Bill Analysis

Maria E. Seaman *Legislative Service Commission*

S.B. 270

123rd General Assembly
(As Introduced)

Sen. Drake

BILL SUMMARY

- Increases the percentages used to calculate a service retirement allowance or disability benefit for members of the School Employees Retirement System (SERS) members who qualify for the allowance or benefit on or after the bill's effective date.

- Modifies the method of calculating benefits paid to qualified survivors of members who die on or after the bill's effective date.

- Requires the SERS Board to recalculate and pay retirement and disability benefits that became effective on or after January 1, 2000 based on the increased percentage used to calculate those benefits and also to make a one-time payment as if the bill had gone into effect on January 1, 2000.

- Requires the SERS Board to recalculate and begin paying any increase in the cost-of-living allowance that became effective on or after January 1, 2000, but before the bill's effective date based on the 3% annual increase provided under the bill and also to make a one-time payment to a person receiving an allowance, pension, or benefit on the bill's effective date who received a cost-of-living allowance between January 1, 2000, and the date of the payment.

- Requires the SERS Board, under certain conditions, to calculate the benefit paid to a surviving spouse of a member who died on or after January 1, 2000, but before the bill's effective date based on the possibility established by the bill for the spouse to receive a greater benefit and to make a one-time payment to a surviving spouse who qualifies for a greater benefit under the bill.

- Increases the SERS reimbursement for coverage under Medicare Part B and provides for a one-time payment retroactive to January 1, 1993 of the difference between the new reimbursement amount and the amount that was reimbursed adjusting for any amount the recipient was eligible to receive due to prior legislation that covers any of the same period.

- Makes other changes to the law governing SERS.

CONTENT AND OPERATION

Changes in service retirement and disability benefits

Current law--calculation of benefits

(secs. 3309.36, 3309.381, 3309.40, and 3309.401)

Service retirement. A member of the School Employees Retirement System (SERS) 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 service retirement allowance, but in most cases an SERS member's annual single lifetime allowance is determined by multiplying the member's total service credit by 2.1% of the member's final average salary for each of the first 30 years and 2.5% for each year in excess of 30 years.[1]

Disability allowances converted to service retirement. Under current law, an SERS member who is receiving a disability allowance may apply to have the allowance converted to a service retirement benefit. The annual benefit is equal to the following amounts:

(1) The greater of a service retirement benefit calculated as described above, excluding years for which the member received a disability allowance, or the product obtained by multiplying the member's total service credit, including the years the member received a disability allowance, by 2.1% of the member's final average salary not exceeding 45% of the member's final average salary.

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[1] *"Total service credit" means credit for service for which a member contributed, plus other types of credit such as free or purchased military credit and purchased credit for public service not covered by SERS.*

"Final average salary" is generally determined by dividing by three the sum of the member's annual compensation for the three highest years of compensation for which the member has made contributions.

(2) An amount equal to the cost-of-living increase the member would have received had the member retired on service retirement.

Disability benefits. SERS members who joined the system prior to July 30, 1992 had a choice to be covered by either the original disability plan (R.C. 3309.40) or the revised disability program (R.C. 3309.401). Those members who joined SERS on or after July 30, 1993 are covered under the revised plan.

--Disability retirement (original plan). An SERS member who qualifies for a disability benefit and has disability coverage under the original plan, is entitled to receive disability retirement consisting of the sum of the following:

(1) An annuity having a reserve equal to the amount of the member's accumulated contributions;

(2) A pension equal to the difference between the member's annuity and an annual amount determined by multiplying the member's total service credit, including years between the date of the member's disability retirement and attaining age 60, assuming continuous service, by the greater of (a) $86 or (b) 2.1% of the member's final average salary.

The amount of disability retirement cannot be less than 30% nor more than 75% of the member's final average salary.

--Disability allowances (revised plan). An SERS member who qualifies for a disability benefit and has disability coverage established after July 30, 1992, is entitled to receive a disability allowance in an amount equal to the greater of (1) 45% of the member's final average salary or (2) the product obtained by multiplying the member's total service credit by 2.1% of final average salary, not exceeding 60% of the member's final average salary.

The bill--increases in service retirement benefits and disability allowances

The bill modifies the formula for calculating service retirement benefits and disability allowances by increasing the percentage of final average salary used in the calculation.

Service retirement. Under the bill, for each of the first 30 years of service the percentage of final average salary is increased to 2.2% (from 2.1%).

Disability allowances and conversions to service retirement. The bill increases to 2.2% (from 2.1%) the percentage of final average salary used in the calculation of a disability retirement or allowance under the original and revised plan and a disability allowance that is converted to a service retirement.

Limit on annual single lifetime allowance

(sec. 3309.36)

Current law limits the annual single lifetime allowance a retirant may receive under service retirement to 90% of the member's final average salary or the limit established under federal law. Under the bill, the limit is 100% of final average salary but the federal limits continue to apply.

Recalculation and one-time payments based on the increase in retirement and disability benefits under the bill

(Section 3)

The SERS Board is required to recalculate retirement and disability benefits that became effective on or after January 1, 2000, but before the bill's effective date. If the recalculated benefit is greater than the recipient's benefit prior to the recalculation, the system must do both of the following:

(1) Pay the recalculated benefit beginning on the first day of the month immediately following the date the Board recalculates the benefit;

(2) Make a one-time payment to the recipient equal to the difference between the benefits paid to the recipient between January 1, 2000, and the date of the payment and the increased benefits that would have been paid to the recipient had the bill gone into effect January 1, 2000.

Cost-of-living allowances

(sec. 3309.374)

A cost-of-living allowance is an annual increase, based on the Consumer Price Index (CPI), in the allowance, pension, or benefit of a recipient of an age and service retirement allowance or disability or survivor benefit. The SERS Board determines annually the average percentage change in the CPI, as prepared by the United States Bureau of Labor Statistics (U.S. City Average for Urban Wage Earners and Clerical Workers: "All Items 1982-84=100"), for the 12-calendar-month period prior to January 1 compared to the next preceding 12-calendar-month period, as reported by the Bureau.

On a determination that in the CPI is an increase, or that the change plus a recipient's accumulation is an increase, the Board is required to increase the recipient's allowance, pension, or benefit by a percentage equal to the percentage increase in the CPI, or to that increase plus the accumulation. Any percentage change in the CPI in any year that is excess of 3% is accumulated and used to determine cost-of-living increases in subsequent years.

Under the bill, SERS is required to annually increase each allowance, pension, or benefit by 3%. In doing so, the bill eliminates the requirement that the Board determine the annual percentage change in the CPI. The bill also eliminates the requirement that any percentage change in the CPI that is in excess of 3% be accumulated and used for future increases.

Recalculation of cost-of-living allowances and one-time payment based on increase under the bill

(Section 4)

The SERS Board is required to recalculate any cost-of-living allowance, as increased under the bill, that became effective on or after January 1, 2000, but before the bill's effective date. If the recalculated increase is greater than a recipient's increase prior to the recalculation, the Board shall do both of the following:

(1) Begin payment of the recalculated increase on the first day of the month immediately following the date the Board recalculates the increase;

(2) Make a one-time payment to each person who meets both of the following criteria:

(a) The person is receiving an allowance, pension, or benefit on the bill's effective date;

(b) The person received a cost of living allowance increase on or after January 1, 2000, but before the bill's effective date.

The payment made under (2) above is to be an amount equal to the difference between the amount the individual received between January 1, 2000, and the date of the payment and the amount the individual would have received had the bill gone into effect on January 1, 2000.

Survivor benefits

(sec. 3309.45)

Under current law, if a deceased member had completed at least one and one-half years of credit for Ohio service, with at least one quarter year of Ohio contributing service credit within the two and one-half years prior to the date of death, or was receiving a disability benefit at the time of death, instead of receiving a return of the member's contribution, the qualified survivors may elect to receive monthly benefits as determined by the following chart.[2]

Number of qualified survivors affecting the benefit	Annual benefit as a Per Cent of the Decedent's Final Average Salary	Or Monthly Benefit shall not be less than
1	25%	$ 96
2	40	186
3	50	236
4	55	236
5 or more	60	236

The bill establishes the possibility of qualified survivors receiving a greater benefit if the deceased member had 20 or more years of service as shown in the following chart:

Years of service	Annual Benefit as a Per Cent of Member's Final Average Salary
20	29%
21	33
22	37
23	41
24	45
25	48
26	51
27	54
28	57
29 or more	60

[2] *An exception is that a qualified spouse is to be paid an amount of not less than $106 per month determined for the first qualifying survivor if the deceased member had ten or more years of Ohio service credit and all other qualified survivors are to share equally in the benefit or remaining portion thereof.*

Under the bill, a monthly survivor benefit is calculated under both charts and the qualified survivors receive the greater amount. If the benefit is paid based on a calculation under the second chart, all qualifying survivors share equally in the benefit, except that if there is a surviving spouse the surviving spouse is to receive an amount of not less than $106 per month determined for the first qualifying survivor under the first chart and the other qualifying survivors are to share equally in the remaining portion of the benefit.

One-time payment to surviving spouse

(Section 6)

Under the bill, if the surviving spouse of a member who died on or after January 1, 2000, but before the bill's effective date is a qualified spouse and has not taken the payment of the member's accumulated account, SERS is to calculate the benefit payable to the surviving spouse as of the bill's effective date and do both of the following:

(1) Begin payment to the surviving spouse on the first day of the month immediately following the date the calculation is made;

(2) Make a one-time payment to the surviving spouse equal to the sum of the monthly benefits that would have been paid to the surviving spouse had the bill gone into effect on January 1, 2000.

Final average salary used for calculating benefit for survivor of a disability benefit recipient

(sec. 3309.45)

The bill provides for an adjustment of a deceased member's final average salary used to determine the monthly benefit payable to qualified survivor of a disability benefit recipient. Under current law, when a disability benefit recipient dies the final average salary used to determine the benefit paid the qualified survivors is the recipient's final average salary at the time the disability benefit began.

Under the bill, the final average salary used in the calculation of a benefit payable to a qualified survivor of a disability benefit recipient is to be adjusted for each year between the disability benefit's effective date and the recipient's date of death by the lesser of 3% or the actual average percentage increase in the Consumer Price Index.

Other changes

Qualified spouse

(sec. 3309.45 (B)(3)(a))

Under current law, for purposes of eligibility for survivor benefits a surviving spouse of a deceased member is a qualified spouse if the surviving spouse is age 62, age 50 if the deceased member had ten or more years of Ohio service credit, or regardless of age if caring for a surviving child or adjudged physically or mentally incompetent.

The bill removes the age requirement for a surviving spouse to be a qualified spouse if the deceased member had ten or more years of Ohio service credit.

Qualified child

(sec. 3309.45 (B)(3)(b))

Under current law, a "qualified child" for the purpose of qualifying for a survivor benefit when an SERS member dies is any unmarried child under age 18, under age 22 if attending an institution of learning or training pursuant to a program designed to complete in each school year the equivalent of at least two-thirds of the institution's full-time curriculum requirements, or regardless of age if adjudged physically or mentally incompetent.

Under the bill to be a qualified child, a child must never have been married. In addition, under the bill a child adjudged physically or mentally incompetent is a qualified child only if the incompetence existed prior to the member's death and prior to the child attaining age 18 (or age 22 if attending an educational institution described above).

Medicare Part B

(sec. 3309.69; Section 5)

The SERS Board makes a monthly payment to each recipient of a service retirement allowance, or a disability or survivor benefit, who has health care coverage under Medicare Part B.[3] The payment reimburses part of the amount the

[3] *Medicare has two parts: Part A, the hospital portion of the coverage, and Part B, which covers medical services, including doctors' services. Person eligible for Social Security benefits receive Medicare Part A without charge. SERS is required to provide equivalent coverage without charge to retirants and other benefit recipients who are eligible for Part A.*

recipient pays the federal government for the coverage. Under current law, the reimbursement is equal to the amount of the basic premium in effect on January 1, 1992.

The bill makes the payment equal to the amount of the basic premium in effect on January 1, 1999.

For persons who are recipients of service retirement or a disability or survivor benefit from SERS on the act's effective date the act provides for a one-time payment by SERS. The payment is an amount equal to the sum of the differences between each monthly payment the recipient was eligible to receive during the period commencing on January 1, 1993, and ending on the bill's effective date and the amount of the monthly payment authorized by the act. SERS is to subtract from the one-time payment any amount the recipient was eligible to receive under Section 3 of Am. Sub. H.B. 673 of the 122nd General Assembly.[4]

Legal entities authorized to act on behalf of the SERS Board

(secs. 3309.03 and 3309.15)

Under current law, to facilitate investment of funds, the SERS board may establish a partnership, trust, limited liability company, corporation including a corporation exempt from taxation under federal law, or any other legal entity authorized to transact business in this state. The board may also authorize a nominee to facilitate ownership and transfer of investments. Under the bill, the legal entities established by the SERS board are not limited to facilitating the investment of funds. Likewise, board nominees may be authorized under the bill to transact business, invest funds, draw warrants for money, make payments, and hold property on behalf of the board.

Excess benefit arrangement

(sec. 3309.3712)

The bill includes a provision allowing SERS to establish an excess benefit arrangement under which contributions that exceed federal limits for retirement plans like that operated by SERS can be paid into a separate trust. The same

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[4] *Am. Sub. H.B. 673 of the 122nd General Assembly increased the reimbursement rate for Medicare Part B to the amount of the basic premium in effect on January 1, 1992 (from that in effect on January 1, 1988). Section 3 provided for a one-time payment similar to that described above. The one-time payment provided under the bill is in addition to that received under H.B. 673.*

provision was enacted by Sub. S.B. 190 of this General Assembly and, therefore, can be removed from this bill unless the Governor vetoes S.B. 190.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-21-00	p. 1482

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