



Am. Sub. H.B. 84

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

Reps. Schmidt, Schuring, Schneider, Ogg, Barrett, Flowers, Driehaus, Peterson, Niehaus, Carmichael, Carano, Schaffer, Setzer, Metzger, Boccieri, Fessler, Grendell, Rhine, Webster, Krupinski, Clancy, Trakas, Jolivet, Blasdel, Cates, Reidelbach, Hughes, Sulzer, Hoops, Allen, Flannery, Collier, Beatty, G. Smith, Goodman, Latta, Hagan, Kearns, Patton, Wilson, D. Miller, Salerno, Stapleton, Womer Benjamin, R. Miller, Britton, Damschroder, Otterman, Lendrum, Sferra, Ford, Latell, Gilb, DePiero, Hartnett

Sens. Blessing, Furney, Brady, Espy, Johnson, Harris, Oelslager, Austria, Carnes, Hagan, Mumper, DiDonato, Wachtmann, Spada, Jacobson, Jordan, Prentiss

Effective date: *

ACT SUMMARY

Public Employees Retirement System

- Prevents, under certain circumstances, a Public Employees Retirement System member who retires as an elective official and returns to the same office from receiving both the pension portion of the official's retirement allowance and a salary for the office.
- Repeals a provision that allows elective officials who previously forfeited the pension portion of the retirement allowance to elect to cease to be subject to the forfeiture.

Alternative retirement plans for certain higher education employees

- Subjects employee contributions to a higher education alternative retirement plan to certain local taxes.

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

- Declares an emergency.

CONTENT AND OPERATION

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Reemployed elected officials subject to forfeiture of retirement allowance

(sec. 145.38)

Continuing law

Ohio 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.¹ If the reemployment begins less than two months after retirement, the retired member is subject to a reemployment penalty consisting of forfeiture of the member's retirement allowance for any month the member is reemployed during the two-month period.

Prior to the enactment of Am. Sub. S.B. 144 of the 123rd General Assembly (effective September 14, 2000), a PERS retirant reemployed in a position covered by PERS was required, regardless of when the retirant returned to reemployment, to elect to receive either (1) both compensation for the reemployment and the retirement allowance or (2) compensation for the reemployment and have the retirement allowance penalized.² The penalty was forfeiture of the pension portion of the retirement allowance and suspension of the annuity portion of the allowance until the reemployment terminated.³ The annuity portion accumulated to the retirant's credit and was paid in a single payment after the reemployment terminated. A PERS retirant was required to elect option (2) (penalized retirement allowance) if the retirant's PERS-covered position was an

¹ *The state retirement systems are the Public Employees Retirement System (PERS), Ohio Police and Fire Pension Fund, School Employees Retirement System, State Teachers Retirement System, and State Highway Patrol Retirement System.*

² *A reemployed retirant who elected the option under which the retirement allowance was penalized became a new PERS member with all the rights, privileges, and obligations of membership, except survivor benefits. A retirant who elected the other option did not become a new PERS member or have the rights, privileges, or obligations of membership.*

³ *The pension portion of a retirement allowance is the portion derived from employer contributions. The annuity portion is the portion derived from employee contributions. (Revised Code section 145.01, not in the act).*

elective office and reemployment was 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.

S.B. 144 amended this provision so that reemployed PERS retirants (including elected officials) were no longer permitted or required to make the election resulting in a penalized retirement allowance.

The act

The act reinstates, for most elected officials, the law as it was in effect prior to S.B. 144. Under the act, a PERS retirant who, at the time of retirement, held elective office in Ohio or a political subdivision of Ohio and is elected or appointed to the same office for the remainder of the term, or the term immediately following the term, during which the retirement occurred will receive compensation for the reemployment and have the retirement allowance penalized, unless one of the exceptions described below applies.⁴ The penalty is forfeiture of the pension portion of the retirement allowance and suspension of the annuity portion of the allowance until the reemployment terminates. The annuity portion will accumulate to the retirant's credit and will be paid in a single payment after the reemployment terminates. The retirement allowance resumes on the first day of the first month after reemployment terminates.

The penalty does not apply to any of the following:

(1) A retirant elected to office who, at the time of election for the current term, was not retired but, not less than 90 days before the election for that term, filed a written declaration of intent to retire before the end of the term with the board of elections of the county in which petitions for nomination or election to the office were filed;

(2) A retirant elected to office who, at the time of the election for the current term, had been retired for not less than 90 days;

(3) A retirant appointed to office who, at the time of appointment to the current term, notified the person or entity making the appointment that the retirant was already retired or intended to retire before the end of the term.

⁴ *The two-month reemployment penalty for members of all the state retirement systems who return to public employment is unchanged by the act.*

Election by elected officials to cease forfeiture

(Section 3)

The act eliminates a provision of S.B. 144 allowing an elected official who was subject to forfeiture of the pension portion of the official's retirement allowance to elect to have the forfeiture cease.

**HIGHER EDUCATION EMPLOYEE
ALTERNATIVE RETIREMENT PLANS**

Background

Continuing law provides for an alternative retirement program for certain academic and administrative employees of public institutions of higher education. Each alternative retirement plan (ARP) offered under the program must be a defined contribution plan that provides retirement and death benefits through the purchase of annuity contracts or certificates.

Employee contributions to ARPs

(sec. 3305.08)

Under prior law, any payment, benefit, or other right accruing to an ARP participant under a contract entered into for purposes of the ARP selected by the participant, any contributions to a provider for purposes of funding the participant's ARP, and all moneys, investments, and income of those contracts are exempt from all county, municipal, or other local taxes, except school district income taxes.

Under the act, employee contributions to a provider for purposes of funding a participant's ARP are no longer exempted from county, municipal, or other local taxes. This is consistent with the law governing Ohio's state retirement systems under which employee contributions are subject to local income taxes.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-08-01	p. 151
Reported, H. Retirement & Aging	04-05-01	pp. 295-296
Passed House (90-5)	04-24-01	pp. 307-308
Reported, S. Ways & Means	06-13-01	p. 656



Passed Senate (33-0)	06-19-01	pp.	671-673
House concurred in Senate amendments (74-25)	06-20-01	pp.	681-683

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