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# *Analysis*

**Am. H.B. 250 - Rep. Patton**

July 14, 1999

Am. H.B. 250 would change the definition of “earnable salary” under the Public Employees Retirement System (PERS) laws to include the fair market rental value of housing provided by an employer that is a condition of employment. Temporary lodging provided by the employer would be excluded from earnable salary.

Currently all lodging provided by the employer is excluded from the definition of earnable salary.

### **Staff Comments**

This change in the definition of earnable salary would allow the cost of the employer-provided housing to be included in the member’s final average salary for retirement benefit purposes. This means that all members who are required to live in employer provided housing would be required to make employee contributions to PERS on the cost of the housing (state and local: 8.5%; law enforcement: 9.0%). The employer would also be required to make contributions to the retirement system based on the cost of the housing (state: 13.31%; local: 13.55%; law enforcement: 16.70%).

Prior to 1986, it was unclear whether incidental benefits such as lodging could be included in earnable salary. In 1986, the definition of earnable salary was changed to specifically exclude lodging provided to the employee, as well as other incidental benefits such as food, parking, and use of the employer’s property or equipment (H.B. 502, eff. 4-24-86). The change was in response to changes in the Internal Revenue Code that excluded such fringe benefits from gross income. The public policy question at issue was whether fringe benefits should be included or excluded for retirement purposes.

The public policy issue remains the same today: whether fringe benefits such as employer provided housing should be included or excluded for retirement purposes. Currently, earnable salary includes only salary, wages, and earnings paid to the employee; it does not include any incidental fringe benefits. This is consistent with the definition of compensation in the other two non-uniformed retirement systems.

This bill would create inconsistencies in the way in which incidental fringe benefits are treated in PERS: one type of fringe benefit would be included for retirement purposes, all others would not. Additionally, it would create inconsistencies among the non-uniformed retirement systems in terms of what is included in earnable salary.

### **Fiscal Analysis**

According to the PERS actuary, Gabriel, Roeder, Smith & Company, the number of members affected and the value of the required housing is not known; therefore, a detailed measurement of the financial effect of H.B. 250 cannot be made. However, the actuary believes the total number to be small. No change in the current contribution rate structure would result from the passage of the bill, but added administrative costs would be incurred.

### **Staff Recommendation**

The staff recommendation is that the Ohio Retirement Study Council recommend that the 402nd