



The Ohio Retirement Study Council

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Analysis

Sub. H.B. 628 - Rep. Hollister

As Enacted by the General Assembly

May 25, 2000

ORSC POSITION

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The bill would make the following changes to the Public Employees Retirement System (PERS):

- Increases the age and service retirement benefit formula from 2.1% to 2.2% for each of the first 30 years of service under the state and local government divisions of PERS;
- Increases the age and service retirement benefit formula from 2.1% to 2.5% for each of the 21st through 25th years of service under the law enforcement division of PERS;
- Increases the benefit formula under the pre-1992 disability retirement plan from 2.1% to 2.2% for each year of accrued service, plus projected service credit until age 60, up to the current maximum of 75% of the disabled member’s final average salary (FAS);
- Increases the benefit formula under the post-1992 disability allowance plan from 2.1% to 2.2% for each year of accrued service, up to the current maximum of 60% of FAS;
- Creates an alternative survivor benefit based upon the member’s years of service in lieu of the number of qualified survivors under current law, and provides the greater of such amounts:

No. of Survivors	% of FAS	Minimum Benefit/Mo.
1	25%	\$250
2	40%	\$400
3	\$50%	\$500
4	55%	\$500
5 or more	60%	\$500

OR

Years of Service	% of FAS
20	29%
21	33%
22	37%
23	41%
24	45%
25	48%
26	51%
27	54%

28	57%
29 or more	60%

- Increases the above minimum monthly survivor benefit from the current \$96 to \$250 for one qualified survivor, \$186 to \$400 for two qualified survivors, and \$236 to \$500 for three or more qualified survivors, and eliminates the current age requirement of 50 for spouses to qualify for survivor benefits in cases where they are neither caring for surviving children nor physically or mentally competent, provided the member had at least ten years of service. The bill also provides that the final average salary used in the calculation of a benefit payable to the survivor of a disability benefit recipient shall be increased by the lesser of 3% or the actual percentage change in the CPI-W for each year between the effective date of the disability benefit and the date of death;
- Requires the PERS board to recalculate all benefits granted prior to the effective date of the bill in accordance with the above changes, and to add thereto all benefit increases authorized and granted prior to the effective date of the bill. The recalculated benefit shall be used as the new base amount for purposes of calculating cost-of-living allowances (COLA) as well as the ad hoc post-retirement increase described below;
- Requires the PERS board to provide an ad hoc post-retirement increase to individuals receiving a service, disability or survivor benefit that became effective on or before December 31, 1979 in accordance with the following schedule:

Effective Calendar Year	Percentage Increase
1955 or earlier	25.0%
1956	28.3%
1957	38.4%
1958	23.2%
1959	27.1%
1960	28.2%
1961	24.6%
1962	27.9%
1963	26.6%
1964	30.1%
1965	23.5%

1966	25.5%
1967	28.7%
1968	21.9%
1969	23.9%
1970	21.5%
1971	22.2%
1972	22.4%
Effective Calendar Year	Percentage Increase
1973	21.3%
1974	21.1%
1975	20.7%
1976	20.6%
1977	20.5%
1978	13.5%
1979	4.0%

- Requires the PERS board to establish one or more alternative defined contribution plans, in conjunction with the current defined benefit plan;
- Permits PERS members who resigned due to the adoption of a child to purchase no more than one year of service credit;
- Amends the laws of all five state retirement systems governing the lump sum benefit payable upon the death of a service or disability benefit recipient to specify that such benefit shall be treated as life insurance for purposes of the retirement statutes and shall be funded solely from employer contributions and earnings thereon;
- Reorganizes Chapter 145. of the Revised Code to accommodate the above changes and creates Chapter 148. of the Revised Code to relocate the current provisions governing the Ohio Public Employees Deferred Compensation Program, with corresponding amendments to other sections of law throughout the Revised Code that reference Chapters 145 and 148.

As reported out of the Senate Ways and Means Committee, the amended substitute bill would make the

following additional changes:

- *Require the PERS board to conduct a study to determine the best method of meeting the needs of their members who are interested in participating in the alternative DC plan established under the bill;*
- *Authorize the OP&F board to assess a \$100/day fine on employers who fail to provide timely information required to process a member's application for retirement.*

Defined Benefit Formula Increases - The bill would increase the defined benefit formula for active members who retire or become disabled on or after the effective date of the bill for purposes of calculating a service retirement benefit or a disability benefit.

Under current law, the defined benefit formula for age and service retirement under the state and local government divisions of PERS is 2.1% for the first 30 years of service, plus 2.5% for each year of service in excess of 30.¹ The bill would increase the percentage multiplier from 2.1% to 2.2% for each of the first 30 years of service; the current percentage multiplier of 2.5% for each year of service in excess of 30 would remain unchanged under the bill.

For example, a state or local government employee with 30 years of service receives 63% of FAS (2.1% x 30 = 63%) under current law. Under the bill, the employee would receive 66% of FAS (2.2% x 30 = 66%).

Under current law, the defined benefit formula for age and service retirement under the law enforcement division of PERS is 2.5% for the first 20 years of service, plus 2.1% for each year of service in excess of 20.² The bill would increase the percentage multiplier to 2.5% for the first 25 years of service, plus the current 2.1% for each year of service in excess of 25.

For example, a PERS law enforcement officer with 25 years of service currently receives 60.5% of FAS [2.5% x 20 = 50%, plus (2.1% x 5 = 10.5%) = 60.5%]. Under the bill, the law enforcement officer would receive 62.5% of FAS (2.5% x 25 = 62.5%).

Under current law, PERS members qualify for coverage under one of two disability plans: the pre-1992 disability plan or the post-1992 disability plan.³ The defined benefit formula under the pre-1992

¹The maximum service retirement benefit under the state and local government divisions of PERS would remain the lesser of 100% of FAS or the annual dollar limit established under IRC Section 415.

²The maximum service retirement benefit under the law enforcement division of PERS would remain the lesser of 90% of FAS or the annual limit established under IRC Section 415.

³Individuals who were members of PERS on July 29, 1992 were given an opportunity to make a one-time, irrevocable election between disability coverage under the pre-1992 plan and the post-1992 plan. Individuals who became members after July 29, 1992 are automatically covered under the post-1992 disability plan.

disability plan would increase from 2.1% to 2.2% for each year of service, plus each year of projected service until age 60, up to the current maximum of 75% of FAS. The defined benefit formula under the post-1992 disability plan would also increase from 2.1% to 2.2% for each year of service, up to the current maximum of 60% of FAS. The current minimum disability benefit under the pre-1992 disability plan and the post-1992 disability plan would remain 30% of FAS and 45% of FAS, respectively.

Under current law, the disability allowance under the post-1992 plan terminates upon the member's attainment of age 65 or the expiration of the following benefit period for members who become disabled on or after age 60:

Attained Age at Date of Disability	Benefit Period
60 or 61	60 months
62 or 63	48 months
64 or 65	36 months
66, 67 or 68	24 months
69 or older	12 months

On termination of the disability allowance, the member may apply for a service retirement benefit. Under current law, the service retirement benefit is the greater of the following amounts:⁴

- 2.1% for each year of service, *including* service credit for the period the member was receiving a disability allowance, up to a maximum of 45% of final average salary; or
- a benefit calculated under the defined benefit formula for age and service retirement, *excluding* service credit for the period the member was receiving a disability allowance.

The bill would increase the defined benefit formula for calculating the service retirement benefit to 2.2% for each year of service, *including* service credit for the period the member was receiving a disability allowance, up to the current maximum of 45% of final average salary. The defined benefit formula for age and service retirement, as modified under the bill, would also be used for determining the service retirement benefit for each year of service, *excluding* service credit for the period the member was receiving a disability allowance. The member would continue to receive the greater of the two amounts as under current law.

⁴Added to these amounts would be any additional cost-of-living adjustments the member would have received had the member retired as of the effective date of the disability allowance.

Survivor Benefit Improvements - The bill would make several changes to the benefits payable to the survivors of PERS members who die prior to eligibility for service retirement or, at the time of death, are receiving disability benefits.⁵

Currently, survivor benefits for these individuals are based upon the number of qualified survivors as follows:⁶

No. of Survivors	% of FAS	Minimum Benefit/Mo.
1	25%	\$96
2	40%	\$186
3	50%	\$236
4	55%	\$236
5 or more	60%	\$236

The bill would increase the minimum monthly survivor benefit from \$96 to \$250 for one survivor, \$186 to \$400 for two survivors, and \$236 to \$500 for three or more survivors.

The bill would create an alternative survivor benefit in lieu of the above schedule of benefits based upon the member’s years of service, and provide the greater of the two amounts as follows:

Years of Service	% of FAS
20	29%
21	33%
22	37%
23	41%

⁵The member must have had at least one and one-half years of contributing service, with at least one-quarter year of contributing service within the two and one-half years prior to the date of death, to qualify for survivor coverage.

⁶Qualified survivors currently include a spouse who is age 62, age 50 if the member had at least ten years of service, or regardless of age if the spouse is either caring for a qualified child or physically or mentally incompetent; unmarried child who is under age 18, age 22 if the child is a full-time student, or regardless of age if the child is physically or mentally incompetent; and a dependent parent who is age 65 or regardless of age if the parent is physically or mentally incompetent.

24	45%
25	48%
26	51%
27	54%
28	57%
29 or more	60%

For example, the surviving spouse of a member who had 29 years of service and no other survivors currently receives 25% of the member’s FAS. Under the bill, such spouse would receive 60%.

Under the bill, qualified survivors shall share equally in the alternative survivor benefit, except that if there is a surviving spouse, then the spouse shall receive *no less than* the greater of 25% of FAS or \$250 per month.

The bill would provide that the FAS used in the calculation of the above benefits payable to qualified survivors of a disability benefit recipient shall be adjusted by the lesser of 3% or the percentage change in the CPI-W for each year between the effective date of the disability benefit and the date of death. Currently, the calculation of survivor benefits is based upon the FAS used in the calculation of the disability benefit.

The bill would change the qualification requirements for the spouse of a member who had at least ten years of service. Currently, the spouse must attain age 50 to qualify for survivor benefits if the spouse is neither caring for a qualified child(ren) nor physically or mentally incompetent. The bill would eliminate the age 50 requirement for such spouses, and thus make them eligible for benefits at any age. The bill would also clarify the qualification requirements for an unmarried child of a member to mean a child who has never been married.

Post-Retirement Benefit Increases - The bill would require PERS to recalculate the original benefit amount of all individuals receiving a benefit on the effective date of the bill in accordance with the above changes, and to add thereto all benefit increases authorized and granted by PERS prior to the effective date of the bill. The recalculated benefit would become payable on the first day of the month following the effective date of the bill, and would be used as the new base for purposes of calculating cost-of-living allowances (COLA) as well as the ad hoc post-retirement increase described below.

The bill would require PERS to provide an ad hoc post-retirement increase to all individuals receiving a benefit that became effective on or before December 31, 1979 in accordance with the following schedule:

Effective Calendar Year of Benefit	Percentage Increase
1955 or earlier	25.0%
1956	28.3%
1957	38.4%
1958	23.2%
1959	27.1%
1960	28.2%
1961	24.6%
1962	27.9%
1963	26.6%
1964	30.1%
1965	23.5%
1966	25.5%
1967	28.7%
1968	21.9%
1969	23.9%
1970	21.5%
1971	22.2%
1972	22.4%
1,973	21.3%
1974	21.1%
1975	20.7%
1976	20.6%
1977	20.5%
1978	13.5%
1979	4.0%

The ad hoc post-retirement increase would become payable on the first day of the month following the effective date of the bill, and would be applied to the individual's recalculated benefit as determined above. The ad hoc post-retirement increase would be included in the calculation of future COLA's.

Alternative Retirement Plan (ARP) Authorized - The bill would require the PERS board to establish one or more plans consisting of benefit options that provide for an individual account for each participating member. Benefits shall be based solely on the amounts accumulated in the participant's account. The plan may include options which provide definitely determinable benefits to the participant. The board may administer the plan or contract with other entities to administer it. Each plan shall meet the tax qualification requirements under Section 401(a) of the Internal Revenue Code in order to avoid payment of federal income tax on contributions or the amounts earned thereon prior to the individual's receipt of a benefit. Each plan shall also satisfy the minimum retirement benefit requirements under the Internal Revenue Code to qualify as a retirement system maintained by a state or local government entity. A plan generally satisfies these federal requirements if allocations to the participant's account are at least 7.5% of the participant's compensation, regardless of whether such allocations are made by the participant, employer, or some combination of the two. Failure of the plan to satisfy these requirements would cause the participant and employer to contribute to the Social Security System under existing federal law.

Under the bill, the PERS board shall adopt rules to implement each plan so established. The board may also do all things necessary to avoid the payment of federal or state income taxes on plan contributions and earnings thereon.

The bill would require an individual who becomes a PERS member *on or after* the establishment of the alternative retirement plan (ARP) to make an election to participate in either the current PERS defined benefit (DB) plan or one of the options provided under the ARP.⁷ The election shall be made no later than 180 days after the commencement of such employment. The election shall be in writing on a form provided by PERS and filed with the employer. No later than 10 days after receipt of such form, the employer shall transmit to PERS a certified copy of the election. The election take effect on the date of employment and shall be irrevocable upon receipt by the employer. If no election is on file at the end of the 180-day period, the individual is deemed to have elected to participate in the PERS DB plan.

The bill would permit current PERS members, other than law enforcement officers, who have less than five years of service credit prior to the establishment of the plan to make an election to participate in one of the options provided under the ARP. The election shall be made no later than 180 days after the establishment of the ARP. The election shall be in writing on a form provided by PERS and filed with PERS. The election shall be irrevocable upon receipt by PERS. Upon receipt of an election, PERS would be required to credit to the member's individual account in the Defined Contribution Fund the

⁷Individuals are ineligible to make an election if they are law enforcement officers covered by PERS, PERS retirants or, at the time employment begins, PERS members participating in the DB plan.

member's accumulated contributions standing to the credit in the Employees' Savings Fund. If no election is made at the end of the 180-day period, the member is deemed to have elected to continue participating in the current DB plan.

The bill would provide that any PERS member who elects to participate in the ARP shall be ineligible for any payment or benefit under the DB plan, and shall be forever barred from claiming or purchasing credit in PERS or the other state retirement systems for service covered by the election.

The bill would create the "Defined Contribution Fund" in PERS, the fund in which contributions deducted from the earnable salaries of PERS members participating in the ARP shall be accumulated, along with any earnings and employer contributions credited thereon, and from which benefits provided under the ARP shall be paid. Under the bill, ARP members would contribute the same percentage as Defined Benefit (DB) members which is currently 8.5% for state and local government employees and 9.0% for law enforcement officers. Contributions shall not exceed the limits established under Section 415 of the Internal Revenue Code.

Employers of ARP members would contribute the same percentage as employers of DB members which is currently 13.31% under the state division, 13.55% under the local government division, and 16.7% under the law enforcement division. For each ARP member, PERS shall transfer to the Employers' Accumulation Fund a portion of the employer contribution equal to a percentage of the member's earnable salary determined annually by the PERS actuary to be necessary to mitigate any negative financial impact on the DB plan resulting from participation of members in the ARP plan. The percentage transferred shall be increased or decreased based on the annual results of the PERS actuary's determination; any change in the percentage shall take effect on the first day of the year following the date the actuarial results are reported to the PERS board. Under the bill, PERS shall make the above transfers to the Employers' Trust Fund until the unfunded actuarial accrued liabilities, *excluding health care benefits and any benefit increases provided to members and former members participating in the DB plan after the effective date of the bill*, is fully amortized, as determined by the annual actuarial valuation prepared by the PERS actuary.

Contributions made by and on behalf of ARP members shall be deposited and credited in accordance with the plan selected by the member. Contributions shall cease upon the member's death, termination of employment or any other reason specified under the ARP selected by the member.

The right of each member participating in the ARP to a retirement, disability, survivor, death, health care, and/or long-term health care benefit, or the withdrawal of any amounts accumulated in the member's account, shall be governed exclusively by the plan selected by the member. Subject to the current PERS reemployment restrictions, withholding orders for spouse and child support or as restitution for theft in public office and certain sex offenses committed in the context of the member's public employment, the member's right to any payment or benefit under the ARP shall vest as follows:

- The member's right to any payment or benefit that is based on member contributions is nonforfeitable;

- The member's right to any payment or benefit that is based on employer contributions is nonforfeitable as specified by the ARP selected by the member.

For married ARP members, the bill would require PERS or the entity administering the ARP to obtain, prior to making any payment, the consent of the spouse to the form of payment selected by the member. The ARP plan shall include the same requirements for consent as required under Section 417 of the Internal Revenue Code. Each ARP plan may waive consent if the spouse cannot be located or for any other reason permitted under the Internal Revenue Code. Consent or waiver shall only be effective with respect to the spouse who is the subject of the consent or waiver.

Each ARP shall permit each participating member to do all of the following:

- Maintain on deposit with PERS or the entity administering the ARP any amounts that have accumulated in the member's account;
- Redeposit with PERS or the entity administering the ARP any amounts withdrawn by the member;
- Make additional deposits as permitted under the Internal Revenue Code, as amended.

The bill would generally provide that the provisions governing the DB plan shall not apply to the ARP, except that the ARP may incorporate those provisions as specified by its plan document. The bill, however, specifically specifies that the following provisions governing the DB plan shall apply to each ARP established by PERS:

- The actuarial reporting requirements under R.C. §145.22;
- The maximum 30-year funding period established under R.C. §145.221;
- The various funds created under R.C. §145.23, including the Defined Contribution Fund;
- The establishment of each fund as a separate legal entity as provided under R.C. §145.25;
- The Treasurer of State as the custodian of each fund as provided under R.C. §145.26;
- The open records and confidentiality provisions under R.C. §145.27;
- The payment of contributions during disability leave as provided under R.C. §145.296;
- The reemployment rights and restrictions of retired public employees under R.C. §145.38;
- The reemployment rights of certain PERS retirees under R.C. §145.382;
- The excess governmental benefit arrangements authorized under R.C. §145.391;
- The employee contribution requirements under R.C. §145.47;
- The employer "pick-up" of employee contributions as authorized under R.C. §145.471;
- The employer contribution requirements under R.C. §145.48;
- The delinquent contribution statements as provided under R.C. §145.483;
- The separate calculation of PERS-LE contribution rates as provided under R.C. §145.49;
- The employer contribution collection procedures as provided under R.C. §145.51;
- The PERS administrative expense provisions under R.C. §145.54;

- The consent to deductions as provided under R.C. §145.55;
- The tax exemption and non-assignability provisions under R.C. §145.56;
- The vested rights statute under R.C. §145.561;
- The recovery of erroneous payments under R.C. §145.563;
- The withholding orders as restitution for theft in office and certain sex offenses as provided under R.C. §145.57;
- The budget appropriation requirements under R.C. §145.69; and
- The prompt payment from the Treasurer of State under R.C. §145.70.

Purchase of Credit for Resignation due to Adoption of Child - The bill would permit a PERS member who resigned due to the adoption of a child to purchase up to one year of credit.

Under current law, PERS members may purchase up to one year of credit for leaves-of-absence approved by their employers or resignations due to pregnancy, provided they return to employment covered by PERS for at least 12 calendar months. The member shall pay an amount equal to the contribution rate in effect at the time of payment multiplied by the earnable salary of the member at the time of such leave or resignation, plus annual compound interest on such amount at a rate determined by the PERS board. In the case of resignation, the member must submit evidence satisfactory to the board documenting that the resignation was due to pregnancy.

The bill would expand current law to include resignations due to the adoption of a child.

Lump Sum Benefit upon Death of Retiree - The bill would amend the current statutes of the five state retirement systems governing the lump sum benefit payable upon the death of a service or disability benefit recipient. The bill would specify that such benefit shall be treated as life insurance for purposes of the public retirement statutes and shall be paid solely from employer contributions and earnings thereon. The purpose of this amendment is to ensure the exclusion of such benefit from federal income taxes.

PERS Study - The bill would require the PERS board to conduct a study to determine the best method of meeting the needs of their members who are interested in participating in the alternative DC plan established under the bill. The study shall include an examination of the members' preferences with respect to public and private investment opportunities; having life insurance, annuities, variable annuities, regulated investment trusts, pooled investment funds, and other forms of investment available through an alternative DC plan; and having disability, health, and long-term insurance coverage available under an alternative DC plan. The study shall be submitted not later than 18 months after the effective date of the bill to the Speaker of the House, President of the Senate, the chairs of the standing committees of the House and Senate with primary responsibility for retirement legislation, and the ORSC.

OP&F Fine - The bill would require the OP&F board, on receipt of an application for retirement, to request from the employer verification of the member's termination date and any other information necessary to calculate and pay a retirement benefit. The request shall be on a form created by the fund

and the information requested shall be received by the fund not later than 60 days after the form is sent to the employer. If the fund does not receive the completed form from the employer, the fund shall send notice by certified mail to the employer that *unless* the form is received by the fund not later than 30 days after the initial due date, a fine will be assessed against the employer.

The bill would authorize the OP&F board to assess a \$100 per day fine beginning on the 31st day after the initial due date and ending on the day before receipt of the information. The fund shall make one or more monthly payments to members whose retirement benefits do not commence by the 91st day after the fund sends the request for information described above. The payment shall be an amount equal to the amount assessed against the employer, less any administrative costs incurred by the fund. The payment shall commence on the first day of the second month following a month that includes an assessment against the employer.

Staff Comments -

Defined Benefit Formula Increases - The current defined benefit formula for service retirement under the state and local government divisions of PERS is 2.1% for the first 30 years of service, plus 2.5% for each year of service in excess of 30, up to a maximum of 100% of FAS. The current defined benefit formulas for service retirement in SERS and STRS are very similar, providing 2.1% for the first 30 years of service and a constant 2.5% for each year of service in excess of 30 years in SERS and an escalating percentage for each year of earned service in excess of 30 in STRS (2.5% for 31st year, 2.6% for 32nd year, 2.7% for 33rd year, etc.). The current maximum service retirement benefit is 100% of FAS in STRS and 90% in SERS.

The current defined benefit formula for service retirement under the law enforcement division of PERS is 2.5% for the first 20 years of law enforcement service, plus 2.1% for each year of law enforcement service in excess of 20, up to a maximum of 90% of FAS. The current defined benefit formulas for service retirement in OP&F and HPRS are very similar. Under OP&F, the formula is 2.5% for the first 20 years of service, plus 2.0% for the 21st - 25th years, plus 1.5% for each year of service in excess of 25, up to a maximum of 72% of FAS. The formula under HPRS, as revised under S.B. 189 this session, is 2.5% for the first 20 years of service, plus 2.25% for the 21st - 25th years, plus 2.0% for each year of service in excess of 25, up to a maximum of 79.25% of FAS.

The following table provides a history of the changes in the defined benefit formula in PERS since 1968:

Bill	Old Formula	New Formula
H.B. 959 (eff. 6/10/68)	1.65% x FAS x YOS, up to a maximum of 75% of FAS.	1.9% x FAS x YOS, up to a maximum of 80% of FAS.
H.B. 100 (eff. 12/31/71)	1.9% x FAS x YOS, up to a maximum of 80% of FAS.	2.0% x FAS x YOS, up to a maximum of 80% of FAS.

H.B. 430 (eff. 11/20/73)	Maximum: 80% of FAS.	Maximum: 90% of FAS.
H.B. 1312 (eff. 3/4/75) (PERS Law Enforcement)		2.5% x FAS x first 20 YOS, plus 1.5% x FAS over 20, up to a maximum of 66% of FAS
H.B. 548 (eff. 9/8/82) (PERS Law Enforcement)	2.5% x FAS x first 20 YOS, plus 1.5% x FAS over 20, up to a maximum of 66% of FAS	2.5% x FAS x first 20 YOS, plus 2.0% x FAS x 21 - 25 YOS, plus 1.5% x FAS x YOS over 25, up to a maximum of 72% of FAS.
H.B. 232 (eff. 2/16/84)	2.0% x FAS x YOS, up to a maximum of 90% of FAS.	2.1% x FAS x YOS, up to a maximum of 90% of FAS.
H.B. 552 (eff. 12/15/88) (PERS Law Enforcement)	2.5% x FAS x first 20 YOS, plus 2.0% x FAS x 21 - 25 YOS, plus 1.5% x FAS x YOS over 25, up to a maximum of 72% of FAS.	2.5% x FAS x first 20 YOS, plus 2.1% x FAS x YOS over 20, up to a maximum of 90% of FAS
H.B. 760 (eff. 1/1/89)	2.1% x FAS x YOS, up to a maximum of 90% of FAS.	2.1% x FAS x first 30 YOS, plus 2.5% x FAS x YOS over 30, up to a maximum of 100% of FAS

The bill would increase the defined benefit formula under the state and local government divisions to 2.2% for the first 30 years of service, with the same 2.5% multiplier for each year of service in excess of 30. Therefore, a member who retires with 30 years of service at any age would receive **66%** ($2.2\% \times 30 = 66\%$) of FAS under the bill rather than **63%** ($2.1\% \times 30 = 63\%$) of FAS under current law.

The bill would also increase the defined benefit formula under the law enforcement division to 2.5% for the first 25 years of service, with the same 2.1% multiplier for each year of service in excess of 25. Therefore, a member who retires with 25 years of law enforcement service would receive **62.5%** ($2.5\% \times 25 = 62.5\%$) of FAS under the bill rather than **60.5%** [$2.5\% \times 20 = 50\%$, plus $(2.1\% \times 5 = 10.5\%) = 60.5\%$] of FAS under current law.

The following table provides a comparison of the normal service retirement benefit formulas for other non-Social Security statewide retirement systems:

<u>State</u>	<u>Defined Benefit Formula for Normal Service Retirement</u>	<u>Percent of FAS Based upon 30 YOS</u>
Alaska	2.0% x first 20 YOS, plus 2.5% x YOS in excess of 20	65% of FAS
California	2.2% x YOS payable at age 60 2.3% x YOS at age 60 3/4 2.4% x YOS at age 61 1/2	66% of FAS 69% of FAS 72% of FAS
Colorado	2.5% x YOS	75% of FAS
Connecticut	2.0% x YOS	60% of FAS
Illinois	1.67% x first 10 YOS, plus 1.9% x second 10 YOS, plus 2.1% x third 10 YOS, plus 2.3% x YOS over 30 2.2% x YOS after 6/30/98 (Non-retired members may upgrade service prior to 6/30/98 to the 2.2% formula)	56.7% of FAS 66% of FAS
Kentucky	2.0% x YOS prior to 7/1/83, plus 2.5% x YOS after 7/1/83	68% of FAS
Louisiana	2.0% x YOS for teachers who joined prior to 7/1/99 2.5% x YOS for teachers who joined after 7/1/99	60% of FAS 75% of FAS
Maine	2.0% x YOS	60% of FAS
Massachusetts	1.0% x YOS payable at age 50 1.5% x YOS at age 55 2.0% x YOS at age 60 2.5% x YOS at age 65	30% of FAS 45% of FAS 60% of FAS 75% of FAS
Missouri	2.5% x YOS	75% of FAS
Nevada	2.5% x YOS	75% of FAS

Ohio	2.1% x YOS, plus 2.5% x 31st year of earned service, 2.6% x 32nd year, and so on.	63% of FAS
Texas	2.2% x FAS	66% of FAS

As shown in the above table, the current service retirement benefit formula under the state and local government divisions of PERS is higher than a few, but lower than most non-Social Security statewide retirement systems. Many states have recently increased their benefit formulas, including California, Illinois, Louisiana, and Texas. The proposed increase in the PERS service retirement formula seems well within reason in comparison to the other non-Social Security states' current service retirement formulas.

One of the principles adopted by the Ohio Retirement Study Council in its review and recommendations of retirement bills is that “there should be equal pension treatment among the various groups of non-uniformed public employees and as nearly as practicable retirement benefits should be uniform.” (March 1978) As indicated above, the service retirement benefit formulas for PERS, STRS and SERS are currently very similar, as are the disability and survivor provisions of the three non-uniformed retirement systems. The current coordination-of-benefit provisions providing for joint service and disability retirement and the portability of service credit provisions are largely predicated upon maintaining similar benefit structures in these retirement systems. *However, an overriding principle adopted by the ORSC is that “no proposed increase in pension benefits be seriously considered or granted until there is established adequate funding to cover its cost .”* (March 1978)

The proposed change in the defined benefit formula to 2.2% under the state and local government divisions of PERS is generally consistent with the changes made in S.B. 190 as enacted by the 123rd Ohio General Assembly. Under S.B. 190, the STRS defined benefit formula is increased to 2.2%. It is also consistent with the proposed change included in S.B. 270 which would increase the SERS defined benefit formula to 2.2% as well. S.B. 270 has been favorably recommended by the ORSC and is currently pending before the 123rd Ohio General Assembly.

The proposed change in the defined benefit formula to 2.5% for the first 25 years of service under the law enforcement division of PERS would provide a slightly higher service retirement benefit for PERS law enforcement officers (62.5%) than OP&F members (60%) and state troopers (61.25%). Just as members of the PERS law enforcement division have sought legislative action to establish parity in the eligibility requirements for normal age and service retirement, members of OP&F and HPRS are likely to use the same argument(s) to seek legislative action to achieve parity in the benefit formula for normal age and service retirement.

Neither this bill nor the proposed changes included in S.B. 270 would provide the significant financial incentive offered under S.B. 190, as enacted by the 123rd Ohio General Assembly, for teachers to work beyond 30 years (normal retirement). Under S.B. 190, STRS members who have 35 years of earned

service would receive **2.5%** rather than **2.2%** for each of the first 30 years of earned service, plus 2.5% for the 31st year, 2.6% for the 32nd year, 2.7% for the 33rd year, 2.8% for the 34th year and 2.9% for the 35th year, for a total benefit of 88.5% of FAS. PERS members and SERS members who have 35 years of service would receive 78.5% of FAS under their respective bills. The financial incentive offered under S.B. 190 is intended to respond to changing demographics in the STRS membership and the predicted shortage of teachers in the near future. The number of service retirements is expected to double in STRS within the next ten years, creating a growing need for experienced teachers. The stated purpose of the incentive is to retain experienced teachers who otherwise qualify for normal service retirement by encouraging them to defer their actual retirement by at least five years. Though there appears to be no similar labor shortage to justify such incentive for state and local government employees and non-certificated school employees, the continuing improvements in life expectancy in all five state retirement systems may provide justification, in and of itself, to consider incentives for members to work beyond normal retirement in the future.

Survivor Benefit Improvements - The bill would create an alternative survivor benefit based upon the member's years of service in lieu of the current survivor benefit based upon the number of qualified survivors, and provide the greater of the two amounts. The proposed change is intended to allow a survivor of a member who dies prior to eligibility for service retirement and has significant service credit to receive benefits that are commensurate with the member's service. Currently, a surviving spouse with no other qualified survivors receives the greater of 25% of the member's final average salary or \$96 per month, regardless of the member's years of service. The proposed change is modeled after a similar change made to STRS law in H.B. 721 (eff. 12/14/92) and is consistent with a proposed change to SERS law in S.B. 270.

The bill would provide that the FAS used in the calculation of a survivor benefit payable to qualified survivors of a disability benefit recipient shall be adjusted by the lesser of 3% or the percentage change in the CPI-W for each year between the effective date of the disability benefit and the date of death. Currently, the calculation of survivor benefits is based upon the FAS used in the calculation of the disability benefit. This proposed change is consistent with a recent change made to STRS law in S.B. 190, as enacted by the 123rd Ohio General Assembly, as well as a proposed change to SERS law in S.B. 270.

The bill would change the qualification requirements for the spouse of a member who had at least ten years of service. Currently, the spouse must attain age 50 to qualify for survivor benefits if the spouse is neither caring for a qualified child(ren) nor physically or mentally incompetent. The bill would eliminate the age 50 requirement for such spouses, and thus make them eligible for benefits at any age. This proposed change is consistent with a change made to STRS law in S.B. 305 (eff. 3/29/88) as well as a proposed change to SERS law in S.B. 270.

The bill would increase the minimum monthly survivor benefit from the current \$96 to \$250 for one qualified survivor, \$186 to \$400 for two qualified survivors, and \$236 to \$500 for three or more qualified survivors. The current minimum monthly survivor benefits were established in H.B. 430 (eff. 9/1/73), and are the same in PERS, STRS and SERS. This bill would increase them in PERS only; the

current minimum monthly survivor benefits would remain the same in STRS and SERS as neither the changes made in S.B. 190, as enacted by the 123rd Ohio General Assembly, nor the proposed changes in S.B. 270 include such increase.

Post-Retirement Increases - Current PERS law provides for the following methods of retirement income protection: (1) Annual Cost-of-Living Allowances (COLA); (2) Comprehensive Retiree Health Care Program; and (3) Ad Hoc Legislative Post-Retirement Increases.

The annual COLA is generally payable upon receiving a benefit for at least 12 months, calculated upon the original benefit amount (unless the legislature establishes a new base), and limited to a maximum of three percent. The annual COLA became effective on July 1, 1971.

The PERS retiree health care program is perhaps the most valuable in terms of retirement income protection. It provides comprehensive hospital, medical and prescription drug coverage. It also provides for reimbursement of the full cost of Medicare Part B monthly premiums (\$45.50). PERS was first authorized to pay the cost of retiree health insurance coverage on January 1, 1974.

The legislature has enacted various ad hoc post-retirement increases from time to time in an effort to offset in part the loss in the purchasing value of benefits during periods of high inflation. The last PERS ad hoc increase was granted in H.B. 365 (eff. 9/27/96), and restored the purchasing value of PERS members who retired prior to 1978 to a minimum of 70% of their original benefit amount, as adjusted for the cumulative change in the cost-of-living since retirement. These ad hoc increases were included in the benefit recipient's base for purposes of calculating the annual COLA.

The bill would provide similar ad hoc post-retirement increases. The bill would require the PERS board to recalculate all benefits granted prior to the effective date of the bill in accordance with the changes made in the bill, and to add thereto all benefit increases authorized and granted prior to the effective date of the bill. The recalculated benefit shall be used as the new base amount for purposes of calculating cost-of-living allowances (COLA) as well as the ad hoc post-retirement increase described below. S.B. 190, as enacted by the 123rd Ohio General Assembly, provided for a similar recalculation, though the recalculation was limited to STRS service retirees and was based on the defined benefit formula in effect *prior to* the effective date of the bill. Under this bill, PERS would be required to recalculate the benefits of all benefit recipients, including service retirees, disability benefit recipients, and surviving beneficiaries, based upon the defined benefit formula and other benefit changes in effect on the effective date of the bill.

The bill would also require the PERS board to provide an ad hoc post-retirement increase to individuals receiving a service, disability or survivor benefit that became effective on or before December 31, 1979. The percentage increases vary from 4% to 38.4% based on the effective calendar year of the benefit. The percentage increases are calculated so that, on a cumulative basis, the purchasing value of the benefit is restored to 85%, as adjusted for inflation. This ad hoc increase shall be included in the benefit recipient's base for purposes of calculating the annual COLA, and is consistent with the STRS ad hoc increase included in S.B. 190, as enacted by the 123rd Ohio General Assembly.

Defined Contribution Plan - One of the ORSC staff recommendations made in the final report to the Joint Legislative Committee to Study Ohio's Public Retirement Plans (December 11, 1996) 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."

By way of background, the Ohio General Assembly enacted H.B. 586 (eff. 3/31/97) which established an alternative defined contribution plan administered by outside providers for full-time academic and chief administrative employees of public institutions of higher education electing such plan in lieu of participation in the defined benefit plans of PERS, STRS or SERS. The bill also required STRS to pay interest upon the withdrawal of the member's contributions due to death or separation of employment, along with a 50% match from employer contributions for members who had at least five years of service. These legislative changes were favorably recommended by the ORSC and intended to address the issue of pension portability.

S.B. 144 was introduced this session which would require the PERS board to credit interest on the member's contributions, along with a 33% match of employer contributions for members with five but less than 10 years of service and a 67% match for members with ten or more years of service. The bill has been favorably recommended by the ORSC, passed by the Senate, and is pending before the House Health, Retirement & Aging Committee. S.B. 190, which requires the STRS board to establish an alternative defined contribution plan for its members, has also been favorably recommended by the ORSC and enacted by the 123rd Ohio General Assembly. The ORSC recently recommended that S.B. 270 be approved by the 123rd Ohio General Assembly upon the adoption of an amendment which would require SERS to establish an alternative defined contribution plan for its members. Moreover, H.B. 623 was introduced, which would establish an alternative defined contribution plan administered by outside providers for elected officials and non-classified state employees, and is pending review by the ORSC and the 123rd Ohio General Assembly.

All of these legislative measures seek to address the need for greater pension portability and options for Ohio's public employees, especially short-service, mobile employees, and are generally consistent with prior ORSC recommendations and positions concerning this issue.

The bill would require a supplemental employer contribution to be made on behalf of members electing the ARP plan and to be paid to the DB plan in order to mitigate any negative financial impact upon the DB plan resulting from members participating in the ARP plan. The amount of the supplemental employer contribution would be determined annually by the PERS actuary and would remain payable until the PERS unfunded actuarial accrued liabilities, excluding health care benefits and benefit increases provided to members and former members participating in the DB plan after the effective date of the bill, are fully amortized. This provision is consistent with S.B. 190, as recommended by the ORSC and enacted by the 123rd Ohio General Assembly.

PERS Study - The study required to be conducted by the PERS board under the bill is limited to members' preferences regarding various investment options and other ancillary benefits under the

alternative DC plan established under the bill. While the members' retirement needs are an important consideration, the recruitment/retention needs of employers and the actuarial implications to the retirement system are equally important considerations in design of the alternative DC plan. Therefore, the PERS board should retain sole discretionary authority as provided under the bill to establish and administer the DC plan based upon the advice of its actuary and the interests of both members and employers.

OP&F Fine - The \$100/day assessment against OP&F employers for failure to provide necessary information to enable the fund to process retirement applications in a timely manner is consistent with similar assessments recently enacted in Sub. H.B. 648 (eff. 9/16/98) relative to the submission of pre-employment physicals and delinquent retirement contributions to the fund. The purpose of the assessment is to enforce the employer's obligations under OP&F law.

Fiscal Impact - See the attached actuarial analysis prepared by the ORSC actuary, Milliman & Robertson.

ORSC Position - At its meeting of May 2, 2000, the Ohio Retirement Study Council recommended that the 123rd Ohio General Assembly approve H.B. 628/S.B. 277 upon the adoption of the following amendments: (Sub. H.B. 628 incorporates all of these amendments.)

- Retain the existing statutory authority governing the 3% COLA under PERS;
- Clarify the language governing the alternative survivor benefit plan to provide that the spouse shall receive no less than the minimum benefit amount established under the existing survivor benefit plan;
- Eliminate the language authorizing a qualified governmental excess benefit arrangement since S.B. 190, as enacted by the 123rd Ohio General Assembly, includes identical authority for all five state retirement systems;
- Mandate rather than permit the PERS board to establish an alternative DC plan;
- Limit participation in the alternative DC plan to new hires and current members who have less than five years of service (non-vested members);
- Exclude PERS members covered under the law enforcement division from participation in the alternative DC plan;
- Provide that the PERS DC plan may include life insurance, annuities, variable annuities, regulated investment trusts, pooled investment funds, or other forms of investment;
- Amend the death benefit provisions of all five state retirement systems to provide that such benefits shall be funded solely by employer contributions and earnings thereon and treated as life

insurance in order to allow such benefits to remain tax exempt; and

- Make certain technical changes.