



Sub. H.B. 416

123rd General Assembly
(As Passed by the House)

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

BILL SUMMARY

- 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.
- 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.

CONTENT AND OPERATION

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

(sec. 145.203, repealed)

Under current law, an elected official who is making contributions to the Public Employees Retirement System (PERS) based on earnable salary as an elected official may 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 has 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.

For the purpose of determining the final average salary of a member who is an elected official and makes the election described above, the member's earnable salary for each year subsequent to the date of the election is equal to the total of the member's earnable salary as an elected official and the member's earnable salary as an employee of the corporation (see **COMMENT**).

The bill eliminates this provision, but specifies that eliminating it does not affect any contributions made or service credit earned under the provision prior to the bill's effective date.

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

(sec. 145.201)

Section 415 of the Internal Revenue Code imposes limits on contributions and benefits relating to retirement plans, such as PERS, that are "qualified plans" under the Code.¹ The limits apply to mandatory contributions to PERS and to voluntary contributions for purchases of service credit.

Under current 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 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.² In addition,

¹ *Retirement plans that are qualified under section 401(a) of 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.*

² *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,*

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 bill 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 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.

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).

COMMENT

A member of PERS may be granted service retirement if the member has five years of service credit and is at least age 60, 25 years of service credit and at least age 55, or 30 years of service credit regardless of age. 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.

HISTORY

| ACTION | DATE | JOURNAL ENTRY |
|--|----------|---------------|
| Introduced | 07-27-99 | p. 1179 |
| Reported, H. Health, Retirement & Aging | 10-08-99 | p. 1235 |
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