CORRECTED VERSION

Bill Analysis

Deborah B. McCarthy *Legislative Service Commission*

Sub. H.B. 84

124th General Assembly
(As Reported by H. Retirement and Aging)

Reps. Schmidt, Schuring, Schneider, Ogg, Barrett, Flowers

BILL SUMMARY

Public Employees Retirement System

- Prohibits, under certain circumstances, a Public Employees Retirement System member who retires as an elected official and returns to employment as an elected official in 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 elected 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.

- Declares an emergency.

CONTENT AND OPERATION

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Reemployed elected officials subject to forfeiture of retirement allowance

(sec. 145.38)

Current law

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.[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 who was 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 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) are no longer permitted or required to make the election resulting in a penalized retirement allowance. The result is that, under current law, once two months has elapsed since the date of retirement, a PERS retirant receives both the retirement allowance and compensation for the reemployment.

The bill

The bill reinstates, for elected officials, the law as it was in effect prior to S.B. 144. Under the bill, a PERS retirant who, at the time of retirement, held

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[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] The benefit of electing the option under which the retirement allowance was penalized was that the retirant became a new PERS member with all the rights, privileges, and obligations of membership, excluding 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 bill).

elective office in Ohio or a political subdivision of Ohio and was 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.[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 official's retirement allowance resumes on the first day of the first month after reemployment terminates.

<u>Election by elected officials to cease forfeiture</u>

(Section 3)

The bill eliminates a provision of S.B. 144 that allows an elected official who is currently subject to forfeiture of the pension portion of the official's retirement allowance to elect to have the forfeiture cease. Under that provision, if an elected official elects to have the forfeiture cease, all of the following apply:

(1) Any forfeiture of the official's retirement allowance that exceeds the two-month reemployment penalty ceases on the earlier of the date the employment that caused the forfeiture terminates or the date that is two months after the date on which the retirement began, but no earlier than September 14, 2000.

(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 elects to have the forfeiture of the pension portion of the retirement allowance cease.

(3) The official is eligible for the benefit that reemployed retirants receive when their reemployment terminates (see **COMMENT**).[5]

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

[5] *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 two-month reemployment penalty, and an equal amount of employer contributions.*

ALTERNATIVE RETIREMENT PLANS
FOR CERTAIN HIGHER EDUCATION EMPLOYEES

Background

Current 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, fixed or variable in nature, or a combination thereof.

Employee contributions to ARPs

(sec. 3305.08)

Under current 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 bill, 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.

COMMENT

Sub. H.B. 535 of the 123rd General Assembly, effective April 1, 2001, amends the provision of S.B. 144 allowing an election to have a pension forfeiture cease. The amended provision requires that an elected official make the election to have the forfeiture cease not later than 90 days after April 1, 2000. An elected official who fails to make an election continues to be subject to the forfeiture.

H.B. 535 specifies that any contributions made during the period of forfeiture by an official who makes the election must be left on deposit with PERS. An official may choose to have those contributions used either in the calculation of a supplemental retirement allowance or a benefit consisting of a single life annuity. The single life annuity would have a reserve equal to the official's contributions for the period of reemployment and an equal amount of employer contributions.

HISTORY

ACTION	DATE	JOURNAL ENTRY	
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