



Sub. H.B. 244

124th General Assembly
(As Passed by the General Assembly)

Reps. Niehaus, Carey, Cates, Clancy, Seitz, Brinkman, Gilb, Evans, Grendell, Setzer, Schaffer, Flowers, Carmichael, Lendrum, Schuring, Schmidt, Reinhard, Willamowski, Metzger, Hagan, Sullivan, Allen, Sulzer, Britton, Carano, Coates, Hollister, Rhine, Kearns, Core, G. Smith, Latta, Goodman, Buehrer, Flannery, Reidelbach, Otterman, Olman, Hughes, Barrett, Metelsky, Hoops, Barnes, Schneider, Salerno, Fessler

Sens. Blessing, Mead, Spada, Amstutz, DiDonato, McLin, Robert Gardner, Shoemaker

Effective date: *

ACT SUMMARY

- Changes the requirements for submitting certain contributions and reports to the Ohio Police and Fire Pension Fund (OP&F) and penalties assessed against employers for failure to meet reporting deadlines.
- Reduces existing penalties accrued against employers for failing to submit timely reports or contributions if the employer has submitted the reports by the act's effective date and pays the reduced penalty by June 1, 2002.
- Provides for employers who paid penalties under prior law to receive a partial refund or an equivalent credit towards other amounts owed OP&F.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

CONTENT AND OPERATION

Overview

The laws governing the Ohio Police and Fire Pension Fund (OP&F) require employers of OP&F members to submit certain payments and reports at specified intervals. An employer that fails to do any of the following is subject to a penalty: (1) transmit employee contributions and accompanying reports to OP&F monthly, (2) transmit employer contributions quarterly, (3) submit a copy of the report of the physical examination of a newly hired employee not later than 30 days after the employee becomes an OP&F member or for any other member not later than 28 days after a request from OP&F, or (4) submit a form containing information for calculation of a member's pension not later than 90 days after OP&F sends the form to the employer. A rule adopted by OP&F requires employers to also transmit to OP&F amounts deducted from payrolls for purchases of service credit (Ohio Administrative Code 742-5-08).¹

Employee and employer contributions

(secs. 742.32, 742.35, 742.352, and 742.56)

Deadlines

Each OP&F member contributes 10% of the member's salary to OP&F as the employee contribution. The employer is responsible for deducting employee contributions from members' salaries and transmitting them to OP&F monthly with an accompanying report of contributions (R.C. 742.32). Amounts deducted for the purchase of service credit by a member must be reported and included with employee contributions (R.C. 742.56). The employer is also required to make employer contributions. These must be transmitted to OP&F quarterly (R.C. 742.35). A penalty is assessed when the reports or payments are not transmitted within a specified number of days after the last day of the reporting period. OP&F may charge interest on unpaid amounts (R.C. 742.352).

If an employer fails to make deductions from an employee's salary or to pay the employer contribution, OP&F can certify the amount due to the county auditor for payment from any funds held by the county treasurer for distribution to the employer.

¹ *OP&F members may purchase service credit by payroll deduction for several types of service other than service as an OP&F member, including military service.*

The act modifies the reporting requirements and deadlines for transmitting contributions and deductions and changes the late payment penalties. It requires that the report of employee contributions be in a form specified by OP&F and include the name of each member who contributed and the portion of the amount transmitted attributable to that member. A penalty is to be assessed if the report, in the required form, is transmitted after the last day of the month following the last day of the reporting period. As under prior law, the penalty is to be added to and collected on the next succeeding regular employer billing. Under the act, if the penalty is not paid 60 days (rather than three months as under prior law) after it is added to the employer billing, interest is charged. Unlike prior law, interest is charged on both the amount due and the penalty, rather than only on the penalty.

The act establishes requirements for transmitting and reporting amounts deducted from a member's salary for purchase of service credit that are similar to those for employee contributions. The employer must transmit the amounts deducted on or before the last day of the month following the last day of the reporting period during which the deductions are made. The deductions must be accompanied by a report, in the form required by OP&F, and include the name of each member for whom deductions were made and the deduction attributable to the member. A penalty is to be assessed if the employer fails to transmit the deductions or report on or before the date that is 30 days after the last day of the reporting period. As with unpaid employee contributions, the amount of deductions not transmitted to OP&F can be certified to the county auditor for payment from funds due the employer.

Continuing law requires an employer to transmit quarterly installments to OP&F. Under the act, if an employer fails to make a payment on or before the date that is 60 days after the last day of the calendar quarter, a penalty is to be assessed and, as under continuing law, interest may be charged.

Penalties

The act authorizes the OP&F Board to adopt rules to do all the following concerning penalties for failure to meet the deadlines for transmitting contributions, deductions, and reports:

- (1) Establish penalty amounts, not exceeding those specified in the act;
- (2) Establish standards to determine whether an employer has submitted a report in the form required by the Board;
- (3) Lengthen the periods of time for compliance with the reporting requirements.

If the Board does not adopt rules specifying lesser penalty amounts, the penalties are the amounts show in the following table.

LATE CONTRIBUTION PENALTIES	
<i>Days Past Deadline</i>	<i>Penalty Amount</i>
1 – 10	\$100
11 – 30	The greater of \$1,000 or 1% of payment
31 – 180	The greater of \$3,000 or 2% of payment
181 – 210	The greater of \$7,500 or 5% of payment
211 or more	The greater of \$7,500 or the total of 5% of payment plus \$50 for each day beyond 210

Reports of employment physical examinations and pension-related information

(secs. 742.351, 742.353, and 742.38)

Deadlines

Continuing law requires an employer to notify OP&F of a member's intent to retire. OP&F must send the employer a form for reporting the member's termination date and information to be used to calculate and pay the pension. The employer must complete the form and return it to OP&F within 60 days. If the employer fails to return the form within that time, OP&F must send a certified notice that the form must be submitted within 30 days. A penalty of \$100 per day accrues against an employer who fails to submit the form within 30 days after the end of the initial 60-day period.

Continuing law also requires employers to forward to OP&F copies of reports of physical examination of new employees who become OP&F members. For those hired since OP&F established standards for physical examinations, the report must be forwarded not later than 30 days after the employee becomes a member. For other members, the employer must forward the report, or a statement that a report is not available, not later than 28 days after receiving a request from OP&F. The penalty for failure to submit the report or statement within the required time period is a fine of \$100 per day. The amount of an unpaid penalty can be certified to the county auditor for payment from funds due the employer.

Penalties

Like provisions concerning overdue contributions and reports, the act authorizes the OP&F Board to adopt rules governing the penalties for late

submission of physical examination and retirement reports. The rules may establish penalty amounts, standards for determining whether reports are in a form acceptable to the Board, and lengthen deadlines for submitting reports. If the Board does not establish lower penalties, the penalties for late submission of physical examination and retirement reports are as shown in the following table.

LATE REPORT PENALTIES	
<i>Days Past Deadline</i>	<i>Penalty Amount</i>
1 – 10	\$100
11 – 30	\$1,000
31 – 180	\$3,000
181 – 210	\$7,500
211 or more	\$7,500, plus \$3.37 for each day beyond 210

Reduction of penalties

(Section 3)

Amount and conditions

The act requires the OP&F Board to reduce some of the penalties incurred before its effective date for failing to meet deadlines for transmitting employee and employer contributions and reports, and copies of reports of employee physical examinations.

The Board is to reduce by 50% a penalty incurred between January 1, 2000, and the act's effective date for failing to meet a deadline for employee or employer contributions and reports if both of the following occur:

- (1) The Board receives the payment and report in the form required by its rules not later than the date that is six months after the date the report and payments were due;
- (2) The employer pays the reduced penalty by June 1, 2002.

A fine incurred for failure to submit the report of the physical examination of an employee who became or becomes a member after the effective date of standards the Board has established for physical examinations is to be reduced by 90% if both of the following occur:

- (1) The Board has received the report prior to the act's effective date;



(2) The employer pays the reduced fine by June 1, 2002.

If an employer fails to pay all amounts due or to file all required reports by June 1, 2002, the Board is to reinstate the original amount of the fine or penalty. If that amount is not paid, OP&F is to certify it to the county auditor for payment from funds in the county treasury to be distributed to the employer.

The act provides that provisions of continuing law requiring the Attorney General to take action to collect money owed the state do not apply to the fine and penalty reductions required by the act.

Refund or offset

Under the act, if an employer has paid the full amount of a fine or penalty that could have been reduced, the Board must either refund the amount of the reduction or use the amount to reduce any outstanding amounts the employer owes OP&F.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-03-01	p. 403
Reported, H. Retirement and Aging	06-13-01	p. 657
Passed House (99-0)	06-19-01	pp. 669-670
Reported, S. Ways & Means	09-27-01	p. 911
Passed Senate (31-0)	10-02-01	pp. 924-925
House concurred in Senate amendments (97-0)	10-10-01	p. 894

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