



S.B. 238

124th General Assembly
(As Introduced)

Sen. Hagan

BILL SUMMARY

- Reduces the retirement allowance or other benefit payable to a state retirement system contributor or alternative retirement plan participant on a conviction of, or plea of guilty or no contest to, the offense of bribery.

CONTENT AND OPERATION

Notification of bribery charges by prosecutor

(sec. 2921.021)

The bill provides that if bribery charges are filed against a person who has contributions standing to the person's credit in a public retirement program, the prosecutor must notify the appropriate retirement program of the charges in writing.¹ "Public retirement program" means all of the five state retirement systems--Public Employees Retirement System (PERS), State Teachers Retirement System (STRS), School Employees Retirement System (SERS), Ohio Police and Fire Pension Fund (OP&F), and State Highway Patrol Retirement System (SHPRS)--and providers of alternative retirement plans for faculty and administrators employed by institutions of higher education.

¹ *The bill is concerned with bribery of persons who are public servants or party officials. "Public servant" is defined as (1) any public official, including any elected or appointed officer, employee, or agent of the state or any political subdivision, (2) any person performing ad hoc government functions, including a juror, member of a temporary commission, master, arbitrator, advisor, or consultant, or (3) a person who is a candidate for public office. Revised Code § 2921.01(B). "Party official" is defined as any person who holds an elected or appointed post in a political party in the United States or Ohio. R.C. 2921.01(C).*

The prosecutor's notice must specifically identify the person charged and include a copy of the complaint, bill of information, indictment, or other document that describes the alleged facts on which the charges are based. The prosecutor must further notify the appropriate retirement program of any conviction, plea of guilty or no contest, finding by a court of eligibility for intervention in lieu of conviction of bribery, dismissal of charges, acquittal, or a finding of not guilty.

Holding of funds on notice of charge

(secs. 145.572, 742.463, 3305.11, 3307.372, 3309.672, and 5505.262)

The bill provides that a public retirement program that receives notice of bribery charges against a person who has contributions on deposit with it must not take action on an application for any of the following: (1) a refund of accumulated contributions on termination of employment, (2) a retirement pension or disability benefit, or (3) if the person has been a reemployed retirant, payment of an annuity or a lump sum.

Reduction of refund or benefits on bribery conviction

(secs. 145.572, 742.463, 3305.11, 3307.372, 3309.672, and 5505.262)

The bill provides that when a public retirement program receives notice that a person has been convicted of bribery or has pled guilty or no contest to bribery, the retirement program must reduce certain refunds and benefits by 50%. Depending on the retirement program, the refunds and benefits subject to reduction may include (1) a refund of accumulated contributions on termination of employment, (2) a retirement pension or disability benefit, or (3) payment of an annuity or lump sum to a retirant who was reemployed. In certain cases, a person subject to a reduction may receive all of the amounts the person contributed to the retirement program as employee contributions.

Refund of accumulated contributions

The bill requires a 50% reduction of any PERS or STRS refund of accumulated contributions to a person convicted of bribery. However, the person must be paid no less than the total of the amounts contributed to the program as employee contributions and any amounts paid to purchase service credit.² The

² To illustrate, suppose that a PERS member who has been convicted of bribery is leaving state employment and seeks a refund of accumulated contributions. The member has a total of \$20,000 in accumulated contributions, \$15,000 of which is employee contributions. If the \$20,000 total were reduced by 50%, the member would receive a \$10,000 refund. However, since the member cannot be paid less than the total of employee contributions, the member will get a refund of \$15,000.

reduction of a refund of accumulated contributions applies to PERS and STRS because those systems have an enhanced refund. In addition to employee contributions, the enhanced refund includes interest and, if the member has sufficient service, an amount from the fund to which employer contributions are credited.

Payment of a pension or disability benefit

The bill requires a 50% reduction of any payment of a retirement pension or disability benefit made by a state retirement system to a person convicted of bribery. However, if the pension or disability benefit comes from a defined contribution plan, the person will receive the employee contributions made to that plan.³ STRS gives new members the option of contributing to a defined contribution plan. PERS and SERS are in the process of developing defined contribution plans.

Under an alternative retirement plan for faculty and administrators of institutions of higher education, a person convicted of bribery will also have a retirement pension or disability benefit reduced by 50%. However, the person must be paid no less than the total of the amounts contributed to the program as employee contributions.

Payment of benefits to a reemployed retirant

The bill requires a 50% reduction of any payment of an annuity or lump sum by PERS, STRS, SERS, or OP&F to a retirant who was reemployed.⁴ However, the person must be paid no less than the total of the amounts contributed to the program as a reemployed retirant.

Survivor benefits not affected

(secs. 145.572, 742.463, 3305.11, 3307.372, 3309.672, and 5505.262)

The reductions required by the bill do not apply to a benefit or other amount payable to a survivor or designated beneficiary of a person who is subject to the reduction.

³ *A defined contribution plan is one in which benefits are based on contributions and investment earnings from contributions. The current PERS and SERS plans and the traditional STRS plan are sometimes referred to as "defined benefit plans," because in most cases benefits are based on a formula that uses age, length of service, and salary to determine benefits.*

⁴ *SHPRS does not have reemployed retirants.*

Effect of dismissal of bribery charges or acquittal

(secs. 145.572, 742.463, 3305.11, 3307.372, 3309.672, and 5505.262)

If a person charged with bribery is acquitted or has the charges dismissed, a public retirement program that has delayed action on an application for a refund or benefit must take action on the application.

Refund of reduction upon dismissal of charges or acquittal

(secs. 145.572, 742.463, 3305.11, 3307.372, 3309.672, and 5505.262)

If a public retirement program reduces a convicted person's retirement benefit and the conviction is overturned on appeal, the person may file a petition with the retirement program to rescind the reduction. The person must include the appropriate court documents with the petition. On receipt of the petition and court documents, the retirement program must rescind the reduction and make a one-time payment of the amounts the person would have received had the retirement program not made the reduction.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-19-02	p. 1478

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