



**Ohio
Retirement
Study
Council**

30 East Broad Street, 2nd Floor
Columbus, Ohio 43215
PHONE: 614-228-1346
FAX: 614-228-0118

To: ORSC Members
From: Jeffery A. Bernard, Senior Research Associate *JAB*
Date: May 10, 2018
Subject: Statutory Caps and Retirement System Penalties

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At the March 8, 2018, ORSC meeting, the ORSC asked staff to provide a recommendation on capping the maximum penalty that the State Teachers Retirement System (STRS) may impose on employers. These fines are assessed to employers for failing to timely submit required employer and employee reports, including required contributions, to STRS. As part of that recommendation, the ORSC also asked staff to provide an outline of existing statutory penalties.

Background Summary

In each retirement system, the employer is responsible for notifying the retirement system of contributing members, and the employer is also responsible for timely submitting reports and contributions to the retirement systems. The retirement systems rely on these contributions to fund benefits.

Existing Statutory Fine Structure

Four retirement systems (OPERS, OP&F, SERS, and STRS) are currently permitted to fine an employer who fails to timely submit employee or employer contribution. Of these four, STRS is the only system without a statutory cap on the amount of the fine. HPRS does not have any authority to issue fines for failure to timely remit employer and employee contributions. The following chart summarizes the maximum statutory penalty that may be imposed.

Retirement System	Maximum Statutory Penalty
PERS ¹	Failure to transmit employee contributions: Escalating maximum, capped at 5% of amount due after 31 days. Failure to transmit employer contributions: Escalating maximum, capped at 2.5% of amount due after 61 days.
STRS ²	No caps
OP&F ³	Failure to transmit either employee or employer contributions: Escalating maximum, capped at the greater of \$7,500 or 5% of amount due, plus \$50 per day after 210 days.
SERS ⁴	Failure to submit employee and employer contributions: \$100 per day late. Failure to submit a payroll or other report: \$100 per day, capped at \$1,500. Failure to submit a new member report: \$50 per record per month, capped at \$300.
HPRS	No penalty permitted.

STRS and ORSC staff met on March 22nd to discuss a tentative proposal to cap the allowable statutory fines. Subsequent to that meeting, ORSC drafted a letter with the joint recommendation resulting from that meeting and provided it to STRS for their review. The STRS letter agreeing in concept to the joint proposal is attached to this memo.

Recommendation

- 1) ORSC staff propose that the statutory language from SERS law regarding failure to timely submit employee or employer contributions and reports⁵ be replicated in STRS law. At the request of STRS staff, the language will be modified to provide that STRS *may* impose the fines, rather than requiring the fines as in SERS law.
- 2) At the request of Representative Ramos, ORSC staff reviewed the existing structure of employer fines for all of the retirement systems. During this review, ORSC found that HPRS does not have the authority to issue employer penalties (the employer in this case is the State of Ohio). ORSC staff would

¹ R.C. 145.47 and 145.51.

² R.C. 3307.292.

³ R.C. 742.352.

⁴ R.C. 3309.571.

⁵ R.C. 3309.571(A), (B), and (C). The division (C) language should be modified to generally refer to employer records pursuant to R.C. 3307.213.

additionally recommend that fine authority be provided to HPRS. This recommendation is made in accordance with ORSC instructions that staff standardize the systems as possible. ORSC staff recommend that language from PERS law be replicated in HPRS law, as the employer/retirement system relationship is most similar between PERS and HPRS.