



Sub. H.B. 416

123rd General Assembly
(As Passed by the General Assembly)

- Reps.** Ford, Barrett, Boyd, Britton, Evans, Hartnett, Netzley, Opfer, Patton, Sykes, Van Vyven, Schuring, Ogg, Olman, Terwilleger, Smith, Healy, Jones, Gardner, Williams, Flannery, Corbin, Ferderber, Schuler, Sulzer, Distel, Allen, Verich, Wilson, Buehrer, Redfern, Hollister, Hoops, Barnes
- Sens.** Blessing, Drake, Johnson, Herington, Mumper, Prentiss, Carnes, Espy, Latell, Watts, Shoemaker, Horn, Kearns, Schafrath, Gardner, DiDonato, Spada, Hagan, Ray, Cupp

Effective date: *

ACT SUMMARY

- Permits a PERS member with at least 25 years of service as a sheriff, deputy sheriff, or township police officer to retire with full benefits at age 48 or older.
- Specifies that the limits prescribed in federal law for purchases of certain types of service credit apply to service credit purchased for service as an elected or appointed official.
- Eliminates a provision that allows a Public Employees Retirement System (PERS) member making contributions as an elected official to elect to also contribute to PERS on the basis of earnable salary as an employee of a not-for-profit corporation formed for the purpose of owning, managing, and operating a professional sports organization.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

CONTENT AND OPERATION

PERS members who are law enforcement officers

The law governing PERS includes special provisions for members who are law enforcement officers. These provisions apply to such law enforcement officers as sheriffs, township police officers, park district police officers, and others who have completed police officer training.¹ PERS provisions for law enforcement officers differ from those for other PERS members with regard to contribution rates, retirement eligibility, and the formulas used to compute retirement benefits.

Retirement at age 48

(secs. 145.33 and 3309.312)

The act creates a different age eligibility requirement for retirement with full benefits for certain PERS members with 25 years of law enforcement service.

Under prior law, any PERS member with 25 years of service as a law enforcement officer, including credit for military service, was eligible to retire with full benefits at age 52. Any member who attained age 48 or older with 25 years of law enforcement service was permitted to retire prior to age 52, but the retirement benefit was reduced for every year of age under age 52. The reduction ranged from 7% at age 51 to 25% at age 48. Other than those described below, this provision continues for all PERS members with service as a law enforcement officer.

The act permits a member of PERS with at least 25 years of service as a law enforcement officer while serving as a sheriff, deputy sheriff, or township constable or police officer in a township police department or district to retire with full benefits at age 48.

Employee and employer contribution rates for PERS law enforcement

(sec. 145.491)

Under prior law, the PERS Board was authorized to calculate the employee and employer contribution rates for all members contributing toward a benefit for retirement based on law enforcement service separately from contribution rates for other PERS members.

¹ *The provisions do not apply to full-time municipal police officers because they are in the Ohio Police and Fire Pension Fund rather than PERS.*

Employee contribution rate--The act establishes the employee contribution rate for those eligible under the act to retire at age 48 with full benefits at 10.1% of the member's earnable salary. The rate for other members contributing to a benefit based on law enforcement service continues to be set by the Board.²

Employer contribution rate--The act establishes a cap on the contribution rate for employers of PERS members contributing toward a benefit based on law enforcement service. Under the act, the Board may increase the contribution rate for employers of those members to no more than 18.1% of the member's earnable salary.³

Effective date

(Section 4)

The provisions of the act relative to retirement at age 48 and changes in contribution rate will be effective January 1, 2001.

Limits on purchases of additional service credit by elected or appointed officials

(sec. 145.201)

Internal Revenue Code section 415 imposes limits on contributions and benefits relating to retirement plans, such as PERS, that are "qualified plans" under the Code.⁴ The limits apply to mandatory contributions to PERS and to voluntary contributions for purchases of service credit.

Under continuing PERS law, a member who is an elected official or appointed by the Governor with the advice and consent of the Senate to serve full time as a member of a public body is entitled to purchase an additional amount of service credit that does not exceed 35% of the member's service credit as an

² *The employee contribution rate for members contributing toward a benefit for retirement based on law enforcement service, other than service as a sheriff, deputy sheriff, or township constable or police officer, continues to be 9.0%.*

³ *The employer contribution rate for all members contributing toward a benefit for retirement based on law enforcement service continues to be 16.70%.*

⁴ *Retirement plans that are qualified under the Internal Revenue Code are entitled to certain tax advantages, such as (1) members do not pay federal income tax on employer contributions as they are made (tax is imposed when distributions are made) and (2) neither the pension plan nor its members pay tax on the income earned by the plan's assets.*

elected or appointed official. To receive the credit, the member pays (1) into the Employees' Savings Fund an amount determined by multiplying the employee contribution rate in effect at the time of purchase by the member's salary for the period of service on which the purchased credit is based and then multiplying that amount by the number of years of service credit being purchased and (2) into the Employers' Accumulation Fund an amount equal to the amount described in (1). A member may purchase the credit at any time prior to retirement.

The federal Taxpayer Relief Act of 1997 amended federal law to establish limits on the purchase of this type of service credit. Under the Act, no more than five years of service credit can be purchased for "nonqualified service," which includes additional service credit as an elected or appointed official.⁵ In addition, a member must have at least five years of service credit in PERS before the member is eligible to purchase the credit. These limits apply to purchases in years beginning after December 31, 1997, however, the limits do not apply to individuals who become PERS members before January 1, 2001. The act clarifies that the limits prescribed in federal law apply to purchases of additional service credit for service as an elected or appointed official. A few examples are given below.

--Example #1. An elected official with 16 years of service as an elected official who became a PERS member prior to January 1, 2001, is eligible to purchase up to 5.6 years of service credit (35% of 16 years = 5.6 years) at any time prior to retirement. The purchase is unaffected by the federal law.

--Example #2. An elected official with four years of service as an elected official who became a PERS member prior to January 1, 2001, is eligible to purchase up to 1.4 years of service credit (35% of 4 years = 1.4 years) at any time prior to retirement. The purchase is unaffected by the federal law.

--Example #3. An elected official who becomes a PERS member after January 1, 2001, and serves eight years in the House of Representatives is eligible to purchase the additional service credit only after serving five years (as required by the federal law). After five years, the member would be eligible to purchase additional service credit of up to 1.75 years (35% of 5 years = 1.75 years) at any

⁵ *Non-qualified service is any 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) in the military (26 U.S.C.A. 415(n)(3)(C)). According to PERS representatives, the additional service credit that may be purchased by elected or appointed officials is nonqualified service under the federal law (PERS Newsletter March 1998).*

time prior to retirement. After serving eight years, the member would be eligible to purchase up to 2.8 years of service credit (35% of 8 years = 2.8 years), assuming the member made no other purchases of additional service credit.

--**Example #4.** If the elected official in Example #3 also serves eight years in the Senate, the official is eligible to purchase the lesser of 5 years of service credit (the limit imposed by the federal law) or 5.6 years of service credit (35% of 16 years = 5.6 years). The federal law limits the total credit that may be purchased to five years.

Contributions by elected officials as employees of Ohio not-for-profit corporation

(sec. 145.203, repealed)

The act eliminates a provision that allowed an elected official who made contributions to the Public Employees Retirement System (PERS) based on earnable salary as an elected official to elect to also contribute to PERS on the basis of earnable salary as an employee of an Ohio not-for-profit corporation organized to own, manage, and operate a professional sports organization, if the corporation pledged to transfer all receipts in excess of actual and necessary expenses to the board of county commissioners of the county in which the corporation has its principal place of business.

The result of an election described above is that the final average salary of the member equaled the total of the member's earnable salary as an elected official and the member's earnable salary as an employee of the corporation.⁶

Eliminating this provision does not affect any contributions made or service credit earned under the provision prior to the act's effective date.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced Reported, H. Health,	07-27-99	p. 1179

⁶ *There are several ways of calculating a PERS member's service retirement allowance, but in most cases a member's single lifetime allowance is determined by multiplying the member's total service credit by 2.1% of the member's final average salary. Final average salary is the average of the three years of contributing service in which the member's earnable salary was highest.*

Retirement & Aging	10-08-99	p.	1235
Passed House (95-1)	10-13-99	pp.	1263-1264
Reported, S. Ways & Means	05-25-00	p.	1856
Passed Senate (33-0)	05-25-00	pp.	1867-1868
House concurred in Senate amendments	05-25-00	pp.	2173-2175

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