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Analysis

Sub. S.B. 341 – Sens. Niehaus and Kearney (As Enacted)

September 19, 2012

Staff Recommendation

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Sub. S.B. 341 makes the following changes to the laws governing the School Employees Retirement System (SERS) in order to ensure the continued solvency of the retirement system:

- Increase retirement eligibility for members with less than 25 Years of Service (YOS) as of 8-1-17 or those who do not pay the actuarial difference. (R.C. §§ 3309.34, 3309.36)
- Give the board the authority to adjust retirement eligibility requirements. (R.C. §3309.34)
- Eliminate the alternative benefit calculation. (R.C. § 3309.38)
- Require a member who had been on a disability leave of absence and returns to public service for two years to purchase that service instead of receive it at no cost to the member. (R.C. §§3309.41, 3309.47)
- Make changes to the amount transferred to STRS and OPERS when a member retires from either of those systems. (R.C. §3309.35)
- Make changes to the disability program. (R.C. §§3309.35, 3309.39, 3309.392, 3309.41)
- Give the board authority to establish health care coverage. (R.C. §3309.69)
- Provide for disqualification of beneficiary if deceased or not located within 180 days. (R.C. §3309.41)
- Make changes to definition of “dependent child”. (R.C. §3309.45)
- Make certain changes to board members’ terms, requirements to serve on board and reimbursement. (R.C. §§3309.05, 3309.051, 3309.10)
- Make changes to certain filings that must be made regarding board elections. (R.C. §§3309.061, 3309.072, 3309.074)
- Require board’s consultant to comply with global performance standards established by the Chartered Financial Analyst Institute. (R.C. §3309.15)
- Include a member’s email address in the definition of “personal history record” and allow a member to request a copy of his or her own medical report or recommendations. (R.C. §§3309.22, 3309.28)
- Require the employer rather than the member to file a detailed statement of the employee’s personal information and prior public employment. (R.C. §3309.28)

- Change the penalty for an employer’s failure to file certain reports and transmit employee contributions. (R.C. §3309.571)
- Make permissive rather than mandatory, the language requiring SERS to establish a Defined Contribution Plan. (R.C. §3309.81)
- Make the effective date of all sections except the provision that allows the board to change retirement eligibility requirements January 7, 2013. (Section 3)
- Make the effective date of the provision that allows the board to change retirement eligibility requirements 180 days after the effective date of the bill. (Section 4)
- Require the ORSC to study and make recommendations, within 90 days of the effective date of the bill, regarding the board’s authority to adjust retirement eligibility requirements. (Section 5)

Background

Pursuant to Senate Bill (S.B.) 82 (eff. 12-6-1996), each retirement system whose funding period exceeds 30 years in any given year is required to submit to the Ohio Retirement Study Council (ORSC) and the standing committees of the Ohio House of Representatives and Senate with primary responsibility for pension legislation a plan approved by the retirement board that reduces the funding period to no more than 30 years, along with any progress made by the board in meeting the 30-year funding period. This standard was modeled after the national standard adopted by the Governmental Accounting Standards Board for all governmental pension plans. The change was intended to maintain inter-generational equity among taxpayers and system members by limiting the ability to fund benefit costs by extending the funding period beyond 30 years.

In 2003, the ORSC voted to have its actuary, Milliman USA, review the adequacy of the contribution rates in all five retirement systems. That report, which was updated in 2004, generally concluded that in the case of the Ohio Police and Fire Pension Fund (OP&F) and the State Teachers Retirement System (STRS) one or more of the following actions would need to occur to achieve compliance with the 30-year funding requirement: contribution limits increased; mandated pension benefits reduced; state subsidies provided; and/or contributions reallocated from discretionary health care benefits to mandated pension benefits.

Given the severe decline in investment market values since the end of fiscal year 2008 and the need to begin evaluating options to address this situation proactively, the Council approved a motion to have staff work with OP&F on December 10, 2008, on March 11, 2009, with STRS, and with PERS, SERS, and HPRS on April 8, 2009. All five systems, in consultation with the ORSC, developed legislative proposals that would reduce their unfunded actuarial accrued liability periods.

STRS, SERS, OP&F, and HPRS presented their board-approved funding plans at the September 9, 2009, ORSC meeting. PERS presented its board-approved plan at the December 9, 2009, ORSC meeting. Both STRS and OP&F presented updated plans in early 2011. Sub. S.B. 341 contains the SERS board approved plan.

In 2011, the ORSC hired Pension Trustee Advisors and KMS Actuaries (PTA/KMS) to complete a review of the boards’ plans and make recommendations related to pension reform. PTA/KMS presented its review at the July 11, 2012, ORSC meeting. They found that the plans are a positive step and will, generally, enable the majority of systems to meet the 30-year maximum funding period while providing reasonable health care benefits at no increased cost to taxpayers.

Staff Comments

Retirement Eligibility – (R.C. §§ 3309.34, 3309.36, Section 5) In 2008, SERS law was amended to increase the retirement age and YOS needed for SERS members whose membership began on or after May 8, 2017 (S.B. 148; eff. 5-8-17). Sub. S.B. 341 changes retirement eligibility for all members with less than 25 YOS as of August 1, 2017. However, the bill provides a member who has less than 25 YOS as of August 1, 2017, the opportunity to retire under the current plan if the member pays the actuarial difference between the two plans.

	Current Law – Member Prior to 5- 8-08	Current Law – Member On or After 5-8-08	Sub. S.B. 341
Normal Retirement (no reduction)	Age 65 with 5 or more years of service Any age with 30 or more years of service	Age 65 with 10 or more years of service Age 55 with 30 or more years of service	Age 67 with 10 or more years of service Age 57 with 30 or more years of service
Early Retirement (normal benefit reduced)	Age 60 with 5 or more years of service Age 55 with 25 or more years of service	Age 62 with 10 years of service Age 60 with 25 years of service	Age 62 with 10 years of service Age 60 with 25 years of service
Early Retirement Reduction	3-25% set by statute	Actuarially reduced from less of age 65 or age member would reach 30 YOS w/ max reductions for retirement w/ 25 YOS	Actuarially reduced from less of age 67 or age member would reach 30 YOS w/ max reductions for retirement w/ 25 YOS

The bill also increases the minimum age required to participate in an early retirement incentive plan to age 57 from age 50 for pre-5-8-08 members and age 55 for those whose membership began on or after 5-8-08. This change is consistent with the increase in the minimum retirement age.

Additionally, the bill requires the board to evaluate the retirement eligibility requirements and the actuarial reduction factors every five years instead of every 10 years.

As part of the report of the Joint Legislative Committee to Study Ohio's Public Retirement Plans (JLC) dated December 11, 1996, three of the recommendations included therein, but not acted upon by the legislature, were (1) that the normal retirement age of 65 should be increased in tandem with Social Security for PERS, STRS, and SERS, the 30-year service requirement should be increased at the same rate, and benefits prior to normal retirement age or service should be reduced; (2) the normal retirement age in the uniformed employee systems should be increased from 48 to 52 with a four-year phase-in and benefits prior to normal retirement age should be reduced; and (3) the statutory reduction rates for early retirement should be repealed and reduction rates for early retirement should be determined on an actuarial basis in all five systems. These recommendations were made in response to the continual improvements in life expectancies experienced among the memberships of all five retirement systems in Ohio, which directly increase each retirement system's benefit costs, including post-retirement health care costs.

The above provisions are generally consistent with the recommendations from the 1996 JLC report, the 2004 Milliman report, and the 2012 PTA/KMS report.

As part of the board's requirement to evaluate its retirement eligibility requirements every five years, the bill would give the board the authority to adjust the eligibility requirements if the board's actuary determines that an adjustment is necessary to ensure the system meets the 30-year amortization period required by statute. The bill would set no limits nor provide for any legislative oversight of the changes, which is a cause for concern.

Current law provides the board with certain discretionary powers. For example, the board has discretion to set the employee contribution rate within a limited range of 8–10%. Any increase above 10% requires legislative approval. This gives the board the ability to make some changes within a set of legislatively-approved parameters. It also provides for transparency by ensuring public hearings and the opportunity for public input during the legislative process if the board wants to make changes outside of the established parameters. Without a statutory range, it would be difficult for a member to know what his or her eligibility for retirement could be. Not only is there decreased transparency caused by this provision, there is less of an opportunity for members to weigh in prior to changes as there is no requirement the board hold public hearings.

Another example in current law is the board's authority to establish eligibility for health care coverage. However, health care coverage is different than a pension benefit because health care is a discretionary benefit as opposed to the mandatory nature of the pension obligation. The board needs the flexibility to manage its health care program due to the fact that pensions, by statute, must be funded first and the board is able to fund health care only with money not needed for pensions. Further, the system communicates to its

members that they should not have the expectation they will receive health care coverage. There are certain restraints on this provision such as the current requirement that the board reimburse Medicare Part B recipients \$45.50 for the monthly premium (Sub. S.B. 341 changes this provision to allow the board to set the rate at not less than \$45.50).

While this board authority change gives the board increased authority in one area, it serves to limit their authority in other areas. This is because increasing the retirement eligibility requirements is only one way for the system to comply with the statutorily required 30-year funding period. Other options include decreasing the benefit formula, decreasing or eliminating the Cost of Living Adjustment (COLA), increasing employee and/or employer contribution rates. However, this provision would make increasing retirement eligibility requirements the only option available if the system's actuary determines the funding period exceeds 30 years.

The expanded board authority must be considered in light of the authority given to the boards of the other four statewide retirement systems. The other pension reform bills pending in the legislature provide different board authority for each system. S.B. 340 gives the OP&F board the authority to increase employee contributions and retirement eligibility. S.B. 342 gives the STRS board the authority to make changes to retirement eligibility and the COLA. S.B. 343, on the other hand, gives the OPERS board no authority to make adjustments. Finally, S.B. 345 gives the HPRS board the authority to increase employee contributions within a range of 10-14% and they could increase the COLA up to a maximum of 3%.

The substitute version of the bill requires the ORSC to study and make recommendations, within 90 days of the effective date of the bill, regarding the board's authority to adjust retirement eligibility requirements. This will allow the Council to determine the appropriate division of authority between the board and the Legislature and ensure consistency among all five statewide retirement systems. It also delays the effective date of this section until 180 days after the bill's effective date, which would allow time to implement any ORSC recommended changes.

Alternative Benefit Calculation (R.C. §3309.38) The bill eliminates the commuted service calculation, which is an alternative to the final average salary method of calculating a retirement allowance. This method calculated the benefit as equaling an annuity equal to the employee's accumulated contributions, plus a pension of an equivalent amount, plus an additional amount if the member has prior service, plus \$180 for service prior to 10-1-1956 if the member had 10 or more years of service.

Additionally, the bill removes an obsolete provision that allowed a member to receive an additional \$40 for each year of prior service.

Purchase of Service Credit – (R.C. §§3309.41, 3309.47) Sub. S.B. 341 allows a member who returns to public service for two years after having received a disability benefit to receive up to two years of service credit free of charge for the period of the disability leave. If the member was on disability leave more than two years, the member

may purchase up to five years of that time by paying both the employee and employer contribution rates in effect at the time the disability benefit commenced, multiplied by the member’s annual disability benefit, plus compound interest at a rate established by the board. Current law provides that the member receives full service credit for the entire period of disability at no cost.

Members of SERS are eligible to purchase the following additional types of credit:

Type of Service	Current Purchase Price
Exempted service in OPERS, STRS, or SERS (R.C. §3309.01)	Member salary for 12 months preceding purchase application multiplied by (x) rate established by board
Out-of-state (federal, state, or local) public or private school service and in-state private school service (up to 5 years) (R.C. §3309.31(A))	Member contribution for first year of full-time Ohio service following termination of service to be purchased, plus interest
Out-of-state and federal service that would otherwise be covered by one of the Ohio pension funds; service covered under a municipal retirement system (R.C. §3309.31(B),(C))	Member contribution for first year of full-time Ohio service following termination of service to be purchased, plus interest
Service as school board member (member must retire within 90 days after payment) (R.C. §3309.311)	Member pays full actuarial liability resulting from purchase of credit
Early retirement incentive plan (up to 5 years) (R.C. §3309.33)	Employer pays amount equal to full actuarial liability resulting from the purchase of service
Leave of absence; employer failed to deduct member contribution (R.C. §3309.47)	Contributions member would have paid for period of service; employer pays contributions, plus interest
Service while on state temporary disability leave program (R.C. §3309.471)	Member contribution made by employee for first 3 months; member contribution made by employer thereafter
Employer failed to deduct member contributions for employee age 65 or older (R.C. §3309.48)	No cost to member

This bill does not change the purchase price for any of these types of service credit.

In 2007, the ORSC asked its actuary, Milliman, Inc. to complete a report on the cost of purchasing service credit. The report, entitled *Report Regarding Service Purchases Experience of the Five Ohio Retirement Systems During FY Ending 2005* was presented at the March 14, 2007, ORSC meeting. The report revealed that the retirement systems subsidized the purchase of credit in nearly every case in 2005. This was true even for service credit for which the member was required to pay the full actuarial cost. The actuarial cost of service is dependent upon the member's final average salary, years of service, and age at retirement. None of these factors are known until a member retires. Therefore, the true actuarial cost of purchasing service can be known only at retirement. This raised the public policy issue of whether a member's purchase of service credit should be subsidized by the retirement system. When a member pays less than the full cost of the additional liability created by the purchase, an unfunded liability is created. This unfunded liability must be paid for out of employer contributions.

The purchase of credit creates two types of additional liabilities: pension and health care. Although pension benefits are set by statute and become vested once a member retires, health care is discretionary and, therefore, the additional health care liability will fluctuate as changes are made to the health care plan. As Milliman noted in the report, health care liabilities created by the purchase of service could be eliminated if the purchased service did not count toward eligibility for or the amount of health care benefits.

In response to that report, staff recommended, and the Council approved at the 9-12-2007 ORSC meeting that:

1. The purchase price for all types of service should be the full actuarial liability resulting from the purchase of service credit, except as prohibited by federal law, and members should be required to retire within 90 days of purchasing service.
 - The rationale behind this change would end the current practice whereby all members of the system subsidize a member's purchase of service credit. It is also consistent with recent legislative changes that have required members to pay more of the additional actuarial liability resulting from the purchase of service credit.
2. Purchased credit should be prohibited from being counted for purposes of health care eligibility or subsidy.
 - As noted in the Milliman report, this would eliminate the additional health care liabilities created by the purchase of credit. This could be done by legislation or administrative rule.

This bill is inconsistent with those recommendations because it would not require the member to pay the full additional liability resulting from the purchase of any other type of service credit. *Therefore, we recommend that the bill be amended to require the member to pay the full additional liability resulting from the purchase of all types of service credit and to require the member to retire within 90 days of purchasing the service.*

Disability – (R.C. §§3309.35, 3309.39, 3309.392, 3309.41) The bill keeps the standard for determining whether a member is eligible for disability as whether the member is mentally or physically incapable of performing the duties of the position the member held at the time the disabling condition began or of a position with similar duties. This is known as the “own occupation” standard. The bill changes from “own occupation” to “any occupation” the termination standard for members whose benefit effective date is on or after the effective date of the bill or have been receiving disability benefits for three or more years (up to maximum five years if continued treatment through active case management). The definition of “any occupation” is that the employee is not capable of gainful employment that would replace 75% of Final Average Salary (FAS), that could reasonably be found in the employee’s regional job market, and for which the employee is qualified by experience, education and station in life.

Further, the bill requires the disability recipient to agree to any recommended vocational rehabilitation in addition to the current requirement for additional medical treatment in order to continue receiving the benefit.

Sub. S.B. 341 limits an employer’s duty to reinstate a member to their former job to three years after the disability, *except if the member is on continued treatment, then up to a maximum of five years*. Current law considers a member receiving disability to be on a leave of absence for up to five years and the employer is required to reinstate the member during that time if the member is no longer disabled. Members whose benefit effective date was before the effective date of the bill, would continue to be considered on leave of absence for up to five years.

The bill changes the effective date of a disability benefit to the later of the last day for which compensation was paid or the date on which the member’s most recent application for a disability benefit was filed. Current law provides for the effective date to be the later of the last day for which compensation was paid or the date on which the member was first incapacitated by the disabling condition.

The bill mandates that a member who is granted a disability benefit on or after the effective date of the bill apply within 90 days of the disability benefit being granted for Social Security Disability Insurance (SSDI) if eligible. If the member does not apply, the benefit would be suspended.

The bill excludes disabilities that were the result of a voluntary commission of a felony.

Additionally, in the case of a member who has service credit in SERS and STRS and/or OPERS, the bill provides that the retirement system that will pay the benefit (i.e., the system in which the member had the most YOS) is the system that will determine whether the member qualifies for a disability benefit.

Coordination of Benefits with STRS and OPERS - (R.C. §3309.35) Historically, public employees with service credit in any of the non-uniform systems (OPERS, STRS, SERS) have been able to coordinate their service credit and receive a benefit from the

system in which they have earned the most service credit. The coordination occurs at retirement and the system from which the member retires receives twice the member's accumulated contributions from the other non-uniform system(s) in which the member has earned service credit. This allows for complete portability of service among the non-uniform system.

The bill changes the amount of money transferred to the non-uniform system paying the benefit from a non-uniform system in which the member has earned service credit. Under the bill, the system paying the benefit receives from the system in which service credit was earned the following amount: (1) the amount contributed by the member, or in the case of service credit purchased, the amount paid by the member, that is attributable to the year of service; (2) an amount equal to the lesser of the employer's contributions made on behalf of the member or the amount that would have been contributed by the employer for the service had the member been a member of the system paying the benefit at the time the credit was earned; (3) if applicable, an amount equal to the amount paid on behalf of the member by an employer under R.C. §145.483 (delinquent contributions) and (4) interest compounded annually at the lesser of the actuarial assumption rate of SERS or the system transferring money.

Health Care – (R.C. §3309.69) The bill gives the board the authority to establish eligibility for health care coverage and would clarify that SERS is not required to provide health care coverage. Additionally, the bill authorizes the board to set the reimbursement for the monthly Medicare Part B premium at not less than \$45.50. Current law sets the reimbursement for the monthly Medicare Part B premium at \$45.50.

Beneficiaries – (R.C. §3309.44) Sub. S.B. 341 provides for the disqualification of a beneficiary if the beneficiary is deceased or is not located within 180 days and would provide that the person next in order of precedence qualifies.

Survivor Benefits – (R.C. §3309.45) The bill changes the requirements for a child to receive survivor benefits for all survivor benefits beginning on or after the effective date of the bill. The new requirements would be the child has never been married and either is under age 19 or, regardless of age, is adjudged physically or mentally incompetent if the incompetence existed prior to the member's death and prior to the child attaining age 19. The requirements for a child who began receiving survivor benefits before the effective date of the bill would remain the same – under age 18 or under age 22 if the child is in school and completing at least two-thirds of the full time requirements or, regardless of age, is adjudged physically or mentally incompetent if the incompetence existed prior to the member's death and prior to the child attaining age 18 or 22 if in school.

Board Members - R.C. §§3309.05, 3309.051, 3309.10) Sub. S.B. 341 provides that any board member remains a member of the board until the member's term ends or the date the member's successor takes office, whichever is later. Current law applies only to the investment experts appointed to the board and allows them to remain on the board until a successor is appointed or 60 days, whichever occurs first.

The bill also requires each board member to complete an orientation program within 90 days of beginning board service. Current law requires only newly elected members and individuals appointed to fill a vacancy to complete an orientation program.

Additionally, the bill includes appointed board members in the current prohibition against serving on the board if the member has plead guilty to or been convicted of a violation of R.C. §§102.02 (duty to file ethics disclosure statement), 102.03 (revolving door), 102.04 (compensation or services received other than from employer), 2921.02 (briber), 2921.11 (perjury), 2921.13 (falsification), 2921.31 (obstructing official business), 2921.41 (theft in office), 2921.42, (having unlawful interest in public contract), 2921.43 (soliciting or receiving improper compensation), or 2921.44 (dereliction of duty).

Sub. S.B. 341 also provides that no board member shall be subject to disciplinary action by an employer for an absence from the member’s regular employment for service to the board.

It also requires the system to reimburse the board member’s employer for any compensation the employer paid to the member for service to the board. Current law requires the system to reimburse the member for any loss of compensation.

Board Elections – (R.C. §§, 3309.061, 3309.072, 3309.074) Sub. S.B. 341 requires any candidate for the board who receives contributions or in-kind contributions of \$1,000 or more or who has expenditures of \$1,000 or more to file a report with the Secretary of State and to include receipts for expenditures over \$25. Currently, candidates must file with the Secretary of State regardless of the amount of contributions they receive and must include a receipt for all expenditures.

Additionally, the bill adds the requirement that each individual, partnership, or other entity that makes an independent expenditure in connection with the candidate’s efforts to be elected to file a report with the Secretary of State detailing the expenditures. The report must be filed within 38 days of the candidate taking office.

Sub. S.B. 341 limits the amount of time an elections complaint may be filed to two years after the act or failure to act occurred, except if it was not discovered within the two year period, the complaint must be filed within one year of discovery.

Investments – (R.C. §3309.15) The bill requires the person with whom the board contracts to manage or invest the funds to comply with the global performance standards established by the Chartered Financial Analyst Institute or a successor organization when reporting on the performance of investments.

Records (R.C. §§3309.22, 3309.28) The bill includes a member’s email address in the definition of “personal history record” and would allow the board to make records available in printed or electronic format.

Additionally, it allows an individual to request, in writing, a copy of his or her own medical report or recommendations. Current law makes those records available only to the personal physician, attorney, or authorized agent of the individual concerned and to the board assigned physician.

Reports – (R.C. §3309.28) Sub. S.B. 341 requires the employer rather than the employee to file with the system a detailed statement of the employee’s personal information and prior public employment. Additionally, the bill would repeal the penalty (withholding of salary) for an employee’s failure to submit the required information.

Employer Penalties – (R.C. §3309.571) The bill changes the penalty for an employer’s failure to transmit employee contributions or any amounts due to the Employer’s Trust Fund from 6% per year to \$100 per day for each day the employer fails to transmit the amount. Additionally, the bill creates penalties for the employer’s failure to submit, complete, or correct any payroll information or other report required, except the initial employment record, \$100 per day for each day the employer does not submit, complete, or correct the report, up to a maximum of \$1,500. In the case of an employer who does not submit the required initial employment record, the bill would establish a penalty of \$50 per record for each month the record is not filed, up to a maximum of \$300.

Defined Contribution (DC) Plan (R.C. §3309.81) - The bill makes the current language that requires SERS to establish a DC plan discretionary. In 2001, SERS was required to establish an alternative DC plan (S.B. 270; eff. 4-21-00). Alternative DC plans have been established in STRS pursuant to S.B. 190 (eff. 7-13-00) and in PERS pursuant to H.B. 628 (eff. 9-21-00). These were in response to a staff recommendation included in the JLC final report “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.” No alternative DC plan has been established in SERS to date.

According to SERS staff, the SERS board commissioned The Segal Company to statistically verify member interest and identify the costs of implementing a defined contribution plan in 2002. Segal surveyed 10,000 SERS members who had less than five years of service and would be eligible for the DC plan. They found that 1% of new SERS members were interested in a DC option based solely on their own investments and 89% of new members preferred a guaranteed retirement. However, there appeared to be considerable interest in a hybrid plan that combined features of a DB and DC plan (46%). Segal completely outsourced the development and maintenance of the option. According to Segal this would require about \$1 million in start-up costs and \$1.3 million annually to operate. In February 2003, the SERS board decided that it was not in the best interest of its members to develop a DC option; however, the board requested that staff revisit the studies at a later time, and in the interim, request a language change making the current statute permissive rather than mandatory.

Anti-Spiking Provision – Sub. S.B. 341 does not include a provision limiting the ability of a member to spike their final average salary. Spiking can occur when a member works

the majority of his or her public career in a lower paid position, then a few years prior to retirement, the member receives a considerable salary increase by either taking a different job or substantially increasing the number of hours worked. The member's final average salary is then increased out of proportion to the salary he or she received during the majority of their career. An anti-spiking provision is particularly needed in light of the fact that Sub. S.B. 341 does not increase the number of years of service used to determine final average salary. *Therefore, we recommend that the bill be amended to include an anti-spiking provision.*

This would be consistent with the Joint Legislative Committee to Study Public Pensions recommendation made in 1996 to limit disproportional increases in salary prior to retirement. STRS is currently the only retirement system that has a percentage limit on salary increases (H.B. 180; eff. 10-29-91), however, both S.B. 340 (OP&F) and S.B. 343 (OPERS) include anti-spiking provisions.

Cost of Living Allowance (COLA) – Sub. S.B. 341 does not make changes to the COLA. S.B. 343 (OPERS) would provide that any COLA granted after the effective date of that bill are not vested. Currently there is no consensus as to whether COLAs are a vested benefit once granted. This clarification would prevent any future challenge regarding whether COLAs are vested. *Therefore, we recommend that Sub. S.B. 341 be amended to state that COLAs granted after the effective date of the bill are not vested.*

Effective Date – (Sections 3, 4) The effective date of all sections except R.C. §3307.34 (A)(2)(b), which allows the board to change retirement eligibility requirements, would be January 7, 2013. R.C. §3307.34 (A)(2)(b) is effective 180 days after the effective date of the bill.

Ohio Retirement Study Council - (Section 5) The bill requires the ORSC to study and make recommendations regarding the board's authority to adjust retirement eligibility requirements. The ORSC is required to submit its findings and recommendations to the Senate President and Speaker of the House within 90 days of the bill's effective date.

Fiscal Analysis

As of 6-30-11 the funding period for SERS was 28 years. According to the SERS actuary, Cavanaugh Macdonald, Sub. S.B. 341 would reduce the unfunded actuarial liability by an estimated \$10.8 million and the employer normal cost by \$15.4 million for a total estimated annual savings of approximately \$26.2 million.

Additionally, the actuary reviewed Sub. S.B. 341's impact on the solvency of the health care fund. Based on the proposed changes, the actuary found that the 1.47% employer contribution rate going to fund health care is expected to be available for the 2012 fiscal year. They expect the allocation to health care to drop for fiscal year 2013 due to the continued smoothing in of asset losses, but if all future actuarial assumptions are met and if the health care fund continues to receive the 1.5% employer surcharge, the health care fund is expected to remain solvent indefinitely.

Staff Recommendation

The staff recommendation is that the Ohio Retirement Study Council recommend that the 129th General Assembly approve Sub. S.B. 341 with the adoption of the following amendments:

- 1. That the member be required to pay the full additional liability resulting from the purchase of all types of service credit and to require the member to retire within 90 days of purchasing the service;*
- 2. To include an anti-spiking provision; and*
- 3. To state that COLAs granted after the effective date of the bill are not vested.*

The Ohio Retirement Study Council voted at its meeting of September 10, 2012 to accept staff's recommendations.

Effective Date

January 7, 2013; certain sections effective later.