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Analysis

H.B. 270 – Rep. Willamowski *As Introduced*

February 8, 2006

ORSC Position

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H.B. 270 would make the following changes to the Public Employees Retirement System (PERS):

- Define “law enforcement officer¹” and “public safety officer” for purposes of determining, upon employment, mandatory employee contributions and eligibility for normal retirement under the existing benefit structure of the PERS law enforcement (PERS-LE) division.

Under current law the determination is contained in the benefits section of law.

- Include corrections officers as public safety officers.

Currently these members participate in the state or local divisions of PERS.

Staff Comments – The bill would define “PERS law enforcement officer” and “PERS public safety officer” so as to determine, upon employment rather than at retirement, the applicable benefit and contribution required under the PERS-LE program. Under current law the language determining whether a member can retire at age 48 or 52 is contained in the benefits section of law. This bill would move the language to the definition section of law but would make no changes to the benefits provided to those two groups. Under the bill, “PERS law enforcement officers” are defined as those law enforcement officers footnoted whose primary duties are to preserve the peace, protect life and property and enforce the laws of this state as determined by their employer. “PERS public safety officers” are defined as Hamilton county municipal court bailiffs, corrections officers, and those law enforcement officers footnoted whose primary duties are other than to preserve the peace, protect life and property and enforce the laws of this state as determined by their employer. This provision is identical to a provision included in H.B. 272 (126th G.A.), which the Council voted to approve.

The bill defines “corrections officer” as an individual employed in a state correctional institution, as defined in R.C. §2967.01, or a local correctional facility, as defined in R.C. §2903.13, whose duties are to maintain the security of the institution or facility and monitor the behavior of inmates who are in the custody of that institution or facility to ensure their safety, health, and well-being. The bill provides that service earned as a corrections officer prior to the effective date of the bill may be used toward a benefit as a public safety officer if the member pays the additional amount the member and the member’s employer would have

¹“Law enforcement officer” means a sheriff, deputy sheriff, township police officer, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, veterans’ home police officer, special police officer for a mental health institution, special police officer for an institution for the mentally retarded and developmentally disabled, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, municipal public safety director, or state highway patrol police officer.

contributed had the member been covered as a public safety officer, plus annual compound interest. If the member does not pay the additional amount, the member may elect to have credit for the prior service prorated based on the amount the member and employer would have contributed had the member been covered as a public safety officer.

As a public safety officer, corrections officers would be eligible for enhanced benefits and lower retirement eligibility. These officers are eligible for normal retirement at age 52 with 25 years of service under PERS-LE, though they may retire as early as age 48 with 25 years of service on a reduced benefit. They are required to contribute 9% of pay, which is set by the PERS board. Law enforcement officers whose primary duties are to preserve the peace, protect life and property and enforce the laws of their jurisdiction are eligible for normal retirement at age 48 with 25 years of service under PERS-LE. These law enforcement officers are required to contribute 10.1% of pay, which is fixed by statute.²

The following chart provides a comparison of the benefits provided to law enforcement officers, public safety officers, and members in the state and local government divisions of PERS:

	PERS Law Enforcement (primary duties are to preserve the peace, protect life and property and enforce the laws)	PERS Public Safety (primary duties are other than to preserve the peace, protect life and property and enforce the laws, Hamilton County Bailiffs)	PERS State and Local Government
Normal Age and Service Retirement	Age 48 with 25 or more YOS, age 62 with 15 or more YOS	Age 52 with 25 or more YOS, age 62 with 15 or more YOS	Age 65 with 5 or more YOS, any age with 30 or more YOS
Early Retirement	Not applicable	Age 48 with 25 or more YOS	Age 60 with 5 or more YOS
Benefit Formula	2.5% x FAS x 25 YOS; 2.1% x FAS x YOS over 25	2.5% x FAS x 25 YOS; 2.1% x FAS x YOS over 25	2.2% x FAS x 30 years; 2.5% x FAS x YOS over 30
Employee Contribution	10.10%	9.00%	State: 9.00% Local: 9.00%
Employer Contribution	16.93%	16.93%	State: 13.54% Local: 13.70%

² H.B. 272 (126th G.A.) would authorize the PERS board to establish the employee contribution rate for “PERS law enforcement officers,” at 1.1% of pay higher than the rate established by the PERS board for “PERS public safety officers.” This was the amount actuarially determined to be necessary to fund the cost of the age 48 normal retirement provision adopted in H.B. 416 (eff. 1-1-01) for these law enforcement officers. Current law authorizes the PERS board to establish the employee contribution rates of all other employees covered by PERS, up to a maximum 10% of pay.

Currently, Hamilton County Municipal Court bailiffs and all law enforcement officers except municipal public safety directors are required to complete peace officer basic training. The requirements for the peace officer basic training program are adopted by the Peace Officer Training Commission. Currently, the Commission requires applicants to complete a minimum of 579 hours in order to receive a peace officer basic training certificate. The current basic training includes the following topics: administration, legal, human relations, firearms, driving, subject control techniques, first aid, patrol, civil disorders, traffic, investigation, physical conditioning, and homeland security.

Corrections officers, however, are not required to complete peace officer basic training. The training required for corrections officers depends on whether the officer is employed at a state corrections facility or a local jail. In order to be employed as a corrections officer at a state facility, an individual is required to complete training established by the Department of Rehabilitation and Corrections (DRC). The DRC requires all staff (corrections officers and non-corrections officers) at state facilities to complete a three-week training course at the Corrections Training Academy. In addition, corrections officers spend an additional week at the Academy receiving training in unarmed self-defense and firearms certification. Training for corrections officers at a state facility totals 160 hours in the following areas: administrative, safety and health, mental health, communications and relations, physical skills, and security. The Peace Officer Training Commission establishes the training curriculum for corrections basic training for local jails. The curriculum requires corrections officers at local jails to have 136 hours training in the following subjects: administration, legal, jail security, human relations, special inmate needs, and technical skills.

Historically, all members of PERS-LE have been required to complete peace officer basic training. The only exception to this requirement is municipal public safety directors who were included in PERS-LE last year in H.B. 66 (eff. 6-30-05). However, the ORSC voted to recommend that municipal public safety directors remain excluded from PERS-LE because they did not work in a position that required peace officer certification. The ORSC has consistently recommended against legislation that would make members who are not required by statute to complete peace officer basic training eligible for law enforcement benefits.

Fiscal Impact – According to the PERS actuary, Gabriel, Roeder Smith & Company (GRS), there are currently 9,858 corrections officers who would be affected by this bill. GRS did an analysis of the bill using three scenarios: (1) all corrections officers purchase past service to convert to public safety service; (2) all corrections officers accept a prorated share of past service based on the contribution differential; and (3) all corrections officers keep past service. Under scenario 1, GRS found that the amortization period for the law division would decrease from 40.93 years to 33.72 years. Under scenario 2, the amortization period for the law division would increase from 40.93 years to 43.72 years. Under scenario 3, the amortization period would decrease from 40.93 years to 37.22 years.

GRS found that H.B. 270 appears to have little effect on the PERS overall pension funded status or amortization period for unfunded actuarial accrued liabilities. However, the actuary cautions that it does not mean that the bill will have no material financial effect. GRS noted

that the cost to affected members and employers would be substantial (at least 4.6% of payroll), some corrections officers whose member contribution rate increases will not accrue sufficient public safety service to qualify for the higher public safety benefits, and granting earlier retirement eligibility to a large block of members (more than doubling the size of the law division) would put additional financial pressure on the retiree health program.

ORSC Position – The Ohio Retirement Study Council voted at its February 8, 2006 meeting to recommend that the 126th Ohio General Assembly disapprove H.B. 270 because corrections officers are not required to have peace officer certification.