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Final Report

Legislation Affecting the Operations of the State Retirement Systems and Their Funds

**123rd General Assembly
January 1, 1999 - December 31, 2000**

January, 2001

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PENSION LEGISLATION

123RD GENERAL ASSEMBLY

JANUARY 1, 1999 - DECEMBER 31, 2000

December, 2000

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Introduction

The Ohio Retirement Study Council (ORSC) is pleased to submit this legislative report on the five state retirement systems for the period beginning January 1, 1999 and ending December 31, 2000.

This report provides a historical record of legislative action taken by the 123rd General Assembly on bills affecting the Public Employees Retirement System (PERS), the State Teachers Retirement System (STRS), the School Employees Retirement System (SERS), the Ohio Police and Fire Pension Fund (OP&F) and the Highway Patrol Retirement System (HPRS).

The report consists of three separate documents: Reports on House and Senate Bills Enacted; Subject Index of Pension Bills Introduced; and Status of Pension Legislation.

The Reports on House and Senate Bills Enacted provide a detailed examination of each bill enacted into law during the 123rd General Assembly, including the name of the principal sponsor, a description of its contents, its fiscal impact, the ORSC position and its effective date. These reports are intended to give the reader an awareness and understanding of all substantive changes made to the state retirement plans; they are not intended to serve as a substitute for the statutory laws governing these plans.

The Subject Index of Pension Bills Introduced provides a listing of legislation under subject headings and a key word description within the subject heading. Bills which covers more than one subject area are listed under all appropriate headings. All subject headings are listed at the beginning of the index for quick reference.

The Status of Pension Legislation provides a final record of the legislative action taken on pension bills at each step of the legislative process from the date of introduction to the date of enactment, including the committee assignments in each house of the Ohio General Assembly, the date reported by the committees, the date passed by each house and the date reported by a conference committee and/or concurred in by the other house. Also provided are a brief description of the subject of the pension bill, the ORSC position on the bill and a listing of the most recent staff memorandum or report which is available from the ORSC. A key to all abbreviations used in the Status of Pension Legislation is found on the last page.

123rd General Assembly in Review

All five state retirement systems experienced significant improvements in their funded status due to very favorable investment returns over the last several years. A strong economy, together with the expansive prudent person investment authority granted to the retirement boards by the legislature in early 1997, produced double-digit investment returns over this time period. As a result, PERS became the first state retirement system to become fully funded in Ohio as determined by its actuarial valuation as of December 31, 1999, meaning that the system's net assets available for pension benefits equaled or exceeded its actuarial liabilities for pension benefits. Similarly, SERS became the second state retirement system to achieve fully-funded status as reported in its recently released actuarial valuation as of June 30, 2000. The other systems also showed significant progress in their actuarial status.

Some of the most significant benefit improvements in recent memory were also enacted. The benefit formulas in PERS, STRS and SERS were increased from 2.1% to 2.2% of the member's final average salary (highest average three-year salary) for each of the first 30 years of service as

provided in H.B. 628, S.B. 190 and S.B. 270, respectively. H.B. 628 also increased the formula for law enforcement officers covered under the special PERS law enforcement retirement division from 2.5% for the first 20 years of service to 2.5% for the first 25 years of service. Due to the expected shortage of experienced teachers, S.B. 190 further provided a strong financial incentive for STRS members to teach beyond 30 years (normal retirement at any age). Under the bill, teachers who have 35 years of contributing service receive 2.5% rather than 2.2% for each of the first 30 years of service. The bill also authorized the five state retirement systems to establish excess governmental benefit plans in accordance with special provisions enacted by Congress as part of the Small Business Job Protection Act of 1996 for the payment of state retirement benefits otherwise lost due to the annual limits established under Section 415 of the Internal Revenue Code.

S.B. 189 provided several benefit improvements in HPRS. The benefit formula was increased from 2% to 2.25% for the 21st through 25th years of service in the state highway patrol. The minimum benefit amount for retirees and surviving spouses was also increased by \$50/month. Moreover, the lump sum death benefit was increased from \$1,000 to \$5,000.

H.B. 416 lowered the normal retirement age from 52 to 48 with 25 years of service for sheriffs, deputy sheriffs and township police officers - the original group of law enforcement officers for which the special PERS law enforcement retirement division was created in 1975. All other groups of law enforcement officers covered under the PERS law enforcement retirement division (e.g., park officers, forest officers, preserve officers, wildlife officers, state watercraft officers) remain eligible for full benefits at age 52 with 25 years of service and reduced benefits as early as age 48 with 25 years of service.

Due to the improved funded status of OP&F, H.B. 275 was enacted as a follow-up to H.B. 194 last session to provide **all** surviving spouses a monthly benefit increase from \$410 to \$550, along with an annual cost-of-living adjustment (COLA). The bill also eliminated the annual pension cap for purposes of determining eligibility for the annual \$360 COLA for OP&F members who retired prior to July 24, 1986.

In conjunction with the benefit improvements indicated above, significant contribution reductions were also made in some retirement systems based upon their improved actuarial funded status. In PERS, the retirement board acted to lower the employer contribution rate on a temporary basis by 20% under the state and local government divisions and by 6% under the law enforcement division for calendar year 2000. The regular employer contribution rates are scheduled to resume on January 1, 2001 - 13.31%, state; 13.55%, local; 16.7%, law enforcement. In HPRS, the retirement board acted to lower the employer contribution rate from 24% to 23.5% of payroll effective July 1, 1999. A corresponding reduction in the employee contribution rate under HPRS from 10% to 9.5% was made in S.B. 189. In SERS, S.B. 270 included a statutory provision that limits the employer health care surcharge amount to no more than 2% of an individual employer's payroll for employees covered under SERS and limits the aggregate amount collected from the employer surcharge to no more than 1.5% of SERS' total active member payroll. In STRS, the retirement board committed itself to give equal consideration to employer contribution reductions, improvements in the retirement system's funded ratio and retiree health care funding prior to seeking any major benefit improvements.

The final report to the Joint Legislative Committee to Study Ohio's Public Retirement Plans (December 11, 1996) included the following finding: "Portability has become a national retirement issue. It has also become an issue in Ohio in terms of the recruitment of higher education employees and is likely to become an increasing issue for other groups of public employees, such as part-time, short-service and mobile employees, who are required to participate in retirement

systems which are designed to benefit older, long-tenure employees and employees making permanent job changes relatively late in their careers.” Accordingly, the ORSC staff made the following recommendation in that 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.”

By way of background, the 121st General Assembly enacted H.B. 586 (eff. 3/31/97) which established an alternative defined contribution plan administered by outside providers for full-time academic and chief administrative employees of public institutions of higher education electing such plan in lieu of participation in the defined benefit plans of PERS, STRS or SERS. The bill also required STRS to pay interest upon the withdrawal of the member’s contributions due to death or separation of employment, along with a 50% match from employer contributions for members who had at least five years of service.

This session the 123rd General Assembly continued to address the issue of pension portability in significant ways. H.B. 628, S.B. 190 and S.B. 270 were enacted to require the PERS, STRS and SERS boards to establish an alternative defined contribution plan for their members. These bills require a supplemental employer contribution to be made on behalf of members electing the alternative defined contribution plan and to be paid to the existing defined benefit plan in order to mitigate any negative financial impact upon the retirement systems’ funded status. Also, S.B. 144 was enacted to require the PERS board to credit interest on the member’s contributions, along with a 33% match from employer contributions for members with five but less than 10 years of service and a 67% match for members with ten or more years of service, upon a refund of the member’s contributions. Moreover, H.B. 535 provided for the transfer of service credit and contributions between the five state retirement systems and the Cincinnati Retirement System, provided the respective retirement boards enter into an agreement governing such transfers that is consistent with certain parameters established by statute and the Cincinnati City Council adopts the agreement by ordinance. All of these legislative measures seek to address the need for greater portability, and are consistent with prior ORSC recommendations and positions concerning this issue.

Other significant pension reforms enacted by the 123rd General Assembly included the division of retirement benefits upon termination of marriage in all five state retirement systems (H.B. 535) and a uniform two-month waiting period for retired public employees to return to public employment on a part-time or full-time basis (S.B. 144). The General Assembly also expanded the statutory responsibilities of the Ohio Retirement Study Council to require semi-annual reviews of the investment performance of the five state retirement systems under their expanded prudent person investment authority and independent actuarial audits of the five state retirement systems at least once every ten years, as recommended by the Government Finance Officers Association for all governmental pension plans.

REPORTS ON HOUSE BILLS ENACTED
123RD GENERAL ASSEMBLY
JANUARY 1, 1999 - DECEMBER 31, 2000

Am. Sub. H.B. 15 - Rep. Mottley

Am. Sub. H.B. 15 makes the following changes to the Public Employees Retirement System (PERS), State Teachers Retirement System (STRS), and School Employees Retirement System (SERS):

- Allows members of PERS, STRS, and SERS to purchase certain service credit covered by one of the other non-uniformed systems through payroll deductions.

Under prior PERS, STRS, and SERS law, service credit earned in another non-uniformed retirement system that was refunded could not be purchased through payroll deduction. It could only be purchased directly from the system in which it was earned. This bill extends the payroll deduction option; it does not provide for the purchase of a new type of service credit.

- Requires the PERS, STRS, and SERS boards to establish by rule a payroll deduction plan for payment of the cost of purchasing service credit.

Prior law allowed the boards to establish payroll deduction plans for restoring service credit or purchasing credit that a member was eligible to purchase under the laws governing each system, but it did not require the boards to establish a plan.

- Requires employers, at the election of the member, to make payroll deductions under a tax deferred plan for the purchase of service credit covered by one of the other non-uniformed systems.

Prior law authorized but did not require employers to establish a payroll deduction plan that defers taxes.

Staff Comments

Payroll deduction was established to facilitate the purchase of service credit by allowing members to pay the cost of the credit over a period of time, rather than in a lump sum. In 1986 the Police and Firemen's Disability and Pension Fund was the first system authorized to establish a payroll deduction plan to allow members to purchase service credit (H.B. 721, eff. 7-24-86). Three years later, the General Assembly authorized PERS, STRS, SERS, and the Highway Patrol Retirement System to establish payroll deduction plans for their members (H.B. 58 eff. 11-2-89). Establishment of a plan was permissive rather than mandatory for the retirement boards.

PERS, STRS, and SERS have all established payroll deduction plans. PERS currently has 4,300 members who are purchasing service credit through payroll deduction; SERS has 83 members utilizing the plan to purchase service credit; and STRS has 3,501 members presently buying credit through payroll deduction.

Payroll deduction currently is available only for the purchase of credit allowed under the laws of the system of which the employee is a current member. Members who wish to restore all or part of their service credit that was earned in another non-uniformed retirement system but later refunded must purchase that credit directly from the system in which it was earned, not from the system in which they are current members. The member must contact the system in which the credit was earned and directly pay that system the purchase price of the credit in a lump sum payment. For example, a member of PERS who had contributed to STRS but received a refund of contributions

Am. Sub. H.B. 15 - Rep. Mottley

from STRS must repurchase that credit directly from STRS, not from PERS. Upon retirement, membership and service credit in the systems is coordinated and the system in which the member has the most credit pays the benefit.

Since credit earned and refunded in another non-uniformed system cannot be purchased through the member's current system, the member cannot use payroll deduction to buy the credit. H.B. 15 would change that by allowing the member to restore credit earned in another non-uniformed system through the member's current system and by requiring the retirement system to offer a payroll deduction plan. Although the bill allows the member to use payroll deduction to purchase the credit through the system in which he or she is a current member, the cost of the credit and the eligibility for purchasing it would still be determined under the laws of the system in which the credit was earned. The bill changes the method of purchasing the credit, not the laws governing the purchase.

Am. Sub. H.B. 15 is intended to facilitate the purchase of service credit by making it easier to pay for service credit earned in another non-uniformed retirement system. Because the payments can be made over a period of time, the member is not forced to come up with a large lump sum payment.

The bill also facilitates the purchase of credit by providing the member with tax advantages. The bill requires the deductions to be made under a plan that is in compliance with Section 414(h)(2) of the Internal Revenue Code, if the member requests it. This means that the money deducted from a member's pay is done so on a pre-tax basis, which defers income taxes on that amount until retirement or refund. The tax-deferred requirement is limited to service credit that is earned in another non-uniformed retirement system. For the purchase of all other service credit, the decision to offer a tax-deferred payroll deduction plan remains at the option of the employer. It is not clear this limitation is made with respect to the establishment of tax-deferred payroll deduction plans.

Furthermore, the bill is consistent with recent federal proposals that are intended to facilitate the purchase of service credit for state and local government employees. For example, a recent federal proposal would allow the use of Section 403(b) and Section 457 deferred compensation plan funds to purchase service credit through a direct transfer to state and local government pension plans without having to take a taxable distribution of these amounts.

Fiscal Impact

The bill entails minimal additional administrative costs to the systems. The systems already have established payroll deduction plans; this bill simply extends the plans to the purchase of other non-uniformed service credit.

ORSC Position

At its meeting of June 9, 1999 the Ohio Retirement Study Council voted to recommend that the Ohio General Assembly approve Sub. H.B. 15.

Effective Date

November 3, 1999

Am. Sub. H.B. 163 - Rep. Core

Am. Sub. H.B. 163 generally makes appropriations for programs related to transportation and public safety. This analysis describes only the provision of the act that relates to membership in the Public Employees Retirement System (PERS).

This bill changes the membership eligibility for PERS-LE by creating the position of “enforcement agent” in the Department of Public Safety (DPS) and requiring those employees to be members of PERS-LE. Under the bill, an enforcement agent is any person employed by DPS and designated by the Director of Public Safety to enforce the state’s liquor control and food stamp laws and rules. Under prior law, liquor control investigators and food stamp trafficking agents were separate positions within DPS. Liquor control investigators were members of PERS-LE, while food stamp trafficking agents were members of regular PERS.

Members of PERS-LE receive certain advantages not available to regular members of PERS. Members of PERS-LE are eligible to retire at an earlier age than non-law enforcement members of regular PERS. A member of PERS-LE qualifies for normal age and service retirement (i.e., no reduction in benefit) after attaining age 52 with at least 25 years of service credit as a law enforcement officer *or* age 62 with 15 or more years of service. Members of PERS are not eligible for normal retirement until age 65 with 5 years of service or at any age with 30 or more years of service.

Members of PERS-LE also receive a higher retirement benefit than non-law enforcement members of regular PERS. The annual benefit for members of PERS-LE is equal to 2.5% of final average salary multiplied by the first 20 years of service, plus 2.1% of final average salary multiplied by years of service over 20. The annual benefit for members of PERS is equal to 2.1% of final average salary multiplied by the first 30 years of service, plus 2.5% of final average salary multiplied by years of service over 30.

Fiscal Impact

According to the PERS actuary, Gabriel, Roeder, Smith & Company, the size of the group affected by Am. Sub. H.B. 163 is too small to have a significant financial effect on PERS. Therefore, the change in eligibility can be absorbed within the current rate structure.

ORSC Position

The Ohio Retirement Study Council took no action on Am. Sub. H.B. 163.

Effective Date

June 30, 1999

Am. Sub. H.B. 186 - Rep. Jolivette

Am. Sub. H.B. 186 makes the following changes in the Public Employees Retirement System (PERS):

- Changes the purchase price for military service credit.¹ Under Am. Sub. H.B. 186, the member would be required to pay at least 50% of the additional liability for each year of credit purchased.

Under prior law, for each year of military service credit purchased the member is required to pay an amount equal to the member's rate of contribution in effect at the time the military service began multiplied by the member's salary for the first year of full-time employment covered by a state retirement system or the Cincinnati Retirement System following termination of military service, plus compound interest from the date the military service ended to the date of payment.²

- Gives members who are currently purchasing military credit through payroll deduction the option to have the purchase price for the credit remaining to be purchased recalculated based on 50% of the additional liability.

Am. Sub. H.B. 186 makes the following change in PERS and the School Employees Retirement System (SERS):

- Permits benefit recipients of PERS and SERS to authorize deductions from their retirement allowances for the payment of dues and other membership fees to associations or organizations composed primarily of retired public employees and their spouses. The dues check-off would become effective only if at least 500 benefit recipients authorize the deductions for payment to the same association or organization.

Staff Comments

Purchase of Military Service - The substitute bill generally requires the member to pay more of the resulting liability than the introduced version would have required. However, the substitute version may make the purchases more affordable in cases where there is a long period of time from

¹PERS law grants up to ten years of military service at no cost to the member, provided: (1) the member has at least one year of payroll deductions before entering active duty and maintains membership in PERS; (2) the member returns to employment covered by one of the five state retirement systems or the Cincinnati Retirement System within two years after an honorable discharge; and (3) the member completes at least one year of service thereafter. Members who do not satisfy these provisions may purchase up to five years of military service.

²PERS members who are reemployed by the same public employer that employed them prior to their service in the armed forces may purchase up to five years of military service credit by paying an amount equal to the contributions they would have paid had they not been out of active service as public employees by reason of their service in the military. Annual compound interest is charged from the date of reemployment to the date of payment only if the member pays all or any portion of the required contributions later than the lesser of five years of a period that is three times the member's military service.

Am. Sub. H.B. 186 - Rep. Jolivette

the end of military service to the beginning of Ohio service. Under the introduced version, the purchase price for each year of military credit was calculated by multiplying the member's rate of contribution in effect at the time Ohio service began by the member's salary for the first year of full-time employment covered by a state retirement system or the Cincinnati Retirement System, plus compound interest from the date service covered by a state retirement system or the Cincinnati Retirement System began to the date of payment.

The State Teachers Retirement System (STRS) is currently the only system that requires its members to pay at least 50% of the actuarial liability for the purchase of military service credit. In 1987 an actuarial study of STRS service credit provisions indicated that the system's actuarial liabilities resulting from the purchase of service far exceeded the cost paid by the member. The study found that for the purchase of military service credit, the member paid, on average, only 7.5% of the full actuarial cost. At the time of the study, the member cost for military service credit in all five systems was identical to the current PERS provision. This study raised the issue of whether the Ohio public retirement plans are well served by a policy that allows some public employees to purchase service credit at a fraction of the full actuarial cost while requiring all public employers to absorb the unfunded liability. Based on that study, STRS law was amended to require members who first establish membership on or after July 1, 1989 or members who have purchasable service that began on or after July 1, 1989, to pay at least 50% of the actuarial cost for future purchases of certain types of service (H.B. 293 eff. 9-15-89 increased cost for military service, out-of-state public or private teaching service and in-state teaching service, out-of-state public service, service under a municipal retirement system, and service normally covered by the non-uniformed retirement systems that is not creditable under PFDPF and HPRS).

Since the STRS study was completed in 1987, the laws governing the purchase of military service credit in STRS and SERS have been changed, thereby creating inconsistencies among the five systems regarding the cost of military service credit. For members of STRS who first established membership prior to July 1, 1989 and all members of PERS, the Police and Fire Pension Fund (OP&F), and the Highway Patrol Retirement System (HPRS) the member cost for each year of military service purchased is the member contribution rate in effect at the time military service began multiplied by the member's salary during the first year of full-time employment in Ohio, plus compound interest from the date military service ended to the date of payment.

The purchase price for military service under SERS law was changed in 1996 and is the member's contribution rate in effect at the time military service began multiplied by the member's salary for the first year of service as a member of SERS, PERS, or STRS following termination of military service, plus compound interest from the date the member began service as a member of SERS, PERS, or STRS following termination of military service to the date of payment. Prior to 1996, determination of the purchase price was consistent with PERS, PFDPF, and HPRS law.

Am. Sub. H.B. 186 provides an equitable way to determine the cost for all members purchasing military service credit because the cost is not determined by when the member served in the military nor entered public employment. Rather it is determined by the actuarial liability that results from the purchase. The public policy issue of whether the calculation of the member cost should be the same in all five public retirement systems to more accurately reflect the liability that the retirement systems incur due to the purchase of the service credit remains.

Dues Check-Off - There are several organizations that represent retired public employees: the School Employee Retirees of Ohio (SERO); the Public Employee Retirees, Inc. (PERI); the

Am. Sub. H.B. 186 - Rep. Jolivette

Highway Patrol Retirees Association (HPRA); the Ohio Retired Teachers Association (ORTA); the Police and Fire Retirees of Ohio (PFRO); the Ohio Education Association (OEA) and the American Federation of State, County & Municipal Employees (AFSCME). Each of these organizations has access to a mailing list of benefit recipients from the retirement systems. The retirement systems do charge organizations seeking a mailing list to cover their administrative costs. This bill simply provides another form of payment of membership dues to organizations affiliated with PERS and SERS retirees, and permit these retirement systems to recover any administrative costs incurred.

Fiscal Analysis

According to the PERS actuary, Gabriel, Roeder, Smith & Company, the cost of the change in the purchase price for military service credit would be approximately 0.04 - 0.05% of covered payroll, which can be absorbed within the current contribution rate structure.

The establishment of a dues check-off option would create some administrative cost of setting up and maintaining the computer programming necessary to make the appropriate deductions from the retiree's retirement allowance. PERS estimated initial programming costs at approximately \$56,500, assuming the following: 155 out of 600 programs are reconfigured by internal staff; 6 key data files are reconfigured; the retiree organization or association administers the paperwork; and 2,400 hours are needed to complete the reconfiguration. If the reconfiguration is done externally, the estimated cost would increase to \$202,000. SERS would bear no additional programming costs since its new computer system is designed to accommodate such transactions.

ORSC Position

At its meeting of June 9, 1999 the Ohio Retirement Study Council voted to recommend that the 123rd General Assembly approve Am. Sub. H.B. 186.

At its meeting of September 8, 1999 the Ohio Retirement Study Council voted to recommend that the 123rd Ohio General Assembly approve the dues check-off amendment with the following changes, which were adopted:

- Provide that the retiree association or organization must adopt a resolution approving the establishment of a dues check-off for their members as another condition beyond the authorization of at least 500 benefit recipients;
- Provide for a delayed effective date of one year after the effective date of the bill in order to give PERS internal staff ample lead time to reconfigure their computer programs at nearly one-fourth of the estimated cost if such reconfiguration were done externally.

The substitute bill, as enacted, incorporates both of the above amendments.

Effective Date

March 17, 2000; Section 145.564 is effective March 17, 2001.

Sub. H.B. 222 - Rep. Van Vyven

Sub. H.B. 222 makes the following changes:

- Changes the name of the Police and Firemen's Disability and Pension Fund (PFDPF) to the Ohio Police and Fire Pension Fund.
- Changes the name of the Firemen and Policemen's Death Benefit Fund to the Ohio Public Safety Officers Death Benefit Fund.
- Replaces gender specific names with gender neutral names for the individual funds into which employee and employer contributions and interest are deposited that are held in trust by the PFDPF Board.
- Corrects references to the "Ohio Retirement Study Commission" in the Revised Code by changing the references to the "Ohio Retirement Study Council" as established by H.B. 670 (eff. 12-2-96).

Staff Comments

PFDPF was created by the Ohio General Assembly in 1965 to provide disability and pension benefits to members of the fund, their surviving spouses, their children, and their dependent parents. It was created by consolidating 454 local police and firemen's relief and pension funds and became operational in 1967. PFDPF covers full-time municipal police officers and full-time firefighters employed by any public entity in Ohio.

The Firemen and Policemen's Death Benefit Fund was created by the Ohio General Assembly in 1976 to provide financial support for the families of Ohio's law enforcement and public safety personnel who die in the line of duty or from injuries sustained in the line of duty. It is funded by the state and administered by PFDPF.

These changes make the names of the funds gender neutral and more accurately reflect the membership of the funds. It is also consistent with the gender neutral names of the other four public retirement systems.

The bill makes no substantive changes to the laws governing either the Police and Firemen's Disability and Pension Fund or the Firemen and Policemen's Death Benefit Fund.

Fiscal Impact

The bill entails minimal additional administrative costs to the fund, but has no impact on the funding period.

ORSC Position

At its meeting of April 14, 1999, the Ohio Retirement Study Council voted to recommend that the 123rd General Assembly approve H.B. 222.

Effective Date

November 2, 1999

Sub. H.B. 275 - Rep. Vesper

Sub. H.B. 275 makes the following survivor and retiree benefit improvements under the Police and Fire Pension Fund (OP&F):

- Increases the monthly survivor pension for all spouses who were excluded from H.B. 194 (eff. 12/21/98), *except* for spouses who qualify for benefits equal to the full monthly salary of the deceased member under the Ohio Public Safety Officers Death Benefit Fund (Death Benefit Fund), from the current \$410 to \$550;
- Indexes the monthly \$550 survivor pension to the average percentage change in the CPI-W, up to a maximum of three percent, beginning on July 1, 2000 and each year thereafter;
- Makes the above monthly survivor pension increase retroactive to July 1, 1999 for all spouses who were excluded from H.B. 194 by providing a one-time, lump-sum payment equal to \$140 for each month the spouse was eligible to receive a monthly survivor pension between July 1, 1999 and the effective date of the bill (December 22, 1998 for all spouses who became survivors after the effective date of H.B. 194 but prior to July 1, 1999);
- Limits the election to switch from a single life annuity to a joint and survivor annuity, as provided under H.B. 194, to members who are still married to the person who was the spouse at the time the original election was made, and clarify that such election must be mailed to the fund's principal place of business.
- Eliminates the annual pension cap of \$23,500 in 1999 (increased by \$500 each year) for OP&F members retiring prior to July 24, 1986 for purposes of qualifying for an annual COLA, up to a maximum of \$360, or its actuarial equivalent.

Details of the above changes follow.

Monthly Survivor Pension Increased - The bill increases the monthly survivor pension for all spouses who were excluded from H.B. 194 (eff. 12/21/98), *except* for Death Benefit Fund spouses receiving the deceased member's full monthly salary, from the current \$410 to \$550 per month. The following spouses would receive the increase:

- spouses of members who retire on or after September 16, 1998 (the effective date of H.B. 648 which guarantees, in addition to the monthly survivor pension, a 50% joint and survivor annuity unless the spouse gives informed written consent to waive the annuity) and who die after July 1, 1999;
- spouses of active members who, on or after September 16, 1998, are eligible for service retirement at the time of death (existing law provides, in addition to the monthly survivor pension, a 50% joint and survivor annuity to such spouses) and who die after July 1, 1999; and
- spouses of members who retired prior to September 16, 1998 but whose death occurs after December 21, 1999 (the expiration of the one-year window provided under H.B. 194 for retired members to elect a joint and survivor annuity for their spouses).

The benefit increases proposed under the bill are the same as those provided under H.B. 194.

Sub. H.B. 275 - Rep. Vesper

Monthly Survivor Pension Indexed - The bill indexes the monthly survivor pension to the average percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the preceding calendar year, up to a maximum of three percent. This percentage change would be applied to the base amount of \$550, and would first become effective on July 1, 2000 and the first of July in each year thereafter.

One-Time Lump Sum Payment - The bill provides a one-time lump sum payment to spouses who become survivors after December 21, 1998 (the effective date of H.B. 194) and who are eligible for the benefit increase provided under H.B. 194 on July 1, 1999. These spouses would receive a lump sum payment equal to \$140 for each month they are eligible to receive a monthly survivor pension for the period from December 22, 1998 through June 30, 1999.

The bill also provides a one-time lump sum payment to spouses who were excluded from the benefit increase provided under H.B. 194, except Death Benefit Fund spouses receiving the deceased member's full monthly salary. These spouses would receive a lump sum payment equal to \$140 for each month they are eligible to receive a monthly survivor pension for the period from July 1, 1999 through the effective date of the bill.

The OP&F board is required to make these one-time lump sum payments no later than the first day of the second month after the effective date of the bill. The lump sum payments proposed under the bill are consistent with the lump sum payments provided under H.B. 194.

Election to Joint & Survivor Annuity Limited - The bill limits the election provided under H.B. 194 which permits members retired prior to September 16, 1998 to elect a joint/survivor annuity no later than December 21, 1999. Under the bill, only members who are married to the same spouse they were married to at the time of retirement may make the election. Current law allows members who marry or remarry after retirement to change from a single life to a joint/survivor annuity. Also, the bill would further clarify that the election form shall be mailed to the pension fund's principal place of business rather than the pension board.

Pension Cap for COLA Eliminated - The bill eliminates the annual pension cap under existing law that provides for an annual COLA, up to a maximum of \$360 or its actuarial equivalent, to members who retired prior to July 24, 1986 and whose annual pensions are less than the cap (\$23,500 in 1999, increased by \$500 each year thereafter). Members who retired prior to July 24, 1986 were permitted to include various types of "terminal pay" (e.g., lump sum payments for accrued, but unused sick leave) in the calculation of their average annual salary. By eliminating the current cap, these members whose annual pensions exceed \$23,500 would become eligible for the annual COLA of up to \$360.

Members who retire on or after July 24, 1986 are prohibited from including "terminal pay" in the calculation of their average annual salary, but are granted an annual COLA, up to a maximum of three percent of the original benefit amount. Certain active members with at least fifteen years of service as of January 1, 1989 are given a choice between retiring with "terminal pay" or the annual COLA of up to three percent. Those members electing the "terminal pay" option would forego any future COLA's.

Staff Comments

Last session the ORSC recommended that the 122nd Ohio General Assembly approve H.B. 194

Sub. H.B. 275 - Rep. Vesper

(eff. 12/21/98), which increased the monthly survivor benefits for various groups of surviving spouses covered under OP&F. At that time, the ORSC actuary had determined that \$127.5 million was the maximum additional liability that could be financed by OP&F based on the latest actuarial data without increasing contributions and without jeopardizing the pension fund's ability to obtain a 30-year funding period no later than calendar year end 2006, as required by law. In order to stay within these financial constraints, it was not possible then to provide benefit increases to *all* surviving spouses covered under OP&F, the total cost of which was determined by the ORSC actuary to be \$256.9 million. Therefore, H.B. 194 was designed to provide, within the pension fund's available resources as determined by the ORSC actuary, survivor benefit increases to those spouses who were among the most needy and dependent upon the legislature for financial relief. H.B. 275 would provide these same benefit increases to all surviving spouses who were excluded from H.B. 194, except Death Benefit Fund spouses receiving the deceased member's full monthly salary.

Under the Death Benefit Fund, surviving spouses of public safety officers who are killed in the line of duty or die from injuries sustained in the line of duty qualify for the full monthly salary of the deceased member, as indexed, minus any monthly survivor benefits paid by the state retirement systems up until the date the member would have qualified for normal retirement.³ Because of this dollar for dollar offset, these spouse would realize no additional benefits in the aggregate *if* they were included under the bill. Moreover, because benefits provided under the Death Benefit Fund are non-taxable whereas benefits provided by the state retirement systems are generally taxable, these spouse could actually realize a benefit reduction *if* they were included under the bill - contrary to the legislative intent of the bill. For these reasons, they would remain excluded from the proposed benefit increase under the bill.

ORSC Position

At its meeting of August 25, 1999, the Ohio Retirement Study Council voted to recommend that the 123rd Ohio General Assembly approve H.B. 275, as introduced, upon the adoption of the following amendments:

- exclude Death Benefit Fund surviving spouses who qualify for benefits equal to the deceased member's full monthly salary from the proposed survivor benefit increase;
- change the date from December 16, 1998 to December 21, 1998, with a corresponding change from December 17, 1998 to December 22, 1998 for the one-time, lump sum payment to certain surviving spouses in the Ohio Police and Fire Pension Fund; and
- eliminate the emergency clause.

The substitute bill, as enacted, incorporates all of the above amendments.

Effective Date

March 17, 2000

³Upon the deceased member's normal retirement eligibility date, the benefit paid by the Death Benefit fund is reduced by one-half, but is no longer offset by the monthly survivor benefit paid by OP&F.

Am. Sub. H.B. 283 - Rep. Thomas

Am. Sub. H.B. 283 makes appropriations for the operation of the state for the biennium beginning July 1, 1999, and ending June 30, 2001. This analysis describes only the provisions of the act that relate to the Ohio retirement systems.

The bill allows surviving spouses to remarry at any age without forfeiting their monthly benefits in the Ohio Public Safety Officers Death Benefit Fund. The act also reinstates the monthly benefits of surviving spouses whose benefits were terminated prior to the effective date due to remarriage. It is intended to make the law governing the Ohio Public Safety Officers Death Benefit Fund consistent with the laws governing PERS, STRS, SERS, OP&F, and HPRS.

Listed below are appropriations included in the act for state subsidies to the five state pension funds, appropriations to the Ohio Public Safety Officers Death Benefit Fund, separate totals of each, and a combined total of the two:

<u>GRF No.</u>	<u>Description</u>	<u>FY 00</u>	<u>FY 01</u>	<u>Total</u>
090-510	PERS Cost of living	\$ 136	\$ 100	\$ 236
090-511	STRS Cost of Living	1,400	1,200	2,600
090-512	SERS Cost of Living	600	600	1,200
090-520	PERS Pension Benefits	77,470	25,850	103,320
090-521	STRS Pension Benefits	320,000	300,000	620,000
090-522	SERS Pension Benefits	80,000	67,000	147,000
090-523	Highway Patrol Retirement System	4,156	4,050	8,206
090-524	Police and Fire Disability Pension	50,000	45,000	95,000
090-530	PERS Ad Hoc Cost of Living	616,410	472,897	1,089,307
090-531	STRS Ad Hoc Cost of Living	1,600,000	1,500,000	3,100,000
090-532	SERS Ad Hoc Cost of Living	236,000	213,000	449,000
090-533	HPRS Ad Hoc Cost of Living	24,990	24,800	49,790
090-534	PFDPF Ad Hoc Cost of Living	325,000	300,000	625,000
090-544	Police and Fire State Contribution	1,200,000	1,200,000	2,400,000
090-554	Police and Fire Survivor Benefits	1,740,000	1,670,000	3,410,000
	<u>State Pension Fund's Subsidies Total</u>	<u>6,276,162</u>	<u>5,824,497</u>	<u>12,100,659</u>
090-575	Police and Fire Death Benefits	19,980,000	21,280,000	41,260,000
	<u>Combined Total</u>	<u>26,256,162</u>	<u>27,104,497</u>	<u>53,360,659</u>

Effective Date - June 30, 1999 (emergency)

Sub. H.B. 416 - Rep. Ford

Sub. H.B. 416 makes the following changes to the Public Employees Retirement System (PERS):

- Eliminates R.C. §145.203, a provision in the laws governing PERS that allows elected officials to contribute an additional amount to PERS on the basis of their earnable salary as an employee of an Ohio not-for-profit professional sports organization that has pledged to transfer all receipts in excess of actual expenses to the board of county commissioners. Any contributions made or service credit earned as an employee of an Ohio not-for-profit professional sports organization prior to the bill's passage would not be affected.

Current law allows the member's retirement benefit to be calculated based on the combined salaries as an elected official and an employee of the sports organization.

- References the limitations recently established under the federal Taxpayer Relief Act of 1997 with respect to the purchase of 35% additional service credit for elected officials.

Current law allows elected officials to purchase an additional 35% of full-time service as an elected official without limit.

- Lowers the normal retirement age from 52 to 48 with 25 years of service while serving as a sheriff, deputy sheriff, or township constable or police officer under the Public Employees Retirement System Law Enforcement division (PERS-LE).⁴ There is **no** reduction in benefits on account of the member's age under normal service retirement.

Presently, PERS law enforcement officers may retire at age 52 with 25 years of service without any reduction in benefits. They may also retire as early as age 48 with 25 years of service on a reduced benefit.

Staff Comments

Elimination of R.C. §145.203 - Elected officials were first allowed to contribute an additional amount to PERS on the basis of their earnable salary as an employee of an Ohio not-for-profit professional sports organization in 1988 (S.B. 138, eff 7-20-88). At that time, the Ohio Retirement Study Council recommended approval of S.B. 138, but did not take a position on this provision because it was a last-minute amendment offered after the Council had taken a position on the bill. However, staff raised several public policy objections to the provision.

First, staff objected because it is discriminatory on its face by giving only elected officials the preferential treatment. No other employee of the sports organization has this option, even if that employee is also a public employee by virtue of other employment. Second, it sets a precedent for other public employees to contribute to PERS on the basis of what is essentially private employment. For example, should state university physicians be permitted to also contribute to a public pension fund on the basis of their private practice earnings? Third, it provides a lucrative incentive for the member to begin contributing on the basis of the outside income just prior to

⁴The PERS-LE program covers sheriffs, deputy sheriffs, township police officers, state university police officers and several other miscellaneous law enforcement groups. Like both the Ohio Police and Fire Pension Fund (OP&F) and the Highway Patrol Retirement System (HPRS), PERS-LE provides for earlier retirement ages and higher benefit formulas than the state pension funds for general employees.

Sub. H.B. 416 - Rep. Ford

retirement for the sole purpose of spiking the member's final average salary because there is no requirement that the member begin contributing based on the outside income immediately upon becoming employed with the sports organization. For example, an elected official with 20 years of public service could begin work for a sports organization in 1989, with the intention of retiring in 1999. Under current law, that member could wait until 1996 to begin contributing to PERS on the basis of the income from the sports organization. The retirement system will have received the additional contributions for a limited time but will have to pay a lifetime retirement allowance based on the spiked final average salary. These public policy issues continue to be relevant today.

Limitation on purchase of additional 35% service credit - The Taxpayer Relief Act of 1997 recently provided relief from former conflicts between federal tax qualification rules relating to limitations on benefits and contributions under section 415 of the Internal Revenue Code and state laws relating to the purchase of service credit in a governmental defined benefit plan. Under the Taxpayer Relief Act, no more than five years of service credit can be purchased for "nonqualified service," defined as service other than service (1) as a federal, state or local government employee, (2) as an employee of an association representing federal, state or local government employees, (3) as an employee of a public, private or sectarian school which provides elementary or secondary education, and (4) military service. Moreover, section 415 is violated if "nonqualified service" is taken into account for an individual who has less than five years of participation under the plan. While the provision is effective with respect to contributions to purchase service credit in years beginning after December 31, 1997, a grandfather rule would apply. Under this rule, the section 415 limits will not reduce the amount of service credit an eligible participant is allowed under the terms of the plan as in effect on August 5, 1997. For this purpose, eligible participants are "individuals who first became participants in the plan before the first plan year ends following the last day of the calendar year in which the next regular session (following the date of enactment of this Act) of the governing body with authority to amend the plan ends."

The purchase of 35% additional service credit in PERS is considered "nonqualified service" (sometimes referred to as "air time") for purposes of the Taxpayer Relief Act of 1997. Therefore, elected officials who first establish membership on or after January 1, 2001 will become subject to the following two limitations established pursuant to these recent changes in the federal tax law: (1) the purchase of 35% additional elective service is limited to those elected officials who have at least five years of service credit in PERS and (2) the purchase of 35% additional elective service is limited to a maximum of five years.

This bill references the limitations established under section 415 regarding these purchases, thereby making Ohio law consistent with federal law. The various benefit provisions, other than the purchase of service credit, of all five state retirement systems were similarly amended for the same reasons in Sub. S.B. 240 (eff. 7/24/90) to ensure compliance with federal tax law and maintain the federal tax qualification status of the retirement systems.

Reduced retirement age for certain members of PERS-LE - Generally, the PERS-LE program, OP&F and HPRS have maintained similar eligibility requirements and benefit levels for retiring law enforcement and safety personnel. These retirement programs provide for earlier retirement ages and higher benefit formulas than the state pension plans covering general employees (PERS, STRS, SERS).

This provision is in response to H.B. 389 (eff. 9/9/88 - OP&F) and H.B. 340 (eff. 11/2/89 - HPRS), which lowered the normal retirement age from 52 to 48 with 25 years of service for police

Sub. H.B. 416 - Rep. Ford

and firefighters and state troopers, respectively. This provision is intended to maintain the traditional parity among the PERS-LE, OP&F and HPRS retirement programs in this regard.

When the normal retirement age was lowered in the police and fire pension fund (H.B. 389) and the state highway patrol retirement system (H.B. 340), the employee contribution rate was increased as part of the funding of the additional liabilities created under those bills. The employee contribution rate was increased from 9.5% to 10% for police and firefighters and from 9% to 10.5% for state troopers. Should the legislature decide as a matter of public policy to establish the traditional parity among the three law enforcement retirement programs in Ohio by lowering the normal retirement age for PERS-LE members, it is recommended that the employee contribution rate be increased to fund the normal cost of such change going forward.

The PERS-LE division was created by the General Assembly in 1975. The General Assembly recognized that certain law enforcement officers deserved special retirement benefits due to the nature of their employment. At that time, only sheriffs and deputy sheriffs were included in the PERS-LE division. In 1979 township constables and police officers were added to the PERS-LE division based upon an ORSC study. Like sheriffs and deputy sheriffs, township constables and police officers were required to be employed as full-time peace officers; possess a peace officer training certificate; and have primary duties of preserving the peace, protecting life and property, and enforcing the laws of the state to be eligible for the PERS-LE division.

Since then the PERS-LE division has grown to include drug agents, department of public safety enforcement agents, parks officers, forest officers, game protectors, state watercraft officers, preserve officers, natural resources law enforcement staff officers, park district police officers, conservancy district officers, Ohio veterans' home police officers, special police officers for mental health institutions and for institutions for the mentally retarded and developmentally disabled, state university law enforcement officers, and Hamilton County Municipal Court bailiffs. Numerous other groups have also sought inclusion in the PERS-LE division, such as regional transit authority police and prison guards.

The original intent of the PERS-LE division was to provide a special set of retirement benefits for law enforcement officers whose duties and training were similar to those of police officers, but who at that time, did not have the career security needed to become vested in a retirement benefit under OP&F. Accordingly, a separate law enforcement division in PERS was created with a special "back up" provision for law enforcement officers who failed to obtain the necessary years of law enforcement service to qualify for a retirement benefit thereunder. Such officers were and continue to be eligible to retire under the regular PERS retirement program, which requires only five years of service to qualify for a benefit.

The first groups of employees eligible for benefits under PERS-LE (sheriffs, deputy sheriffs, township constables, township police officers) were required to have as their primary duties preserving the peace, protecting life and property, and enforcing the laws of the state. As later groups have been added to PERS-LE, the emphasis for eligibility has gradually shifted from the primary duties of the employee to the type of training the employee has received. While the training of a member of the law enforcement division is important, it is the primary duties of the officer that justify the special set of retirement benefits, including earlier retirement age and higher benefit formula. It is, thus, recommended that future participation in PERS-LE be limited to full-time law enforcement officers whose position requires a certificate from the Ohio Peace Officer Training Commission under R.C. §109.77 and whose primary duties are to preserve the peace,

Sub. H.B. 416 - Rep. Ford

protect life and property, and enforce the laws of the state as certified by the employer.

Fiscal Impact

Revised Code section 145.203 creates unfunded liabilities for the system because, as noted above, the retirement system must pay a lifetime benefit on the basis of a spiked final average salary. The amount of the unfunded liability created depends on the salary from the professional sports organization, the years of service of the member, and the years the member contributed on the outside salary prior to retirement. H.B. 416 would eliminate this additional unfunded liability.

ORSC Position

At its meeting of September 8, 1999, the Ohio Retirement Study Council voted to recommend that the 123rd General Assembly approve H.B. 416 as introduced because the current provision (R.C. §145.203) is actuarially unsound and bad public policy.

At its meeting of August 25, 1999, the Ohio Retirement Study Council voted to recommend that the 123rd General Assembly approve the provision referencing the limitations recently established under the federal Taxpayer Relief Act of 1997 with respect to the purchase of 35% additional service credit in PERS.

At its meeting of March 29, 2000 the Ohio Retirement Study Council voted to recommend that the 123rd General Assembly approve the reduction of the retirement age for members of the law enforcement division of PERS upon the adoption of the following changes:

- the provisions of the bill become effective January 1, 2001, the date the temporary reduction in the employer contribution rate for law enforcement officers adopted by the PERS board for calendar year 2000 terminates (This recommendation was incorporated in the Senate Ways and Means Committee);
- the employee contribution rate for law enforcement officers is increased by 1.1%, the additional amount necessary when combined with the return in the employer rate to 16.7% to fund the cost of the bill and S.B. 144 within the maximum 30-year funding period required by statute (This recommendation was incorporated in the Senate Ways and Means Committee);
- future participation in the law enforcement division of PERS is limited to full-time law enforcement officers whose position requires a certificate from the Ohio Peace Officer Training Commission and whose primary duties are to preserve the peace, protect life and property, and enforce the laws of the state as certified by the employer (This recommendation was incorporated in the Senate Ways and Means Committee by limiting those members who are eligible for the reduced retirement age to sheriffs, deputy sheriffs, and township constables and police officers).

Effective Date

October 13, 2000

H.B. 471 - Rep. Harris

H.B. 471 generally makes technical changes to the Revised Code to reflect substantive changes made in Am. Sub. H.B. 470. This analysis describes only the provisions of the act that relate to the Public Employees Retirement System (PERS), the State Teachers Retirement System (STRS), the School Employees Retirement System (SERS), the Police and Fire Pension Fund (OP&F), and the Highway Patrol Retirement System (HPRS).

This act changes references in the Revised Code from the Bureau and Administrator of Employment Services, the Department and Director of Human Services, the county director and department of human services, and the human services planning committee to the Director or Department of Job and Family Services, the Director or Department of Commerce, the county director or department of job and family services, and the family services planning committee. It also changes references from the district directors of human services to district directors of job and family services.

Fiscal Impact

This act has no fiscal impact on PERS, STRS, SERS, OP&F, or HPRS.

ORSC Position

The Ohio Retirement Study Council took no action on H.B. 471.

Effective Date

July 1, 2000.

Am. Sub. H.B. 535 - Rep. Willamowski

H.B. 535 makes the following changes:

All Five Retirement Systems

- Allows all five state retirement systems and the alternative retirement program for academic and administrative employees of public institutions of higher education to make payments to a member's former spouse for the purpose of dividing a retirement benefit or lump sum payment.⁵

Current law prohibits the assignment of accrued benefits from a state retirement system except as restitution for theft in office and for certain sex offenses, and orders for spousal and child support.

- Provides for the transfer of service credit and contributions between the five state retirement systems and the Cincinnati Retirement System, provided the respective retirement systems enter into an agreement governing such transfers that is consistent with certain parameters established by statute and the Cincinnati City Council adopts the agreement by ordinance.
 - generally requires the transfer of the member's accumulated contributions, including any payments for military service credit, along with the employer contributions which were actually made or would have been made under the lesser of the contribution rates of the retirement systems involved for the service, plus annual compound interest thereon.
 - requires the agreement to include a provision under which the retirement systems agree to transfer the above amounts and a provision that specifies the amount of credit to be granted (which may be less than the credit actually earned under the transferring system).
- Provides that in the case where there is only one duly-nominated candidate for a position on the retirement board as an employee member or retiree member, no election is required and the candidate shall take office as if elected. (Currently, an election is required.)

PERS, STRS, SERS

- Provides that contributions received from reemployed retirees and members who retire from their higher-paid position but continue employment in their lower-paid position shall be credited to a single money purchase annuity which is payable upon the later of age 65, termination of all post-retirement employment covered by the same retirement system, or twelve months after the effective date of the last money purchase annuity payable by the same retirement system.
- Provides that if the death of benefit recipient is caused by a beneficiary, no amount due from the retirement system shall be paid to such beneficiary absent a court order to the contrary.

⁵The bill does not provide for the division of post-retirement health care benefits provided by the systems.

Am. Sub. H.B. 535 - Rep. Willamowski

(Currently, this provision applies only in the case where the death of a member is caused by a beneficiary.)

- Clarifies the language governing the current two-month forfeiture provision relative to post-retirement employment to conform to current practice.

PERS & STRS

- Allows the retirement boards to waive the spousal consent requirement if the spouse is incapacitated or cannot be located relative to the member's election of a lump sum refund in lieu of a monthly service retirement benefit.

STRS & SERS

- Requires PERS to transfer twice the member's accumulated contributions which were paid by the employer and credited to the employer's trust fund due to the employer's failure to deduct required PERS contributions to the applicable retirement system paying the benefit upon joint retirement. The higher benefit multipliers under the STRS benefit formula, as modified by S.B. 190, are also applied to this type of service credit.

PERS

- Authorizes an officer(s) designated by PERS to certify copies of the retirement system's records. (Currently, only the executive director is authorized to certify such records.)
- Clarifies that the cost-of-living adjustment in final average salary provided under H.B. 628 shall be used to calculate benefits payable to a survivor(s) of a disability benefit recipient under either division (A) or (B) of that section.
- Authorizes the survivor(s) of a disability benefit recipient to purchase service credit in the same manner as the survivor(s) of an active member.
- Permits sheriffs, deputy sheriffs and township police officers who have other PERS law enforcement service or non-law enforcement service that is *not* used in the calculation of their retirement benefit to receive a money purchase annuity based upon their contributions for such service credit, along with a matching amount from employer contributions. (This amendment is generally consistent with current law which allows members who retire from the PERS-LE division to have their non-law enforcement service used to calculate a money purchase annuity.)
- Clarifies that sheriffs, deputy sheriffs and township police officers are not eligible for the enhanced refund provisions provided under S.B. 144.
- Clarifies that PERS law enforcement service includes up to four years of free military service and up to five years of purchased military service as well as service credit obtained as a police officer or state highway patrol trooper.
- Provides that the employee contribution rate for sheriffs, deputy sheriffs and township police officers shall be 1.1% more than the employee contribution rate established by the

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PERS board for other PERS-LE members. (Currently, the employee contribution rate is fixed by statute at 10.1% for sheriffs, deputy sheriffs and township police officers, which is 1.1% more than the current employee contribution rate of 9.0% established by the board for other PERS-LE members. The 1.1% was determined to be the actuarially required amount to fund the reduced normal retirement age for sheriffs, deputy sheriffs and township police officers that was recently enacted in H.B. 416.)

- Specifies a 90-day election period for certain reemployed retirees (e.g., reelected officials) to choose the money purchase annuity option relative to post-retirement employment and provides that contributions made prior to the effective date of the amendment shall be either used in the calculation of the supplemental formula benefit upon termination of employment or rolled over to the money purchase annuity option.
- Clarifies that elected officials who retired independently from STRS or SERS and are contributing to PERS prior to September 14, 2000 shall have their retirement allowance recalculated based on total contributions and service credit, notwithstanding the repeal of R.C §145.202 (eff. 9/14/00).
- Repeals a temporary law section that denied elected officials who retired from PERS but were reelected to the same office future COLA's during the reelection period.

STRS

- Clarifies that STRS shall provide for the maintenance of an individual account for all contributors. (Currently, this provision is limited to members.)
- Clarifies that the member shall file the election between the DB and DC plans with STRS rather than the employer and that the election shall be irrevocable at the end of the 180-day election period rather than upon receipt by the retirement system.
- Clarifies that in the case of current members who elect the DC plan STRS shall transfer only the member's accumulated contributions with interest at a rate determined by the board and no employer matching funds should the electing member have more than five years of service upon actual establishment of the DC plan.
- Clarifies that other system retirants are ineligible to elect the DC plan under STRS.
- Excludes amounts redeposited to restore withdrawn service credit and amounts paid for leaves-of-absence from the 50% employer match upon the election of a lump sum refund in lieu of monthly retirement benefits.
- Includes military service credit obtained or purchased from PERS or SERS for purposes of applying the enhanced benefit multiplier(s) for contributing service over 30 as well as for the 35-year incentive provided under S.B. 190.
- Clarifies that the STRS board shall determine the supplemental contribution rate to mitigate any negative financial impact of the newly-established DC plan on the DB plan based upon an actuarial study.

Am. Sub. H.B. 535 - Rep. Willamowski

- Eliminates the following two exceptions to the current limit on final average salary that may be used in the calculation of retirement benefits:
 - salary increases resulting from employment by a different employer;
 - salary increases resulting from promotion to a position held by another employee within the 12-month period preceding the promotion.
- Permits the STRS board to assess penalties and interest for late payment of contributions.
- Eliminates the current forfeiture of the pension portion of a retirement allowance for retired STRS members who are reemployed in a STRS-covered position under a private contract or as an independent contractor.

ORSC

- Requires the ORSC to prepare a report that examines all of the following items:
 - the provision of benefits to a former spouse of a member or retirant;
 - the cost and feasibility of offering an optional retirement plan of payment that provides continuing benefits after the death of a retirant to more than one beneficiary;
 - the cost and feasibility of providing a cost-of-living or other post-retirement increases to an alternate payee;
 - any other issue related to the division of retirement benefits upon termination of marriage.

Prior to preparing the report, the ORSC staff shall consult with the Ohio State Bar Association, Ohio Judicial Conference, Ohio Domestic Relations Judges Association, Ohio Academy of Trial Lawyers, Ohio Association of Court Magistrates, the five state retirement systems, and other organizations that express an interest in the issues related to the division of marital property. Not later than December 31, 2001, the report shall be submitted to the chair persons of the appropriate standing committees with primary responsibility for retirement legislation and the legal organizations listed above.

Current ARP for Higher Education Employees

- Provides that each public institution of higher education shall be the sponsor of each alternative retirement plan authorized under Chapter 3305.
- Expands investment options to include life insurance, annuities, variable annuities, regulated investment trusts, pooled investment funds, and other forms of investment. (Current law is limited to fixed or variable annuities, and is inconsistent with the laws governing the Ohio Public Employees Deferred Compensation Program and the alternative defined contribution plans authorized under S.B. 190 in STRS and H.B. 628 in PERS).

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- Clarifies that the employer shall contract with each designated provider that is willing to provide an alternative retirement plan to employees of that employer.
- Extends the election period from 90 to 120 days.
- Requires individuals who elect or do not elect to participate in the alternative retirement plan authorized under Chapter 3305 to remain subject to such election or non-election with respect to the individual's employment in all positions at the public institution of higher education, *unless the individual terminates employment and does not return to the same public institution of higher education prior to one year after termination.*
- Permits employees to change providers once during the first payroll period in any plan year, and requires the provider to transfer the employee's account balance to the new provider. (Currently, employees may change providers only upon rescission of the provider's designation by the Department of Insurance.)
- Requires the applicable state retirement system to transfer, not later than 30 days after the election is filed with the system, contributions made during the election period directly to the provider selected by the employee rather than the employer.
- Makes any adjustment in the supplemental contribution rate effective on the first day of the second month following submission of the actuarial study to the Board of Regents.
- Excludes any benefit increases enacted after March 31, 1997 from the retirement system's unfunded pension liabilities (the effective date of H.B. 586) for purposes of determining the duration of the employer supplemental contribution under the alternative defined contribution plan for higher education employees.
- Provides that benefits or payments from an ARP shall not commence prior to the participant's death, termination of employment or, if provided under the ARP, disability.
- Provides that payments from ARP are exempt from county, municipal and local taxes, except any school district income tax. (This is consistent with the laws governing benefits payable from the state retirement systems.)
- Eliminates the current statutory authority that permits electing employees to make additional contributions on a voluntary basis to the alternative DC plan.
- Makes benefits payable under the alternative DC plan subject to withholding orders as restitution for certain sex offenses committed in the context of employment and withholding orders for spousal and child support. (This is consistent with the laws governing benefits payable from the state retirement systems.)
- Requires spousal consent to the form of payment selected by the employee prior to making any payment from the alternative DC plan. (This is consistent with the laws governing the state retirement systems.)
- Makes ARP participants eligible for the Ohio Public Employees Deferred Compensation Program. (Currently, members of the five state retirement systems are eligible to participate

Am. Sub. H.B. 535 - Rep. Willamowski

in such program.)

Staff Comments

Under the bill, the court order that provides for the division of the retirement benefit must meet the following requirements:

- be on a form created by the retirement systems;
- set forth the name and address of each retirement system subject to the order;
- set forth the names, social security numbers, and current addresses of the participant and alternate payee;
- specify the amount to be paid to the alternate payee as either (1) a monthly dollar amount should the participant elect a benefit and as a one-time payment should the participant elect a lump sum payment or (2) a percentage of the monthly benefit or lump sum payment;
- require the participant and alternate payee to notify the retirement system in writing of a change in the individual's mailing address; and
- notify the alternate payee that the benefit is conditional based upon the participant's right to a benefit, that it may be subject to a reduction, and that it will be terminated upon the earliest of either the death of the participant, death of the alternate payee, or termination of the benefit to the participant by the retirement system.

Once a court has issued an order, the retirement system must determine whether the order meets the requirements set forth in the code and return to the court any order that does not meet those requirements. The system is authorized to withhold an amount necessary to defray the cost of administering the order, which is to be divided equally between the participant and the alternate payee.

If the member chooses a lump sum payment, the amount to be paid to an alternate payee cannot exceed 50% of the payment. If the member chooses to receive a benefit rather than a lump sum payment, the amount withheld from the participant's benefit cannot exceed the amount that would be permitted under the federal Consumer Credit Protection Act. If the participant's benefit or lump sum payment is subject to more than one order dividing it and/or a support withholding order that would cause the withholding to exceed the amount that is statutorily allowed, the system must establish the priority in which the orders will be paid. A withholding for child support issued pursuant to R.C. §3111.23 or §3113.21, and those described in 3115.32 (withholding order issued in another state) have priority over all other orders. However, orders described in R.C. §3115.32 are not among the exceptions to the anti-alienation provisions provided in the retirement laws. Therefore, the bill should be amended to make the sections consistent. All other orders are given priority based on the order in which they were received by the system.

The proposals in the bill would take effect one year after the effective date of the bill.

Am. Sub. H.B. 535 - Rep. Willamowski

Under Ohio law, retirement benefits accrued during marriage are considered to be marital property pursuant to R.C. §3105.171 (Domestic Relations Law). Whether the benefits can be divided as part of a property settlement during a divorce, legal separation, annulment, or dissolution of marriage depends on whether they were earned by an employee of a private company or by a member of one of the public retirement systems. If the benefits were earned by an employee of a private employer, the benefits can be divided upon divorce pursuant to the Employee Retirement Income Security Act (ERISA), the federal act that governs most private pension plans. If, however, the retirement benefits were earned by a member of one of the five state retirement systems, they may not be divided as part of a property settlement. Under current law if the retirement systems receive an order dividing retirement benefits as part of a property settlement, the systems are prohibited by law from honoring it.

Under ERISA the general rule is that benefits provided under a pension plan may not be assigned or alienated. However, ERISA does recognize a qualified domestic relations order (QDRO) as an exception to this general rule. QDROs permit the plan to divide a participant's benefits on account of divorce without violating ERISA or the Internal Revenue Code's anti-alienation provisions. This bill would allow Ohio's public retirement systems to divide retirement benefits upon divorce in a manner similar to what is allowed under ERISA.

The bill does not create a new property right for a member's former spouse. Rather the bill allows, but does not require, courts to divide a benefit that is already considered marital property.

Fiscal Analysis

According to the systems' actuaries, H.B. 535 will have no material financial impact on the systems' funding because the benefits paid to a former spouse reduces the value of benefits payable to a system member. Although there will be additional administrative costs, the bill allows the systems to reduce the benefits payable to the member and alternate payee to recover those costs. According to the PERS actuary, Gabriel, Roeder, Smith & Company, administrative costs in any given case could range from a few hundred dollars to several thousand dollars.

ORSC Position

At its meeting of April 12, 2000, the Ohio Retirement Study Council voted to recommend that the 123rd General Assembly approve H.B. 535 upon the adoption of the following amendments:

- Allow all the retirement systems to recover any payment made to an alternate payee to which the individual is not entitled and allow OP&F and HPRS to recover any payment made to a member, retiree, and/or beneficiary to which the individual is not entitled.
- Allow for the assignment of retirement benefits for orders for child support issued in another state (R.C. §3115.32).
- Technical amendment to renumber Section 3305.20 to Section 3305.10.

These amendments were adopted in the House Health, Retirement and Aging Committee on April 12, 2000.

Effective Date

March 15, 2001. Sections 2, 3, 4, 5, 6, 7, 8, 11, 14, and certain parts of section 1 effective April 1, 2001. Sections 9, 10, and certain parts of section 1 effective January 1, 2002.

Sub. H.B. 628 - Rep. Hollister

Sub. H.B. 628 makes the following changes to the Public Employees Retirement System (PERS):

- Increases the age and service retirement benefit formula from 2.1% to 2.2% for each of the first 30 years of service under the state and local government divisions of PERS;
- Increases the age and service retirement benefit formula from 2.1% to 2.5% for each of the 21st through 25th years of service under the law enforcement division of PERS;
- Increases the benefit formula under the pre-1992 disability retirement plan from 2.1% to 2.2% for each year of accrued service, plus projected service credit until age 60, up to the current maximum of 75% of the disabled member's final average salary (FAS);
- Increases the benefit formula under the post-1992 disability allowance plan from 2.1% to 2.2% for each year of accrued service, up to the current maximum of 60% of FAS;
- Creates an alternative survivor benefit based upon the member's years of service in lieu of the number of qualified survivors under current law, and provides the greater of such amounts:

No. of Survivors	% of FAS	Minimum Benefit/Mo.
1	25%	\$250
2	40%	\$400
3	50%	\$500
4	55%	\$500
5 or more	60%	\$500

OR

Years of Service	% of FAS
20	29%
21	33%
22	37%
23	41%
24	45%
25	48%
26	51%
27	54%
28	57%
29 or more	60%

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- Increases the above minimum monthly survivor benefit from the current \$96 to \$250 for one qualified survivor, \$186 to \$400 for two qualified survivors, and \$236 to \$500 for three or more qualified survivors, and eliminates the current age requirement of 50 for spouses to qualify for survivor benefits in cases where they are neither caring for surviving children nor physically or mentally competent, provided the member had at least ten years of service. The bill also provides that the final average salary used in the calculation of a benefit payable to the survivor of a disability benefit recipient shall be increased by the lesser of 3% or the actual percentage change in the CPI-W for each year between the effective date of the disability benefit and the date of death;
- Requires the PERS board to recalculate all benefits granted prior to the effective date of the bill in accordance with the above changes, and to add thereto all benefit increases authorized and granted prior to the effective date of the bill. The recalculated benefit shall be used as the new base amount for purposes of calculating cost-of-living allowances (COLA) as well as the ad hoc post-retirement increase described below;
- Requires the PERS board to provide an ad hoc post-retirement increase to individuals receiving a service, disability or survivor benefit that became effective on or before December 31, 1979 in accordance with the following schedule:

Effective Calendar Year	Percentage Increase
1955 or earlier	25.0%
1956	28.3%
1957	38.4%
1958	23.2%
1959	27.1%
1960	28.2%
1961	24.6%
1962	27.9%
1963	26.6%
1964	30.1%
1965	23.5%
1966	25.5%
1967	28.7%
1968	21.9%
1969	23.9%
1970	21.5%
1971	22.2%

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1972	22.4%
1973	21.3%
1974	21.1%
1975	20.7%
1976	20.6%
1977	20.5%
1978	13.5%
1979	4.0%

- Requires the PERS board to establish one or more alternative defined contribution plans, in conjunction with the current defined benefit plan;
- Permits PERS members who resigned due to the adoption of a child to purchase no more than one year of service credit;
- Amends the laws of all five state retirement systems governing the lump sum benefit payable upon the death of a service or disability benefit recipient to specify that such benefit shall be treated as life insurance for purposes of the retirement statutes and shall be funded solely from employer contributions and earnings thereon;
- Reorganizes Chapter 145. of the Revised Code to accommodate the above changes and creates Chapter 148. of the Revised Code to relocate the current provisions governing the Ohio Public Employees Deferred Compensation Program, with corresponding amendments to other sections of law throughout the Revised Code that reference Chapters 145 and 148.
- Requires the PERS board to conduct a study to determine the best method of meeting the needs of their members who are interested in participating in the alternative DC plan established under the bill;
- Authorizes the OP&F board to assess a \$100/day fine on employers who fail to provide timely information required to process a member's application for retirement.

Defined Benefit Formula Increases - The bill increases the defined benefit formula for active members who retire or become disabled on or after the effective date of the bill for purposes of calculating a service retirement benefit or a disability benefit.

Under current law, the defined benefit formula for age and service retirement under the state and local government divisions of PERS is 2.1% for the first 30 years of service, plus 2.5% for each year of service in excess of 30.⁶ The bill would increase the percentage multiplier from 2.1% to 2.2% for each of the first 30 years of service; the current percentage multiplier of 2.5% for each

⁶The maximum service retirement benefit under the state and local government divisions of PERS would remain the lesser of 100% of FAS or the annual dollar limit established under IRC Section 415.

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year of service in excess of 30 would remain unchanged under the bill.

For example, a state or local government employee with 30 years of service receives 63% of FAS (2.1% x 30 = 63%) under current law. Under the bill, the employee would receive 66% of FAS (2.2% x 30 = 66%).

Under current law, the defined benefit formula for age and service retirement under the law enforcement division of PERS is 2.5% for the first 20 years of service, plus 2.1% for each year of service in excess of 20.⁷ The bill would increase the percentage multiplier to 2.5% for the first 25 years of service, plus the current 2.1% for each year of service in excess of 25.

For example, a PERS law enforcement officer with 25 years of service currently receives 60.5% of FAS [2.5% x 20 = 50%, plus (2.1% x 5 = 10.5%) = 60.5%]. Under the bill, the law enforcement officer would receive 62.5% of FAS (2.5% x 25 = 62.5%).

Under current law, PERS members qualify for coverage under one of two disability plans: the pre-1992 disability plan or the post-1992 disability plan.⁸ The defined benefit formula under the pre-1992 disability plan would increase from 2.1% to 2.2% for each year of service, plus each year of projected service until age 60, up to the current maximum of 75% of FAS. The defined benefit formula under the post-1992 disability plan would also increase from 2.1% to 2.2% for each year of service, up to the current maximum of 60% of FAS. The current minimum disability benefit under the pre-1992 disability plan and the post-1992 disability plan would remain 30% of FAS and 45% of FAS, respectively.

Under current law, the disability allowance under the post-1992 plan terminates upon the member's attainment of age 65 or the expiration of the following benefit period for members who become disabled on or after age 60:

Attained Age at Date of Disability	Benefit Period
60 or 61	60 months
62 or 63	48 months
64 or 65	36 months
66, 67 or 68	24 months
69 or older	12 months

On termination of the disability allowance, the member may apply for a service retirement benefit.

⁷The maximum service retirement benefit under the law enforcement division of PERS would remain the lesser of 90% of FAS or the annual limit established under IRC Section 415.

⁸Individuals who were members of PERS on July 29, 1992 were given an opportunity to make a one-time, irrevocable election between disability coverage under the pre-1992 plan and the post-1992 plan. Individuals who became members after July 29, 1992 are automatically covered under the post-1992 disability plan.

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Under current law, the service retirement benefit is the greater of the following amounts:⁹

- 2.1% for each year of service, *including* service credit for the period the member was receiving a disability allowance, up to a maximum of 45% of final average salary; or
- a benefit calculated under the defined benefit formula for age and service retirement, *excluding* service credit for the period the member was receiving a disability allowance.

The bill increases the defined benefit formula for calculating the service retirement benefit to 2.2% for each year of service, *including* service credit for the period the member was receiving a disability allowance, up to the current maximum of 45% of final average salary. The defined benefit formula for age and service retirement, as modified under the bill, would also be used for determining the service retirement benefit for each year of service, *excluding* service credit for the period the member was receiving a disability allowance. The member would continue to receive the greater of the two amounts as under current law.

Survivor Benefit Improvements - The bill makes several changes to the benefits payable to the survivors of PERS members who die prior to eligibility for service retirement or, at the time of death, are receiving disability benefits.¹⁰

Currently, survivor benefits for these individuals are based upon the number of qualified survivors as follows:¹¹

No. of Survivors	% of FAS	Minimum Benefit/Mo.
1	25%	\$96
2	40%	\$186
3	50%	\$236
4	55%	\$236
5 or more	60%	\$236

⁹Added to these amounts would be any additional cost-of-living adjustments the member would have received had the member retired as of the effective date of the disability allowance.

¹⁰The member must have had at least one and one-half years of contributing service, with at least one-quarter year of contributing service within the two and one-half years prior to the date of death, to qualify for survivor coverage.

¹¹Qualified survivors currently include a spouse who is age 62, age 50 if the member had at least ten years of service, or regardless of age if the spouse is either caring for a qualified child or physically or mentally incompetent; unmarried child who is under age 18, age 22 if the child is a full-time student, or regardless of age if the child is physically or mentally incompetent; and a dependent parent who is age 65 or regardless of age if the parent is physically or mentally incompetent.

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The bill increases the minimum monthly survivor benefit from \$96 to \$250 for one survivor, \$186 to \$400 for two survivors, and \$236 to \$500 for three or more survivors.

The bill creates an alternative survivor benefit in lieu of the above schedule of benefits based upon the member's years of service, and provide the greater of the two amounts as follows:

Years of Service	% of FAS
20	29%
21	33%
22	37%
23	41%
24	45%
25	48%
26	51%
27	54%
28	57%
29 or more	60%

For example, the surviving spouse of a member who had 29 years of service and no other survivors currently receives 25% of the member's FAS. Under the bill, such spouse would receive 60%.

Under the bill, qualified survivors shall share equally in the alternative survivor benefit, except that if there is a surviving spouse, then the spouse shall receive *no less than* the greater of 25% of FAS or \$250 per month.

The bill provides that the FAS used in the calculation of the above benefits payable to qualified survivors of a disability benefit recipient shall be adjusted by the lesser of 3% or the percentage change in the CPI-W for each year between the effective date of the disability benefit and the date of death. Currently, the calculation of survivor benefits is based upon the FAS used in the calculation of the disability benefit.

The bill changes the qualification requirements for the spouse of a member who had at least ten years of service. Currently, the spouse must attain age 50 to qualify for survivor benefits if the spouse is neither caring for a qualified child(ren) nor physically or mentally incompetent. The bill would eliminate the age 50 requirement for such spouses, and thus make them eligible for benefits at any age. The bill would also clarify the qualification requirements for an unmarried child of a member to mean a child who has never been married.

Post-Retirement Benefit Increases - The bill requires PERS to recalculate the original benefit amount of all individuals receiving a benefit on the effective date of the bill in accordance with the above changes, and to add thereto all benefit increases authorized and granted by PERS prior to the effective date of the bill. The recalculated benefit would become payable on the first day of the

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month following the effective date of the bill, and would be used as the new base for purposes of calculating cost-of-living allowances (COLA) as well as the ad hoc post-retirement increase described below.

The bill requires PERS to provide an ad hoc post-retirement increase to all individuals receiving a benefit that became effective on or before December 31, 1979 in accordance with the following schedule:

Effective Calendar Year of Benefit	Percentage Increase
1955 or earlier	25.0%
1956	28.3%
1957	38.4%
1958	23.2%
1959	27.1%
1960	28.2%
1961	24.6%
1962	27.9%
1963	26.6%
1964	30.1%
1965	23.5%
1966	25.5%
1967	28.7%
1968	21.9%
1969	23.9%
1970	21.5%
1971	22.2%
1972	22.4%
1973	21.3%
1974	21.1%
1975	20.7%
1976	20.6%
1977	20.5%
1978	13.5%
1979	4.0%

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The ad hoc post-retirement increase becomes payable on the first day of the month following the effective date of the bill, and would be applied to the individual's recalculated benefit as determined above. The ad hoc post-retirement increase would be included in the calculation of future COLA's.

Alternative Retirement Plan (ARP) Authorized - The bill requires the PERS board to establish one or more plans consisting of benefit options that provide for an individual account for each participating member. Benefits shall be based solely on the amounts accumulated in the participant's account. The plan may include options which provide definitely determinable benefits to the participant. The board may administer the plan or contract with other entities to administer it. Each plan shall meet the tax qualification requirements under Section 401(a) of the Internal Revenue Code in order to avoid payment of federal income tax on contributions or the amounts earned thereon prior to the individual's receipt of a benefit. Each plan shall also satisfy the minimum retirement benefit requirements under the Internal Revenue Code to qualify as a retirement system maintained by a state or local government entity. A plan generally satisfies these federal requirements if allocations to the participant's account are at least 7.5% of the participant's compensation, regardless of whether such allocations are made by the participant, employer, or some combination of the two. Failure of the plan to satisfy these requirements would cause the participant and employer to contribute to the Social Security System under existing federal law.

Under the bill, the PERS board shall adopt rules to implement each plan so established. The board may also do all things necessary to avoid the payment of federal or state income taxes on plan contributions and earnings thereon.

The bill requires an individual who becomes a PERS member *on or after* the establishment of the alternative retirement plan (ARP) to make an election to participate in either the current PERS defined benefit (DB) plan or one of the options provided under the ARP.¹² The election shall be made no later than 180 days after the commencement of such employment. The election shall be in writing on a form provided by PERS and filed with the employer. No later than 10 days after receipt of such form, the employer shall transmit to PERS a certified copy of the election. The election take effect on the date of employment and shall be irrevocable upon receipt by the employer. If no election is on file at the end of the 180-day period, the individual is deemed to have elected to participate in the PERS DB plan.

The bill permits current PERS members, other than law enforcement officers, who have less than five years of service credit prior to the establishment of the plan to make an election to participate in one of the options provided under the ARP. The election shall be made no later than 180 days after the establishment of the ARP. The election shall be in writing on a form provided by PERS and filed with PERS. The election shall be irrevocable upon receipt by PERS. Upon receipt of an election, PERS would be required to credit to the member's individual account in the Defined Contribution Fund the member's accumulated contributions standing to the credit in the Employees' Savings Fund. If no election is made at the end of the 180-day period, the member is deemed to have elected to continue participating in the current DB plan.

The bill provides that any PERS member who elects to participate in the ARP shall be ineligible for

¹²Individuals are ineligible to make an election if they are law enforcement officers covered by PERS, PERS retirants or, at the time employment begins, PERS members participating in the DB plan.

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any payment or benefit under the DB plan, and shall be forever barred from claiming or purchasing credit in PERS or the other state retirement systems for service covered by the election.

The bill creates the “Defined Contribution Fund” in PERS, the fund in which contributions deducted from the earnable salaries of PERS members participating in the ARP shall be accumulated, along with any earnings and employer contributions credited thereon, and from which benefits provided under the ARP shall be paid. Under the bill, ARP members would contribute the same percentage as Defined Benefit (DB) members which is currently 8.5% for state and local government employees and 9.0% for law enforcement officers. Contributions shall not exceed the limits established under Section 415 of the Internal Revenue Code.

Employers of ARP members contribute the same percentage as employers of DB members which is currently 13.31% under the state division, 13.55% under the local government division, and 16.7% under the law enforcement division. For each ARP member, PERS shall transfer to the Employers’ Accumulation Fund a portion of the employer contribution equal to a percentage of the member’s earnable salary determined annually by the PERS actuary to be necessary to mitigate any negative financial impact on the DB plan resulting from participation of members in the ARP plan. The percentage transferred shall be increased or decreased based on the annual results of the PERS actuary’s determination; any change in the percentage shall take effect on the first day of the year following the date the actuarial results are reported to the PERS board. Under the bill, PERS shall make the above transfers to the Employers’ Trust Fund until the unfunded actuarial accrued liabilities, *excluding health care benefits and any benefit increases provided to members and former members participating in the DB plan after the effective date of the bill*, is fully amortized, as determined by the annual actuarial valuation prepared by the PERS actuary.

Contributions made by and on behalf of ARP members shall be deposited and credited in accordance with the plan selected by the member. Contributions shall cease upon the member’s death, termination of employment or any other reason specified under the ARP selected by the member.

The right of each member participating in the ARP to a retirement, disability, survivor, death, health care, and/or long-term health care benefit, or the withdrawal of any amounts accumulated in the member’s account, shall be governed exclusively by the plan selected by the member. Subject to the current PERS reemployment restrictions, withholding orders for spouse and child support or as restitution for theft in public office and certain sex offenses committed in the context of the member’s public employment, the member’s right to any payment or benefit under the ARP shall vest as follows:

- The member’s right to any payment or benefit that is based on member contributions is nonforfeitable;
- The member’s right to any payment or benefit that is based on employer contributions is nonforfeitable as specified by the ARP selected by the member.

For married ARP members, the bill requires PERS or the entity administering the ARP to obtain, prior to making any payment, the consent of the spouse to the form of payment selected by the member. The ARP plan shall include the same requirements for consent as required under Section 417 of the Internal Revenue Code. Each ARP plan may waive consent if the spouse cannot be located or for any other reason permitted under the Internal Revenue Code. Consent or waiver shall

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only be effective with respect to the spouse who is the subject of the consent or waiver.

Each ARP shall permit each participating member to do all of the following:

- Maintain on deposit with PERS or the entity administering the ARP any amounts that have accumulated in the member's account;
- Redeposit with PERS or the entity administering the ARP any amounts withdrawn by the member;
- Make additional deposits as permitted under the Internal Revenue Code, as amended.

The bill generally provides that the provisions governing the DB plan shall not apply to the ARP, except that the ARP may incorporate those provisions as specified by its plan document. The bill, however, specifically specifies that the following provisions governing the DB plan shall apply to each ARP established by PERS:

- The actuarial reporting requirements under R.C. §145.22;
- The maximum 30-year funding period established under R.C. §145.221;
- The various funds created under R.C. §145.23, including the Defined Contribution Fund;
- The establishment of each fund as a separate legal entity as provided under R.C. §145.25;
- The Treasurer of State as the custodian of each fund as provided under R.C. §145.26;
- The open records and confidentiality provisions under R.C. §145.27;
- The payment of contributions during disability leave as provided under R.C. §145.296;
- The reemployment rights and restrictions of retired public employees under R.C. §145.38;
- The reemployment rights of certain PERS retirees under R.C. §145.382;
- The excess governmental benefit arrangements authorized under R.C. §145.391;
- The employee contribution requirements under R.C. §145.47;
- The employer "pick-up" of employee contributions as authorized under R.C. §145.471;
- The employer contribution requirements under R.C. §145.48;
- The delinquent contribution statements as provided under R.C. §145.483;
- The separate calculation of PERS-LE contribution rates as provided under R.C. §145.49;
- The employer contribution collection procedures as provided under R.C. §145.51;
- The PERS administrative expense provisions under R.C. §145.54;
- The consent to deductions as provided under R.C. §145.55;
- The tax exemption and non-assignability provisions under R.C. §145.56;
- The vested rights statute under R.C. §145.561;
- The recovery of erroneous payments under R.C. §145.563;
- The withholding orders as restitution for theft in office and certain sex offenses as provided under R.C. §145.57;
- The budget appropriation requirements under R.C. §145.69; and
- The prompt payment from the Treasurer of State under R.C. §145.70.

Purchase of Credit for Resignation due to Adoption of Child - The bill permits a PERS member who resigned due to the adoption of a child to purchase up to one year of credit.

Under current law, PERS members may purchase up to one year of credit for leaves-of-absence approved by their employers or resignations due to pregnancy, provided they return to employment covered by PERS for at least 12 calendar months. The member shall pay an amount equal to the

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contribution rate in effect at the time of payment multiplied by the earnable salary of the member at the time of such leave or resignation, plus annual compound interest on such amount at a rate determined by the PERS board. In the case of resignation, the member must submit evidence satisfactory to the board documenting that the resignation was due to pregnancy.

The bill expands current law to include resignations due to the adoption of a child.

Lump Sum Benefit upon Death of Retiree - The bill amends the current statutes of the five state retirement systems governing the lump sum benefit payable upon the death of a service or disability benefit recipient. The bill would specify that such benefit shall be treated as life insurance for purposes of the public retirement statutes and shall be paid solely from employer contributions and earnings thereon. The purpose of this amendment is to ensure the exclusion of such benefit from federal income taxes.

PERS Study - The bill requires the PERS board to conduct a study to determine the best method of meeting the needs of their members who are interested in participating in the alternative DC plan established under the bill. The study shall include an examination of the members' preferences with respect to public and private investment opportunities; having life insurance, annuities, variable annuities, regulated investment trusts, pooled investment funds, and other forms of investment available through an alternative DC plan; and having disability, health, and long-term insurance coverage available under an alternative DC plan. The study shall be submitted not later than 18 months after the effective date of the bill to the Speaker of the House, President of the Senate, the chairs of the standing committees of the House and Senate with primary responsibility for retirement legislation, and the ORSC.

OP&F Fine - The bill requires the OP&F board, on receipt of an application for retirement, to request from the employer verification of the member's termination date and any other information necessary to calculate and pay a retirement benefit. The request shall be on a form created by the fund and the information requested shall be received by the fund not later than 60 days after the form is sent to the employer. If the fund does not receive the completed form from the employer, the fund shall send notice by certified mail to the employer that *unless* the form is received by the fund not later than 30 days after the initial due date, a fine will be assessed against the employer.

The bill would authorize the OP&F board to assess a \$100 per day fine beginning on the 31st day after the initial due date and ending on the day before receipt of the information. The fund shall make one or more monthly payments to members whose retirement benefits do not commence by the 91st day after the fund sends the request for information described above. The payment shall be an amount equal to the amount assessed against the employer, less any administrative costs incurred by the fund. The payment shall commence on the first day of the second month following a month that includes an assessment against the employer.

Staff Comments -

Defined Benefit Formula Increases - The current defined benefit formula for service retirement under the state and local government divisions of PERS is 2.1% for the first 30 years of service, plus 2.5% for each year of service in excess of 30, up to a maximum of 100% of FAS. The current defined benefit formulas for service retirement in SERS and STRS are very similar, providing 2.1% for the first 30 years of service and a constant 2.5% for each year of service in excess of 30 years in SERS and an escalating percentage for each year of earned service in excess of 30 in STRS (2.5%

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for 31st year, 2.6% for 32nd year, 2.7% for 33rd year, etc.). The current maximum service retirement benefit is 100% of FAS in STRS and 90% in SERS.

The current defined benefit formula for service retirement under the law enforcement division of PERS is 2.5% for the first 20 years of law enforcement service, plus 2.1% for each year of law enforcement service in excess of 20, up to a maximum of 90% of FAS. The current defined benefit formulas for service retirement in OP&F and HPRS are very similar. Under OP&F, the formula is 2.5% for the first 20 years of service, plus 2.0% for the 21st - 25th years, plus 1.5% for each year of service in excess of 25, up to a maximum of 72% of FAS. The formula under HPRS, as revised under S.B. 189 this session, is 2.5% for the first 20 years of service, plus 2.25% for the 21st - 25th years, plus 2.0% for each year of service in excess of 25, up to a maximum of 79.25% of FAS.

The following table provides a history of the changes in the defined benefit formula in PERS since 1968:

Bill	Old Formula	New Formula
H.B. 959 (eff. 6/10/68)	1.65% x FAS x YOS, up to a maximum of 75% of FAS.	1.9% x FAS x YOS, up to a maximum of 80% of FAS.
H.B. 100 (eff. 12/31/71)	1.9% x FAS x YOS, up to a maximum of 80% of FAS.	2.0% x FAS x YOS, up to a maximum of 80% of FAS.
H.B. 430 (eff. 11/20/73)	Maximum: 80% of FAS.	Maximum: 90% of FAS.
H.B. 1312 (eff. 3/4/75) (PERS Law Enforcement)		2.5% x FAS x first 20 YOS, plus 1.5% x FAS over 20, up to a maximum of 66% of FAS
H.B. 548 (eff. 9/8/82) (PERS Law Enforcement)	2.5% x FAS x first 20 YOS, plus 1.5% x FAS over 20, up to a maximum of 66% of FAS	2.5% x FAS x first 20 YOS, plus 2.0% x FAS x 21 - 25 YOS, plus 1.5% x FAS x YOS over 25, up to a maximum of 72% of FAS.
H.B. 232 (eff. 2/16/84)	2.0% x FAS x YOS, up to a maximum of 90% of FAS.	2.1% x FAS x YOS, up to a maximum of 90% of FAS.
H.B. 552 (eff. 12/15/88) (PERS Law Enforcement)	2.5% x FAS x first 20 YOS, plus 2.0% x FAS x 21 - 25 YOS, plus 1.5% x FAS x YOS over 25, up to a maximum of 72% of FAS.	2.5% x FAS x first 20 YOS, plus 2.1% x FAS x YOS over 20, up to a maximum of 90% of FAS
H.B. 760 (eff. 1/1/89)	2.1% x FAS x YOS, up to a maximum of 90% of FAS.	2.1% x FAS x first 30 YOS, plus 2.5% x FAS x YOS over 30, up to a maximum of 100% of FAS

The bill increases the defined benefit formula under the state and local government divisions to 2.2% for the first 30 years of service, with the same 2.5% multiplier for each year of service in excess of 30. Therefore, a member who retires with 30 years of service at any age would receive

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66% ($2.2\% \times 30 = 66\%$) of FAS under the bill rather than **63%** ($2.1\% \times 30 = 63\%$) of FAS under current law.

The bill also increases the defined benefit formula under the law enforcement division to 2.5% for the first 25 years of service, with the same 2.1% multiplier for each year of service in excess of 25. Therefore, a member who retires with 25 years of law enforcement service would receive **62.5%** ($2.5\% \times 25 = 62.5\%$) of FAS under the bill rather than **60.5%** [$2.5\% \times 20 = 50\%$, plus ($2.1\% \times 5 = 10.5\%$) = 60.5%] of FAS under current law.

The following table provides a comparison of the normal service retirement benefit formulas for other non-Social Security statewide retirement systems:

State	Defined Benefit Formula for Normal Service Retirement	Percent of FAS Based upon 30 YOS
Alaska	2.0% x first 20 YOS, plus 2.5% x YOS in excess of 20	65% of FAS
California	2.2% x YOS payable at age 60 2.3% x YOS at age 60 3/4 2.4% x YOS at age 61 1/2	66% of FAS 69% of FAS 72% of FAS
Colorado	2.5% x YOS	75% of FAS
Connecticut	2.0% x YOS	60% of FAS
Illinois	1.67% x first 10 YOS, plus 1.9% x second 10 YOS, plus 2.1% x third 10 YOS, plus 2.3% x YOS over 30 2.2% x YOS after 6/30/98 (Non-retired members may upgrade service prior to 6/30/98 to the 2.2% formula)	56.7% of FAS 66% of FAS
Kentucky	2.0% x YOS prior to 7/1/83, plus 2.5% x YOS after 7/1/83	68% of FAS
Louisiana	2.0% x YOS for teachers who joined prior to 7/1/99 2.5% x YOS for teachers who joined after 7/1/99	60% of FAS 75% of FAS
Maine	2.0% x YOS	60% of FAS
Massachusetts	1.0% x YOS payable at age 50 1.5% x YOS at age 55 2.0% x YOS at age 60 2.5% x YOS at age 65	30% of FAS 45% of FAS 60% of FAS 75% of FAS
Missouri	2.5% x YOS	75% of FAS
Nevada	2.5% x YOS	75% of FAS

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Ohio	2.1% x YOS, plus 2.5% x 31st year of earned service, 2.6% x 32nd year, and so on.	63% of FAS
Texas	2.2% x FAS	66% of FAS

As shown in the above table, the current service retirement benefit formula under the state and local government divisions of PERS is higher than a few, but lower than most non-Social Security statewide retirement systems. Many states have recently increased their benefit formulas, including California, Illinois, Louisiana, and Texas. The proposed increase in the PERS service retirement formula seems well within reason in comparison to the other non-Social Security states' current service retirement formulas.

One of the principles adopted by the Ohio Retirement Study Council in its review and recommendations of retirement bills is that "there should be equal pension treatment among the various groups of non-uniformed public employees and as nearly as practicable retirement benefits should be uniform." (March 1978) As indicated above, the service retirement benefit formulas for PERS, STRS and SERS are currently very similar, as are the disability and survivor provisions of the three non-uniformed retirement systems. The current coordination-of-benefit provisions providing for joint service and disability retirement and the portability of service credit provisions are largely predicated upon maintaining similar benefit structures in these retirement systems. *However, an overriding principle adopted by the ORSC is that "no proposed increase in pension benefits be seriously considered or granted until there is established adequate funding to cover its cost."* (March 1978)

The proposed change in the defined benefit formula to 2.2% under the state and local government divisions of PERS is generally consistent with the changes made in S.B. 190 as enacted by the 123rd Ohio General Assembly. Under S.B. 190, the STRS defined benefit formula is increased to 2.2%. It is also consistent with the proposed change included in S.B. 270 which would increase the SERS defined benefit formula to 2.2% as well. S.B. 270 has been favorably recommended by the ORSC and is currently pending before the 123rd Ohio General Assembly.

The proposed change in the defined benefit formula to 2.5% for the first 25 years of service under the law enforcement division of PERS would provide a slightly higher service retirement benefit for PERS law enforcement officers (62.5%) than OP&F members (60%) and state troopers (61.25%). Just as members of the PERS law enforcement division have sought legislative action to establish parity in the eligibility requirements for normal age and service retirement, members of OP&F and HPRS are likely to use the same argument(s) to seek legislative action to achieve parity in the benefit formula for normal age and service retirement.

Neither this bill nor the proposed changes included in S.B. 270 would provide the significant financial incentive offered under S.B. 190, as enacted by the 123rd Ohio General Assembly, for teachers to work beyond 30 years (normal retirement). Under S.B. 190, STRS members who have 35 years of earned service would receive **2.5%** rather than **2.2%** for each of the first 30 years of earned service, plus 2.5% for the 31st year, 2.6% for the 32nd year, 2.7% for the 33rd year, 2.8% for the 34th year and 2.9% for the 35th year, for a total benefit of 88.5% of FAS. PERS members and SERS members who have 35 years of service would receive 78.5% of FAS under their respective bills. The financial incentive offered under S.B. 190 is intended to respond to changing demographics in the STRS membership and the predicted shortage of teachers in the near future.

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The number of service retirements is expected to double in STRS within the next ten years, creating a growing need for experienced teachers. The stated purpose of the incentive is to retain experienced teachers who otherwise qualify for normal service retirement by encouraging them to defer their actual retirement by at least five years. Though there appears to be no similar labor shortage to justify such incentive for state and local government employees and non-certificated school employees, the continuing improvements in life expectancy in all five state retirement systems may provide justification, in and of itself, to consider incentives for members to work beyond normal retirement in the future.

Survivor Benefit Improvements - The bill would create an alternative survivor benefit based upon the member's years of service in lieu of the current survivor benefit based upon the number of qualified survivors, and provide the greater of the two amounts. The proposed change is intended to allow a survivor of a member who dies prior to eligibility for service retirement and has significant service credit to receive benefits that are commensurate with the member's service. Currently, a surviving spouse with no other qualified survivors receives the greater of 25% of the member's final average salary or \$96 per month, regardless of the member's years of service. The proposed change is modeled after a similar change made to STRS law in H.B. 721 (eff. 12/14/92) and is consistent with a proposed change to SERS law in S.B. 270.

The bill provides that the FAS used in the calculation of a survivor benefit payable to qualified survivors of a disability benefit recipient shall be adjusted by the lesser of 3% or the percentage change in the CPI-W for each year between the effective date of the disability benefit and the date of death. Currently, the calculation of survivor benefits is based upon the FAS used in the calculation of the disability benefit. This proposed change is consistent with a recent change made to STRS law in S.B. 190, as enacted by the 123rd Ohio General Assembly, as well as a proposed change to SERS law in S.B. 270.

The bill changes the qualification requirements for the spouse of a member who had at least ten years of service. Currently, the spouse must attain age 50 to qualify for survivor benefits if the spouse is neither caring for a qualified child(ren) nor physically or mentally incompetent. The bill would eliminate the age 50 requirement for such spouses, and thus make them eligible for benefits at any age. This proposed change is consistent with a change made to STRS law in S.B. 305 (eff. 3/29/88) as well as a proposed change to SERS law in S.B. 270.

The bill increase sthe minimum monthly survivor benefit from the current \$96 to \$250 for one qualified survivor, \$186 to \$400 for two qualified survivors, and \$236 to \$500 for three or more qualified survivors. The current minimum monthly survivor benefits were established in H.B. 430 (eff. 9/1/73), and are the same in PERS, STRS and SERS. This bill increases them in PERS only; the current minimum monthly survivor benefits would remain the same in STRS and SERS as neither the changes made in S.B. 190, as enacted by the 123rd Ohio General Assembly, nor the proposed changes in S.B. 270 include such increase.

Post-Retirement Increases - Current PERS law provides for the following methods of retirement income protection: (1) Annual Cost-of-Living Allowances (COLA); (2) Comprehensive Retiree Health Care Program; and (3) Ad Hoc Legislative Post-Retirement Increases.

The annual COLA is generally payable upon receiving a benefit for at least 12 months, calculated upon the original benefit amount (unless the legislature establishes a new base), and limited to a maximum of three percent. The annual COLA became effective on July 1, 1971.

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The PERS retiree health care program is perhaps the most valuable in terms of retirement income protection. It provides comprehensive hospital, medical and prescription drug coverage. It also provides for reimbursement of the full cost of Medicare Part B monthly premiums (\$45.50). PERS was first authorized to pay the cost of retiree health insurance coverage on January 1, 1974.

The legislature has enacted various ad hoc post-retirement increases from time to time in an effort to offset in part the loss in the purchasing value of benefits during periods of high inflation. The last PERS ad hoc increase was granted in H.B. 365 (eff. 9/27/96), and restored the purchasing value of PERS members who retired prior to 1978 to a minimum of 70% of their original benefit amount, as adjusted for the cumulative change in the cost-of-living since retirement. These ad hoc increases were included in the benefit recipient's base for purposes of calculating the annual COLA.

The bill provides similar ad hoc post-retirement increases. The bill would require the PERS board to recalculate all benefits granted prior to the effective date of the bill in accordance with the changes made in the bill, and to add thereto all benefit increases authorized and granted prior to the effective date of the bill. The recalculated benefit shall be used as the new base amount for purposes of calculating cost-of-living allowances (COLA) as well as the ad hoc post-retirement increase described below. S.B. 190, as enacted by the 123rd Ohio General Assembly, provided for a similar recalculation, though the recalculation was limited to STRS service retirees and was based on the defined benefit formula in effect *prior to* the effective date of the bill. Under this bill, PERS would be required to recalculate the benefits of all benefit recipients, including service retirees, disability benefit recipients, and surviving beneficiaries, based upon the defined benefit formula and other benefit changes in effect on the effective date of the bill.

The bill also requires the PERS board to provide an ad hoc post-retirement increase to individuals receiving a service, disability or survivor benefit that became effective on or before December 31, 1979. The percentage increases vary from 4% to 38.4% based on the effective calendar year of the benefit. The percentage increases are calculated so that, on a cumulative basis, the purchasing value of the benefit is restored to 85%, as adjusted for inflation. This ad hoc increase shall be included in the benefit recipient's base for purposes of calculating the annual COLA, and is consistent with the STRS ad hoc increase included in S.B. 190, as enacted by the 123rd Ohio General Assembly.

Defined Contribution Plan - One of the ORSC staff recommendations made in the final report to the Joint Legislative Committee to Study Ohio's Public Retirement Plans (December 11, 1996) was 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."

By way of background, the Ohio General Assembly enacted H.B. 586 (eff. 3/31/97) which established an alternative defined contribution plan administered by outside providers for full-time academic and chief administrative employees of public institutions of higher education electing such plan in lieu of participation in the defined benefit plans of PERS, STRS or SERS. The bill also required STRS to pay interest upon the withdrawal of the member's contributions due to death or separation of employment, along with a 50% match from employer contributions for members who had at least five years of service. These legislative changes were favorably recommended by the ORSC and intended to address the issue of pension portability.

S.B. 144 was introduced this session and would require the PERS board to credit interest on the

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member's contributions, along with a 33% match of employer contributions for members with five but less than 10 years of service and a 67% match for members with ten or more years of service. The bill has been favorably recommended by the ORSC, passed by the Senate, and is pending before the House Health, Retirement & Aging Committee. S.B. 190, which requires the STRS board to establish an alternative defined contribution plan for its members, has also been favorably recommended by the ORSC and enacted by the 123rd Ohio General Assembly. The ORSC recently recommended that S.B. 270 be approved by the 123rd Ohio General Assembly upon the adoption of an amendment which would require SERS to establish an alternative defined contribution plan for its members. Moreover, H.B. 623 was introduced, which would establish an alternative defined contribution plan administered by outside providers for elected officials and non-classified state employees, and is pending review by the ORSC and the 123rd Ohio General Assembly.

All of these legislative measures seek to address the need for greater pension portability and options for Ohio's public employees, especially short-service, mobile employees, and are generally consistent with prior ORSC recommendations and positions concerning this issue.

The bill requires a supplemental employer contribution to be made on behalf of members electing the ARP plan and to be paid to the DB plan in order to mitigate any negative financial impact upon the DB plan resulting from members participating in the ARP plan. The amount of the supplemental employer contribution would be determined annually by the PERS actuary and would remain payable until the PERS unfunded actuarial accrued liabilities, excluding health care benefits and benefit increases provided to members and former members participating in the DB plan after the effective date of the bill, are fully amortized. This provision is consistent with S.B. 190, as recommended by the ORSC and enacted by the 123rd Ohio General Assembly.

PERS Study - The study required to be conducted by the PERS board under the bill is limited to members' preferences regarding various investment options and other ancillary benefits under the alternative DC plan established under the bill. While the members' retirement needs are an important consideration, the recruitment/retention needs of employers and the actuarial implications to the retirement system are equally important considerations in design of the alternative DC plan. Therefore, the PERS board should retain sole discretionary authority as provided under the bill to establish and administer the DC plan based upon the advice of its actuary and the interests of both members and employers.

OP&F Fine - The \$100/day assessment against OP&F employers for failure to provide necessary information to enable the fund to process retirement applications in a timely manner is consistent with similar assessments recently enacted in Sub. H.B. 648 (eff. 9/16/98) relative to the submission of pre-employment physicals and delinquent retirement contributions to the fund. The purpose of the assessment is to enforce the employer's obligations under OP&F law.

Fiscal Impact - See the attached actuarial analysis prepared by the ORSC actuary, Milliman & Robertson.

ORSC Position - At its meeting of May 2, 2000, the Ohio Retirement Study Council recommended that the 123rd Ohio General Assembly approve H.B. 628/S.B. 277 upon the adoption of the following amendments: (Sub. H.B. 628 incorporates all of these amendments.)

- Retain the existing statutory authority governing the 3% COLA under PERS;

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- Clarify the language governing the alternative survivor benefit plan to provide that the spouse shall receive no less than the minimum benefit amount established under the existing survivor benefit plan;
- Eliminate the language authorizing a qualified governmental excess benefit arrangement since S.B. 190, as enacted by the 123rd Ohio General Assembly, includes identical authority for all five state retirement systems;
- Mandate rather than permit the PERS board to establish an alternative DC plan;
- Limit participation in the alternative DC plan to new hires and current members who have less than five years of service (non-vested members);
- Exclude PERS members covered under the law enforcement division from participation in the alternative DC plan;
- Provide that the PERS DC plan may include life insurance, annuities, variable annuities, regulated investment trusts, pooled investment funds, or other forms of investment;
- Amend the death benefit provisions of all five state retirement systems to provide that such benefits shall be funded solely by employer contributions and earnings thereon and treated as life insurance in order to allow such benefits to remain tax exempt; and
- Make certain technical changes.

Effective Date - September 21, 2000

Am. Sub. H.B. 640 - Rep. Corbin

Am. Sub. H.B. 640 makes capital appropriations for fiscal year 2001-2002. This analysis describes only the provision of the act that relates to the Public Employees Retirement System (PERS).

Generally, persons employed by a state or a political subdivision of the state are members of PERS. However, there are certain non-government employees who are covered by PERS. Employees of the Ohio Historical Society are an example of non-government employees covered by PERS. The bill provides that an administrative employee of a county historical society who has an account in PERS on the bill's effective date may elect to remain a contributing member of PERS by giving notice to PERS not later than 90 days after the bill's effective date. Once made, the election is irrevocable.

"County historical society" is defined in the bill as a private, non-profit organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code that collects, preserves, and interprets the historical physical and intellectual resources of a county.

ORSC Position

The Ohio Retirement Study Council took no action on this bill.

Effective Date

September 14, 2000

REPORTS ON SENATE BILLS ENACTED

123RD GENERAL ASSEMBLY

JANUARY 1, 1999 - DECEMBER 31, 2000

S.B. 144 - Sen. Johnson

S.B. 144 makes the following changes:

- Requires the Public Employees Retirement System (PERS) to credit interest on the member's contributions, with certain exceptions.
- Requires PERS to pay, under certain conditions, an amount from employer contributions upon the withdrawal of the member's contributions or payment of such contributions to the member's designated beneficiary.
- Exempts the board of trustees of the five state retirement systems, the Ohio Public Employees Deferred Compensation Board and the Ohio Retirement Study Council from the sunset review provisions.
- Amends the reemployment statutes with respect to the minimum waiting period in PERS and STRS and the treatment of concurrent service in PERS, STRS and SERS.
- Applies the same provisions to governing authorities of community schools as are currently applicable to all other boards of education regarding the payment of employer contributions to STRS and SERS.

Background - Prior to the enactment of S.B. 160 (*effective August 1, 1959*), PERS credited annual compound interest on the member's contributions. S.B. 160 provided, among other things, that the retirement board shall discontinue the annual crediting of interest on the member's contributions *subsequent to December 31, 1958* and that interest shall be credited only at retirement for purposes of determining the amount of the member's annuity under the money purchase plan.¹³ The noncrediting of annual interest on the member's contributions prior to retirement was part of the funding mechanism to cover the cost of the various benefit improvements enacted in S.B. 160.

Current law provides that a member who ceases public employment prior to retirement may apply for a refund of the member's contributions, including any amounts paid to purchase service credit. Current law also provides that if a member dies prior to retirement and no survivor benefits are paid, the member's contributions shall be paid to a designated beneficiary or qualified survivor. Upon either a refund of the member's contributions or payment of the member's contributions to a designated beneficiary or qualified survivor, *neither* interest on the member's contributions *nor* employer contributions made on behalf of the member are paid, but are retained by PERS as part of the current actuarial funding of the retirement system.

Crediting of Interest on Member Contributions

The bill requires the PERS board to credit, on and after the effective date of the bill, annual compound interest on member contributions, *excluding* contributions made by PERS retirants and other system retirants who are reemployed in positions covered by PERS prior to the expiration of

¹³Under PERS law, members qualifying for service retirement receive the greater of the benefit determined under the money purchase plan or under the defined benefit formula (2.1% x the member's final average salary (FAS) x the member's first 30 years of service (YOS), plus 2.5% x the member's FAS x the member's YOS over 30, up to a maximum of 100% of FAS).

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the required six-month or two-month waiting period, as applicable.¹⁴ The interest rate credited on the member contributions shall be as follows:¹⁵

- 4% annual compound interest through December 31, 1955;
- 3% annual compound interest from January 1, 1956 through December 31, 1963;
- 3.25% annual compound interest from January 1, 1964 through December 31, 1969;
- 4% annual compound interest from January 1, 1970 through the effective date of the bill;
- An amount determined by the PERS board *not to exceed 6% annual compound interest* on and after the effective date of the bill.

For member contributions made in any calendar year, interest shall be earned beginning on the first day of the following calendar year and ending on the last day of that year (ending on the last day of the month prior to retirement or payment of the member's contributions). Interest shall be credited by the PERS board at the end of the calendar year in which it is earned. For example, assume a member starts making contributions on October 1, 1999. Interest on the member contributions made during calendar year 1999 shall be earned beginning on January 1, 2000 and shall be credited by the board on December 31, 2000. Should the member apply for a refund and receive payment of the member's contributions on October 15, 2000, interest shall be earned for the period beginning on January 1, 2000 and ending on September 30, 2000 with respect to contributions made in calendar year 1999. In this example, no interest would be earned for contributions made during calendar year 2000 under the bill, as drafted, since interest shall be earned on the first day of the following calendar year (namely, January 1, 2001).

The bill requires the PERS board to credit, no later than 30 days after the effective date of the bill, interest on member contributions on deposit as of the effective date of the bill. For members with service credit earned prior to 1981, the board may reflect the compounding of annual interest using factors provided by the board's actuary. If the bill should become effective on or before December 31, 2000, interest shall be calculated on member contributions on deposit as of December 31, 1998. Should it become effective after December 31, 2000, interest shall be calculated on member contributions on deposit as of December 31, 1999.

¹⁴Under current law, PERS retirants (other system retirants) who have received a retirement allowance for less than six months (two months) and are reemployed in a PERS-covered position shall have any member contributions made during this six-month (two-month) period excluded in the calculation of any benefits payable to them and, upon their termination of employment or death, refunded to them.

¹⁵PERS retirants and other system retirants who are reemployed in PERS-covered positions may elect to receive their retirement allowance and compensation. Upon termination of employment, they may apply for a benefit consisting of a single life annuity having a reserve equal to the retirant's contributions made during the period of employment, plus an equal amount from employer contributions. The interest rate used to calculate the annuity or lump sum payment discounted to present value as provided under existing law shall be the current actuarial interest rate assumption of PERS (7.75%).

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Payment from Employer Contributions

The bill requires the PERS board to pay the following amounts from employer contributions upon a refund of the member's contributions or payment of such contributions to a designated beneficiary or qualified survivor:¹⁶

- 33% of the member's "eligible contributions" for members with at least five years of service but less than ten years of service;
- 67% of the member's "eligible contributions" for members with at least ten years of service.

As defined under the bill, "eligible contributions" mean amounts contributed by the member; amounts received from the member for the purchase of prior service as an elected official, service in the police & fire pension fund or highway patrol retirement system, military service that interrupts public employment, and prior service in a local retirement system; and interest credited on the individual accounts of members. The definition excludes member contributions that were used for the payment of a disability benefit or were refunded as unauthorized. For purposes of determining the member's years of service, "service credit" is defined to mean periods for which contributions were made by the member and periods for which service credit was purchased by the member for prior service as an elected official, service in the police & fire pension fund or highway patrol retirement system, military service that interrupts public employment, and prior service in a local retirement system.

The bill requires a PERS member who is married and eligible for service retirement at the time of application for payment of the lump sum refund described above to file a written statement with the application attesting to the consent of the spouse to such payment. Consent shall be valid only if it is signed and witnessed by a notary public.

Miscellaneous Provisions

The bill provides that upon the restoration of withdrawn contributions, any payments from employer contributions shall be credited to the employers' accumulation fund. All other amounts paid by the member to restore service credit shall be credited to the member's account in the employees' savings fund.

The bill would also provide that upon coordination of membership in PERS, STRS and SERS, the paying retirement system shall receive from the other retirement system(s) an amount equal to the member's refundable account, including any credited interest thereon, plus an amount equal to the member's refundable account, excluding any credited interest thereon, from the employers' accumulation fund. For example, assume the member's refundable account at retirement in STRS equals 20,000, consisting of \$18,000 in actual contributions and \$2,000 in interest. Assume PERS is the paying retirement system. In this example, PERS would receive from STRS a total of \$38,000 [\$20,000 (the member's refundable account with interest) + \$18,000 (the member's refundable account without interest) = \$38,000 (total transfer)]. This change is intended to maintain the status quo with respect to the current transfer of employer contributions between PERS, STRS

¹⁶ No payment would be made *if* the member was a disability benefit recipient at the time of death or a PERS retirant who, upon employment, reestablished membership in PERS.

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and SERS in the case of members who coordinate their memberships upon retirement.

Effective Date

The bill would take effect on the 90th day after the effective date of the act relative to the changes made to the refund of the member's accumulated contributions in PERS.

Sunset Review Exemption - The bill would exempt the board of trustees of the five state retirement systems, the Ohio Public Employees Deferred Compensation Board, and the Ohio Retirement Study Council from the sunset review provisions. Currently, these provisions require the automatic expiration of various public bodies established by statute unless they are renewed by the legislature.

Reemployment Provisions - The bill would amend the reemployment provisions of PERS and STRS with respect to the minimum waiting period. Currently, PERS retirees must wait a minimum six months prior to becoming employed in any PERS-covered position; STRS retirees must wait a minimum 18 months prior to becoming employed as a full-time teacher. The bill would reduce the minimum waiting period in PERS and STRS to two months, which is consistent with the reemployment statutes of OP&F and SERS.¹⁷ The bill would also provide that any forfeiture of a retirement allowance shall cease upon the effective date of the bill in the case of members who have forfeited their retirement allowance for at least two months or, in the case of members who are reemployed prior to the expiration of the two-month waiting period, upon the earlier of termination of employment or the date that is two months after the commencement of their retirement allowance.

The bill would also permit members of PERS, STRS or SERS who have concurrent service covered under PERS, STRS or SERS to retire from the position having the higher salary and continue contributing on the other position(s) toward a money purchase benefit only. Currently, such members are prohibited from retiring prior to termination of all employment covered by PERS, STRS or SERS.¹⁸ Under the bill, the determination of eligibility for retirement and the amount of the retirement allowance on the higher-salaried position shall be based on the member's total service credit and contributions in PERS, STRS and/or SERS **prior to** the effective date of retirement, except that no more than one year of service credit shall be granted for any twelve-month period. The member may continue to contribute to PERS, STRS or SERS on the position(s) having the lower salary. Upon termination of employment in the lower-paid position, the member is eligible for a money purchase benefit only consisting of a single life annuity having a reserve equal to the member's accumulated contributions **on or after** the effective date of retirement plus a matching amount from employer contributions. The money purchase benefit is payable upon the later of the first day of the month following termination of employment or attainment of age 65. The money purchase benefit may be paid as a lump sum payment or as a monthly annuity, provided the annuity is not less than \$25 per month. The member is entitled to **no** other retirement, disability, survivor, health care, or cost-of-living benefits from PERS, STRS or SERS based on

¹⁷Persons age 35 or older are ineligible to become state troopers which explains the absence of similar reemployment provisions in HPRS.

¹⁸Current law permits members of OP&F or HPRS who have concurrent service covered under PERS, STRS or SERS to retire independently from OP&F or HPRS and to continue contributing in PERS, STRS or SERS toward a money purchase benefit only.

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such lower-paid position(s).

The bill would further amend the PERS reemployment provisions to eliminate the current election provided to PERS retirees who are reemployed in a PERS-covered position to reestablish membership in PERS in lieu of the money purchase benefit described above. Currently, none of the other state retirement systems permit such election. The bill would grandfather in all PERS retirees who made such election prior to the effective date of the bill. It would also permit those elected officials who were made subject to the election by statute to revoke it. Upon such revocation, any forfeiture or suspension of the retirement allowance shall cease upon the later of the effective date of this provision of the bill or the earlier of termination of employment or the date that is two months after the commencement of the retirement allowance. The elected official shall be deemed to have elected the money purchase benefit described above.

Community Schools - The bill would apply the same provisions to governing authorities of community schools as currently applicable to all other board of education regarding the payment of employer contributions to STRS and SERS. Under current STRS law, payments of employer contributions by boards of education shall be made from the amount allocated under Chapter 3317. of the Revised Code prior to its distribution to the individual school districts. Under current SERS law, where a board of education fails or refuses to make the required employer contributions on a direct pay basis, the retirement board may certify to the Superintendent of Public Instruction the amount due, which shall be deducted from the amount allocated under Chapter 3317. prior to its distribution to the school district. These same provisions would apply to governing authorities of community schools by referencing community schools and Section 3314.08 of the Revised Code under which amounts are allocated to such schools.

Staff Comments

The final report to the Joint Legislative Committee to Study Ohio's Public Retirement Plans prepared by the ORSC staff (December 11, 1996) included the following finding:

“Portability has become a national retirement issue. It has also become an issue in Ohio in terms of the recruitment of higher education employees and is likely to become an increasing issue for other groups of public employees, such as part-time, short-service and mobile employees, who are required to participate in retirement systems which are designed to benefit older, long-tenure employees and employees making permanent job changes relatively late in their careers.”

The final report recommended that the three non-uniformed employee retirement systems (PERS, STRS, SERS) provide greater portability and benefit options to employees. In response to this recommendation, S.B. 82 (effective March 7, 1997) was enacted which, among other things, required PERS, STRS and SERS to prepare a report that proposed alternative benefit options and submit it no later than March 7, 1998 to the ORSC and the legislative standing committees with primary responsibility for retirement legislation. S.B. 144 would implement the PERS proposal, and is intended to provide greater portability and benefit options, particularly for younger, more mobile and shorter-service employees.

Sub. S.B. 144 is largely modeled after H.B. 586 (effective March 31, 1997) which, among other things, amended the laws of the State Teachers Retirement System (STRS) to require the payment of annual compound interest upon the withdrawal of member contributions due to death or separation from employment. H.B. 586 also required STRS to pay a portion of the employer

S.B. 144 - Sen. Johnson

contributions upon such withdrawals, provided the member has at least five years of service credit.

Under the STRS alternative benefit payment plan, annual compound interest is credited upon the withdrawal of member contributions at the following rates:

- For members with less than three years of service credit, up to a maximum of 4%;
- For members with three but less than five years of service credit, up to a maximum of 6%;
- For members with five or more years of service credit, up to a maximum of 6%.

Since the adoption of the alternative benefit payment plan, the STRS board has credited 4% for members with less than three years of service; 6% for members with three but less than five years of service through December 31, 1998 and 5% thereafter; and 6% for members with five or more years of service through December 31, 1998 and 5% thereafter.

Members with at least five years of service receive an additional 50% of the member contributions, with credited interest, which is paid from employer contributions.

Sub. S.B. 144 would grant the PERS board the same authority to credit up to 6% annual compound interest on member contributions under the PERS alternative benefit payment plan, as was granted to the STRS board under H.B. 586 (121st G.A.). Sub. S.B. 144 would also grant the PERS board the same authority to establish the interest rate based on the recommendation of its actuary for purposes of calculating the member's annuity under the money purchase plan, as has been granted to the STRS and SERS retirement boards under current law.

Sub. S.B. 144 provides for employer matching funds for members with at least five years of service, the percentage of which varies according to years of service. The 33% employer match for members with five but less than ten years of service and the 67% employer match for members with ten or more years of service is justified on the basis of the corresponding liabilities of these two distinct member groups upon PERS. Under PERS law, members with five but less than ten years of service qualify for a retirement allowance, but *not* post-retirement health care benefits. Members with at least ten years of service, exclusive of the purchase of early retirement incentive credit, federal or out-of-state credit, non-interrupted military credit and exempted credit, qualify for *both* a retirement allowance and post-retirement health care benefits. Therefore, the varying percentages are intended to be roughly commensurate with the liabilities associated with these two distinct member groups.

Fiscal Impact

See the attached actuarial analysis prepared by Milliman & Robertson.¹⁹

ORSC Position

¹⁹A subsequent actuarial analysis based on the annual actuarial valuation of PERS as of December 31, 1998 and prepared by its actuary, Gabriel, Roeder, Smith & Company, indicates that PERS would remain fully funded if the bill were adopted and no other benefit changes were enacted concurrently.

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At its meeting of October 13, 1999 the Ohio Retirement Study Council voted to recommend that the 123rd General Assembly approve S.B. 144 upon the adoption of the following amendments:

- Grant the PERS board the same authority to credit up to 6% as opposed to 4% interest on member contributions under the proposed PERS alternative benefit payment plan, as was granted to the STRS board under H.B. 586 (121st G. A.);
- Grant the PERS board the same authority to establish the interest rate based on the recommendation of its actuary for purposes of calculating the member annuity under the money purchase plan, as has been granted to the STRS and SERS boards under existing law;
- Correct the name of the “employer’s accumulation fund” and “employee’s savings fund” under the bill to the “employers’ accumulation fund” and “employees’ savings fund,” as established under current law.

Sub. S.B. 144 incorporates all of the above amendments.

At its meeting of May 10, 2000 the Ohio Retirement Study Council recommended that the 123rd Ohio General Assembly approve the following additional amendments to Sub. S.B. 144:

- Require a PERS member who is married and eligible for service retirement to obtain the consent of the spouse to a refund of the member’s accumulated contributions under the bill;
- Exempt the board of trustees of the five state retirement systems, the Ohio Public Employees Deferred Compensation Board, and the Ohio Retirement Study Council from the sunset review provisions;
- Apply the same provisions to the governing authorities of community schools as are currently applicable to all other boards of education regarding the payment of employer contributions to STRS and SERS.

At its meeting of May 17, 2000 the Ohio Retirement Study Council recommended that the 123rd Ohio General Assembly approve the following additional amendment to Sub. S.B. 144:

- Amend the reemployment statutes with respect to the minimum waiting period in PERS and STRS and the treatment of concurrent service in PERS, STRS and SERS.

Sub. S.B. 144, as reported out of the House Health, Retirement & Aging Committee, incorporates all of these additional amendments.

Effective Date

September 14, 2000

Am. S.B. 189 - Sen. Spada

Am. S.B. 189 makes the following changes in the Highway Patrol Retirement System (HPRS):

- Increases the retirement benefit formula for members with more than 20 years of service (R.C. §5505.17);
- Provides an ad hoc increase for current age and service and disability retirees with more than 20 years of service (R.C. §5505.176);
- Reduces the employee contribution rate (R.C. §5505.15);
- Increases the minimum monthly pension for age and service and disability retirees (R.C. §§5505.16, 5505.17, 5505.171, 5505.18);
- Allows retirants who retired prior to September 21, 1994 to select a joint and survivor annuity within 60 days of the effective date of the bill (R.C. §5505.163);
- Increases the minimum monthly survivor benefit (R.C. §5505.17);
- Entitles members to a refund of the cost of purchased service credit that does not increase the member's benefit (R.C. §5505.29);
- Increases the lump-sum death benefit (R.C. §5505.30).
- Requires HPRS to submit its annual actuarial valuation to the ORSC and legislative standing committees no later than six months after the fiscal year end (R.C. 5505.12).

Details of these proposed changes follow.

Staff Comments

Increase in Retirement Benefit Formula - The current formula is 2.5% multiplied by the first 20 years of service, plus 2.0% for each year of service in excess of 20, up to a maximum of 78% of the member's final average salary.

Under the bill, the new formula equals 2.5% multiplied by the first 20 years of service, plus 2.25% for the next five years of service, plus 2.0% for each year of service over 25. The maximum benefit percentage a member may receive is increased to 79.25% of final average salary, which is realized upon completion of 34 years of service. For example, a member with 30 years of service currently receives an annual pension equal to 70% of final average salary (2.5% x 20, plus 2.0% x 10). Under the bill, a member with 30 years of service would receive an annual pension equal to 71.25% of final average salary (2.5% x 20, plus 2.25% x 5, plus 2.0% x 5).

The HPRS benefit formula was last changed in 1998 (H.B. 648, eff. 09-16-98). The benefit formula was increased from 2.5% multiplied by the first 20 years of service, plus 2.0% multiplied by the next five years of service, plus 1.5% multiplied by each year of service in excess of 25 to the current formula. The maximum benefit percentage was also increased from 72% to the current 78% of final average salary.

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Ad Hoc Increase - The bill provides an ad hoc post-retirement increase to members who retired on an age and service or disability pension based on more than 20 years of service credit prior to the effective date of the bill. The increase is equal to 0.25% of all years of service and fraction thereof greater than 20 but less than 26 multiplied by the member's current pension amount on the effective date of the bill. The increased pension would become effective on the first day of the first month following the effective date of the bill and would become the base for purposes of determining future automatic cost-of-living allowances (COLA). For example, an individual who is currently receiving a monthly pension of \$2,500 based on 25 years of service would receive an increase of 1.25% (5 x 0.25%) or \$31.25 per month. The new base would be equal to \$2,531.25.

Reduction of Employee Contribution Rate - The bill reduces the employee contribution rate from 10.0% to 9.5% of salary. The employee contribution rate was last reduced in 1996 from 10.5% to 10.0% (H.B. 308, eff. 6-5-96).

The employer contribution rate was reduced by the HPRS board this year from 24% to 23.5%, effective July 1, 1999.

Increase in Minimum Monthly Benefit - The bill increases the minimum monthly benefit for all current and future age and service and disability retirees. Current retirees who are receiving less than \$1,050 per month would have their monthly benefit increased to \$1,050. Future COLA's would be calculated based on the new minimum monthly pension amount.

The minimum monthly benefit for retirees receiving a reduced age and service allowance is currently \$850, while the minimum monthly benefit for retirees receiving a normal age and service allowance is currently \$1,000. In 1994, the minimum monthly pension for all service and disability retirees *except for service retirees who were granted reduced pensions*, was increased from \$600 to \$1,000. At that time only retirees receiving a normal age and service or disability benefit were entitled to a minimum monthly benefit. Retirees who applied for and were granted reduced pensions before age 52 with fewer than 25 years of service were not guaranteed a minimum monthly benefit until 1996 (H.B. 308). The minimum benefit was set at \$850, which is \$150 lower than the minimum currently guaranteed to normal age and service and disability retirees. The lower minimum monthly benefit is consistent with the fact that members who retire early are subject to the following reduction:

Attained Age	Reduced Pension
48	75% of normal service pension
49	80% of normal service pension
50	86% of normal service pension
51	93% of normal service pension

Therefore, it is consistent to maintain a lower minimum monthly benefit based on the current benefit structure.

Under the bill, the minimum monthly benefit for all retirees other than those receiving a reduced pension and all surviving spouses would be increased by \$50. Retirees receiving a reduced pension

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would receive a monthly increase of \$200 under the bills. We recommend that the minimum monthly benefit for retirees receiving a reduced age and service allowance be increased by \$50, rather than \$200, for an increase equal to \$900 per month.

Retirees receiving a benefit based on a disability incurred while on duty would receive a minimum of \$1,050 or 61.25% of final average salary. Currently, the minimum monthly benefit is \$1,000 or 60% of final average salary. Members who receive an on duty disability receive a benefit based on a minimum of 25 years of service, which would be 61.25% of final average salary under these bills.

Election of Joint and Survivor Annuity - The bill gives current retirees who retired prior to September 21, 1994 a 60 day window during which they can elect a joint and survivor annuity providing for the actuarial equivalent of the retiree's allowance for life and an allowance to the retiree's spouse for life. Members were first given the option to choose a joint and survivor annuity upon retirement in 1994 (S.B. 306, eff. 9-21-94). All members who retired prior to 1994 could receive their pension benefits in the form of a single life annuity only; there was no provision in S.B. 306 that allowed them to elect a joint and survivor annuity.

Members of the Police and Fire Pension Fund (OP&F) who retired prior to February 28, 1980 were given a similar opportunity in 1984. Members of OP&F were first given the option of choosing a joint and survivor annuity upon retirement in 1980, but there was no provision that allowed members who retired prior to that time to elect a joint and survivor annuity (H.B. 182, eff. 2-28-80). In 1984 H.B. 580 (eff. 9-26-84) provided those members with a one-year window beginning September 1984 and ending September 1985 to elect a joint and survivor annuity option. The proposed change in these bills is consistent with the option given to OP&F members in 1984.

Increase in Minimum Monthly Survivor Benefit - The bill increases the minimum monthly benefit for surviving spouses from \$850 to \$900. Currently, surviving spouses of members who were not eligible to retire receive \$850 per month. Surviving spouses of members who were eligible to retire or who did retire receive the greater of \$850 per month or 50% of the monthly pension the member would have received.

The last increase in the minimum monthly benefit for surviving spouses occurred in 1996 when the benefit was increased from \$600 to \$850 per month (H.B. 308, eff 6-5-96).

Refund of Purchased Service Credit That Does Not Increase the Member's Benefit - The bill requires the HPRS board to refund the cost of service credit a member restored or purchased to the extent the credit does not increase the retiree's pension, disability, or survivor benefit.

Under both current law and S.B. 189, the maximum benefit percentage is realized upon completing 34 years of service. Therefore, under these bills, service credit restored or purchased that gives the member more than 34 years of service credit would be refunded.

Retirees who receive an on duty disability allowance are deemed to have earned a minimum of 25 years of service credit for purposes of determining their disability allowances. Under the bills, on duty disability retirees with less than 25 years of service, including restored or purchased service credit would have any restored or purchased credit refunded.

Retirees who receive an off duty disability allowance are deemed to have earned a minimum of 20 years of service credit for purposes of determining their disability allowances. Under the bills, off

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duty disability retirees with less than 20 years of service, including restored or purchased service credit would have any restored or purchased credit refunded.

Increase of Lump Sum Death Benefit - The bill increases the lump sum death benefit to \$5,000. Under current law the benefit is \$1,000. The lump sum death benefit was first authorized in 1989 (H.B. 377, eff. 11-2-89) and has not been increased since then.

Fiscal Impact

According to the HPRS actuary, Gabriel, Roeder, Smith & Company, **if no other part of the retirement system financing mechanism were changed**, the following increase in the computed employer contribution rate would be necessary to support the above benefit changes:

Increase In	Percentage of Active Payroll
Normal Cost	0.47%
UAAL (30 year financing)	0.74%
Total	1.21%

The actuary also indicated that **if the employer contribution rate were to remain unchanged**, the following increase in the retirement system’s funding period would be necessary to support the above benefit changes:

	Amortization Period for Unfunded Accrued Liabilities
Present Benefits	10 years
Proposed Benefits	17 years
Effect of Change	+7 years

The increase in the funding period to 17 years is still below the 30-year funding requirement imposed by S.B. 82 (121st G.A.).

The ORSC’s actuary, Milliman & Robertson (M&R) has reviewed the cost estimates prepared by Gabriel, Roeder, Smith & Company and found them to be reasonable. M&R noted that the HPRS’ actuarial note did not reflect the provision in the bill that allows for refunds of purchased service credit that does not increase a pension and the provision that allows a retired member to choose a joint and survivor annuity. According to M&R, these provisions entail a potential cost to the fund, but the cost is likely to be immaterial.

ORSC Position

At its meeting of October 6, 1999, the Ohio Retirement Study Council voted to recommend that the 123rd General Assembly approve H.B. 375/S.B. 189 upon the adoption of an amendment that would increase the minimum monthly benefit for retirees receiving a reduced benefit from \$850 to \$900, rather than the \$1,050 currently provided for in the bills. An increase of \$50 is consistent

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with the increase all other retirees and surviving spouses are receiving under the bills and consistent with the current monthly benefit structure.

This amendment was adopted by the Senate.

Effective Date June 30, 2000

Am. Sub. S.B. 190 - Sen. Blessing

S.B. 190 makes the following changes to the State Teachers Retirement System (STRS):

- Increases the defined benefit formula for calculating a service retirement benefit or a disability allowance under the post-1992 disability plan for STRS active members who retire or are disabled on or after the effective date of the bill;
- Provides for a recalculation, based on the current STRS defined benefit formula, for retirees receiving a service retirement benefit on July 1, 1999 and a benefit increase for those retirees whose benefit is less than the recalculated amount;
- Increases the amount of any benefit payable on July 1, 1999 that is less than 85% of the original benefit amount, as adjusted for inflation;
- Requires the STRS board to make a one-time, lump sum payment to persons eligible for an increase under the bill's provisions had the bill gone into effect on July 1, 1999;
- Requires the STRS board to establish one or more alternative defined contribution plans, in conjunction with the current defined benefit plan;
- Requires the STRS board to submit its annual actuarial valuation to the appropriate standing committees of the House and Senate and the Ohio Retirement Study Council (ORSC) no later than the first day of January (currently May) following the end of the fiscal year covered by the valuation;
- Authorizes the five state retirement systems to establish qualified governmental excess benefit arrangements for members who exceed the limits established under Section 415 of the Internal Revenue Code;
- Reorganizes Chapter 3307. of the Revised Code to accommodate the above changes, with corresponding amendments to the other state retirement systems' laws that reference Chapter 3307.

The bill also makes the following changes to the ORSC:

- Requires the ORSC to review semiannually the investment programs of the five state retirement systems, including their investment objectives and policies, asset allocations, risk factors, time horizons, benchmarks and performance, and submit such review to the Governor and the General Assembly;
- Requires the ORSC to have prepared by an independent actuary at least once every ten years an actuarial audit of the five state retirement systems and submit such audit to the Governor and the General Assembly.

Defined Benefit Formula Increased - The bill increases the defined benefit formula for active members who retire or are disabled on or after the effective date of the bill for purposes of calculating a service retirement benefit or a disability allowance under the post-1992 disability plan.

Under current STRS law, the defined benefit formula for age and service retirement is 2.1% for each year of service, *except that years of service in excess of 30 that are STRS contributing service*

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and/or purchased service for leaves-of-absence are calculated according to the following schedule:

Year of Service	Per Cent for Year
31	2.5%
32	2.6%
33	2.7%
34	2.8%
35	2.9%
36	3.0%
37	3.1%
38	3.2%
39	3.3%

The bill increases the defined benefit formula from 2.1% to 2.2% for each year of service, with the following two exceptions:²⁰

- Years of service in excess of 30 that are STRS contributing service, STRS purchased service for leaves-of-absence, STRS service earned after July 1, 1978 for which no deductions were made, military service purchased or otherwise granted under STRS law, PERS or SERS service used in calculating a coordinated benefit, and/or OP&F or HPRS contributing or restored service shall be calculated according to the above schedule under current law;²¹
- 2.5% for each of the first 30 years of service for members who have at least 35 years of STRS contributing service, STRS purchased service for leaves-of-absence, STRS service earned after July 1, 1978 for which no deductions were made, military service purchased or otherwise granted under STRS law, PERS or SERS service used in calculating a coordinated benefit, and/or OP&F or HPRS contributing or restored service.

For example, under current STRS law, a teacher with 30 years of contributing service receives 63% of final average salary ($2.1\% \times 30 = 63\%$). Under S.B. 190, the teacher would receive 66% ($2.2\% \times 30 = 66\%$). Under current law, a teacher with 35 years of contributing service receives 76.5% ($2.1\% \times 30 = 63\% + 2.5\% + 2.6\% + 2.7\% + 2.8\% + 2.9\% = 76.5\%$). The teacher would receive

²⁰The maximum age and service retirement benefit would remain at the lesser of 100% of final average salary or the annual dollar limit established under section 415 of the Internal Revenue Code.

²¹Military service purchased or otherwise granted under STRS law has been included under the substitute bill for purposes of placing STRS law in compliance with federal law.

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88.5% (2.5% x 30 = 75% + 2.5% + 2.6% + 2.7% + 2.8% + 2.9% = 88.5%) under the bill.

Under current STRS law, members qualify for coverage under one of two disability benefit plans: the pre-1992 disability plan or the post-1992 disability plan.²² The defined benefit formula under the pre-1992 plan would remain at 2% for each year of service, plus projected years of service until age 60, up to a maximum of 75% of final average salary.²³ The defined benefit formula under the post-1992 plan would increase from 2.1% to 2.2% for each year of service, up to a maximum of 60%.²⁴

Under current STRS law, the disability allowance under the post-1992 plan terminates upon the member's attainment of age 65 or the expiration of the following benefit period for members who are disabled on or after age 60:

Attained Age at Date of Disability	Benefit Period
60 or 61	60 months
62 or 63	48 months
64 or 65	36 months
66, 67 or 68	24 months
69 or older	12 months

On termination of the disability allowance, the member may apply for a service retirement benefit. Under current STRS law, the service retirement benefit is the greater of the following amounts:²⁵

- 2.1% for each year of service, *including* service credit for the period the member was receiving a disability allowance, up to a maximum of 45% of final average salary; or
- an allowance calculated under the defined benefit formula for age and service retirement, *excluding* service credit for the period the member was receiving a disability allowance.

The bill increases the defined benefit formula for calculating the service retirement benefit to 2.2%

²²Teachers who were members of STRS on July 29, 1992 were given an opportunity to make a one-time, irrevocable election between disability coverage under the pre-1992 plan and the post-1992 plan. Teachers who became members after July 29, 1992 were automatically covered under the post-1992 disability plan.

²³The minimum benefit under the pre-1992 plan would remain 30% of final average salary.

²⁴The minimum benefit under the post-1992 plan would remain 45% of final average salary.

²⁵Added to these amounts would be any additional cost-of-living adjustments the member would have received had the member retired as of the effective date of the disability allowance.

Am. Sub. S.B. 190 - Sen. Blessing

for each year of service, *including* service credit for the period the member was receiving a disability allowance, up to a maximum of 45% of final average salary as under current law. The defined benefit formula for age and service retirement, as modified under the bill, would also be used for determining the service retirement benefit for each year of service, *excluding* service credit for the period the member was receiving a disability allowance. The member would continue to receive the greater of the two amounts as under current law.

Recalculation of Benefits Based on Service Retirement - The bill requires the STRS board to recalculate, no later than 180 days after the effective date of the bill, all benefits payable on July 1, 1999 that are based on service retirement, including benefits paid under one of the joint and survivor annuity options. The board shall determine the single life benefit amount, excluding any annual cost-of-living adjustments (COLA's) granted by the board, using the current 2.1% defined benefit formula, as adjusted by any statutory reduction factors on account of the member's age or years of service that were in effect at the time of retirement. If the recalculated amount is greater than the annual single life benefit amount granted to the benefit recipient at retirement, the board shall increase the benefit to the greater amount or its actuarial equivalent. The board shall include such increase in the benefit recipient's base for purposes of determining future annual COLA's. The board may adopt rules to implement this provision of the bill.

Benefits Increased to 85% of Original Purchasing Value - Except as provided in italics below, the bill requires the STRS board to determine, no later than 180 days after the effective date of the bill, for each recipient receiving a service, joint and survivor, disability or survivor benefit on July 1, 1999 an amount equal to the sum of the following:

- 85% of the original benefit amount, except that if the recipient is not the individual to whom the original benefit was granted, 85% of the product obtained by multiplying the original benefit amount by the percentage of the original benefit amount being paid to the recipient; plus
- an amount equal to the product obtained by multiplying the amount determined above by the cumulative percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) from December 31 of the year immediately preceding the effective date of the original benefit to December 31 of the year immediately preceding the effective date of the bill.

Under the substitute bill, the board shall determine an amount equal to the following for individuals who are receiving survivor benefits by reason of the death of a disability benefit recipient:

- *85% of the deceased member's final average salary as adjusted by the cumulative percentage change in the CPI-W, which shall be used as the member's final average salary for purposes of calculating the individual's survivor benefit under existing STRS law.*

If the amount determined by the board is greater than the annual benefit being paid to the recipient, the board shall increase the benefit to the greater amount.²⁶ The board shall include such increase in

²⁶The board shall use the recalculated benefit based on the current defined benefit formula, as described above, in lieu of the annual benefit being paid to the recipient for making such determination under this provision of the bill.

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the benefit recipient's base for purposes of determining future annual COLA's. The board may adopt rules to implement this provision of the bill.

Lump Sum Payment to Eligible Recipients - The bill requires the STRS board to make a one-time lump sum payment to all benefit recipients who are eligible for an increase under the above provisions of the bill. The board shall pay an amount equal to the difference between the actual benefits being paid to the eligible recipient between July 1, 1999 and the date of payment and the increased benefits that would have been paid to the recipient had the provisions of the bill become effective on July 1, 1999.

Defined Contribution Plan Established - The bill requires the STRS board to establish one or more plans consisting of benefit options that provide for an individual account for each participating member. Benefits shall be based solely on the amounts accumulated in the participant's account. The plan may include life insurance, annuities, variable annuities, regulated investment trusts, pooled investment funds and other forms of investment. The plan may also include options which provide definitely determinable benefits to the participant. The board may administer the plan and/or contract with other entities to administer it.

Each benefit option offered under the DC plan shall satisfy the minimum retirement benefit requirements under the Internal Revenue Code to qualify as a retirement system maintained by a state or local government entity. A plan generally satisfies these federal requirements if allocations to the participant's account are at least 7.5% of the participant's compensation, regardless of whether such allocations are made by the participant, employer, or some combination of the two. Failure of the plan to satisfy these requirements would cause the participant and employer to contribute to the Social Security System under existing federal law.

Under the bill, the STRS board shall adopt rules to establish the DC plan. The board may also do all things necessary to avoid the payment of federal or state income taxes on plan contributions and earnings and, to the extent permitted under federal or state law, allow the plan participants to make tax deferred contributions for periods of interrupted or prior service.

The bill requires each individual who becomes a member on or after the date the STRS board establishes the DC plan to elect, not later than 180 days after employment, either the DC plan or the current defined benefit (DB) plan. Current members who have less than five years of service credit as of June 30 immediately preceding the date the DC plan is established may also make an election, not later than 180 days after the establishment of the plan, to participate in the DC plan.²⁷ If no election is made within the applicable 180-day period, the member shall be deemed to have elected the DB plan.

²⁷With respect to current members who elect the DC plan, STRS shall do the following: (1) credit to the member's account in the defined contribution fund established under the bill the accumulated contributions standing to the member's credit in the Teachers' Savings Fund, plus any additional amounts provided for under current law, such as annual compound interest; and (2) cancel all service credit and eligibility for any payment, benefit or right under the DB plan.

Am. Sub. S.B. 190 - Sen. Blessing

All elections shall be made in writing on a form provided by STRS and filed with STRS.²⁸ *Upon receipt of notice from the employer of the employment of a new teacher, STRS shall inform the new member of the right to elect the DB or a DC plan and of the provision that upon the first day of July following the fourth anniversary of membership, the member shall begin participating in the DB plan unless the member elects to remain in the DC plan.*²⁹ The election shall be irrevocable upon receipt of the employer for new members (STRS for current members), except that new members shall begin participating in the DB plan as provided above unless they make another election to remain in the DC plan. The following individuals are ineligible to make an election:

- Former teachers receiving service retirement benefits from the STRS DB plan or a coordinated service retirement benefit from PERS, SERS or STRS at the time of employment;
- Former teachers receiving benefits from the DC plan at the time of employment;
- Members or contributors participating in the STRS DB plan at the time of employment;
- Eligible employees of public institutions of higher education in Ohio who elected the alternative defined contribution plan established under Chapter 3305. of the Revised Code.

STRS members who elect a DC plan shall be ineligible for any benefits under the DB plan, including the annual COLA and the variable supplemental benefit (13th check). They shall also be forever barred from claiming or purchasing credit with STRS or any other state retirement system for service covered by the election. The right of such members to a retirement, disability, or survivor benefit, to health insurance coverage, or to a withdrawal of contributions under a DC plan shall be governed strictly by the plan selected by the member. *Under the substitute bill, benefits payable to a married member under a DC plan shall be paid in the form of a 50% joint and survivor annuity, unless the spouse consents to the selection of a different form of payment or the designation of a different beneficiary. The DC plan shall include the same requirements for consent as required under Section 417 of the Internal Revenue Code. Each plan may waive consent if the spouse cannot be located or for any other reason permitted under the Internal Revenue Code. Consent or waiver shall only be effective with respect to the spouse who is the subject of the consent or waiver.*

The bill creates the “Defined Contribution Fund” in STRS, the fund in which contributions deducted from the compensation of teachers participating in a DC plan shall be accumulated, along with any earnings and employer contributions credited thereon. Under the bill, DC members would

²⁸Individuals who become members on or after the establishment of the DC plan shall file the election with the employer’s personnel officer. Not later than 10 days after receiving the election, the employer shall transmit to STRS a copy that includes a statement certifying that it is a true and accurate copy of the original.

²⁹Teachers who are participating in the DC plan may elect to remain in the DC plan. An election shall be made in writing on a form provided by the STRS board and filed with the board not later than 30 days prior to the date the teacher would have five years of service credit had the teacher elected the DB plan upon employment. STRS shall notify the teacher, not later than 180 days prior to the beginning of the 30-day period described above, of the opportunity to elect continued participation in the DC plan.

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contribute the same percentage as DB members which is currently 9.3% of compensation. Contributions from DC members would be credited to the Defined Contribution Fund; contributions from DB members are credited to the Teachers' Savings Fund under current law. Employers may "pick-up" these contributions on a pre-tax basis pursuant to Section 414(h) of the Internal Revenue Code. *Under the substitute bill, contributions shall not exceed the limits established under Section 415 of the Internal Revenue Code.*

Employers of DC members would contribute the same percentage as employers of DB members which is currently 14%. Contributions from DC employers would be credited to the Defined Contribution Fund, *less an amount transferred to the Employers' Trust Fund equal to the percentage of compensation determined annually by the STRS actuary to be necessary to mitigate any negative financial impact on the STRS DB plan resulting from participation of members in the DC plan*; contributions from DB employers are credited to the Employers' Trust Fund under current law. *Under the substitute bill, STRS shall make the above transfers to the Employers' Trust Fund until the unfunded actuarial accrued liability, excluding health care benefits and any benefit increases provided to members and former members participating in the DB plan after the effective date of the bill, is fully amortized, as determined by the annual actuarial valuation prepared by the STRS actuary.*

Under the substitute bill, STRS members other than eligible current members who elect a DC plan shall, on the first day of July following their fourth anniversary of membership, begin participation in the DB plan unless they elect to remain in the DC plan prior to that date. The election shall be made in writing on a form provided by the STRS board and filed with the board no later than the thirtieth day of June following the fourth anniversary of membership. STRS shall notify DC members, not later than 180 days prior to such thirtieth day of June, of the opportunity to elect continued participation in the DC plan. DC members who fail to make the election shall begin participation in the DB plan and shall have the same rights and privileges as all other members under the DB plan. Upon such participation, STRS shall do all of the following:

- *Transfer from the Defined Contribution Fund to the Teachers' Savings Fund an amount equal to the member's contributions required under STRS law, any voluntary supplemental contributions made by the member, and any earnings on those supplemental contributions;*
- *Transfer from the Defined Contribution Fund to the Employers' Trust Fund an amount equal to the employer contributions required under STRS law and any remaining amounts in the member's account in the Defined Contribution Fund;*
- *Grant service credit in accordance with rules adopted by the board which shall be based on the member's length of participation in and contributions to the DC plan.*

Under the substitute bill, if the amount in the member's account in the Defined Contribution Fund is less than the amount the member would have had in the Teachers' Savings Fund if the member had elected the DB plan, STRS shall transfer from the Guarantee Fund to the Teachers' Savings Fund the necessary amount to make the required transfer above.

The bill authorizes the STRS board to offer DB members the opportunity to also participate in one or more of the benefit options available under the DC plan, as a supplement to the DB plan. Contributions made by the member would be credited to an individual account established in the Defined Contribution Fund.

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The bill also authorizes the STRS board to contract for health insurance coverage for DC benefit recipients if the DC plan selected includes health, medical, hospital or surgical benefits. The cost of such coverage shall be paid by the recipient. The STRS board may offer plans that provide for different levels of coverage or the prepayment of the cost of coverage. *Under the substitute bill, DC benefit recipients would be ineligible for any reimbursement of Medicare Part B premiums paid by STRS unless such reimbursements are funded through a DC plan selected by the member.*

The bill also authorizes the STRS board to offer the current retiree-funded death benefit plan to DC benefit recipients. The retiree-funded death benefit is optional, paid for entirely by the benefit recipient, and provides a benefit of \$1,000 or \$2,000. This differs from the STRS-funded death benefit which is part of the DB plan and paid to the beneficiary of a service or disability retiree.

The bill requires the STRS board to offer the current long-term health insurance program to DC members and benefit recipients. Long-term health insurance is optional, paid for entirely by the enrollee, and provides coverage for custodial care expenses in the home or nursing home. Long-term care coverage provides daily cash benefits when an enrollee is no longer independent in activities of daily living, such as feeding, dressing, bathing and walking.

Under the bill, STRS may require DC members and their employers to furnish information and contributions at more frequent intervals than required for DB members and their employers. STRS shall have no duty to accept contributions by or on behalf of a DC member if such information is not furnished at such intervals.

Annual Actuarial Valuation - *The substitute bill requires the STRS board to submit its annual actuarial valuation to the appropriate standing committees of the House and Senate and the ORSC no later than the first day of January following the end of the fiscal year covered by the valuation. Under current law, the STRS board shall submit it no later than the first day of May following the end of the fiscal year.*

Excess Governmental Benefit Arrangements Authorized - *The substitute bill authorizes the five state retirement systems to establish and maintain a qualified governmental excess benefit arrangement that meets the requirements of Section 415 (m) of the Internal Revenue Code, as amended, and any regulations adopted thereunder. If established, the excess benefit plan shall be maintained solely for the purpose of providing that portion of the member's annual benefit otherwise payable under the terms of the state retirement systems that exceeds the limits established under Section 415 of the Internal Revenue Code as applicable to governmental pension plans. Members shall not be permitted to elect to defer compensation under such excess benefit plan. Also, excess benefits shall not be paid from a trust forming part of the state retirement systems unless such trust is maintained solely for the purpose of providing such benefits. The boards of the state retirement systems may adopt rules to administer such excess benefit plans so established.*

Semiannual Investment Review - *The substitute bill requires the ORSC to review semiannually the investment programs of the five state retirement systems, including their investment policies and objectives, asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, relative volatility, and performance. No later than 30 days after completing such review, the ORSC would be required to submit it to the Governor and the Ohio General Assembly.*

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Actuarial Audits - *The substitute bill requires the ORSC to have prepared by an independent actuary at least once every ten years an actuarial audit of the five state retirement systems, including a review of their actuarial assumptions and methods, the data upon which their annual actuarial valuations and quinquennial investigations are based, and the adequacy of the employee and employer contribution rates to amortize any unfunded liabilities and support the payment of benefits authorized by statute. The ORSC shall submit such audit to the Governor and the Ohio General Assembly.*

Staff Comments

Defined Benefit Formula - The current defined benefit formula for service retirement in STRS is 2.1% for each year of service, except that each year of earned service over 30 years is credited at 2.5% for the 31st year, 2.6% for the 32nd year, 2.7% for the 33rd year, and so forth, up to 3.7% for the 43rd year. The maximum STRS service retirement benefit is 100% of FAS. The current defined benefit formulas for service retirement in PERS and SERS are very similar, providing 2.1% for the first 30 years of service and a constant 2.5% for each year of service in excess of 30 years. The maximum service retirement benefit is 100% in PERS and 90% in SERS.

The following table provides a history of the changes in the defined benefit formula in STRS since 1968:

Bill	Old Formula	New Formula
H.B. 959 (eff. 6/10/68)	1.65% x FAS x YOS, up to a maximum of 75% of FAS.	1.9% x FAS x YOS, up to a maximum of 80% of FAS.
H.B. 100 (eff. 12/31/71)	1.9% x FAS x YOS, up to a maximum of 80% of FAS.	2.0% x FAS x YOS, up to a maximum of 80% of FAS.
H.B. 430 (eff. 11/20/73)	Maximum: 80% of FAS.	Maximum: 90% of FAS.
H.B. 293 (eff. 9/15/89)	2.0% x FAS x YOS, up to a maximum of 90% of FAS.	2.1% x FAS x YOS, plus 2.5% x FAS x earned YOS over 30, up to a maximum of 100% of FAS.
H.B. 339 (eff. 8/6/97)	2.1% x FAS x YOS, plus 2.5% x FAS x earned YOS over 30, up to a maximum of 100% of FAS.	2.1% x FAS x YOS, plus 2.5% for 31st year, 2.6% for 32nd year, 2.7% for 33rd year, 2.8% for 34th year, 2.9% for 35th year, 3.0% for 36th year, 3.1% for 37th year, 3.2% for 38th year, 3.3% for 39th year, 3.4% for 40th year, 3.5% for 41st year, 3.6% for 42nd year, and 3.7% for 43rd year of earned service, up to a maximum of 100% of FAS.

S.B. 190 generally increases the defined benefit formula to 2.2% x FAS x YOS, with the same

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escalating multipliers as under current law for earned years of service over 30.³⁰ Therefore, a member who retires with 30 years of service at any age would receive **66%** ($2.2\% \times 30 = 66\%$) of FAS under the bill rather than **63%** ($2.1\% \times 30 = 63\%$) of FAS under current law.

The following table provides a comparison of the normal service retirement benefit formulas for other non-Social Security statewide teacher retirement systems:

State	Defined Benefit Formula for Normal Service Retirement	Percent of FAS Based upon 30 YOS
Alaska	2.0% x first 20 YOS, plus 2.5% x YOS in excess of 20	65% of FAS
California	2.2% x YOS payable at age 60 2.3% x YOS at age 60 3/4 2.4% x YOS at age 61 1/2	66% of FAS 69% of FAS 72% of FAS
Colorado	2.5% x YOS	75% of FAS
Connecticut	2.0% x YOS	60% of FAS
Illinois	1.67% x first 10 YOS, plus 1.9% x second 10 YOS, plus 2.1% x third 10 YOS, plus 2.3% x YOS over 30 2.2% x YOS after 6/30/98 (Non-retired members may upgrade service prior to 6/30/98 to the 2.2% formula)	56.7% of FAS 66% of FAS
Kentucky	2.0% x YOS prior to 7/1/83, plus 2.5% x YOS after 7/1/83	68% of FAS
Louisiana	2.0% x YOS for teachers who joined prior to 7/1/99 2.5% x YOS for teachers who joined after 7/1/99	60% of FAS 75% of FAS
Maine	2.0% x YOS	60% of FAS
Massachusetts	1.0% x YOS payable at age 50 1.5% x YOS at age 55 2.0% x YOS at age 60 2.5% x YOS at age 65	30% of FAS 45% of FAS 60% of FAS 75% of FAS
Missouri	2.5% x YOS	75% of FAS
Nevada	2.5% x YOS	75% of FAS

³⁰The formula for members with at least 35 years of earned service would be 2.5% for the first 30 years of service, with the same escalating multipliers for years of earned service over 30.

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Ohio	2.1% x YOS, plus 2.5% x 31st year of earned service, 2.6% x 32nd year, and so on.	63% of FAS
Texas	2.2% x FAS	66% of FAS

As shown in the above table, the current service retirement benefit formula in STRS is higher than a few, but lower than most non-Social Security statewide teacher retirement systems. Many states have recently increased their benefit formulas, including California, Illinois, Louisiana, and Texas. The proposed increase in the STRS service retirement formula seems well within reason in comparison to the other non-Social Security states' current service retirement formulas.

One of the principles adopted by the Ohio Retirement Study Council in its review and recommendations of retirement bills is that "there should be equal pension treatment among the various groups of non-uniformed public employees and as nearly as practicable retirement benefits should be uniform." (March 1978) As indicated above, the service retirement benefit formulas for PERS, STRS and SERS are currently very similar, as are the disability and survivor provisions of the three non-uniformed retirement systems. The current coordination-of-benefit provisions providing for joint service and disability retirement and the portability of service credit provisions are largely predicated upon maintaining similar benefit structures in these retirement systems. However, an overriding principle adopted by the ORSC is that "no proposed increase in pension benefits be seriously considered or granted until there is established adequate funding to cover its cost ." (March 1978)

The proposed change in the STRS benefit formula would create a small deviation among the three retirement systems, though both the PERS and SERS boards have announced an intention to have separate legislation introduced this session which, among other things, would increase their benefit formulas to 2.2% as well, thereby largely maintaining uniform retirement benefits. The PERS board also intends to reduce the employer contribution rate in conjunction with the benefit improvements, as was done by the HPRS board relative to the enactment of the last several benefit improvements for active and retired state troopers. In this regard, Milliman & Robertson recommends that the legislature begin developing policies to address the recently improved funded status of the retirement systems due to very favorable investment returns - whether to improve benefits, reduce contributions, or some combination thereof. (The attached supplemental actuarial analysis dated January 19, 2000 and prepared by M&R shows the employer contribution reduction which could be made by the STRS board pursuant to its existing authority if the funding period were extended with and without the enactment of S.B. 190.)

The bill provides a significant financial incentive for members to work beyond 30 years (normal service retirement). Under the bill, members who have 35 years of earned service would receive **2.5%** rather than **2.2%** for each of the first 30 years of earned service, plus 2.5% for the 31st year, 2.6% for the 32nd year, 2.7% for the 33rd year, 2.8% for the 34th year and 2.9% for the 35th year, for a total benefit of 88.5% of FAS. Members who have 30 years of earned service would receive 66% under the bill. The incentive is intended to respond to changing demographics. The number of service retirements is expected to double in STRS within the next ten years, creating a growing need for experienced teachers. Moreover, members are expected to live longer in the future, creating an increase in both retirement and health care costs. The stated purpose of the incentive is to retain experienced teachers who otherwise qualify for normal service retirement by encouraging them to defer their actual retirement by at least five years.

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There are, of course, other alternatives for addressing these changing demographics. Changes in the normal age and service requirements could be adopted to retain experienced teachers and mitigate the increased benefit costs resulting from continuing improvements in life expectancy. Prior to 1973, STRS law required **35** years of service to qualify for normal retirement at any age. The STRS normal retirement requirements were lowered to **32** years of service at any age in 1973 and the current **30** years of service in 1976. The U.S. Congress has adopted this approach for the Social Security System through the phase-in of incremental increases in the normal retirement age from 65 to 67. Also, one of the ORSC staff recommendations made as part of the final report to the Joint Legislative Committee to Study Ohio's Public Retirement Plans (December 11, 1996), but not acted upon by the Ohio General Assembly, was to increase the normal age and service requirements in the non-uniformed employee retirement systems, with an appropriate reduction in benefits prior to normal age and service retirement.

Changes in the reemployment restrictions applicable to STRS service retirees could also be adopted to attract experienced teachers. Under current law, STRS retirees must wait a minimum 18 months after the effective date of service retirement in order to be employed full-time in a STRS-covered position. STRS retirees forfeit their monthly retirement allowance for each month they are employed full-time prior to the expiration of the 18-month waiting period. STRS retirees may be employed up to 85 school days in any school year without forfeiting their monthly allowance, provided they wait a minimum two months. PERS retirees are required to wait a minimum six months to be employed full-time in a PERS-covered position; SERS retirees, two months.

Other states have established financial incentives for teachers to defer normal service retirement until older ages by providing a variable formula for calculating benefits based upon the teacher's age at retirement. For example, California recently changed its benefit formula for teachers retiring on or after January 1, 1999 from 2.0% x YOS to the following schedule:

Attained Age at Retirement	Benefit Formula
60	2.0% x YOS
60 1/4	2.033% x YOS
60 1/2	2.067% x YOS
60 3/4	2.1% x YOS
61	2.133% x YOS
61 1/4	2.167% x YOS
61 1/2	2.2% x YOS
61 3/4	2.233% x YOS
62	2.267% x YOS
62 1/4	2.3% x YOS
62 1/2	2.333% x YOS
62 3/4	2.367% x YOS

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63 and over	2.4% x YOS
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The above benefit multipliers are increased by 0.2% for California teachers with 30 or more YOS, not to exceed 2.4% x YOS. Therefore, a teacher having 30 or more years of service receives 2.2% x YOS at age 60; 2.3% at age 60 3/4; and 2.4% at age 61 1/2 or older.

Deferred Retirement Option Plans (DROP) offered by some states also provide a financial incentive for members to remain working beyond normal service retirement. Under a DROP plan, members who are eligible for normal service retirement continue to be employed for some defined period, such as two to five years, during which period the member's monthly service retirement benefit is credited to the member's DROP account, along with annual compound interest at some specified rate. Upon termination of employment, the member receives a lump sum distribution of the member's DROP account or some alternative distribution thereof, and begins receiving a monthly service retirement benefit based on the member's final average salary and service credit calculated at the time the member elects participation in the DROP plan.

It should be noted that the financial incentives provided under the bill for members to remain working beyond normal service retirement are at cross-purposes with the financial incentives provided under early retirement incentive plans (ERI) established by employers. Under current STRS law, employers may establish an ERI plan for the purchase of additional service credit. Employees who are at least age 50, who qualify or will qualify for service retirement with the purchased credit, and who agree to retire within 90 days after the purchase are eligible to participate in the plan. The amount of service purchased by the employer may not exceed five years or 20% of the employee's total service credit. The employer may limit participation in the plan, provided the plan is offered to at least 5% of the employees. If participation is limited, employees with greater service have priority over employees with lesser service. As indicated in the ORSC study, Early Retirement Incentive Plans (November 16, 1994), ERI plans were most popular among universities, followed by city school districts and community colleges, and least popular among technical colleges and joint vocational schools according to a survey conducted by STRS in 1987. Employers cited "cutting expenses" and "replacing staff" as their top two objectives in implementing ERI plans, followed by "rewarding staff" and "reducing staff."

Post-Retirement Increases - Current STRS law provides for the following methods of retirement income protection: (1) Annual Cost-of-Living Allowances (COLA); (2) Variable Supplemental Benefits (13th Check); (3) Comprehensive Retiree Health Care Program; and (4) Ad Hoc Legislative Post-Retirement Increases.

The annual COLA is generally payable upon receiving a benefit for at least 12 months, calculated upon the original benefit amount (unless the legislature establishes a new base), and limited to a maximum of three percent. The annual COLA became effective on July 1, 1971.

Unlike the annual COLA, the variable supplemental benefit is discretionary. When STRS investment earnings exceed STRS funding requirements in any given year, the STRS board may allocate up to 25% of the excess investment earnings to pay the benefit. The variable supplemental benefit is payable to persons receiving a benefit for at least 12 months, calculated by multiplying the unit value (as determined by the board) by the combined years of service at retirement and the

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number of years on retirement, and paid as a lump sum in December.³¹ For example, the most recent variable supplemental benefit was paid in December 1999 based upon a unit value of \$14. Therefore, a teacher who had 30 years of service at retirement and had retired ten years ago would have received a lump sum payment of \$560 $[(30 + 10) \times \$14 = \$560]$. The total amount allocated for the variable supplemental benefit was \$49 million in 1999. The variable supplemental benefit became effective in December 1980, and has been granted by the STRS board for 20 consecutive years.

The STRS retiree health care program is perhaps the most valuable in terms of retirement income protection. It provides comprehensive hospital, medical and prescription drug coverage. It also provides for reimbursement of up to 90% of the cost of Medicare Part B monthly premiums. STRS was first authorized to pay the cost of retiree health insurance coverage on January 1, 1974.

The legislature has enacted various ad hoc post-retirement increases from time to time in an effort to offset in part the loss in the purchasing value of benefits during periods of high inflation. The last STRS ad hoc increase was granted in H.B. 339 (eff. August 6, 1997), and increased the minimum annual benefit from \$6,000 to \$9,600 for teachers who retired with 30 or more YOS. It also restored the purchasing value to a minimum of 70% of the retiree's original benefit amount, as adjusted for the cumulative change in the cost-of-living since retirement. These ad hoc increases were included in the benefit recipient's base for purposes of calculating the annual COLA.

S.B. 190 provides similar ad hoc post-retirement increases. The bill would recalculate the benefits of service retirees under the current benefit formula assuming the formula had been in effect at the time of their retirement. The current benefit formula became effective for teachers retiring on or after July 1, 1997. The bill would also restore the purchasing value to a minimum of 85% of the benefit recipient's original benefit amount, as adjusted for the cumulative percentage change in the cost-of-living since the effective date of retirement.

Defined Contribution Plan - One of the ORSC staff recommendations made in the final report to the Joint Legislative Committee to Study Ohio's Public Retirement Plans (December 11, 1996) was 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." S.B. 190 would implement this recommendation for STRS members.

By way of background, the Ohio General Assembly enacted H.B. 586 (eff. March 31, 1997) which established an alternative defined contribution plan administered by outside providers for full-time academic and chief administrative employees of public institutions of higher education electing such plan in lieu of participation in the defined benefit plans of PERS, STRS or SERS. The bill also required STRS to pay interest upon the withdrawal of the member's contributions due to death or separation of employment, along with a 50% match from employer contributions for members who had at least five years of service. These legislative changes were favorably recommended by the ORSC and intended to address the issue of pension portability.

S.B. 144 was introduced this session which would require the PERS board to credit interest on the member's contributions, along with a 33% match of employer contributions for members with five but less than 10 years of service and a 67% match for members with ten or more years of service.

³¹The variable supplemental benefit is excluded from the member's base for purposes of calculating the annual COLA.

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The bill was favorably recommended by the ORSC and enacted by the General Assembly. In addition, the PERS board intends to create an alternative defined contribution plan, in conjunction with the existing defined benefit plan, as part of benefit improvement legislation to be introduced this session. Moreover, recent discussions relative to H.B. 199 indicate an interest in establishing an alternative defined contribution plan administered by outside providers for elected officials and non-classified state employees. All of these legislative measures seek to address the need for greater pension portability and options for Ohio's public employees, especially short-service, mobile employees, and are generally consistent with prior ORSC recommendations and positions concerning this issue.

S.B. 190 requires a supplemental employer contribution to be made on behalf of members electing the STRS defined contribution plan and paid to the STRS defined benefit plan in order to mitigate any negative financial impact upon the defined benefit plan. The amount of the supplemental employer contribution would be determined annually by the STRS actuary and would remain payable until the STRS unfunded actuarial liabilities, excluding health care benefits and benefit increases provided to members and former members participating in the defined benefit plan after the effective date of the bill, are fully amortized.

Annual Actuarial Valuation - The substitute bill requires the STRS board to submit its annual actuarial valuation no later than the first day of January following the end of the fiscal year covered by the valuation. Under current law, STRS is required to submit it no later than the first day of May. The STRS fiscal year begins on July 1 and ends June 30. Therefore, the Ohio General Assembly and the ORSC would receive the valuation within six months under the bill rather than 10 months under current law.

One of the major principles adopted by the ORSC in its review and recommendations of public employee retirement bills is that "no proposed increase in pension benefits be seriously considered or granted until there is established adequate funding to cover its cost." Timely and the most current actuarial information from the retirement systems is required for the ORSC to formulate its recommendations to the legislature and avoid any unnecessary delay in the legislative process. A similar change was adopted this legislative session for HPRS in S.B. 189.

Excess Benefit Plans - The substitute bill authorizes the five state retirement systems to establish and maintain qualified governmental excess benefit arrangements. Through the passage of the Small Business Job Protection Act of 1996, Congress permitted state and local retirement plans to establish these "excess benefit arrangements" under Section 415(m) of the Internal Revenue Code in order to pay plan benefits otherwise lost due to the Section 415 limits. An excess benefit plan may be established within the framework of a governmental pension plan. The qualified portion of the governmental plan can provide a benefit up to the Section 415 limit, while the amount above that limit can be provided by the excess benefit plan. In establishing an excess benefit plan, the governmental pension plan must adhere to the following constraints associated with such plans:

- The excess plan can only provide benefits that are not payable from the qualified governmental defined benefit plan due to the Section 415 limits.
- Operationally, benefits from the excess plan can not be paid from the qualified governmental defined benefit plan's trust. Benefits can be paid on a pay-as-you-go basis or through a separate trust established for the sole purpose of providing excess benefits.

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- The excess plan can not allow members to elect to defer additional compensation through the plan.

The substitute bill permits each retirement board in its sole discretion to establish an excess plan within the parameters of the Internal Revenue Code and regulations thereunder.

Semiannual Review of Investment Programs - The substitute bill requires the ORSC to conduct a semiannual review of the investment programs of the five state retirement systems, and submit it to the Governor and the Ohio General Assembly. Such review was recommended in a 1998 ORSC study of the Ohio public retirement systems. Given the recent expansion of the investment authority of all five state retirement systems under the prudent person rule, the Ohio General Assembly has a responsibility to monitor the systems' exercise of this broad authority on a regular, objective and comparative basis.

Actuarial Audits - The substitute bill requires the ORSC to have prepared by an independent actuary at least once every ten years an actuarial audit of the five state retirement systems. Currently, the retirement systems are required by law to have prepared by their actuary an annual actuarial valuation and, at least once every five years, an actuarial investigation of the economic and demographic experience of the system. The purpose of a ten-year actuarial audit is to provide an independent critique of the reasonableness of the actuarial assumptions and methods in use and the accuracy of the data and resulting actuarially-computed contributions and liabilities of the systems. The Government Finance Officers Association (GFOA) recommends independent actuarial audits at least once every ten years as one of its standards for all governmental pension plans. The Auditor of State supports the independent performance of such audits by the ORSC for the benefit of the plan participants, the legislature and the taxpayers alike.

Fiscal Impact - (See the attached actuarial analysis prepared by Milliman & Robertson.)

ORSC Position - At its meeting of February 9, 2000 the Ohio Retirement Study Council voted to recommend that the 123rd Ohio General Assembly approve Sub. S.B. 190 upon the adoption of the following amendments:

- Require the ORSC to conduct a semi-annual, comparative review of the systems' investments, including asset allocation, investment performance, and investment objectives and policies, and submit such review to the legislature, as recommended by Milliman & Robertson as part of its 1998 study of the Ohio public retirement systems;
- Require the ORSC to conduct an independent actuarial review of the retirement systems at least once every ten years, as recommended by the Government Finance Officers Association as one of its standards for all public employee retirement systems; and
- Require STRS to submit its annual actuarial valuation no later than six months after the fiscal year end (currently ten months) to the ORSC and legislative standing committees.

(The substitute bill incorporates all of the above amendments.)

Effective Date - July 13, 2000

Am. Sub. S.B. 270 - Sen. Drake

Am. Sub. S.B. 270 makes the following changes to the School Employees Retirement System (SERS):

- Increases the service retirement benefit formula from 2.1% to 2.2% for each of the first 30 years of service, and increases the maximum service retirement benefit from 90% to 100% of the member's final average salary (FAS);
- Increases the benefit formula under the pre-1992 disability retirement plan from 2.1% to 2.2% for each year of accrued service, plus each year of projected service credit until age 60, up to the current maximum of 75% of FAS;
- Increases the benefit formula under the post-1992 disability allowance plan from 2.1% to 2.2% for each year of accrued service, up to the current maximum of 60% of FAS;
- Creates an alternative survivor benefit based upon the member's years of service in lieu of the number of qualified survivors under current law, and provides the greater of such amounts:

No. of Survivors	% of FAS	Minimum Benefit/Mo.
1	25%	\$96
2	40%	\$186
3	50%	\$236
4	55%	\$236
5 or more	60%	\$236

OR

Years of Service	% of FAS
20	29%
21	33%
22	37%
23	41%
24	45%
25	48%
26	51%
27	54%
28	57%
29 or more	60%

- Eliminates the current age requirement of 50 for spouses to qualify for survivor benefits in

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cases where they are neither caring for surviving children nor physically or mentally incompetent, provided the member had at least ten years of service. The bill also provides that the final average salary used in the calculation of a benefit payable to the survivor of a disability benefit recipient shall be increased by the lesser of 3% or the actual percentage change in the CPI-W for each year between the effective date of the disability benefit and the date of death;

- Increases the current reimbursement rate for the monthly Medicare Part B premium from \$31.80 to \$45.50, and provides a one-time lump sum payment to individuals eligible to receive reimbursements during the period beginning January 1, 1993 and ending on the last day of the month in which the bill becomes effective;
- Requires the SERS board to establish one or more alternative defined contribution plans, in conjunction with the current defined benefit plan;
- Limits the employer surcharge amount to no more than 2.0% of an individual employer's payroll for employees covered under SERS and limits the aggregate amount collected from the employer surcharge to no more than 1.5% of SERS' total payroll;
- Makes corresponding changes to other sections of SERS law to accommodate the above changes.

Defined Benefit Formula Increases - The bill increases the defined benefit formula for active members of SERS who retire or become disabled on or after the effective date of the bill for purposes of calculating a service retirement benefit or disability benefit.

Under current SERS law, the defined benefit formula for service retirement is 2.1% for the first 30 years of service, plus 2.5% for each year of service in excess of 30. The bill would increase the percentage multiplier from 2.1% to 2.2% for each of the first 30 years of service; the current percentage multiplier of 2.5% for each year of service in excess of 30 would remain unchanged under the bill.

For example, a school employee with 30 years of service currently receives 63% of FAS ($2.1\% \times 30 = 63\%$). Under the bill, the employee would receive 66% of FAS ($2.2\% \times 30 = 66\%$).

Under current SERS law, the maximum service retirement benefit is the lesser of 90% of FAS or the annual dollar limit established under IRC Section 415. The bill would increase the maximum percentage to 100% of FAS, subject to the same annual dollar limits under IRC Section 415.

Under current law, SERS members qualify for coverage under one of two disability plans: the pre-1992 disability plan or the post-1992 disability plan.³² The defined benefit formula under the pre-1992 disability plan would increase from 2.1% to 2.2% for each year of service, plus each year of projected service until age 60, up to the current maximum of 75% of FAS. The defined benefit formula under the post-1992 disability plan would also increase from 2.1% to 2.2% for each year

³²Individuals who were members of SERS on July 29, 1992 were given an opportunity to make a one-time, irrevocable election between disability coverage under the pre-1992 plan and the post-1992 plan. Individuals who became members after July 29, 1992 are automatically covered under the post-1992 disability plan.

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of service, up to the current maximum of 60% of FAS. The current minimum disability benefit under the pre-1992 disability plan and the post-1992 disability plan would remain 30% of FAS and 45% of FAS, respectively.

Under current SERS law, the disability allowance under the post-1992 plan terminates upon the member's attainment of age 65 or the expiration of the following benefit period for members who become disabled on or after age 60:

Attained Age at Date of Disability	Benefit Period
60 or 61	60 months
62 or 63	48 months
64 or 65	36 months
66, 67 or 68	24 months
69 or older	12 months

On termination of the disability allowance, the member may apply for a service retirement benefit. Under current SERS law, the service retirement benefit is the greater of the following amounts:³³

- 2.1% for each year of service, *including* service credit for the period the member was receiving a disability allowance, up to a maximum of 45% of final average salary; or
- a benefit calculated under the defined benefit formula for age and service retirement, *excluding* service credit for the period the member was receiving a disability allowance.

The bill increases the defined benefit formula for calculating the service retirement benefit to 2.2% for each year of service, *including* service credit for the period the member was receiving a disability allowance, up to the current maximum of 45% of final average salary. The defined benefit formula for normal age and service retirement, as modified under the bill, would also be used for determining the service retirement benefit for each year of service, *excluding* service credit for the period the member was receiving a disability allowance. The member would continue to receive the greater of the two amounts as under current law.

The bill requires the SERS board to recalculate any service retirement or disability benefit that became effective on or after January 1, 2000 but before the effective date of the bill in accordance with the service retirement and disability provisions as amended by the bill and to begin payment of the recalculated benefit on the first day of the month following such recalculation. In addition, the bill would require the board to make a one-time, lump sum payment equal to difference between the benefit amount paid to the recipient for the period January 1, 2000 and the date of payment and the benefit amount that would have been paid to the recipient had the bill become effective on January 1, 2000. The recalculated benefit shall be used as the base for purposes of calculating any cost-of-living allowance (COLA).

³³Added to these amounts would be any additional cost-of-living adjustments the member would have received had the member retired as of the effective date of the disability allowance.

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Survivor Benefit Improvements - The bill makes several changes to the benefits payable to the survivors of SERS members who die prior to eligibility for service retirement or, at the time of death, are receiving disability benefits.³⁴

Under current SERS law, survivor benefits for these individuals are based upon the number of qualified survivors:³⁵

No. of Survivors	% of FAS	Minimum Benefit/Mo.
1	25%	\$96
2	40%	\$186
3	50%	\$236
4	55%	\$236
5 or more	60%	\$236

The bill creates an alternative survivor benefit based upon the member's years of service in lieu of the above schedule of benefits, and provide the greater of the two amounts:

Years of Service	% of FAS
20	29%
21	33%
22	37%
23	41%
24	45%
25	48%
26	51%
27	54%
28	57%

³⁴The member must have had at least one and one-half years of contributing service, with at least one-quarter year of contributing service within the two and one-half years prior to the date of death, to qualify for survivor coverage.

³⁵Qualified survivors currently include a spouse who is age 62, age 50 if the member had at least ten years of service, or regardless of age if the spouse is either caring for a qualified child or physically or mentally incompetent; unmarried child who is under age 18, age 22 if the child is a full-time student, or regardless of age if the child is physically or mentally incompetent; and a dependent parent who is age 65 or regardless of age if the parent is physically or mentally incompetent.

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29 or more	60%
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For example, the surviving spouse of a member who had 29 years of service and no other qualified survivors currently receives 25% of the member's FAS. Under the bill, such spouse would receive 60%.

Under the bill, qualified survivors shall share equally in the alternative survivor benefit, except that if there is a surviving spouse, then the spouse shall receive no less than the greater of 25% of FAS or \$106 per month.

The bill provides that the FAS used in the calculation of the above benefits payable to qualified survivors of a disability benefit recipient shall be adjusted by the lesser of 3% or the actual percentage change in the CPI-W for each year between the effective date of the disability benefit and the date of death. Currently, the calculation of survivor benefits is based upon the FAS used in the calculation of the disability benefit.

The bill changes the qualification requirements for the spouse of a member *who had at least ten years of service*. Currently, the spouse must attain age 50 to qualify for survivor benefits if the spouse is neither caring for a qualified child(ren) nor physically or mentally incompetent. The bill would eliminate the age 50 requirement for such spouses, and thus make them eligible for benefits at any age.

The bill provides for the payment of survivor benefits to pre-age 50 surviving spouses of members who had at least 10 years of service and died on or after January 1, 2000 but before the effective date of the bill, *provided the spouse had not taken a refund of the member's accumulated contributions*. The bill would require the SERS board to calculate the amount of the benefit in accordance with the survivor benefit provisions as amended by the bill and to begin payment on the first day of the month following such calculation. In addition, the bill would require the board to make a one-time, lump sum payment equal to the amount that would have been paid to such surviving spouses had the bill become effective on January 1, 2000.

The bill clarifies the qualification requirements for an unmarried child of a member to mean a child who has never been married. The bill would also clarify the qualification requirements for a physically or mentally incompetent child to continue receiving survivor benefits for life. The bill would specify that the incompetence must have existed prior to the member's death and prior to the child's attainment of age 18, (age 22 if the child is a full-time student).

Increase in Medicare Part B Premium Reimbursement - Current law requires SERS to reimburse eligible recipients of a service retirement, disability or survivor benefit the lesser of the basic monthly premium for Medicare Part B (medical) or \$31.80.³⁶ The current basic premium for Medicare Part B is \$45.50 per month and is scheduled to increase to \$50.00 on January 1, 2001. The bill increases the monthly reimbursement rate from \$31.80 to \$45.50, which would become

³⁶The following individuals are ineligible for SERS health insurance coverage, including reimbursement for Medicare Part B premiums: a former member receiving a service retirement benefit who retired on or after July 1, 1986 with less than ten years of service credit, excluding credit purchased for military service, exempted service, school board service, and early retirement incentive service; the spouse of such former member; or the beneficiary of such former member.

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effective on the first day of the month following the effective date of the bill.

The bill also provides a one-time, lump sum payment to each benefit recipient who was eligible to receive a monthly reimbursement for Medicare Part B for the period beginning on January 1, 1993 and ending on the last day of the month in which the bill becomes effective. The lump sum payment would equal the difference between the amount received by the recipient during such period, including any payments made pursuant to Section 3 of H.B. 673, and the amount that would have been received by the recipient during such period had the bill become effective on January 1, 1993.

Alternative Retirement Plan (ARP) Authorized - The bill requires the SERS board to establish one or more plans consisting of benefit options that provide for an individual account for each participating member. Benefits shall be based solely on the amounts accumulated in the participant's account. The plan may include options which provide definitely determinable benefits to the participant. The board may administer the plan or contract with other entities to administer it.

Each plan shall meet the tax qualification requirements under Section 401(a) of the Internal Revenue Code in order to avoid payment of federal income tax on contributions or the amounts earned thereon prior to the individual's receipt of a benefit. Each plan shall also satisfy the minimum retirement benefit requirements under the Internal Revenue Code to qualify as a retirement system maintained by a state or local government entity. A plan generally satisfies these federal requirements if allocations to the participant's account are at least 7.5% of the participant's compensation, regardless of whether such allocations are made by the participant, employer, or some combination of the two. Failure of the plan to satisfy these requirements would cause the participant and employer to contribute to the Social Security System under existing federal law.

Under the bill, the SERS board shall adopt rules to implement each plan so established. The board may also do all things necessary to avoid the payment of federal or state income taxes on plan contributions and earnings thereon.

The bill requires an individual who becomes a SERS member *on or after* the establishment of the alternative retirement plan (ARP) to make an election to participate in either the current SERS defined benefit (DB) plan or one of the options provided under the ARP.³⁷ The election shall be made no later than 180 days after the commencement of such employment. The election shall be in writing on a form provided by SERS and filed with the employer. No later than 10 days after receipt of such form, the employer shall transmit to SERS a certified copy of the election. The election take effect on the date of employment and shall be irrevocable upon receipt by the employer. If no election is on file at the end of the 180-day period, the individual is deemed to have elected to participate in the SERS DB plan.

The bill permits current SERS members who have less than five years of service credit prior to the establishment of the plan to make an election to participate in one of the options provided under the ARP. The election shall be made no later than 180 days after the establishment of the ARP. The election shall be in writing on a form provided by SERS and filed with SERS. The election shall be irrevocable upon receipt by SERS. Upon receipt of an election, SERS would be required to credit to the member's individual account in the Defined Contribution Fund the member's accumulated

³⁷Individuals are ineligible to make an election if, at the time employment begins, they are SERS members participating in the DB plan, SERS retirants or subject to the alternative DC plan for higher education employees.

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contributions standing to the credit in the Employees' Savings Fund. If no election is made at the end of the 180-day period, the member is deemed to have elected to continue participating in the current SERS DB plan.

The bill would provide that any SERS member who elects to participate in the ARP shall be ineligible for any payment or benefit under the DB plan, and shall be forever barred from claiming or purchasing credit in SERS or the other state retirement systems for service covered by the election.

The bill creates the "Defined Contribution Fund" in SERS, the fund in which contributions deducted from the compensation of SERS members participating in the ARP shall be accumulated, along with any earnings and employer contributions credited thereon, and from which benefits provided under the ARP shall be paid. Under the bill, ARP members would contribute the same percentage as Defined Benefit (DB) members which is currently 9.0%. Contributions shall not exceed the limits established under Section 415 of the Internal Revenue Code.

Employers of ARP members would contribute the same percentage as employers of DB members which is currently 14.00%. For each ARP member, SERS shall transfer to the Employers' Accumulation Fund a portion of the employer contribution equal to a percentage of the member's compensation determined annually by the SERS actuary to be necessary to mitigate any negative financial impact on the DB plan resulting from participation of members in the ARP plan. The percentage transferred shall be increased or decreased based on the annual results of the SERS actuary's determination; any change in the percentage shall take effect on the first day of the year following the date the actuarial results are reported to the SERS board. Under the bill, SERS shall make the above transfers to the Employers' Trust Fund until the unfunded actuarial accrued liabilities, *excluding health care benefits and any benefit increases provided to members and former members participating in the DB plan after the effective date of the bill*, is fully amortized, as determined by the annual actuarial valuation prepared by the SERS actuary.

Contributions made by and on behalf of ARP members shall be deposited and credited in accordance with the plan selected by the member. Contributions shall cease upon the member's death, termination of employment or any other reason specified under the ARP selected by the member.

The right of each member participating in the ARP to a retirement, disability, survivor, death, health care, and/or long-term health care benefit, or the withdrawal of any amounts accumulated in the member's account, shall be governed exclusively by the plan selected by the member. Subject to the current SERS reemployment restrictions, withholding orders for spouse and child support or as restitution for theft in public office and certain sex offenses committed in the context of the member's public employment, the member's right to any payment or benefit under the ARP shall vest as follows:

- The member's right to any payment or benefit that is based on member contributions is nonforfeitable;
- The member's right to any payment or benefit that is based on employer contributions is nonforfeitable as specified by the ARP selected by the member.

For married ARP members, the bill requires SERS or the entity administering the ARP to obtain,

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prior to making any payment, the consent of the spouse to the form of payment selected by the member. The ARP plan shall include the same requirements for consent as required under Section 417 of the Internal Revenue Code. Each ARP plan may waive consent if the spouse cannot be located or for any other reason permitted under the Internal Revenue Code. Consent or waiver shall only be effective with respect to the spouse who is the subject of the consent or waiver.

Each ARP shall permit each participating member to do all of the following:

- Maintain on deposit with SERS or the entity administering the ARP any amounts that have accumulated in the member's account;
- Redeposit with SERS or the entity administering the ARP any amounts withdrawn by the member;
- Make additional deposits as permitted under the Internal Revenue Code, as amended.

The bill generally provides that the provisions governing the DB plan shall not apply to the ARP, except that the ARP may incorporate those provisions as specified by its plan document. The bill, however, specifically specifies that the following provisions governing the DB plan shall apply to each ARP established by SERS:

- The prohibitions against trustees and employees of the board under R.C. §3309.19;
- The actuarial reporting requirements under R.C. §3309.21;
- The open records and confidentiality provisions under R.C. §3309.22;
- The compulsory membership provisions under R.C. §3309.23;
- The membership by petition provisions under R.C. §3309.24;
- The filing of member information as provided under R.C. §3309.28;
- The verification of member information as provided under R.C. §3309.29;
- The reemployment rights and restrictions of retired employees under R.C. §3309.341;
- The employee contribution requirements under R.C. §3309.47;
- The payment of contributions during disability leave as provided under R.C. §3309.471;
- The employer contribution requirements under R.C. §3309.49;
- The employer contribution collection procedures as provided under R.C. §3309.51;
- The employee duties and obligations as provided under R.C. §3309.53;
- The certification of employee names as provided under R.C. §3309.54;
- The notification of changes to the board as provided under R.C. §3309.55;
- The deduction of contributions as provided under R.C. §3309.56;
- The payment of contributions to the board as provided under R.C. §3309.57;
- The penalty for delinquent contributions as provided under R.C. §3309.571;
- The penalty for failure to deduct contributions as provided under R.C. §3309.58;
- The levy of additional taxes by employers as provided under R.C. §3309.59;
- The various funds created under R.C. §3309.60, including the Defined Contribution Fund;
- The establishment of each fund as a separate legal entity as provided under R.C. §3309.61;
- The SERS administrative expense provisions under R.C. §3309.62;
- The tax exemption and non-assignability provisions under R.C. §3309.66;
- The vested rights statute under R.C. §3309.661;
- The withholding orders as restitution for theft in office and certain sex offenses as provided under R.C. §3309.67;
- The prompt payment from the Treasurer of State under R.C. §3309.68;

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- The recovery of erroneous payments under R.C. §3309.70.

Cap on the Employer Health Care Surcharge - The bill limits the maximum employer surcharge amount to no more than 2% of an individual employer’s payroll for employees covered under SERS. It would also limit the aggregate amount collected through the employer surcharge to no more than 1.5% of the total SERS active member payroll.

Under current law, the SERS Board annually determines the minimum compensation amount based upon the recommendation of its actuary. For each member whose salary for the prior fiscal year is less than that amount, the board assesses a surcharge to the member’s employer. The surcharge amount is determined by subtracting the member’s salary for the prior year from the minimum compensation amount. The difference is multiplied by the employer contribution rate in effect (14.00%) and prorated according to the service credit earned. The surcharge is in addition to the regular employer contribution rate of 14%. Currently, there is no statutory limit on the amount collected individually or in the aggregate under the employer surcharge.

The following table shows the minimum compensation amount and the aggregate amount generated for each year since the surcharge became effective:

Year	Minimum Compensation	Aggregate Amount
1989	\$7,710	\$14,010,283
1990	\$8,400	\$15,217,909
1991	\$9,100	\$16,990,015
1992	\$9,900	\$20,900,015
1993	\$9,900	\$17,184,995
1994	\$10,400	\$20,744,932
1995	\$11,200	\$20,244,221
1996	\$11,800	\$24,131,511
1997	\$12,400	\$30,288,515
1998	\$12,400	\$29,336,734
1999	\$12,400	\$26,847,444
Total	N/A	\$235,896,574

Staff Comments -

Defined Benefit Formula Increases - One of the principles adopted by the ORSC in its review and recommendations of retirement bills is that “there should be equal pension treatment among the various groups of non-uniformed public employees and as nearly as practicable retirement benefits should be uniform.” (March 1978) The service retirement benefit formulas for PERS, STRS and SERS are currently very similar, as are the disability and survivor benefit provisions in these retirement systems. The current coordination-of-benefit provisions providing for joint service and disability retirement and the portability of service credit provisions are largely predicated upon

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maintaining similar benefit structures in these retirement systems. *However, an overriding principle adopted by the ORSC is that “no proposed increase in pension benefits be seriously considered or granted until there is established adequate funding to cover its cost .”* (March 1978)

The changes in the defined benefit formula for service retirement and disability benefits under this bill are identical to the changes enacted in H.B. 628/S.B. 277 relative to PERS. They are also very similar to the changes enacted in S.B. 190 relative to STRS, except that no changes were made in the STRS pre-1992 disability retirement plan which provides an annual benefit equal to 2% for each year of service, plus each year of projected service until age 60, up to a maximum of 75% of FAS. The proposed increase in the maximum benefit from 90% to 100% of FAS in SERS is also consistent with current PERS and STRS law, and would require SERS members to render 43.6 years of service to achieve this maximum benefit under the bill.

The following table provides a history of the changes in the defined benefit formula in SERS since 1968:

Bill	Old Formula	New Formula
H.B. 959 (eff. 6/10/68)	1.65% x FAS x YOS, up to a maximum of 75% of FAS.	1.9% x FAS x YOS, up to a maximum of 80% of FAS.
H.B. 100 (eff. 12/31/71)	1.9% x FAS x YOS, up to a maximum of 80% of FAS.	2.0% x FAS x YOS, up to a maximum of 80% of FAS.
H.B. 430 (eff. 11/20/73)	Maximum: 80% of FAS.	Maximum: 90% of FAS.
H.B. 290 (eff. 9/9/88)	2.0% x FAS x YOS, up to a maximum of 90% of FAS.	2.1% x FAS x YOS, up to a maximum of 90% of FAS.
H.B. 673 (eff. 12/8/98)	2.1% x FAS x YOS, up to a maximum of 90% of FAS.	2.1% x FAS x first 30 YOS, plus 2.5% x FAS x YOS over 30, up to a maximum of 90% of FAS.

The bill increases the defined benefit formula to 2.2% for the first 30 years of service, with the same 2.5% multiplier for each year of service in excess of 30. Therefore, a SERS member who retires with 30 years of service at any age would receive 66% of FAS (2.2% x 30 = 66%) under the bill rather than 63% of FAS (2.1% x 30 = 63%) under current law.

The following table provides a comparison of the normal service retirement benefit formulas for other non-Social Security statewide retirement systems:

State	Defined Benefit Formula for Normal Service Retirement	Percent of FAS Based upon 30 YOS
Alaska	2.0% x first 20 YOS, plus 2.5% x YOS in excess of 20	65% of FAS

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California	2.2% x YOS payable at age 60 2.3% x YOS at age 60 3/4 2.4% x YOS at age 61 1/2	66% of FAS 69% of FAS 72% of FAS
Colorado	2.5% x YOS	75% of FAS
Connecticut	2.0% x YOS	60% of FAS
Illinois	1.67% x first 10 YOS, plus 1.9% x second 10 YOS, plus 2.1% x third 10 YOS, plus 2.3% x YOS over 30 2.2% x YOS after 6/30/98 (Non-retired members may upgrade service prior to 6/30/98 to the 2.2% formula)	56.7% of FAS 66% of FAS
Kentucky	2.0% x YOS prior to 7/1/83, plus 2.5% x YOS after 7/1/83	68% of FAS
Louisiana	2.0% x YOS for teachers who joined prior to 7/1/99 2.5% x YOS for teachers who joined after 7/1/99	60% of FAS 75% of FAS
Maine	2.0% x YOS	60% of FAS
Massachusetts	1.0% x YOS payable at age 50 1.5% x YOS at age 55 2.0% x YOS at age 60 2.5% x YOS at age 65	30% of FAS 45% of FAS 60% of FAS 75% of FAS
Missouri	2.5% x YOS	75% of FAS
Nevada	2.5% x YOS	75% of FAS
Ohio	2.1% x first 30 YOS, plus 2.5% for YOS over 30.	63% of FAS
Texas	2.2% x FAS	66% of FAS

As shown in the above table, the current service retirement benefit formula under SERS is higher than a few, but lower than most non-Social Security statewide retirement systems. Many states have recently increased their benefit formulas, including California, Illinois, Louisiana, and Texas. The proposed increase in the SERS service retirement formula seems well within reason in comparison to the other non-Social Security states' current service retirement formulas.

Neither this bill nor the changes included in H.B. 628/S.B. 277 provide the significant financial incentive offered under S.B. 190, as enacted by the 123rd General Assembly, for teachers to work beyond 30 years (normal retirement). Under S.B. 190, STRS members who have 35 years of earned service would receive **2.5%** rather than **2.2%** for each of the first 30 years of earned service, plus 2.5% for the 31st year, 2.6% for the 32nd year, 2.7% for the 33rd year, 2.8% for the 34th year

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and 2.9% for the 35th year, for a total benefit of 88.5% of FAS. SERS members and PERS members who have 35 years of service would receive 78.5% of FAS under their respective bills. The financial incentive offered under S.B. 190 is intended to respond to changing demographics in the STRS membership and the predicted shortage of teachers in the near future. The number of service retirements is expected to double in STRS within the next ten years, creating a growing need for experienced teachers. The stated purpose of the incentive is to retain experienced teachers who otherwise qualify for normal service retirement by encouraging them to defer their actual retirement by at least five years. Though there appears to be no similar labor shortage to justify such incentive for state and local government employees and non-certificated school employees, the continuing improvements in life expectancy in all five state retirement systems may provide justification, in and of itself, to consider incentives for members to work beyond normal retirement in the future.

Also, this bill recalculates only those service retirement and disability benefits that became effective on or after January 1, 2000 in accordance with the new benefit formulas proposed under the bill. SERS members whose benefits became effective prior to January 1, 2000 would be excluded from any recalculation. In contrast, both S.B. 190 and H.B. 628/S.B. 277, as enacted by the 123rd General Assembly, include provisions for the recalculation of benefits granted prior to the effective date of the bill. Under S.B. 190, all service retirement benefits, including joint and survivor annuities, granted prior to July 1, 1999 are recalculated according to the existing 2.1% benefit formula; service retirement benefits granted on or after July 1, 1999 are recalculated in accordance with the new 2.2% benefit formula under the bill. Under H.B. 628/S.B. 277, all service retirement and disability benefits granted prior to the effective date of the bill would be recalculated in accordance with the new 2.2% formula enacted under the bill.

Survivor Benefit Improvements - The bill creates an alternative survivor benefit based upon the member's years of service in lieu of the current survivor benefit based upon the number of qualified survivors, and provide the greater of the two amounts. The proposed change is intended to allow a survivor of a member who dies prior to eligibility for service retirement and has significant service credit to receive benefits that are commensurate with the member's service. Currently, a surviving spouse with no other qualified survivors receives the greater of 25% of the member's final average salary or \$96 per month, regardless of the member's years of service. The proposed change is consistent with a similar change made to STRS law in H.B. 721 (eff. 12/14/92) and to PERS law in H.B. 628 (eff. 9/21/00) .

The bill provides that the FAS used in the calculation of a survivor benefit payable to qualified survivors of a disability benefit recipient shall be adjusted by the lesser of 3% or the percentage change in the CPI-W for each year between the effective date of the disability benefit and the date of death. Currently, the calculation of survivor benefits is based upon the FAS used in the calculation of the disability benefit. This proposed change is consistent with recent changes made to STRS law and PERS law relative to the ad hoc increases provided to survivors in these retirement systems.

The bill changes the qualification requirements for the spouse of a member who had at least ten years of service. Currently, the spouse must attain age 50 to qualify for survivor benefits if the spouse is neither caring for a qualified child(ren) nor physically or mentally incompetent. The bill eliminates the age 50 requirement for such spouses, and thus make them eligible for benefits at any age. This proposed change is consistent with a change made to STRS law in S.B. 305 (eff. 3/29/88) as well as a change to PERS law in H.B. 628/S.B. 277.

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Unlike H.B. 628/S.B. 277, the bill does *not* increase the minimum monthly survivor benefit in SERS. S.B. 190, as enacted by the 123rd General Assembly, also provides *no* increase in the minimum monthly survivor benefit in STRS. H.B. 628/S.B. 277 would increase the minimum monthly survivor benefit in PERS from the current \$96 to \$250 for one qualified survivor, \$186 to \$400 for two qualified survivors, and \$236 to \$500 for three or more qualified survivors. The current minimum monthly survivor benefits were established in H.B. 430 (eff. 9/1/73), and are currently the same in PERS, STRS and SERS.

Increase in Medicare Part B Premium Reimbursement - The bill increases the current SERS cap on the Medicare Part B (medical insurance) premium reimbursement from \$31.80 to \$45.50 per month. The current Medicare Part B premium is \$45.50 per month and is scheduled to increase to \$50.00 per month beginning January 1, 2001.

By way of background, H.B. 290 (eff. 9/9/88) capped the Medicare Part B reimbursement in SERS at \$24.80 per month as part of an effort to control increasing post-retirement health care costs. H.B. 673 (eff. 12/8/98) increased the cap from \$24.80 to the current \$31.80 per month. This bill would increase the cap to \$45.50, the current amount of the basic monthly premium for Medicare Part B in calendar year 2000.

The table below shows the amount of the basic monthly Medicare Part B premium since 1977, the first year in which all of the state retirement systems were required to reimburse benefit recipients for such cost.

Calendar Year	Medicare Part B Premium Amount
1977	\$7.70
1978	\$8.20
1979	\$8.70
1980	\$9.60
1981	\$11.00
1982	\$12.20
1983	\$12.20
1984	\$14.60
1985	\$15.50
1986	\$15.50
1987	\$17.90
1988	\$24.80
1989	\$31.90
1990	\$28.60

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1991	\$29.90
1992	\$31.80
1993	\$36.60
1994	\$41.10
1995	\$46.10
1996	\$42.50
1997	\$43.80
1998	\$43.80
1999	\$45.50
2000	\$45.50
2001	\$50.00

The Medicare Part B monthly reimbursement rates were capped in STRS at \$29.90 (S.B. 329 - eff. 4/10/91) and in HPRS at \$41.10 (S.B. 306 - eff. 9/20/94). H.B. 648 (eff. 9/16/98) authorized the STRS board to establish the Medicare Part B reimbursement rate, up to a maximum of 90% of the basic premium. It also authorized the HPRS board to establish such rate, up to a maximum of 100% of the basic premium. The Medicare Part B monthly reimbursement rates have never been capped in either PERS or OP&F.

The bill also provides a one-time, lump sum payment to each benefit recipient who was eligible to receive a monthly reimbursement for Medicare Part B for the period beginning on January 1, 1993 and ending on the last day of the month in which the bill becomes effective. The lump sum payment would equal the difference between the amount received by the recipient during such period, including any payments made pursuant to Section 3 of H.B. 673, and the amount that would have been received by the recipient during such period had the bill become effective on January 1, 1993. A similar provision was included in H.B. 673 (eff. 12/8/98) which increased the monthly reimbursement rate from \$24.80 to \$31.80 and provided a one-time, lump sum payment equal to the difference between the amount received for the period beginning January 1, 1992 and December 8, 1998 and the amount that would have been received under the bill. Such lump sum payments to benefit recipients as reimbursement for Medicare Part B premiums are not subject to the Social Security offset provisions that otherwise apply to other types of ad hoc post-retirement increases.

Defined Contribution Plan - One of the ORSC staff recommendations made in the final report to the Joint Legislative Committee to Study Ohio's Public Retirement Plans (December 11, 1996) was 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."

By way of background, the Ohio General Assembly enacted H.B. 586 (eff. 3/31/97) which established an alternative defined contribution plan administered by outside providers for full-time academic and chief administrative employees of public institutions of higher education electing such plan in lieu of participation in the defined benefit plans of PERS, STRS or SERS. The bill also required STRS to pay interest upon the withdrawal of the member's contributions due to death or

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separation of employment, along with a 50% match from employer contributions for members who had at least five years of service. These legislative changes were favorably recommended by the ORSC and intended to address the issue of pension portability.

This session the Ohio General Assembly enacted S.B. 190 and H.B. 628 which respectively require the STRS and PERS boards to establish an alternative defined contribution plan for their members. Both bills had been favorably recommended by the ORSC. Also, S.B. 144 (eff. 12/13/00) was enacted this session and requires the PERS board to credit interest on the member's contributions, along with a 33% match of employer contributions for members with five but less than 10 years of service and a 67% match for members with ten or more years of service, upon a refund of the member's contributions. The bills had been favorably recommended by the ORSC.

All of these legislative measures seek to address the need for greater pension portability and options for Ohio's public employees, especially short-service, mobile employees, and are generally consistent with prior ORSC recommendations and positions concerning this issue. S.B. 270 would provide school employees the same pension portability and options as provided to teachers and state and local government employees through the establishment of an alternative defined contribution option(s).

S.B. 270 requires a supplemental employer contribution to be made on behalf of members electing the ARP plan and to be paid to the DB plan in order to mitigate any negative financial impact upon the DB plan resulting from members participating in the ARP plan. The amount of the supplemental employer contribution is to be determined annually by the SERS actuary and would remain payable until the SERS unfunded actuarial accrued liabilities, excluding health care benefits and benefit increases provided to members and former members participating in the DB plan after the effective date of the bill, are fully amortized. This provision is consistent with S.B. 190 and H.B. 628.

Cap on the Employer Health Care Surcharge - SERS is the only retirement system with authority to assess an employer health surcharge on the salaries of members earning less than a minimum annual salary, as determined by the board each year based on the recommendation of its actuary for the exclusive purpose of funding retiree health care costs. The surcharge is in addition to the regular employer contribution rate (14% of payroll) and generates additional revenues of approximately 1.6% of member payroll, or approximately \$26 million. The employer surcharge varies by school district depending on the number of individuals earning less than the minimum annual salary amount. Because of the surcharge, there is, in effect, no cap on the amount of employer contributions to SERS.

The surcharge is determined by subtracting the member's compensation for the prior year from the minimum compensation amount. The difference is multiplied by the employer contribution rate in effect, and prorated according to the member's earned service credit.

For example:

<u>Minimum Compensation</u>		<u>Employee's Compensation</u>		<u>Surcharge Base</u>
\$12,400	minus	\$11,400	equals	\$1,000

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<u>Surcharge Base</u> \$1,000	times	<u>Employer Contribution Rate</u> 14%	equals	<u>Gross Surcharge</u> \$140
<u>Gross Surcharge</u> \$140	times	<u>Employee's Service Credit</u> 1 year	equals	<u>Total Surcharge</u> \$140
\$140	times	1/2 year	equals	\$70

The bill limits the employer surcharge to no more than 2% of an individual employer's payroll for employees covered under SERS. It also limits the aggregate amount collected under the employer surcharge to no more than 1.5% of the total SERS active member payroll.

In 1996, one of the staff recommendations included, but not acted upon, in the final report of the Joint Legislative Committee to Study Ohio's Public Retirement Plans was to place a statutory cap on the amount generated by the employer surcharge in SERS. The proposed changes under the bill are generally consistent with the intent of this recommendation and the statutes governing the other state retirement systems that place a maximum limit on employer contributions.

Fiscal Impact

(See the attached actuarial analysis prepared by Milliman & Robertson, Inc.)

ORSC Position

At its meeting of November 29, 2000 the Ohio Retirement Study Council voted to recommend that the 123rd Ohio General Assembly approve Sub. S.B. 270 upon the adoption of an amendment which would reinstate the proposed changes that would increase the benefit formula multiplier from 2.1% to 2.2% for purposes of calculating service and disability benefits under SERS. (The bill, as enacted by the 123rd Ohio General Assembly, incorporates this amendment.)

Effective Date

April 9, 2001

SUBJECT INDEX OF PENSION BILLS INTRODUCED 123RD GENERAL ASSEMBLY

January 1, 1999 - December 31, 2000

The Subject Index of Pension Bills Introduced provides a listing of pension bills under subject heading and a key word description within the main heading. Bills that cover more than one subject are listed under all appropriate headings.

The pension systems affected by the bill are also indicated. "All systems" means the Public Employees Retirement System (PERS), the State Teachers Retirement System (STRS), the School Employees Retirement System (SERS), the Ohio Police and Fire Pension Fund (OP&F), and the Highway Patrol Retirement System (HPRS). "VFFDF" and "DBF" respectively refer to the Volunteer Fire Fighters' Dependents Fund and the Ohio Public Safety Officers Death Benefit Fund.

The main subject headings are listed at the beginning of the index for quick reference. The bills that became law are indicated by an asterisk.

Subject Headings

Actuarial Valuation	Deduction	Reemployment
Age and Service	Disability	Reports
Alternative Retirement Plan	Early Retirement Incentive	Rules
Appropriations	Excess Benefit Plan	Service Credit
Benefit Options	Fund Name	Social Security
Board Elections	Health Care	Sunset Review
Contributions	Investments	Survivors
Cost-of-Living	Long Term Care	Taxation
Death Benefit	Membership	Technical Changes

Actuarial Valuation

Change in due date - HPRS - SB 189*; STRS - SB 190*; PERS - HB 628*

Age and Service

Ad hoc increase - HPRS - SB 189*; STRS - SB 190*; PERS - HB 628*, SB 277
Benefit formula increased - HPRS - HB 375, SB 189*; STRS - SB 190*; PERS HB 628*,
SB 277; SERS - SB 270*
Employer fine for not providing information - OP&F HB 628*
Military service included for enhanced benefit - STRS - HB 535*
Minimum monthly benefit increased - HPRS SB 189*
Retire at age 48 with 25 YOS (certain members) - PERS-LE - SB 93, HB 416*

Alternative Retirement Plan

Creation of - PERS, STRS, SERS - HB 199; PERS - HB 623, HB 628*; STRS - SB 190*;
SERS - SB 270*
Election of - STRS - HB 535*
Higher education employees - HB 535*
Study to determine members' needs - PERS - HB 628*
Supplemental contribution rate - STRS HB 535*

Appropriations

Biennial appropriations - ALL SYSTEMS - HB 283*

Benefit Options

Joint and Survivor - HPRS - SB 189*
Lump sum refund - HB 535*
Waiver of spousal consent - PERS, STRS - HB 535*

Board Elections

None required if only one candidate - ALL SYSTEMS - HB 535*

Contributions

Elected officials employed by sports organization - PERS - HB 416*
Employee rate reduced - HPRS - SB 189*
Employee rate increased - PERS-LE - HB 416*, HB 535*
Employer provided housing included in - PERS - HB 250

Refund with interest - PERS - SB 144*
Refund with interest, certain members not eligible - PERS-LE - HB 535*
Transfer from PERS - STRS, SERS - HB 535*

Cost-of-Living

Eligibility limits eliminated - OP&F - HB 275*, SB 118
Flat 3% increase - ALL SYSTEMS - HB 655; PERS - SB 277
Prohibition for reemployed elected officials repealed - PERS - HB 535*

Death Benefit

Increase in benefit - HPRS - SB 189*
Treated as insurance - ALL SYSTEMS - HB 628*

Deduction

Marital property assignable - ALL SYSTEMS - HB 535*
QDRO's assignable - ALL SYSTEMS - SB 81

Disability

Extends application deadline - PERS - HB 154
Benefit formula increased - STRS - SB 190*; PERS - HB 628*, SB 277; SERS - SB 270*

Early Retirement Incentive

Participation prior to retirement eligibility - PERS - HB 443

Excess Benefit Plan

Establishment authorized - ALL SYSTEMS - S.B. 190*; PERS - SB 277

Fund Name

PFDPF name changed - OP&F - HB 222*

Health Care

Department of Health Care Administration created - HB 453
Elected official coverage - PERS - HB 413
Employer surcharge capped - SERS - SB 270*
Medicare Part B reimbursement increased - SERS - SB 270*

Investments

Semiannual review by ORSC - ALL SYSTEMS - SB 190*
Venture capital investment fund - PERS, STRS, SERS - HB 691

Long Term Care

Allows DAS to establish program- PERS - HB 88

Membership

Enforcement agents - PERS-LE - HB 163*
Exempts certain employees - PERS - HB 154
Not-for-profit county historical societies employees - HB 640*

Reemployment

Continued employment in a separate position - PERS, STRS, SERS, HB 535*
Election of DC plan - STRS - HB 535*
Money purchase annuity option - PERS - HB 535*
STRS member reemployed as independent contractor - STRS - HB 535*
Waiting period changed to two months - PERS, STRS, SERS - SB 144*

Reports

Division of marital property - ORSC - HB 535*

Rules

Legislative review - ALL SYSTEMS - SB 87

Service Credit

Adoption resignation, purchase of credit - PERS - HB 628*, HB 632
Cost of military credit - PERS - HB 186*
Cost of out-of-state/federal credit - OP&F - HB 575
Elected officials' additional 35% purchase limited - PERS - HB 416*
Payroll deduction for credit in another non-uniformed system - PERS, STRS, SERS - HB 15*
Purchase by survivor of disability recipient - PERS - HB 535*
Purchase private school service - STRS - SB 209
Recalculate cost of military credit - OP&F - SB 114
Refund of purchased credit that does not increase benefit - HPRS - 189*
Transfer between systems and Cincinnati Retirement System - ALL SYSTEMS - HB 535*

Social Security

Maintain basic framework - HCR 32
Oppose mandatory coverage for public employees - ALL SYSTEMS - HCR 4*, HCR 8

Sunset Review

Exempt from - ALL SYSTEMS, ORSC - SB 144*

Survivors

Age requirement eliminated with ten YOS - SERS - SB 270*
Alternative benefit created - PERS - HB 628*, SB 277
Minimum monthly benefit increased - OP&F - HB 275*, SB 118
Recipient's death cause by beneficiary - PERS, STRS, SERS, HB 535*
Remarriage penalty removed - DBF - HB 283*

Taxation

Exempts up to \$10,000 of retirement benefits - H.B. 64

Technical Changes

COLA to disability recipients clarified - PERS - HB 535*
Individual accounts for all contributors clarified - STRS - HB 535*
Law enforcement service clarified - PERS-LE - HB 535*
References to Bureau of Employment Services and Department of Human Services replaced - ALL SYSTEMS - HB 471*

STATUS OF PENSION LEGISLATION 123RD GENERAL ASSEMBLY

January 1, 1998 - December 31, 2000

The Status of Pension Legislation provides a record of legislative action taken on pension bills at each step of the legislative process from the date of introduction, assignments in each House of the General Assembly, testimony, the date reported by the committees, the date passed by each House, the date reported by a conference committee and/or concurred in by the other House, to the effective date of the bill. Also provided are a brief description of the subject of the pension bill and the ORSC position on the bill. An index of abbreviations used in the status report is on the final page.

OHIO RETIREMENT STUDY COUNCIL

STATUS OF PENSION LEGISLATION

123RD GENERAL ASSEMBLY

January 1, 1999 - December 31, 2000

HOUSE BILLS

HSE BILL	INTRO	Actuarial Received	Subject, Sponsor and System	Cont Pers	ORSC Pos	Hse Cmte.	TESTIMONY			TESTIMONY		
							Testimony - Reported Out - Floor Vote	INTRO SEN	Sen. Cmte	Testimony - Reported Out - Floor Vote	Conf Cmte	Concurr ence
15	01-20-99	PERS: 03-29-99 SERS: 03-10-99 STRS: 05-03-99	Allows member to purchase credit covered by another non-uniformed system through payroll deduction. Mottley - PERS, SERS, STRS	GK	A 06-09-99	HRA VanVyven 01-20-99	02-03-99---02-10-99 to Sub Cmte---03-11-99---03-18-99---03-25-99---04-29-99---06-03-99 Sub; Amend; to Full Cmte---06-09-99---06-15-99 FI Vo: Y=95 N=0	06-16-99	W&M Blessing 06-16-99	06-22-99---06-29-99 Amend---06-30-99 FI Vo: Y=33 N=0	06-30-99	11-03-1999
64	01-20-99		Exempts from the personal income tax up to \$10,000 in state and federal gov't retirement benefits. Coughlin	BI	N	W&M Mottley 01-20-99	02-04-99 to Sub Cmte---04-15-99---					
88	01-28-99		Permits DAS to establish self-insured long-term care insurance program for state employees. Terwilleger - PERS	BI	N	W&M Mottley 02-02-99						
154	02-08-99	PERS: 04-07-99	Exempts certain employees from membership in PERS, extends disability application deadline. Stapleton - PERS	GK	D 03-10-99	HRA VanVyven 02-10-99	02-17-99---02-24-99 to Sub Cmtee---					
163	02-09-99	PERS: 04-07-99	Makes appropriations for programs related to transportation and public safety, transfers certain employees to PERS-LE. Core - PERS	AE	N	FA Thomas 02-10-99	02-23-99---02-24-99 Sub---03-03-99 Amend; Flr Vo: Y=93 N=1	03-04-99	HT Oelslager 03-09-99	03-16-99 Amend---03-23-99 FI Vo: Y=33 N=0	03-24-99	06-30-1999
186	02-16-99	PERS: 04-20-99	Changes method of computing cost of purchasing military service credit. Jolivet - PERS	AE	A 06-09-99	HRA VanVyven 02-17-99	02-24-99 to Sub Cmte---03-11-99---03-18-99---03-25-99---04-29-99 Sub---06-03-99 to Full Cmte---06-09-99---06-15-99 FI Vo: Y=94 N=0	06-16-99	W&M Blessing 06-16-99	06-23-99 to Sub Cmte---10-12-99 Amend; to Full Cmte---10-19-99 Amend---10-20-99 FI Vo: Y=33 N=0	11-09-99	03-17-2000
199	02-17-99	PERS: 04-29-99 STRS: 04-29-99 SERS: 04-20-99 OP&F: 03-24-99 HPRS: 04-15-99	Creates alternative retirement program for Ohio's public employees. Cates - PERS, STRS, SERS	GK	AD 04-14-99	HRA VanVyven 02-24-99	03-03-99---03-24-99---04-14-99---04-21-99---04-28-99---05-05-99---05-12-99---05-19-99---06-03-99---06-16-99 Sub---					
222	03-03-99		Changes name of PFDPF. Van Vyven - OP&F	AE	A 04-14-99	HRA VanVyven 03-09-99	04-14-99---04-20-99---04-21-99 Sub---05-04-99 FI Vo: Y=96 N=0	05-04-99	W&M Blessing 05-05-99	05-25-99 to Sub Cmte---06-23-99 To Full Cmte---06-29-99---06-30-99 FI Vo: Y=33 N=0	06-30-99	11-02-1999
250	03-17-99	PERS: 05-05-99	Includes employer provided housing as earnable salary for determining contributions and benefits. Patton - PERS	AE	D 08-25-99	HRA Van Vyven 03-23-99	04-13-99 to Sub Cmte---06-10-99---06-24-99 Amend---					
275	03-24-99	OP&F: 04-12-99	Increases surviving spouse benefits and eliminated eligibility limits for COLAs. Vesper - OP&F	GK	AA 08-25-99	HRA VanVyven 03-30-99	04-13-99 to Sub Cmte---04-22-99---04-29-99---09-22-99 Amend---09-29-99 Sub; to Full Cmte---10-13-99 FI Vo: Y=96 N=0	10-14-99	W&M Blessing 10-19-99	11-09-99---11-10-99 FI Vo: Y=33 N=0		03-17-2000
283	03-30-99		Biennial operating appropriations; eliminates remarriage penalty in death benefit fund. Thomas - All Systems	BI	N	FA Thomas 03-30-99	---05-04-99---05-05-99---05-06-99 FI Vo: Y=92 N=6	05-11-99	FIN Ray 05-12-99	06-01-99---06-03-99---06-08-99---06-10-99 FI Vo: Y=33 N=0	6-10-99	06-30-99
375	06-02-99	HPRS: 09-01-99	Increases benefits for members of HPRS. Jordan - HPRS *Identical to S.B. 189	AE	AA 09-06-99	HRA VanVyven 06-03-99	06-16-99 to Sub Cmte---06-24-99---10-19-99 Amend; to Full Cmte---					
413	07-27-99	PERS: 09-30-99	Allows state elected officials to receive health care coverage with 8 years of service. Britton - PERS	AE	P	HRA VanVyven 09-08-99	09-22-99---					

HOUSE BILLS

HSE BILL	INTRO	Actuarial Received	Subject, Sponsor and System	Cont Pers	ORSC Pos	Hse Cmte.	TESTIMONY			TESTIMONY			
							Testimony - Reported Out - Floor Vote	INTRO SEN	Sen. Cmte	Testimony - Reported Out - Floor Vote	Conf Cmte	Concurr ence	Eff Date
416	07-27-99		Repeals a provision allowing elected officials to contribute to PERS based on salary earned as an employee of a not-for-profit professional sports organization; reduces retirement age for certain members of PERS-LE. Ford - PERS	AE	A 09-08-99	HRA VanVyen 09-08-99	09-29-99 Amend----10-06-99 Amend----10-08-99 Sub; 10-13-99 FI Vo: Y=95 N=1	10-14-99	W&M Blessing 10-19-99	01-04-00 to Sub----1-11-00 to Full Cmte--05-24-00 Sub----05-25-00 FI Vo: Y=33 N=0		05-25-00	10-13-2000
443	09-16-99	PERS: 11-22-99	Allows member to participate in retirement incentive plan prior to retirement eligibility. Gerberry - PERS	AE	P	HRA VanVyen 10-12-99	01-12-00----						
453	09-28-99		Creates Department of Health Care Administration. R. Miller - All Systems	BI	N	FA Thomas 10-12-99							
471	10-08-99		Replaces references to Bureau or Administrator of Employment Services and Department or Director of Human Services. Harris - All Systems	BI	N	Joint Select Committee 10-12-99	10-19-99 FI Vo: Y=89 N = 6	10-12-99	Joint Select Committee 10-12-99	10-19-99----10-20-99 FI Vo: Y=23 N=10		10-20-99	07-01-2000
535	01-11-00	SERS: 03-15-00 STRS: 03-16-00 PERS: 03-16-00 OP&F: 04-11-00	Permits system to make payments to member's former spouse for purposes of dividing marital property. Willamowski - All Systems	AE	AA 04-12-00	HRA VanVyen 01-12-00	01-26-00----02-02-00----03-08-00----04-12-00 Sub----05-17-00 FI Vo: Y=97 N=0	05-18-00	W&M Blessing 05-23-00	09-12-00----09-19-00----11-14-00 Sub; Amend----11-15-00 FI Vo Y=32 N=0		11-16-00	03-15-2001
548	01-18-00		Sunset Review. Terwilliger - All Systems	BI	N	SG Terwilliger 01-18-00	02-17-00 Sub----03-21-00 Amend; Flo Vo: Y=92 N=0	03-21-00	SLG	1-09-00 FI Vo: Y=32 N=0		11-14-00	03-27-2001
623	03-28-00	PERS: 05-18-00	Creates defined contribution plan for certain public employees. Cates - PERS	GK	AD 5-10-00	HRA VanVyen 03-28-00	04-05-00----04-12-00----05-03-00----05-10-00 Sub----05-17-00----05-24-00 Sub----						
628	03-28-00	PERS: 04-06-00	Increases benefits for members of PERS and relocates the Deferred Compensation Program. Hollister - PERS	GK	AA 05-02-00	HRA VanVyen 03-28-00	04-05-00----04-12-00----05-03-00 Sub; Amend----05-10-00 FI Vo: Y=94 N=0	05-11-00	W&M Blessing 05-16-00	05-16-00----05-23-00 Amend; Sub----05-25-00 FI Vo: Y=33 N=0		05-25-00	09-21-2000
632	03-29-00	PERS: 05-01-00	Permits members who resigned due to adoption of a child to purchase up to one year of credit. Kilbane - PERS *Amended into H.B. 628	AE	AA 05-17-00	HRA VanVyen 04-04-00	04-12-00----05-03-00----						
640	04-04-00		Capital appropriations and allows employees of not-for-profit county historical societies to remain members of PERS. Corbin - PERS	BI	N	FA Corbin	04-11-00----05-2-00 Amend; FI Vo: Y=93 N=2	05-02-00	FIN Ray 05-03-00	05-17-00 Sub; Amend FI Vo: Y=30 N=0		05-23-00	09-14-2000
655	04-11-00	OP&F: 05-10-00	Provides for a flat 3% COLA. Schuring - All Systems	GK	AD	HRA VanVyen 04-12-00	05-17-00 Sub----						
678	05-02-00		Reduces reemployment waiting period for teachers. Mettler - STRS	GK	P	HRA VanVyen 05-03-00							
691	05-03-00		Creates venture capital investment fund. Robinson - PERS, STRS, SERS	AE	P	FI Myers 05-09-00							
754	08-14-00		Levies a school district income tax. Netzley - PERS, STRS, SERS, HPRS	BI	N	W&M Mottley 09-06-00							

SENATE BILLS

SEN BILL	NTR0	Actuarial Received	Subject, Sponsor and System	Cont Persn	ORSC Pos	Sen Cmte.	TESTIMONY			TESTIMONY			
							Testimony - Reported Out - Floor Vote	NTR0 HSE	Hse Cmte	Testimony - Reported Out - Floor Vote	Conf Cmte	Concurrence	Eff Date
81	02-23-99	PERS: 04-07-99	Exempts QDRO's from prohibition against benefit assignment. McLin - All Systems	AE	P	W&M Blessing 03-09-99	3-16-99 to Sub Cmte----04-21-99----						
87	03-02-99		Provides for legislative review of proposed and adopted rules. Blessing - All Systems	BI	N	SLG Schafrath 03-09-99							
93	03-04-99	PERS: 04-13-99	Permits members of PERS-LE to retire with 25 YOS at age 48 with full benefits. Watts - PERS	GK	AA 03-29-00	W&M Blessing 03-09-99	03-16-99 to Sub Cmte----04-21-99----04-05-00----05-09-00----						
114	03-17-99	OP&F: 05-27-99	Requires OP&F to recalculate the cost of military service credit for certain members. Furney - OP&F	AE	D 08-25-99	W&M Blessing 03-23-99	04-13-99 to Sub Cmte----04-21-99----						
118	03-23-99	OP&F: 04-12-99	Increases surviving spouse benefits, eliminates eligibility limits on COLAs, allows magistrates to purchase additional service credit. Blessing - OP&F, PERS	GK	AA 08-25-99	W&M Blessing 04013-99	04-13-99 to Sub Cmte----04-21-99----06-23-99----						
144	05-19-99	PERS: 06-21-99	Requires PERS to pay interest and employer contributions upon refund of employee contributions. Johnson - PERS	GK	AA 09-13-99	W&M Blessing 05-25-99	06-03-99 to Sub Cmte----06-23-99----10-12-99 Sub; to Full Cmte----10-19-99 Amend----10-20-99 FI Vo: Y=33 N=0	10-21-99	HRA VanVye n 11-09-99	01-05-00----02-02-00----04-12-00----05-03-00--05-10-00----05-17-00 Amend----05-24-00 Amend; FI Vo Y=96 N=0		05-25-00	09-14-2000
180	08-31-99		Makes changes in the laws governing child support. Kearns - All Systems	BI	N	JUD Latta 10-12-99	05-24-00 Sub; FI Vo: Y=33 N=0	05-24-00					
189	09-30-99		Increases benefits for members of HPRS. Spada - HPRS *Identical to H.B. 375	AE	AA 10-06-99	W&M Blessing 10-12-99	10-12-99----10-19-99----11-09-99 Amend--11-10-99 FI Vo: Y=33 N=0	11-10-99	HRA VanVye n 12-07-99	01-05-00----01-12-00----01-19-00 Amend----01-26-00 Amend; FI Vo: Y=96 N=0		02-16-00	06-30-2000
190	10-07-99		Increases benefits and creates defined contribution plan. Blessing - STRS	GK	AA 02-09-00	W&M Blessing 10-12-99	10-12-99----02-15-00 Sub; Amend----02-16-00 FI Vo: Y=28 N=0	02-17-00	HRA VanVye n 03-15-00	03-08-00----03-15-00----03-22-00----03-28-00 FI Vo: Y=94 N=0			07-13-2000
209	11-09-99	STRS: 03-23-00	Permits members to purchase credit for certain private school service. Cupp - STRS	AE	D 04-12-00	W&M Blessing 11-10-99	0 Sub----01-11-00----						
270	03-21-00		Increases benefits for members of SERS. Drake - SERS	GK	AA 05-02-00 A 11-29-00	W&M Blessing 03-28-00	04-04-00----05-09-00----05-16-00 Sub----05-23-00 Amend; FI Vo: Y=32 N=1	05-23-00	HRA VanVye n 05-24-00	09-13-00----09-19-00----11-09-00 Sub----11-14-00 Amend----11-29-00 Amend----12-05-00 FI Vo: Y=92 N=0		12-06-2000	04-09-2001
277	03-29-00	PERS: 04-06-00	Increases benefits for members of PERS. Drake - PERS	GK	AA 05-02-00	W&M Blessing 04-04-00	04-11-00----05-09-00----						