Bill Analysis

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Legislative Service Commission

Sub. S.B. 144

123rd General Assembly
(As Reported by H. Health, Retirement & Aging)

Sens. **Johnson, Drake, Herington, Hottinger, Ray, Carnes, DiDonato, Spada, Wachtmann, Gardner, Mumper**

Reps. **Van Vyven, Terwilleger, Olman, Willamowski, Ogg, R. Miller, Brading, Barnes, Patton, Smith**

BILL SUMMARY

PERS changes

- Requires the Public Employees Retirement System (PERS) to credit interest on a member's contributions annually, rather than at retirement.
- Requires PERS to pay interest on a member's contributions and, under certain circumstances, an amount from the Employers' Accumulation Fund on the withdrawal of the member's contributions or payment of the contributions to the member's beneficiary.
- Requires a married PERS member who is eligible to retire at the time of applying for a refund of the member's accumulated contributions to obtain the consent of the member's spouse to the refund.
- Changes the interest rate specified in PERS law for purposes of calculating an annuity.

SERS and STRS changes

- Permits the School Employees Retirement System (SERS) and State Teachers Retirement System (STRS) to collect employer contributions from the governing authorities of community schools in the same manner as contributions are collected from school district boards of education.
- Permits an STRS member who resigned due to adoption of a child to purchase up to two years of service credit for the period of the resignation.

- Permits an SERS member who resigned due to pregnancy or adoption of a child to purchase up to two years of service credit for the period of the resignation.

Reemployment of retired public employees

- Makes the amount of time a PERS, STRS, SERS, Ohio Police and Fire Pension Fund (OPFPF), State Highway Patrol Retirement System (SHPRS), or Cincinnati retirement system retirant must wait to avoid a penalty for reemployment in a position covered by PERS, STRS, SERS, or OPFPF the same for all four retirement systems: two months.

- Provides that the penalty ends on the earlier of the date the reemployment that caused the penalty terminates or the date that is two months after the retirant's date of retirement.

- Provides for a penalty imposed on a PERS or STRS retirant before the bill's effective date to be reduced in duration to the amount of time a retirant is subject to such a penalty under the bill.

- Provides that a PERS retirant reemployed in a position covered by PERS is no longer permitted, and certain retired reelected public officials are no longer required, to make an election under which the retirant or official becomes a PERS member but forfeits the pension portion of the retirement allowance for the duration of the reemployment.

- Permits a retired reelected official who was required to make the election resulting in the pension forfeiture to elect whether to remain subject to the forfeiture.

- Repeals law that permits an elected official who continues to contribute to PERS after retiring independently under STRS or SERS to combine, on termination of service as an elected official, the official's PERS service and have the official's allowance and benefits recalculated under law providing for coordination of retirement under PERS, STRS, and SERS.

Retirement from one of two or more positions covered by PERS, SERS, and STRS

- Permits a PERS, STRS, or SERS member who holds more than one position covered by one or more of those retirement systems to retire from the position for which the annual compensation at the time of retirement is highest and remain employed in the other position or positions.

- Provides that the member is not subject to the reemployment penalty for the position in which employment continues.

- Requires the retired member to continue to make employee contributions for each position in which employment continues and the employer to continue to make employer contributions to the retirement system covering the position.

- Provides that on retirement from the continuing position or positions, the member is eligible for a single life annuity for the continuing position.

Sunset review

- Excepts from sunset review the Ohio Public Employees Deferred Compensation Board, the Ohio Retirement Study Council, and the boards of Ohio's state retirement systems.

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CONTENT AND OPERATION

PERS CHANGES

Background

Under current law, a Public Employees Retirement System (PERS) member who leaves public employment prior to retirement may receive a refund of accumulated contributions and any other payments made by the member into the member's individual account if certain conditions are met. If a member dies prior to retirement and survivor benefits are not paid, the member's contributions may be paid to a designated beneficiary or other survivor. Interest is generally not credited to the individual accounts of PERS members prior to retirement, so the amount paid to the member or survivor does not include interest.

Interest is credited to the individual accounts of PERS members at retirement at rates specified in current law.

Refund of contributions

(secs. 145.01, 145.40, and 145.43)

The bill requires the PERS Board to credit interest annually to the individual accounts of members using the rates specified in current law for retirement (see "***Rate***" below). The bill adds to a member's accumulated contributions interest credited to the member's account for contributions on deposit. Therefore, a member or survivor who receives a refund of the member's contributions will receive interest on those contributions. In addition to the interest, the bill provides for the refund to include an additional amount if the member had five or more years of contributing service. The additional amount is to be paid from the Employees' Accumulation Fund (see "***Additional amount***" below).

How interest is earned and credited to individual accounts

(secs. 145.23 and 145.471)

Under the bill, interest is earned beginning on the first day of the calendar year next following the year in which contributions are made and ending on the last day of that year. In the case of an application for retirement or payment to a survivor of a member who dies prior to age and service retirement, interest is earned ending on the last day of the month prior to retirement or payment. The bill requires the Board to credit interest at the end of the calendar year in which it is earned. For example, under the bill, contributions made during 1999 begin earning interest on January 1, 2000. Interest is credited to the individual account on December 31, 2000.[1]

Rate

(secs. 145.01 and 145.473)

Current law provides for rates of interest to be credited at retirement to individual accounts per annum, compounded annually, as follows:

(1) 4% to and including December 31, 1955;

(2) 3% from January 1, 1956, to and including December 31, 1963;

(3) 3.25% from January 1, 1964, to and including December 31, 1969;

(4) 4% from January 1, 1970, thereafter.

The bill provides for these rates to be used in crediting interest annually to individual accounts, except that the rate to be credited on and after the bill's effective date is an amount determined by the PERS Board that is not greater than 6%.

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[1] *A PERS retirant receiving a retirement allowance for less than six months or an other system retirant receiving a retirement allowance for less than two months who is reemployed as a public employee does not earn interest on contributions made during the six-month or two-month period.*

Interest on current deposits

(sec. 145.472)

No later than 30 days after the bill's effective date, the PERS Board is required to credit interest to the individual account of each member as follows:

(1) If the bill takes effect on or before December 31, 2000, interest is calculated on amounts on deposit on December 31, 1998;

(2) If the bill takes effect after December 31, 2000, interest is calculated on amounts on deposit on December 31, 1999.

The bill permits the PERS Board to reflect the compounding of interest for contributors with service credit earned prior to December 31, 1981 by using factors provided by the board's actuary.

Coordination of benefits

(secs. 145.37, 3307.57, and 3309.35)

If, at the time of retirement or payment of a disability benefit, a member of PERS, the State Teachers Retirement System, or the School Employees Retirement System has service credit in one or both of the other systems, current law requires the systems to coordinate the retirement benefit. The retirement system determining and paying the retirement or disability benefit receives from the other system or systems the member's refundable account at retirement or the effective date of a disability benefit, plus an equal amount from the Employers' Contribution Fund.

Under the bill, a portion of the member's refundable account includes interest. The bill specifies that the amount from the Employers' Contribution Fund that the system receives from the other system or systems is an amount equal to the member's refundable account less the interest credited under the bill.[2]

Additional amount

(secs. 145.40, 145.401, and 145.38)

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[2] *Current law authorizes the State Teachers Retirement System (STRS) to pay interest and an amount of the employer contribution on a refund of a member's contributions (Revised Code section 3307.80; not in bill). The bill specifies that the amount paid from the Employers' Contribution Fund does not include the amounts added to a member's refundable account by STRS.*

The bill provides for payment to a member, or survivor, who receives a refund of the member's contributions of an amount in addition to the member's contributions and interest. The additional amount is to be paid from the Employers' Accumulation Fund, a fund to which employer contributions are credited. Under the bill, if a member has, or at the time of death had, at least five years of service credit, the PERS Board must include in the amount payable to the member or survivor the following additional amount:

(1) If the member has, or had at the time of death, at least five years, but less than ten years, of service credit--an amount equal to 33% of the member's eligible contributions.

(2) If the member has, or had at the time of death, at least ten years of service credit--an amount equal to 67% of the member's eligible contributions.

The additional amount is not paid if the member is a reemployed retirant, or in the case of a deceased member, was receiving disability benefits at the time of death.

"Eligible contributions" are amounts contributed as employee contributions, any amounts paid to purchase certain types of service credit, and interest credited to a member's individual account.[3] "Eligible contributions" does not include contributions that were used in the payment of a disability benefit or, as provided in rules adopted by the PERS Board, contributions that were refunded to a member because PERS was not authorized to accept the contributions.

Spousal consent

The bill specifies that a married PERS member who applies for a refund of the member's contributions and, at the time of application, is eligible to retire must submit with the application a written statement by the member's spouse attesting that the spouse consents to the refund. Consent is valid only if it is signed and witnessed by a notary public.

Restoration of credit

(sec. 145.31)

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[3] *Service credit purchased may include credit for (1) service as an elected official, (2) service for time served under the Ohio Police and Fire Pension Fund or the State Highway Patrol Retirement System, (3) service in the uniformed military services that interrupts public service, and (4) service to the state or a local government that occurred prior to establishing PERS membership.*

Under current law, a member or former PERS member may restore service credit for which contributions have been withdrawn by redepositing with PERS the amount withdrawn with interest. The bill specifies that the redeposited amounts be credited as follows:

(1) An amount equal to any additional amount paid from the Employers' Accumulation Fund is credited to that fund.

(2) The remaining amount is credited to the member's account in the Employee's Saving Fund.

Rates of interest used in calculating annuities

(secs. 145.01 and 145.473)

Current law specifies rates of interest that are used to determine the reserve value of an annuity, should a member choose to receive an annuity instead of the retirement benefit based on final average salary and years of service.

The bill changes the rate of interest for annuities calculated after its effective date to an amount determined by the PERS Board based on a recommendation of the Board's actuary.

SERS AND STRS CHANGES

Collection of employer contributions

(secs. 3307.31 and 3309.51)

Under current law, the School Employees Retirement System (SERS) and State Teachers Retirement System (STRS) are authorized to collect employer contributions from school district boards of education by certifying to the Superintendent of Public Instruction the amount due from the individual district. On certification from the secretary of each system's board, the Superintendent deducts from the state payments allocated to each district the amount due to each system.

The bill authorizes SERS and STRS to collect employer contributions from the governing authorities of community schools in the same manner. On certification by the secretary of each system's board, the Superintendent deducts from the state payments allocated to each community school the amount due to each system.

Service credit for resignations due to adoption of a child

(secs. 3307.771 and 3309.473)

Current law

--STRS members. An STRS member who, prior to July 1, 1982, took a leave of absence or resigned due to pregnancy and later returned to employment covered by STRS may purchase up to two years of service credit for the period of leave or resignation. The member is required to submit evidence satisfactory to the STRS Board that the leave or resignation was due to pregnancy. The cost of the credit is determined by multiplying the contribution rate in effect at the time of the resignation or leave by the member's annual compensation for full-time service in Ohio following termination of the resignation or leave. To this amount is added compound interest, at a rate determined by the STRS Board, from the date the resignation or leave terminated to the date of the payment.

--SERS members. For a one-year period that ended on September 9, 1989, SERS members who resigned due to pregnancy and, by the beginning of the third school year after the resignation, returned to employment for at least 12 months were eligible to purchase up to two years of service credit for the period of the resignation. The member was required to submit to the SERS Board satisfactory evidence that the resignation was due to pregnancy. For each year of service credit purchased, the cost of the credit was the sum of the following:

(1) An amount equal to the member's retirement contributions for full-time employment for the first year of service after returning to employment as a contributor to SERS, plus compound interest, at a rate established by the SERS Board, from the date of the member's return to employment to the date of payment;

(2) An amount certified by SERS, to be paid by the member's employer at the time of the resignation, equal to the employer contribution for full-time employment for the member's first year of service after returning to employment as a contributor, plus compound interest, at a rate established by the Board, from the date of the member's return to employment to the date of payment.

The bill

The bill allows an STRS member who resigned due to the adoption of a child to purchase up to two years of service credit for the period of the resignation. For SERS, the bill allows a member who resigned due to pregnancy or adoption of a child to purchase up to two years of service credit. In both instances, the member must submit satisfactory evidence of the reason for the resignation. The cost of the credit is determined, for STRS members, in the same manner as provided in current law and, for SERS members, in the same manner as described above for the one-year period that ended in 1989. An SERS member who purchased service credit during the former one-year period is ineligible to purchase service credit under the bill's provisions for the same absence.

REEMPLOYMENT OF RETIRED PUBLIC EMPLOYEES

Reemployment of retirant

(secs. 145.38, 742.26, 3307.35, and 3309.341; Sections 4, 5, and 6; ancillary sections: 145.37, 3307.57, and 3309.35)

Background

Current law permits a member of a state retirement system to retire and subsequently be reemployed in a position covered by the same or one of the other systems, other than the State Highway Patrol Retirement System (SHPRS).[4] Employee and employer contributions to the retirement system that covers the position in which the member is reemployed must be made during reemployment and, if the reemployment begins before a certain time after the member retires, the retired member is subject to a reemployment penalty consisting of forfeiture of retirement benefits for a certain amount of time. Contributions are made toward a separate annuity paid after reemployment terminates.

Duration of reemployment penalty

Under current law, the duration of a reemployment penalty differs depending on the retirement system and circumstances involved. A PERS retirant employed in a position covered by PERS earlier than six months after retiring suffers forfeiture of the retirement allowance for the period that begins on the date the employment commences and ends on the date that is six months after the date on which retirement commenced. An STRS retirant who returns full time to a teaching position covered by STRS earlier than 18 months after retiring is subject to forfeiture for any month the retirant is so employed during that 18-month period.[5] In all other cases, forfeiture applies when a retirant returns to public employment earlier than two months after retiring. Except in the case of an STRS retirant who returns part time to a teaching position covered by STRS and a retirant of another system who is employed to teach in a position covered by STRS, the retirement benefit is forfeited for the period that begins on the date the reemployment commences and ends on the date that is two months after the date on which retirement commenced. In the case of an STRS retirant who returns part time to a teaching position covered by STRS and a retirant of another system who is employed to teach in a position covered by STRS, the retirement benefit is

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[4] The state retirement systems are PERS, SERS, SHPRS, STRS, and the Ohio Police and Fire Pension Fund.

[5] An STRS retirant returning to teach is considered full time if the retirant teaches more than 85 school days, or the equivalent thereof in fractional service, during a school year.

forfeited for any month the retirant is so employed prior to the expiration of the two-month period.

The bill provides that the amount of time a retirant must wait to avoid a penalty for reemployment in a position covered by a state retirement system is the same for all the retirement systems and circumstances: two months. In addition, the bill provides that the period of forfeiture begins on the date reemployment commences and ends on the earlier of the date the reemployment terminates or the date that is two months after the date on which retirement commenced.[6] This means that a penalty does not have to continue for the full two months if the retirant terminates reemployment before the end of the two-month period.

Under current law, an STRS retirant who returns part time to a teaching position covered by STRS is penalized if the retirant teaches for more than 85 school days, or the equivalent thereof in fractional service, during a school year. The penalty is termination of the pension portion of the retirement benefit for the period the retirant teaches beyond the 85 school-day limit. The 85 school-day limit exists to differentiate between full time and part time teaching for the purpose of the reemployment penalty. Because the bill eliminates the differentiation in the penalty, it also eliminates the penalty for STRS retirants who return to teaching part time but teach more than 85 school days.

The bill provides for a reemployment penalty imposed on a PERS or STRS retirant before the bill's effective date to be reduced in duration to the amount of time a retirant is subject to such a penalty under the bill. This means that if a PERS or STRS retirant is subject to a penalty on the bill's effective date, the penalty ceases on that date if the retirant has been subject to it for two months or longer. If the retirant has not been subject to the penalty for at least two months, the penalty ceases on the earlier of the date the reemployment that caused the penalty terminates or the date that is two months after the date on which the retirement began. The PERS and STRS boards are permitted to adopt rules to implement this provision of the bill.

Reemployed PERS retirant no longer to make election regarding benefits

Under current law, a PERS retirant reemployed in a position covered by PERS must elect to receive either (1) both compensation for the reemployment and his or her retirement allowance or (2) compensation for the reemployment and

[6] *The bill does not change current law that penalizes a PERS retirant who enters into a contract to provide services as an independent contractor to an employer whose employees are covered by PERS.*

have the retirement allowance penalized.[7] The penalty is forfeiture of the pension portion of the retirement allowance and suspension of the annuity portion until the reemployment terminates. The annuity portion accumulates to the retirant's credit and is paid in a single payment after the reemployment terminates. A PERS retirant is required to elect option (2) above (penalized retirement allowance) if the retirant's PERS-covered position was elective office and reemployment is reelection or appointment to that elective office for the remainder of the term, or the term immediately following the term, during which the retirant retired.

Under the bill, a reemployed PERS retirant is no longer permitted or required to make the election resulting with a penalized retirement allowance. An elected official who was required to make that election is given the choice to either remain subject to the election or cease to be subject to the election. If the elected official elects to cease to be subject to the election, all of the following apply:

(1) Any forfeiture or suspension required by the election that exceeds the two-month reemployment penalty ceases on the earlier of the date the employment that caused the forfeiture and suspension terminates or the date that is two months after the date on which the retirement began, but no sooner than the bill's effective date.

(2) The annuity portion of the retirement allowance, which accumulated to the official's credit, is to be paid to the official in a single payment as soon as possible after the official ceases to be subject to the election.

(3) The official is eligible for the benefit that reemployed retirants receive when their reemployment terminates.[8]

The PERS board is permitted to adopt rules to implement this provision of the bill.

<u>Elected official combining service under other retirement systems</u>

(sec. 145.202 (repealed))

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[7] The benefit to electing the option under which the retirement allowance is penalized is that the retirant becomes a new PERS member with all the rights, privileges, and obligations of membership, excluding survivor benefits. A retirant who elects the other option does not become a new PERS member or have the rights, privileges, or obligations of membership.

[8] The benefit consists of a single life annuity having a reserve equal to the amount of the retirant's accumulated contributions for the period of reemployment, other than contributions excluded due to the reemployment penalty.

Under current law, an elected official who continues to contribute to PERS after retiring independently under STRS or SERS may, on termination of service as an elected official, combine the official's PERS service and have the official's allowance and benefits recalculated under law providing for coordination of retirement under PERS, STRS, and SERS. The official is eligible for an adjusted retirement allowance based on total contributions and service credit accrued during all service under PERS and STRS or SERS, or all three systems. The bill eliminates this provision of law.

RETIREMENT FROM ONE OF TWO OR MORE POSITIONS COVERED BY PERS, SERS, OR STRS

Retirement from one of two or more positions

(secs. 145.383, 3307.351, and 3309.343; ancillary sections: 145.01, 3307.53, and 3309.30)

Retirement from highest paying position

The bill permits a PERS, STRS, or SERS member who holds more than one position covered by one or more of those retirement systems to retire from the position that at the time of retirement has the highest annual earnable salary or compensation.[9] Under the bill, the person is not required to retire from the other position or positions at the same time. An example of this situation would be a person who chooses to retire from a full-time position covered by one of the retirement systems and continue part-time employment in a position covered by the same or another retirement system. The part-time position could, but would not have to be, an elective office.

For the purpose of determining whether the person is eligible to retire and, if so, the person's annual retirement allowance, the following are to be used to the date of the retirement: (1) the person's earnable salary and compensation for all positions covered by PERS, STRS, or SERS, (2) total service credit in PERS, STRS, SERS, except that credit may not exceed one year of credit for any period of 12 months, and (3) all contributions, including amounts paid to purchase service credit and amounts paid to restore service credit.[10] The person is to be considered

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[9] *PERS calculates contributions based on "earnable salary." SERS and STRS use "compensation" (secs. 145.01, 3307.01, and 3309.01).*

[10] *Current law provides that, when a PERS, STRS, or SERS member who is also a member of one or both of these other retirement systems retires from the PERS, STRS, or SERS-covered position but not the position or positions covered by the other systems, service credit for any period is to be credited on the basis of the ratio that contributions to PERS, STRS, or SERS bear to total contributions in both or all three systems. (In the case of STRS, this also applies to service credit earned in the Ohio Police and Fire*

a retirant for all purposes of the law governing the retirement system covering the position from which the person retires, except that the person is not subject to a reemployment penalty for the position in which employment continues.[11]

Continued contributions for continuing position

The member is to continue to make employee contributions for the continuing position to the retirement system covering the position. The employer is required to continue to make employer contributions to the retirement system covering the position.

Benefit based on continued contributions

On the member's retirement from the continuing position or death, neither the member nor the member's survivors are eligible for regular retirement or survivor benefits. Instead, the member is eligible for a benefit consisting of a single life annuity having a reserve equal to the sum of the amount of the accumulated employee contributions and an equal amount of the employer's contributions.[12] The bill specifies that if the position is covered by STRS or SERS, interest is also included in determining the amount of the single life annuity. The person must elect either to receive the benefit as a monthly annuity for life or a lump-sum payment discounted to the present value using the current actuarial assumption rate of interest, except that if the annuity would be less than $25 per month, the person is to receive a lump-sum payment. The benefit commences on the later of the first day of the first month following the last day for which the member made employee contributions or the date the member attains age 65. The benefit is not included in determining a cost-of-living allowance or any other post-retirement benefit increase.

If the member dies before receiving the benefit, the benefit in the form of a lump-sum payment is to be paid to the designated beneficiary. If the member chooses to receive the benefit in the form of a monthly annuity but dies before receiving an amount equal to the lump-sum payment that would have been paid

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Pension Fund (OPFPF) or SHPRS.) This does not apply when the member coordinates retirement under both or all three systems. The bill provides that this also does not apply when the member retires in the manner authorized by the bill.

*[11] See "**Reemployment of retired public employees**" above.*

[12] As discussed above, contributions made before the person retired from the highest paying position are used in determining the person's retirement allowance. Only contributions made after the person's retirement from the highest paying position are used in determining the benefit provided after retiring from the continuing position or positions.

had that form of payment been chosen, the designated beneficiary is to be paid the difference between the amount the retired member received and the amount the retired member would have received as a lump-sum payment. A member may designate a beneficiary in the manner current law authorizes a PERS or SERS retirant to designate a beneficiary for the purpose of receiving a benefit provided to a retirant who obtains employment in a position covered by PERS or SERS following retirement. If the member does not designate a beneficiary, the payment is to be paid to the surviving spouse, children, parents, or estate, in that order of precedence. If a beneficiary does not claim the payment within five years, the payment is to be transferred to the Guarantee Fund, or, in the case of a payment to be made by PERS, the Income Fund, and thereafter paid to the beneficiary or the member's estate on application to the retirement system.

Membership in retirement system ceases

A member who begins to receive a benefit following retirement from a continuing position is no longer a member of the retirement system that covered the position and does not have any rights, privileges, or obligations of membership. And, if the former member obtains employment in a position covered by PERS, STRS, SERS, or OPFPF sooner than two months after retirement from the continuing position, the former member is subject to the reemployment penalty.[13]

Rules

The bill permits the PERS, STRS, and SERS boards to adopt rules to carry out this provision of the bill.

EXCEPTIONS TO THE LAW GOVERNING SUNSET REVIEW OF STATE AGENCIES AND BOARDS

Sunset review

(sec. 101.82; sec. 101.84, not in the bill)

Current law provides that a state agency will expire not later than four years after its creation unless the agency is renewed by the passage of a bill that either (1) continues the statutes creating and empowering the agency or (2) amends, enacts, or renews the statutes to improve agency usefulness, performance, or effectiveness (referred to as "sunset review").

With specified exceptions, "agency" means any board, commission, committee, or council, or any other similar state public body that exercises any

[13] *See "**Reemployment of retired public employees**" above.*

function of state government and to which members are appointed or elected. Some exceptions are the General Assembly, the courts, and state boards or commissions that have the authority to issue final adjudicatory orders appealable under the Administrative Procedure Act.

The bill exempts from sunset review the Ohio Public Employees Deferred Compensation Board, the Ohio Retirement Study Council, and the boards of each of Ohio's state retirement systems.

HISTORY

ACTION	DATE	JOURNAL ENTRY	
Introduced	05-19-99	p.	458
Reported, S. Ways & Means	10-20-99	p.	1094
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