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*Am. H.B. 78 of the 135th
General Assembly*

Reps. Seitz and Miller, J.

November 9, 2023

ORSC Recommendation Update

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Summary of Am. H.B 78

Am. H.B. 78 would allow active (employed) teachers who are also retired from the State Teachers Retirement System (STRS) to seek election on the STRS Board as retired members. These individuals are often referred to as “re-employed retirants.”¹ These re-employed retirants are, under current law, ineligible to seek election on the STRS Board, but they may vote in the elections for the two retired STRS Board members.

The bill also specifies that those holding a three-year pre-service teaching permit for student teachers, authorized under Am. Sub. H.B. 33 of the 135th General Assembly, are members of the State Teachers Retirement System. H.B. 33 did not specifically include these individuals in any state retirement system.

Background and Comments

STRS Board Membership. Since H.B. 94 of the 124th GA, the STRS Board has been comprised, in part, of five active contributing members of STRS and two retired members who are not contributing to STRS.² This explicitly excludes re-employed retirants of STRS from serving on the STRS Board. No ORSC analyses of the time or the Legislative Service Commission analyses indicate the reason for the exclusion.

H.B. 78, As Introduced, would have permitted re-employed retirants to serve as either active or retired members of the STRS Board. At its May 11, 2023, ORSC meeting, the ORSC recommended that the bill be amended to provide that re-employed retirants seek election as retired member of the board. This is because re-employed retirants are, by definition, receiving STRS retirement benefits as retirees and are no longer receiving additional service credit for their post-retirement employment; additionally, STRS re-employed retirants are only eligible to vote for the retired board member seats. Such an amendment would also be consistent with the election of re-employed retirants in the Public Employees Retirement System (PERS) and School Employees Retirement System (SERS).

The bill, as amended, includes this ORSC recommendation.

Pre-Service Teaching for Compensation. Am. Sub. H.B. 33 of the 135th General Assembly created a three-year pre-service teaching permit for student teachers.³ Under the permit, student teachers may substitute teach and receive compensation for it. Under prior law, these individuals preparing to become licensed teachers or

¹ STRS law refers to these individuals as “superannuates” (R.C. 3307.01).

² The STRS Board is comprised of 11 members. Five active contributors, two retired members, the Superintendent of Public Instruction, and three investment experts, one each appointed by the Governor, General Assembly, and Treasurer (R.C. 3307.05)

³ R.C. 3319.0812.

educational assistants were prohibited from being compensated for their service and the service was, therefore, not covered under any retirement system.

Under continuing law, *licensed* substitute teachers are specifically included as a teacher for purposes of membership in STRS.⁴ Under Am. Sub. H.B. 33, service under the new permit is *not specifically* covered by STRS.⁵ Instead, an argument could be made to include them as either STRS, SERS, or potentially PERS members, and it is likely that permit holders will be divided between the systems based on employer-level decisions.

However, since licensed substitute teachers are members of STRS and these permit holders are in the process to become licensed in a position covered by STRS, these new permit holders should participate in STRS (and *not* SERS or PERS). A likely result of Am. Sub. H.B. 33 is that individuals holding a permit and training to become a licensed teacher (and therefore a member of STRS), will have split service in STRS and SERS or PERS. ORSC has consistently held that similarly situated employees be treated as equally as possible.⁶ At its September 14, 2023, ORSC meeting, the ORSC recommended that STRS membership specifically include the new permit holders in order to properly place these individuals with similarly situated STRS members.

The bill, as amended, includes this ORSC recommendation.

ORSC Recommendation on Am. H.B. 78

The ORSC recommend passage of Am. H.B. 78. This will serve as an update to its previous recommendation. The bill includes the following two recommendations previously made by the ORSC:

- 1) That H.B. 78 be amended to specify that STRS re-employed retirants be permitted to serve as retired members of the STRS Board (May 11, 2023, ORSC recommendation); and
- 2) That the pre-service teaching for compensation permit be specifically included in STRS membership (September 14, 2023, ORSC recommendation).

⁴ R.C. 3319.226 and R.C. 3307.01.

⁵ R.C. 3307.01.

⁶ See, for example, the treatment of employees of County Boards of Development of Disabilities who work in an educational setting (Analysis of H.B. 572 of the 132nd General Assembly; available online at: <https://www.orsc.org/Assets/Reports/1285.pdf>).