC option would be to completely outsource the development and maintenance of the option. According to Segal this would require about \$1 million in start-up costs and \$1.3 million annually to operate. In February 2003, the SERS board decided that it was not in the best interest of its members to develop a DC option; however, the board requested that staff revisit the studies at a later time, and in the interim, request a language change making the current statute permissive rather than mandatory.

**Contributing Service Credit in PERS** - H.B. 232 (eff. 2-16-84) increased the minimum amount of earnable salary required per month from \$150 to \$250 to receive one month's credit in PERS. A PERS member who earns \$250 per month for twelve consecutive months (\$3,000) is granted one year of service credit. This raises the public policy issue of whether the minimum monthly salary amount used to determine service credit in PERS should be increased and indexed to annual wage inflation.

**Surviving Spouses of PERS-LE Members** - Another issue is certain disparities in the law concerning surviving spouses of active members in PERS-LE, OP&F, and HPRS. Under existing law, active members of OP&F and HPRS are eligible for survivor coverage immediately upon employment, whereas active members of PERS-LE become eligible for survivor coverage upon completion of 18 months of contributing service. Moreover, surviving spouses of active members of OP&F and HPRS are eligible for survivor coverage at any age, whereas surviving spouses of active members of PERS-LE are not eligible to receive benefits until they are 62 years old unless they have dependent children, the member had ten years of service, or the spouse is adjudged mentally or physically incompetent. A change in the law to correct these disparities should be considered.

**Election of New Optional Plan upon Remarriage** - H.B. 648 (eff. 9-16-98) amended OP&F law regarding the election and effective date of a joint and survivor annuity option upon remarriage. Under the bill, OP&F retirees who remarry may elect a new optional plan of payment, *provided they make such election no later than one year following remarriage*. Moreover, the new plan shall become effective upon the date the election is made. In contrast, the comparable laws of the other state retirement systems allow retirees to elect a new optional plan of payment at any time following remarriage; the effective date of the new plan is the first day of the month following the date the election is made. The objectives of the changes made under H.B. 648 were two-fold: (1) To limit adverse selection against the retirement system; and (2) To give effect to the retiree's intention should the retiree die subsequent to having made an election but prior to the first day of the month following such election. Similar changes should be considered in the other four retirement systems.

H.B. 455 and S.B. 225, introduced this session, dealt with this issue. They would have required the election of a joint and survivor annuity plan to be made no later than one year after the date of the marriage or remarriage for any marriage or remarriage by a retired member that occurs on or after the effective date of the bill and would have provided that the election becomes effective upon receipt of the board approved application form, though any change in the benefit amount shall commence on the first day of the month following receipt of the application. H.B. 455 applied to PERS, STRS, SERS, and HPRS, whereas S.B. 225 applied only to PERS. In addition, S.B. 225 would have provided that the surviving spouse of a deceased retirant could apply to PERS for payment under the joint and survivor annuity plan elected by the retirant under certain circumstances. Neither of these bills were enacted.

**Deferred Retirement Option Plans (DROP)** - Popular throughout the country, these plans

are intended to encourage members to continue working beyond normal retirement and are often designed to be cost-neutral to the retirement system. Generally, participation in DROP plans is limited to members who are eligible for normal service retirement. The member continues to be employed for some defined period, such as three to eight years, during which period the member's monthly service retirement benefit is credited to the member's DROP account, along with annual compound interest at some specified rate. Upon termination of employment, the member receives a lump sum distribution of the member's DROP account or some alternative distribution thereof, and begins receiving a monthly service retirement benefit based on the member's final average salary and service credit calculated at the time the member elects participation in the DROP. S.B. 134 (eff. 7-23-02) granted the OP&F board the authority to establish a DROP for its members. In its analysis of the bill, the ORSC staff raised the public policy issue of whether the other four retirement boards should be granted similar authority to establish DROP plans for their respective memberships.

**Medical Savings Accounts** - S.B. 247 (eff. 10-1-02) authorizes the PERS board to establish medical savings accounts or a similar type of program for the purpose of providing funds to the member for payment of health insurance expenses. This raises a public policy issue of whether the other four retirement boards should be granted similar authority to establish such accounts or programs for their members for the payment of health insurance expenses.

**“Bad Boy” Provisions** - Currently, Ohio public pension laws permit the withholding of retirement benefits as restitution to the governmental unit for theft in public office and to the victim of certain sex offenses committed in the context of public employment. There continues to be legislative interest to expand these “bad boy” provisions to include other offenses.

**University of Akron Non-Teaching Employees** - With the single exception of the University of Akron, all non-teaching employees of Ohio's state universities are members of PERS. Employees of the University of Akron are currently members of SERS. In the interest of maintaining parity in retirement benefits, there continues to be some legislative interest to transfer these employees from SERS to PERS. The ORSC actuary provided several options to address the actuarial impact upon both retirement systems of such a transfer in its report Transfer of University of Akron Active Members from SERS to PERS dated March 11, 2002. Based upon that report, the ORSC staff recommended “the transfer of the University of Akron non-teaching employees from SERS to the PERS state division in order to provide uniform benefits and representation for all non-teaching employees at state universities, provided:

1. PERS receives from SERS an amount equal to the member's actuarial accrued liability to the extent funded by SERS under the third option described above which would minimize any actuarial loss to PERS and have no actuarial gain or loss to SERS;
2. PERS serves as a pass-through or conduit for health care contributions received from the University of Akron (A PERS employer after enactment) to pay SERS for the net cost of providing health care benefits to University of Akron retirees still remaining in SERS until the last University of Akron retiree ceases to be covered under the SERS health care plan. This is consistent with the current pay-as-you-go financing of retiree health care benefits in all five retirement systems, and would hold SERS harmless as well as avoid any windfall to PERS on account of the proposed transfer; and
3. The current differential in the contribution rates under SERS and PERS, including the employer health care surcharge, remains payable by the University of Akron and its non-teaching employees for 25 years (the current funding period under SERS), with the excess

in contributions used to provide a supplemental contribution to SERS. This is consistent with the supplemental contribution currently payable by state universities on behalf of employees who elect the alternative defined contribution plan, and would mitigate any adverse impact upon the SERS health care plan and would eliminate any perceived financial incentive for potential groups of employers and employees to “shop” among the state retirement systems for benefits. In the alternative, the University of Akron makes a lump sum payment to SERS that is the actuarial equivalent of the above supplemental contribution payable over 25 years as determined by the SERS actuary and reviewed by the ORSC.”

The ORSC did not take any action upon the staff recommendation. H.B. 32 was introduced, but not acted upon this session. It would have transferred non-teaching employees of the University of Akron from SERS to PERS.

**Reemployment Provisions** - There continues to be legislative interest in the reemployment provisions of the Ohio retirement systems that allow members who have been retired for at least two months to return to public employment while continuing to receive their pension. H.B. 84 (eff. 7-31-01) requires elected officials who retire and are reelected or appointed to the same office from which they retired to notify the board of elections or appointing authority of their retirement in order to continue receiving their pension. H.B. 63, which was introduced this session but not acted upon, would have prohibited elected officials who are reelected to the same office from which they retired from receiving a pension. H.B. 95 (eff. 6-30-03) includes language that requires a hearing before certain retirants can be reemployed and changes the deadline for elected officials to file notice of intent to retire and run for reelection to the same office.

**Health Care for Reemployed Retirees** - H.B. 151 (eff. 2-9-94) requires PERS reemployed retirants to receive primary health insurance coverage through the retirant’s **public** employer if the employer provides coverage to other employees performing comparable work. PERS health care coverage becomes secondary. Effective January 1, 2004 both the OP&F and HPRS amended their health care policies relative to reemployed retirees. In OP&F, reemployed retirees who are eligible for health care coverage through their employer must pay the full premium cost should they choose to enroll in the OP&F health care plan. In HPRS, reemployed retirees who are not eligible for Medicare must receive their primary health care coverage through their employer, if available; the HPRS health care coverage becomes secondary. This raises a public policy issue of whether similar requirements should be adopted in the other state retirement systems with respect to reemployed retirants. Moreover, it raises a public policy issue of whether such requirements should include reemployment with a private employer that provides health insurance coverage as well.

**Annual 3% COLA** - In its analysis of H.B. 157 (eff. 2-1-02) which provides for an annual 3% COLA in all five retirement systems, regardless of the actual percentage change in the CPI-W, the ORSC staff recommended against the COLA changes under the bill and suggested that “any additional resources of these retirement systems be allocated to the provision of discretionary retiree health care benefits that are neither taxable nor subject to the Social Security offset and/or the provision of ad hoc increases, such as a “purchasing parity” adjustment of some target ratio of either 75% or 85%, to retirees whose benefits have been eroded the most by inflation over the years.” The ORSC rejected the staff recommendation and recommended instead that the legislature approve H.B. 157. The CPI-W has increased by less than 3% in 12 of the last 13 years.

**Workers’ Compensation Offset** - In its Analysis of Police and Firemen’s Disability and Pension Fund Disability Plan, Procedures and Experience, November 8, 1996, William M. Mercer

recommended that the legislature “consider offsetting the disability retirement benefit by any periodic benefit being received by the disabled member through workers’ compensation.” A subsequent study prepared by the ORSC actuary Milliman & Robertson per a legislative mandate concluded that “Based on the data collected in this study, M&R believes it is feasible for the State of Ohio to coordinate public retirement systems disability benefits and workers’ compensation benefits. We clearly recognize that the decision to do so rests with the Ohio General Assembly. If such a decision is made, we recommend that the benefit coordination be structured as follows:

1. Offsets should affect the following benefits:
  - a. Periodic Wage Replacement Benefits;
  - b. Lump Sum payments to close workers’ compensation cases;
  - c. Cost of living adjustments.
2. Offset should not affect lump sum scheduled benefits.
3. Maximum income from combined disability and workers’ compensation benefits should be set at 100% of final average salary.
4. If offsets are introduced in Ohio, they should be made applicable to all 5 public retirement systems at the same time.”

(Report to the Ohio Retirement Study Council: Feasibility Study on Disability and Workers’ Compensation Coordination, Milliman & Robertson, November 23, 1999)

**Board Governance/Fiduciary Audits** - During the summer of 2003, a number of concerns regarding the administration and operations of the retirement systems were raised at the ORSC meetings. In response to these concerns, the House and Senate each introduced omnibus pension reforms bills that generally seek to improve accountability, oversight and professional standards with respect to the governance of the five retirement systems. (See S.B. 133 under section entitled Reports on Enacted Pension Legislation). The ORSC also voted to have fiduciary performance audits of STRS and OP&F completed. The audits will cover the following areas, which include a review of all administrative costs:

- A. Investment Issues
  1. Current Investment Policies
  2. Portfolio Risk
  3. Investment Performance
  4. Investment Management Structure and Costs
  5. Use of External Consultants
  6. Asset Allocation
  7. Brokerage Practices
  8. Due Diligence Procedures/Selection of Investment Service Providers
  9. Statutory Provisions and Administrative Rules
  10. Conflicts of Interest
  11. Custodial Structure
  12. Internal Controls and Risk Management
  13. Investment Accounting

- B. Management Issues
  - 1. Board Governance, Policies, and Oversight
  - 2. Efficiency and Effectiveness of Organizational Structure and Resources
  - 3. Ability to Attract and Retain Employees
  - 4. Monitoring of Investments and Reporting
  - 5. Reporting to the ORSC

The ORSC contracted with Independent Fiduciary Services, Inc. to complete the audits of both STRS and OP&F. Findings and recommendations of the audits for legislative consideration, some of which may be applicable to the other retirement systems, are expected in Spring 2005 and will be reported in the next annual report.

**Review of Adequacy of the Contribution Rates** - Current law requires the ORSC to conduct an annual review of the police and fire contribution rates and make recommendations to the legislature that it finds necessary for the proper financing of OP&F benefits. In 2003 the Council voted to have Milliman USA review the adequacy of the the contribution rates for PERS, STRS, SERS, and HPRS. The legislature should consider requiring ORSC to conduct similar actuarial reviews of the adequacy of the contribution rates for the other four retirement systems as well.

**Mandatory Social Security** - The State of Ohio has a long and successful record of opposing mandatory Social Security coverage for its public employees. This issue continues to resurface in the context of various Social Security reform proposals as a means of generating additional revenues which are estimated to extend the solvency of Social Security by a mere two years.

**Disability Experience Reports** - H.B. 648 (eff. 9-16-98) required each retirement system annually to prepare reports on the disability retirement experience of each employer covered by each system. The reports are submitted to the Governor, the ORSC, and the chair of the standing committees and subcommittees in the Senate and the House of Representatives with primary responsibility for retirement legislation. This reporting requirement is scheduled to sunset in 2005.

**Submission of Annual Actuarial Valuation** - Each system is required to submit annually an actuarial valuation to the ORSC and the standing committee of the House of Representatives and Senate with primary responsibility for retirement legislation. The due date for each system is different: PERS must submit theirs by September 1, OP&F must submit theirs by November 1, STRS must submit theirs by January 1, SERS must submit theirs by May 1, and HPRS must submit theirs by July 1 following the year for which the valuation was made. This raises the issue of whether the due date should be the same for PERS, OP&F, and HPRS, all of whom operate on the calendar year and whether the due date should be the same for STRS and SERS, both of whom are on fiscal years beginning July 1 and ending June 30.

DOCUMENTS SUBMITTED BY THE RETIREMENT  
SYSTEMS

THE 125TH GENERAL ASSEMBLY

JANUARY 1, 2003 - DECEMBER 31, 2004

The retirement systems are required by statute to submit various documents to the ORSC to assist the Council in its evaluation of the systems. The following is a listing of each report the retirement systems are required to submit to the ORSC along with a brief summary of the contents of the report. Copies of the reports can be obtained at the ORSC office.

**Annual Actuarial Valuation** - (R.C. §§145.22(A), 742.14(A), 3307.51(A), 3309.21(A), 5505.12(A)) This annual report is an actuarial valuation of the pension assets, liabilities, and funding requirements of the retirement systems. The report must include (1) a summary of the benefit provisions evaluated; (2) a summary of the census data and financial information used in the valuation; (3) a description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members contributing to the retirement system; (4) a summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities; a schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation; and (6) a statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board.

The actuarial valuation must be submitted annually to the ORSC and the standing committees of the House of Representatives and Senate with primary responsibility for retirement legislation. PERS must submit theirs by September 1, OP&F must submit theirs by November 1, STRS must submit theirs by January 1, SERS must submit theirs by May 1, and HPRS must submit theirs by July 1 following the year for which the valuation was made.

OP&F has not been able to complete their annual actuarial valuation that was due November 1 because their 2003 financial information has not yet been audited.

**Annual Report on Health Care** - (R.C. §§145.22(E), 742.14(E), 3307.51(E), 3309.21(E), 5505.12(E)) This report provides a full accounting of the revenues and costs relating to health care benefits. The report must include (1) a description of the statutory authority for the benefits provided; (2) a summary of the benefits; (3) a summary of the eligibility requirements for the benefits; (4) a statement of the number of participants eligible for the benefits; (5) a description of the accounting, asset valuation, and funding method used to provide the benefits; (6) a statement of the net assets available for the provision of the benefits as of the last day of the fiscal year; (7) a statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year; (8) for the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits; (9) a description of any significant changes that affect the comparability of the report required under this division; and (10) a statement of the amount paid for Medicare Part B reimbursement.

The report on health care must be submitted annually to the ORSC and the standing committees of the House of Representatives and Senate with primary responsibility for retirement legislation. PERS, OP&F, and HPRS must submit theirs by June 30, whereas STRS and SERS must submit theirs by December 31, following the year for which the report was made.

**Quinquennial Evaluation** - (R.C. §§145.22(B), 742.14(C), 3307.51(B), 3309.21(B), 5505.12(B)) This report must be completed at least once every five years. It is an actuarial investigation of the mortality, service, and other experience of the members, retirants, contributors,

and beneficiaries of the system to update the actuarial assumptions used in the actuarial valuation. The report must include (1) a summary of relevant decrement and economic assumption experience observed over the period of the investigation; (2) recommended changes in actuarial assumptions to be used in subsequent actuarial valuations; (3) a measurement of the financial effect of the recommended changes in actuarial assumptions.

The quinquennial evaluation must be submitted to the ORSC and the standing committees of the House of Representatives and Senate with primary responsibility for retirement legislation. PERS, OP&F and HPRS must submit theirs by November 1, STRS and SERS must submit theirs by May 1 following the last fiscal year of the period the report covers.

PERS is scheduled to submit its next quinquennial evaluation covering the years 2001-2005 by November 1, 2006. STRS' evaluation covering the years 2003-2008 is due by May 1, 2009. SERS' evaluation covering the years 2001-2005 is due May 1, 2006. OP&F's next evaluation is due by November 1, 2007 and will cover the years 2002-2006. HPRS' evaluation is due November 1, 2005 and will cover the years 2000-2004.

**Annual Report on Disability Experience** - (R.C. §§145.351, 742.381, 3307.513, 3309.391, 5505.181) The report details the preceding fiscal year of the disability retirement experience of each employer. The report must specify the total number of disability applications submitted, the status of each application as of the last day of the fiscal year, total applications granted or denied, and the percentage of disability benefit recipients to the total number of the employer's employees who are members of the public employees retirement system.

The report on the disability experience must be submitted to the Governor, the ORSC, and the chairpersons of the standing committees and subcommittees of the Senate and House of Representatives with primary responsibility for retirement legislation. This report was first required to be submitted in 2000 and annually for the succeeding five years. PERS, OP&F, and HPRS must submit theirs by March 1, STRS and SERS must submit theirs by September 1. This reporting requirement expires in 2005.

**30-Year Funding Period** - (R.C. §§145.221, 742.16, 3307.512, 3309.211, 5505.121) This report is required if the system's funding period exceeds thirty years. The report must include the number of years needed to amortize the unfunded actuarial accrued pension liability as determined by the annual actuarial valuation and a plan approved by the board that indicates how the board will reduce the amortization period of unfunded actuarial accrued liability to not more than thirty years. The report submitted by OP&F must also include whether the board has made any progress toward meeting the 30-year amortization period.

The report on the thirty-year funding period must be submitted to the ORSC and the standing committees of the House of Representatives and Senate with primary responsibility for retirement legislation not later than ninety days after the retirement system board receives the actuarial valuation in which the funding period exceeds thirty years.

In 2004, the funding period at four of the five retirement systems exceeded the statutory maximum of thirty years. OP&F submitted its reports at the February 11, 2004 and November 17, 2004 ORSC meetings. STRS submitted its report to the Council at the March 10, 2004 ORSC meeting. PERS and HPRS submitted their reports to the Council at the November 17, 2004 ORSC meeting.

**Actuarial Analysis of Legislation** - (R.C. §§145.22(D), 742.14(D), 3307.51(D), 3309.21(D), 5505.12(D)) These reports are required when any introduced legislation is expected

to have a measurable financial impact on the retirement system. The actuarial analysis must include (1) a summary of the statutory changes that are being evaluated; (2) a description of or reference to the actuarial assumptions and actuarial cost method used in the report; (3) a description of the participant group or groups included in the report; (4) a statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members over a period not to exceed thirty years; (5) a statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

The actuarial analysis must be submitted to the ORSC, the Legislative Service Commission, and the standing committees of the House of Representatives and Senate with primary responsibility for retirement legislation within sixty days from the date of introduction of the legislation.

**Budgets** - S.B. 133 (eff. 9-15-04) requires each retirement system to submit to the ORSC its proposed operating budget, along with the administrative budget for the board, for the next immediate fiscal year at least sixty days before adoption of the budget.

PERS, OP&F, and HPRS submitted their budgets for calendar year 2005 at the November 17, 2004 ORSC meeting. STRS and SERS operate on fiscal years beginning July 1 and ending June 30; therefore, they will present their budgets to the Council in early 2005.

**Rules** - The systems are required to submit to the ORSC a copy of the full text, rule summary, and fiscal analysis of each rule they file with the Joint Committee on Agency Rule Review pursuant to R.C. §111.15.

# SUBJECT INDEX OF PENSION BILLS INTRODUCED

## THE 125TH GENERAL ASSEMBLY

JANUARY 1, 2003 - DECEMBER 31, 2004

The Subject Index of Pension Bills Introduced provides a listing of pension bills under subject heading and a key word description within the main heading. Bills that cover more than one subject are listed under all appropriate headings.

The pension systems affected by the bill are also indicated. "All systems" means the Public Employees Retirement System (PERS), the State Teachers Retirement System (STRS), the School Employees Retirement System (SERS), the Ohio Police and Fire Pension Fund (OP&F), and the Highway Patrol Retirement System (HPRS). "VFFDF" and "DBF" respectively refer to the Volunteer Fire Fighters' Dependents Fund and the Ohio Public Safety Officers Death Benefit Fund.

The main subject headings are listed at the beginning of the index for quick reference. The bills that became law are indicated by an asterisk.

## Subject Headings

Age and Service	Disability	Political Contributions
Alternative Retirement Plan	Ethics Commission	Reemployment
Appropriations	Fiduciary Performance Audits	Retirement System Lobbyists
Auditor of State	Financial Disclosure	Salary
Benefit Options	Inspector General	Service Credit
Boards	Investments	Treasurer of State
Civil Actions	Membership	Taxation
Contributions	Ohio's Best Rx	Uniform Reporting
Cost-of-Living	ORSC	
	Policies	

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### **Age and Service**

Mandatory Retirement Age Increased - HPRS - HB 230\*

### **Alternative Retirement Plan**

Eligibility Extended - PERS, STRS, SERS - HB 337, SB 133\*

Employer Contribution Rate - PERS, STRS, SERS - HB 337, SB 133\*

Transfer of Balance - PERS, STRS, SERS - HB 337, SB 133\*

### **Appropriations**

Biennial Appropriations - OP&F - HB 95\*

### **Auditor of State**

ORSC Authority to Contract With - ALL SYSTEMS - SB 133\*

### **Benefit Options**

Continue Benefits to Former Spouse - ALL SYSTEMS - HB 98\*

Election Upon Marriage - PERS - SB 225; ALL SYSTEMS - HB 455

Married Reemployed Retiree - PERS, OPF - HB 449\*

### **Boards**

Budget Submitted to ORSC - ALL SYSTEMS - SB 133\*, SB 244

Campaign Financial Disclosure - ALL SYSTEMS - HB 227^, SB 133\*, SB 244

Composition of - ALL SYSTEMS - HB 227^, HB 283, SB 133\*

Continuing Education - ALL SYSTEMS - SB 133\*

Dissemination of Public Information ALL SYSTEMS - SB 133 SB 244

Elections - ALL SYSTEMS - SB 133\*, SB 244

Ethics Training - ALL SYSTEMS - SB 133\*, SB 244

Internal Audit Committee - ALL SYSTEMS - HB 227^, SB 133\*

Orientation - ALL SYSTEMS - SB 133\*, SB 244

Filling of Vacancy Public Records - ALL SYSTEMS - SB 133\*

Removal of Member - ALL SYSTEMS - HB 227^, SB 133\*, SB 244

Training Programs - ALL SYSTEMS - HB 227^,

Travel Expenses - ALL SYSTEMS - SB 133\*, SB 244

\*Enacted

^As Passed by the House

**Civil Actions**

Attorney General Authorized to File - SB 133\*

**Cost-of-Living**

Increase - OPF - HB 187

Member's Former Spouse - ALL SYSTEMS - HB 98\*

**Disability**

Cancer Included as On-Duty Presumption - OP&F - HB 140

**Ethics Commission**

Consultation on Travel and Ethics Policies - ALL SYSTEMS - SB 133\*, SB 244

Reporting to ORSC - SB 133\*, SB 244

**Fiduciary Audit**

ORSC Required to Conduct - ALL SYSTEMS - HB 227^, HB 283, SB 133\*, SB 244

**Financial Disclosure**

Board Members - ALL SYSTEMS - HB 227^, HB 242, HB 283, SB 105, SB 133\*, SB 244

Certain System Employees - ALL SYSTEMS - HB 227^, HB 242, SB 105, SB 133\*, SB 244

ORSC Employees - SB 133\*, SB 244

ORSC Members - SB 133\*, SB 244

**Inspector General**

Investigative Authority - ALL SYSTEMS, ORSC - SB 104

ORSC Authority to Contract With - ALL SYSTEMS - SB 126

**Investments**

Licensure of Investment Personnel - ALL SYSTEMS - SB 133\*, SB 244

Ohio Brokers/Managers, Use of - ALL SYSTEMS - HB 227^

**Membership**

Corrections Officers - PERS - HB 198

County Agricultural Society Employees - PERS - HB 69

Metropolitan Housing Authority Police Officers - PERS-LE - HB 211

Municipal Park Rangers - PERS-LE - HB 101

Nonteaching University of Akron Employees - SERS, PERS - HB 32

Public Safty Officials - PERS - HB 198

Township Police Cadets - PERS-LE - HB 101

**Ohio's Best Rx**

Reporting to ODJFS - ALL SYSTEMS - HB 311\*, SB 138

**ORSC**

Investment Expert as Member - SB 244

**Policies**

Compensation - ALL SYSTEMS - SB 133\*, SB 244

Ethics - ALL SYSTEMS - HB 227^, SB 133\*, SB 244

\*Enacted

^As Passed by the House

Increase Ohio-Qualified Agents - ALL SYSTEMS - SB 133\*  
Travel - ALL SYSTEMS - HB 227^, SB 133\*, SB 244

### **Political Contributions**

Employees Prohibited from Making - ALL SYSTEMS - HB 395

### **Reemployment**

Beneficiaries - PERS, OPF - HB 449\*  
Commencement of Benefit - PERS - HB 449\*  
Elected Officials - PERS - HB 63; HB 95\*; HB 176  
Money Purchase Benefit Calculation - PERS, STRS, SERS - HB 449\*  
Public Hearing - PERS, STRS, SERS - HB 95\*  
Refund - PERS, STRS, SERS - HB 449\*

### **Retirement System Lobbyists**

JLEC Filing - SB 133\*

### **Salary**

Limit on Certain Executives - ALL SYSTEMS - HB 271

### **Service Credit**

Inactive Ohio National Guard or Reserves - PERS, SERS, STRS - HB 468  
Uncompensated Elected Service - PERS - HB 469

### **Taxation**

Exempt up to \$10,000 Retirement Benefits - HB 213

### **Treasurer of State**

Appointment of Director - ALL SYSTEMS - HB 227^  
Deposit of domestic Assets - ALL SYSTEMS - HB 227^

### **Uniform Reporting**

ORSC Establish Format - ALL SYSTEMS - SB 133\*

\*Enacted

^As Passed by the House

STATUS OF PENSION LEGISLATION  
THE 125TH GENERAL ASSEMBLY  
JANUARY 1, 2003 - DECEMBER 31, 2004

The Status of Pension Legislation provides a record of legislative action taken on pension bills at each step of the legislative process from the date of introduction, assignments in each House of the General Assembly, testimony, the date reported by the committees, the date passed by each House, the date reported by a conference committee and/or concurred in by the other House, to the effective date of the bill. Also provided are a brief description of the subject of the pension bill and the ORSC position on the bill. An index of abbreviations used in the status report is on the final page.

**OHIO RETIREMENT STUDY COUNCIL**

**STATUS OF PENSION LEGISLATION**

**125TH GENERAL ASSEMBLY**

**JANUARY 1, 2003 - DECEMBER 31, 2004**

HOUSE BILLS

HSE BILL	INTRO	Actuarial Received	Subject, Sponsor, and System	Cont Pers	ORSC Pos	Hse Cmte	Testimony - Reported Out - Floor Vote	INTRO SEN	Sen Cmte	Testimony - Reported Out - Floor Vote	Conf Cmte	Concurrence	Eff Date
32	02-03-03	04-11-03	Moves nonteaching employees of University of Akron from SERS to PERS Williams - PERS	GK		BPS Blasdel 02-04-03	02-27-03---03-20-03---06-05-03---						
40	02-05-03		Budget corrections Calvert	BI	N	FA Calvert 02-10-03	02-06-03---02-11-03---02-12-03 Amend; FIVo:Y=68 N=31	2-13-03	FFI Harris 02-14-03	02-11-03---02-12-03---02-13-03--- 02-14-03---02-18-03---02-19-03 Sub; Amend; FI Vo: Y=18 N=15		02-25-2003	03-03-2003
63	02-13-03	05-13-03	Employment restrictions on certain reemployed elected officials Olman - PERS	TN		BPS Blasdel 02-25-03	03-20-03---05-22-03---06-12-03---						
69	02-18-03	05-13-03	Includes county and independent agricultural society employees in PERS Faber - PERS	TN		BPS Blasdel 02-25-03	03-13-03---06-05-03 Sub---06-12-03---						
95	02-27-03		Budget Bill Calvert	BI	N	FA Calvert 03-04-03	04-04-03---04-05-03---04-06-03--- 04-07-03 Amend---04-08-03 Sub--- 04-09-03 Amend FI Vo: Y=53 N=46	4-10-03	FFI Harris 04-29-03	04-29-03---04-30-03---05-01-03--- 05-06-03---05-07-03---05-08-03--- 05-13-03---05-14-03---05-20-03--- 05-21-03---05-22-03---05-27-03--- 05-28-03 Sub---05-29-03---05-30-03--- 06-03-03 Amend---06-05-03 Amend FI Vo: Y=24 N=9	06-19-03	06-19-03	06-26-2003
98	03-04-03	STRS:05-05-03 SERS:05-09-03 PERS:05-13-03	Creates optional payment plan to continue benefits to member's former spouse after death of member and provides a COLA to member's former spouse Willamowski - All Systems	GK	AA 05-14-02	BPS Blasdel 03-04-03	03-13-03---03-20-03---05-08-03--- 05-22-03 Sub---05-29-03 Amend--- 06-25-03 FI Vo Y=92 N=0		HHA Wachtmann 09-17-03	11-10-10; 12-08-04 Amend Sub; FI Vo: Y=32 N=0		12-17-04	10-27-2006
101	03-04-03	PERS:9-10-03	Includes municipal park rangers and township police cadets in PERS-LE Willamowski - PERS-LE	AE		BPS Blasdel 03-04-03	03-13-03---03-20-03---05-08-03---						
140	03-25-03		Changes on-duty disability presumptions Sykes - OP&F			HLT Jolivet 03-25-03							
176	05-07-03		Employment restriction on certain reemployed elected officials. Hoops - PERS  *Amended into HB95			SG Carmichael 05-14-03	05-20-03---06-03-03---06-10-03---						
187	05-14-03		Increases COLA for certain OP&F members T. Patton - OP&F			BPS Blasdel 05-20-03	05-29-03---10-02-03---						
198	05-21-03		Creates special provisions for public safety officials Willamowski - PERS-LE	AE		HSA Schneider 05-28-03	06-04-03---06-11-03---						
211	06-04-03	PERS:9-10-03	Includes metropolitan housing authority police officers in PERS-LE Trakas - PERS-LE	AE		BPS Blasdel 06-10-03	10-02-03---03-18-04---						

HOUSE BILLS

HSE BILL	INTRO	Actuarial Received	Subject, Sponsor, and System	Cont Pers	ORSC Pos	Hse Cmte	Testimony - Reported Out - Floor Vote	INTRO SEN	Sen Cmte	Testimony - Reported Out - Floor Vote	Conf Cmte	Concurrence	Eff Date
213	06-04-03		Exempts up to \$10,000 in state, federal, military retirement benefits from income tax Williamowski	BI	N	WM Kilbane 06-11-03	01-22-04----01-29-04----						
227	06-19-03		Makes changes to the governance of the retirement systems Schneider - All Systems	GK	AA 10-13-03	BPS Blasdel 09-16-03	10-02-03---10-23-03 Sub---10-29-03---10-30-03---11-05-03---11-10-03 Sub---11-12-03 Amend---11-13-03 Amend; FI Vo: Y=81 N=13	11-18-03	HHA Wachtmann 12-02-03	04-27-04 Sub---04-28-04 FI Vo: Y=25 N=8		CR 05-05-04	
230	6-19-03		Makes changes to the laws governing the Department of Public Safety Reinhard - HPRS			TPS Reinhard 09-16-03	01-29-04 Sub; 02-03-04 FI Vo: Y=91 N=3	02-04-04	HT Armbruster 02-18-04	05-12-04---05-19-04---05-26-04 Amend; FI Vo: Y=33 N=0		05-26-04	09-16-2004
242	07-03-03		Requires financial disclosure statements to be filed by certain retirement system employees Taylor - All Systems			BPS Blasdel 09-16-03	10-02-03----						
271	09-09-03		Limits salary and benefits to certain executives McGregor - All Systems			FA Calvert 09-16-03							
283	09-18-03		Requires board members to file with Ethics Commission and changes composition of boards J. Stewart - All Systems			BPS Blasdel 10-08-03							
311	10-23-03		Ohio's Best Rx Hagan - All Systems	GK		FA Calvert 11-13-03	10-27-03----10-28-03----11-05-03----11-18-03----11-19-03----12-02-03---12-02-03 Sub---12-09-03 Sub; Amend; FI Vo: Y=92 N=1	12-09-03	FFI Harris	12-10-03 Amend; FI Vo: Y=32 N=1		12-10-03	12-18-2003 (E)
337	11-20-03	PERS:01-30-04 STRS: 02-06-04 SERS: 01-29-04	Expands eligibility to participate in alternative retirement plans Blasdel - PERS, STRS, SERS  *Amended into S.B. 133	AE	AA 03-10-04	BPS Blasdel 12-02-03	12-09-03----03-18-04----03-25-04----04-22-04 Sub---04-29-04----05-18-04 Sub---						
395	02-03-04		Prohibits investment employees from making political contributions Redfern - All Systems			SG Carmichael 02-05-04							
449	03-30-04	PERS:05-10-04	Allows reemployed retirant to receive refund of contributions Seitz - PERS	AE	AA 05-12-04	BPS Blasdel 04-21-04	04-29-04----05-06-04----05-13-04----05-18-04 Sub---05-26-04 FI Vo: Y=99 N=0	05-27-04	HHA Wachtmann 11-09-04	11-17-04; 11-30-04 Amend; 12-07-04 Amend; FI Vo: Y=29 N=0		12-08-04	04-11-2005
455	04-06-04	PERS:05-10-04	Regarding election by married or remarried retirant Schneider - All Systems	GK	A 05-12-04	BPS Blasdel 04-21-04	04-22-04----04-29-04----05-06-04----05-13-04----05-26-04 FI Vo: Y=99 N=0	05-27-04	HHA Wachtmann 11-09-04				
468	04-21-04		Purchase credit for inactive duty in Ohio National Guard or reserves J. Stewart - PERS, STRS, SERS			BPS Blasdel 05-04-04	05-06-04----05-18-04----05-25-04----						
469	04-21-04		Permit uncompensated board member to purchase additional credit J. Stewart - PERS			BPS Blasdel 05-04-04							

SENATE BILLS

SEN BILL	INTRO	Actuarial Received	Subject, Sponsor, and System	Cont Pers	ORSC Pos	Sen Cmte	Testimony - Reported Out - Floor Vote	INTRO HSE	Hse Cmte	Testimony - Reported Out - Floor Vote	Conf Cmte	Concurrence	Eff Date
22	01-30-03		Exempts \$10,000 in state, federal, military retirement benefits from income tax Coughlin	BI	N	WM Amstutz 02-04-03							
104	07-03-03		Authorizes Inspector General to investigate retirement systems and ORSC Fedor - All Systems			HHA Wachtmann 09-17-03							
105	07-03-03		Requires financial disclosure statements to be filed by certain retirement system employees Schuring - All Systems			HHA Wachtmann 09-17-03							
126	09-11-03		Allows ORSC to contract with Inspector General to investigate retirement systems Schuring - All Systems			HHA Wachtmann 09-17-03							
133	10-02-03		Makes changes to the governance of the retirement systems Wachtmann - All Systems	GK	AA 10-13-03	HHA Wachtmann 10-14-03	10-07-03---10-08-03---10-14-03---10-21-03---11-05-03 Sub---11-06-03---11-12-03 Amend---11-13-03 FI Vo: Y=22 N=11	11-13-03	BPS Blasdel 12-02-03	12-09-03---05-25-04 Sub; Amend; FI Vo: Y= 57 N=42		05-26-04	9-15-2004
138	10-23-03		Ohio's Best Rx Spada - All Systems	GK		FFI Harris 10-29-03	10-29-03---11-06-12---11-12-03---12-02-03---12-03-03 Sub---12-09-03 Sub; Amend---						
225	04-08-04	PERS:05-10-04	Regarding election by married or remarried retirant Hottinger - All Systems	GK	AA 05-12-04	HHA Wachtmann 04-20-04	05-19-04---						
244	05-18-04		Makes changes to the governance of the retirement systems Brady - All Systems			HHA Wachtmann 05-19-04							

## HOUSE COMMITTEES

ANR Agriculture & Natural Resources  
PNR Parks and Natural Resources Subcommittee  
BPS Banking, Pensions & Securities  
CCL Civil & Commercial Law  
CL Commerce & Labor  
CTG County & Township Government  
VA Veterans Affairs Subcommittee  
CJ Criminal Justice  
EDT Economic Development & Technology  
EDU Education  
FGR Federal Grant Review & Education Oversight  
Subcommittee  
EE Energy & Environment  
RR Regulatory Reform Subcommittee  
FA Finance & Appropriations  
AG Agriculture Subcommittee  
HE Higher Education Subcommittee  
HS Human Services Subcommittee  
PSE Primary & Secondary Education  
Subcommittee  
TRA Transportation Subcommittee  
HLT Health  
CHF Children's Health Care & Family Services  
Subcommittee  
HEA Homeland Security, Engineering &  
Architectural Design  
HSA Human Services & Aging  
INS Insurance  
JUD Judiciary  
JFL Juvenile & Family Law  
MGU Municipal Government & Urban  
Revitalization  
PU Public Utilities  
RR Rules & Reference  
SG State Government  
EE Election & Ethics Subcommittee  
TPS Transportation & Public Safety  
WM Ways & Means

## SENATE COMMITTEES

AGR Agriculture  
EDU Education  
ENE Energy, Natural Resources & Environment  
FFI Finance & Financial Institutions  
FI Financial Institutions Subcommittee  
HHA Health, Human Services, & Aging  
HSA Human Services & Aging Subcommittee  
HT Highways & Transportation  
ICL Insurance, Commerce & Labor  
JCV Judiciary - Civil Justice  
JCR Judiciary - Criminal Justice  
PU Public Utilities  
REF Reference  
RUL Rules  
SLV State & Local Government & Veterans  
Affairs  
WME Ways & Means & Economic Development

## LEGISLATIVE ACTION

A Amended  
S Substitute  
P Postponed Indefinitely  
R Rereferred  
V Vetoed  
E Emergency  
CR Concurrence Refused

## ORSC POSITION

A Approved  
D Disapproved  
AA Approved with Amendment  
AD Action Deferred  
N No Action Necessary

## ORSC CONTACT PERSON

GK Glenn Kacic  
AE Anne Erkman  
TN Tony Nichols  
BI Bill of Interest