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Analysis

H.B. 62 - Rep. Blessing
(As Introduced)

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ORSC Position

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H.B. 62 would permit magistrates to purchase an additional 35% service credit based on their full-time service as a magistrate in the Public Employees Retirement System (PERS).

Currently only PERS members who are elected officials and those who have been appointed by the Governor with the advice and consent of the Senate to serve full-time as a member of a board, commission, or other public body may purchase the additional 35% service credit.

Staff Comments - The bill would permit magistrates who are members of PERS to purchase up to 35% of their full-time service as a magistrate at any time prior to retirement. The cost to purchase this credit is an amount computed by multiplying the employee contribution rate in effect at the time of purchase by the member's earnable salary for the period of service upon which the purchased credit is based and the number of years to be purchased. This amount is paid into the employees' savings fund. The member must also pay a matching amount into the employers' accumulation fund.

The purchase of the 35% additional service credit in PERS is considered "nonqualified service," or "air time," for purposes of the Taxpayer Relief Act of 1997. Members who first establish membership on or after January 1, 2002 are subject to the following two limitations established pursuant to the Taxpayer Relief Act of 1997: (1) the purchase of 35% additional elective service is limited to those members who have at least five years of service credit in PERS and (2) the purchase of 35% additional service is limited to a maximum of five years.

As defined in the bill, "magistrate" includes individuals appointed to serve as a mayor's court magistrate under R.C. §1905.05, a magistrate of a small claims division of a municipal or county court under R.C. §1925.01, a Title IV-D child support enforcement case magistrate under R.C. §3125.60, a magistrate under Civil Rule 53, a magistrate of a court other than a mayor's court under Criminal Rule 19, juvenile court magistrates under Juvenile Rule 40, a municipal court magistrate under Superintendence Rule 19, and a traffic magistrate under Traffic Rule 17.

The primary rationale for allowing elected officials who joined PERS to purchase an additional 35% of their elective service was to enable them to satisfy the vesting requirements for retirement (H.B. 590 - eff. 10/14/63). This provision was amended in S.B. 138 (eff. 7/20/88) to include individuals appointed by the Governor with the advice and consent of the Senate to serve full-time on boards, commissions and other public bodies. When these purchases were first allowed, PERS law provided only for a defined benefit plan designed to provide benefits for long-term public employees. In 2000, PERS was authorized to develop a defined contribution plan in conjunction with the defined benefit plan to provide greater portability and options for employees, particularly short-term employees (H.B. 628 - eff. 9-21-00). Beginning January 1, 2003 PERS began offering members a defined contribution member-directed plan and a combined plan with defined benefit and defined contribution components in addition to the traditional defined benefit plan. Unlike the defined benefit plan and the combined plan, the member-directed defined contribution plan offers members the opportunity to become partially vested and eligible to receive a portion of the employer contributions in addition to employee contributions and investment earnings before attaining five years of service. A member is 20% vested after one year of participation, 40% vested after two years of participation, 60% vested after three years of participation, 80% vested after four years of participation, and 100% vested after five years of participation. PERS members, including magistrates, with fewer than five years of contributing service as of January 1, 2003 and new members hired after January 1, 2003 are eligible to select the defined contribution plans.

H.B. 62 would expand the original provision to individuals appointed by the various courts as full-time magistrates, and could set a precedent for other individuals appointed by local government to seek further expansion of this provision. Given the fact that the member pays, on average, only 25% of the actuarial liability resulting from the purchase of this additional service credit, the fiscal impact upon PERS could become significant if the provision were expanded to include similarly-situated individuals.[1] The bill also has an impact on the system's health care program. To the extent it would allow magistrates to retire earlier than they would have without the benefit of the additional purchased service, there would be additional health insurance costs as well because the members would be eligible for health care coverage for a longer period of time. Furthermore, the additional 35% service credit can be used to determine eligibility for PERS-provided health care.

The Council last reviewed this issue in 1999 as part of S.B. 118. At that time, staff raised these issues and recommended against allowing magistrates to purchase 35% additional service credit. The Council agreed unanimously with this recommendation.

Fiscal Impact - According to the PERS actuary, Gabriel, Roeder, Smith & Company, complete data upon which to base a detailed cost measurement was not available. Based upon information received from the Ohio Magistrates Association, if all eligible service is purchased, the effect on the Local Government funding period would be less than one-half year. As of December 31, 2003, the funding period for the Local Government Division of PERS was 27 years.

ORSC Position - At the May 11, 2005 meeting of the Ohio Retirement Study Council, the ORSC voted to recommend that the 126th General Assembly disapprove H.B. 62.

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[1]Pursuant to a recent request by the Council, the systems are currently reviewing service credit provisions that require members to pay less than the full actuarial liability resulting from the purchase of credit. This review will include a review of the provision allowing elected and appointed officials to purchase an additional 35% of service credit. It is intended to determine the true cost to the system of allowing members to purchase service without paying the full actuarial cost.