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Final Analysis
Legislative Service Commission

Am. Sub. H.B. 449
125th General Assembly
(As Passed by the General Assembly)

Reps. Seitz, Calvert, Collier, Carano, Aslanides, Webster, Setzer, Buehrer, Clancy, D. Evans, McGregor, Schneider, Gibbs, Slaby, Allen, Reidelbach, Schmidt, T. Patton, G. Smith, Hughes, J. Stewart, Barrett, Beatty, Book, Brown, Chandler, Core, DeBose, Domenick, C. Evans, Flowers, Gilb, Hagan, Hollister, Key, Latta, Martin, Niehaus, Olman, Otterman, Perry, Price, Raussen, Schlichter, S. Smith, Strahorn, Widener, Willamowski, Wilson

Sens. Wachtmann, Blessing

Effective date: *

ACT SUMMARY

- Permits a state retirement system retirant who is re-employed in a position covered by the Public Employees Retirement System (PERS), Ohio Police and Fire Pension Fund (OP&F), State Teachers Retirement System (STRS), or School Employees Retirement System (SERS) to elect to receive payment of the retirant's contributions for the period of re-employment in lieu of a benefit for that period.
- Permits the survivor benefit annuity for PERS re-employed retirants to equal the actuarial equivalent of the retirant's single lifetime annuity for the retirant's life.
- Permits PERS re-employed retirants to delay the commencement of the benefit to a date specified by the retirant.
- Authorizes OP&F re-employed retirants to elect survivor benefits in a manner similar to PERS re-employed retirants.

* *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.*

- Requires the benefit for a married retirant's period of re-employment under PERS or OP&F to include a survivor benefit, unless the retirant obtains spousal consent to another form of payment or to a payment of contributions.
- For PERS, STRS, and SERS re-employed retirants receiving an annuity, changes the portion paid from employer's contributions to an amount determined by the applicable retirement board and for STRS and SERS changes the interest rate that the accumulated contributions earn to a rate determined by that retirement board.
- Provides that, if a person receiving a benefit under PERS or OP&F as the beneficiary of a re-employed retirant dies before the total of the amounts paid to the retirant and beneficiary equal or exceed the amount the retirant would have received as a lump sum payment, the difference between that total and the lump sum must be paid to the beneficiary's estate.
- Changes the criteria under which a re-employed retirant's beneficiary receives a lump sum payment under the STRS and SERS re-employed retirant law from the retirant dying while re-employed to the retirant dying before receiving a benefit or a return of contributions and changes the method by which the lump sum is calculated.

CONTENT AND OPERATION

A retirant (retired member) of one of the five state retirement systems who is re-employed in a position covered by the Public Employees Retirement System (PERS), Ohio Police and Fire Pension Fund (OP&F), State Teachers Retirement System (STRS), or School Employees Retirement System (SERS) must make contributions and is eligible to receive a benefit for the period of re-employment.¹ Under prior law, the benefit consisted of an annuity equal to the retirant's accumulated contributions for the period of re-employment and an equal amount

¹ *The act addresses employment of retirants by PERS, OP&F, STRS, and SERS, but not the State Highway Patrol Retirement System (SHPRS). An individual seeking employment as a highway patrol officer must undergo a training course--for which enrollment is limited to those between the ages of 21 and 34. Retired public employees cannot meet this qualification.*

from the employer's contributions.² The benefit may be paid as a lump sum or a monthly annuity. The act permits a re-employed retiree to elect a return of the retiree's contributions in lieu of a benefit and makes other changes to the laws governing the benefit.

Return of contributions

(R.C. 145.384(B)(1) and (H), 145.385, 742.26(F)(1) and (H), 3307.352(B), and 3309.344(B))

The act permits a retiree re-employed in a PERS, OP&F, STRS, or SERS position to elect to receive payment of the retiree's contributions for the period of re-employment in lieu of a benefit if the following conditions are met:

(1) The retiree is unmarried or is married and includes with the election application a written statement of the spouse's consent to the payment in lieu of a benefit (PERS and OP&F only).³

(2) The retiree has not reached age 65 (or age 60 for OP&F retirees).

(3) The retiree has terminated re-employment for any cause other than death (PERS, OP&F, STRS, and SERS) or the receipt of a benefit for re-employment (PERS and OP&F only).

(4) Three months have elapsed since the retiree terminated re-employment (PERS and OP&F only).

(5) The retiree has not returned to public service, other than certain service exempted from contribution to PERS, during that three-month period (PERS and OP&F only).

(6) If the retiree received a return of contributions from STRS for a previous period of re-employment, 12 months have passed since the date STRS returned the contributions (STRS only).

(7) If the retiree received a return of contributions from SERS for a previous period of re-employment, 12 months have passed since the date SERS returned the contributions (SERS only).

² *If the retiree commenced employment as a re-employed retiree less than two months after retiring, the benefit does not include the retiree's contributions made during the first two months after retiring.*

³ See "**Spousal consent**," below for further explanation.

Interest paid on the returned contributions varies among the retirement systems:

- For PERS re-employed retirants, for contributions received in a calendar year, interest generally is earned beginning on the first day of the calendar year next following and ending on the last day of that year, except that interest is earned, in the case of an application for retirement or payment, ending on the last day of the month prior to retirement or payment.
- For OP&F re-employed retirants, the act simply provides that interest is paid.
- For STRS re-employed retirants, interest paid is at the rate determined by the STRS Board, credited to the date that the re-employed retirant terminated the employment for which the contributions were made.
- For SERS re-employed retirants, no interest is to be paid on the contributions returned.

A retirant's election to receive a payment of contributions, instead of a benefit, cancels the retirant's right to receive a benefit for the period of re-employment.

Monthly annuity

(R.C. 145.384(B), (E), and (I), 742.26(F) and (I), 3307.352(A), and 3309.344(A))

Under PERS law modified by the act, if a retirant elects to receive the benefit for re-employment as a monthly annuity, the annuity may be paid either as the retirant's single lifetime annuity or as a joint and survivor benefit.⁴ The joint and survivor benefit payable to a retirant is the actuarial equivalent of the single lifetime annuity in a lesser amount, payable for the retirant's life and continuing thereafter to a surviving beneficiary.

Under prior OP&F law and continuing STRS law, and SERS law, if a retirant elects to receive the benefit for re-employment as a monthly annuity, the

⁴ A joint and survivor benefit is one in which a reduced monthly annuity is paid for the life of the retirant and continues after the retirant's death, in the same or a lesser amount, to a survivor.

annuity must be paid as the retirant's single lifetime annuity; a joint and survivor benefit is not an option.

The act makes the following changes:

(1) If an unmarried PERS or OP&F retirant fails to choose a plan of payment, the benefit is to be paid to the retirant as a monthly annuity, under a plan of payment specified by the appropriate retirement system board in rules.

(2) In the case of a married PERS or OP&F retirant, the act requires the benefit to be paid as a joint and survivor benefit, unless the retirant includes with the benefit application a written statement of the spouse's consent to another plan of payment. This default benefit is an annuity under which the actuarial equivalent of the retirant's single life annuity is paid in a lesser amount to the retirant for life and, after the retirant's death, one-half of the lesser amount continues to be paid to the surviving spouse.

(3) The act enacts joint and survivor benefit provisions for OP&F re-employed retirants that are comparable to those for PERS re-employed retirants as amended by the act.

(4) For PERS re-employed retirants, permits the retirant to delay the commencement of the benefit to a date specified by the retirant.

(5) For STRS and SERS re-employed retirants, the act changes the amount of the employer's contributions included in the annuity as well as the interest rate used. Under prior law, the annuity had a reserve equal to the re-employed retirant's accumulated contributions for the period of re-employment, and an *equal* amount of employer contributions, plus interest credited to the date of retirement at either: (a) the then current actuarial rate of interest (STRS) or (b) 4% unless the SERS actuary recommended, and the SERS Board approved, a different rate (SERS). Under the act, the applicable retirement board will determine the amount that comes from employer contributions and the rate of interest. Similarly, the act changes the method for determining the lump sum payment; instead of using the current actuarial assumption rate of interest the act provides for STRS or SERS to use a rate of interest determined by the applicable board.

(6) For PERS re-employed retirants, the act changes the amount of the employer's contributions that is included in the annuity and the interest rate used to determine a lump sum payment. Under prior law, the annuity had a reserve equal to the re-employed retirant's accumulated contributions for the period of re-employment and an *equal* amount of employer contributions. Under the act, the PERS Board will determine the amount that comes from employer contributions.



The act also changes the interest rate used to determine a lump sum benefit from the current actuarial assumption rate to a rate of interest determined by the Board.

Spousal consent

(R.C. 145.384(I) and 742.26(I))

The act specifies that, for PERS and OP&F re-employed retirants, a spouse's statement of consent to payment of contributions or to a plan of payment other than a joint and survivor benefit is valid only if the statement is signed by the spouse and witnessed by a notary public. The appropriate retirement board may waive the requirement of spousal consent if the spouse is incapacitated or cannot be located, or for any other reason specified by the board. The act provides that consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.

Death of retirant or beneficiary

(R.C. 145.384(F), 742.26(G)(3), 3307.352(C)(1), and 3309.344(C)(1))

Law retained in part by the act governing re-employed retirants provides that, if, at the time of death, a retirant receiving an annuity has received less than would have been paid as a lump sum, the difference between the amount received and the lump sum payment is to be paid to the retirant's beneficiary.

The act makes the following changes to these provisions:

(1) The act creates a similar provision for PERS and OP&F re-employed retirants requiring that, if, at the time of a beneficiary's death, the total of the amounts paid to the retirant and beneficiary is less than the amount the retirant would have received as a lump sum, the difference between that total and the lump sum payment is to be paid to the beneficiary's estate.

(2) The act clarifies that the current PERS provision applies only when the retirant is receiving a single life annuity, not a joint and survivor benefit.

(3) For STRS re-employed retirants, the lump sum is to be given when the retirant dies before receiving a benefit or a return of contributions. The lump sum is to be calculated in the same manner as for the re-employed retirant electing a lump sum payment rather than an annuity under the act (discounting the benefit to present value using a rate of interest determined by the STRS Board), except that interest is to be credited as follows: (a) if the re-employed retirant was under age 65 at the time of death, the interest is to be credited through the month of death, and (b) if the re-employed retirant was age 65 or older at the time of death, the interest is to be credited through the later of the month in which the re-employed

retirant terminated the re-employment or the month the re-employed retirant attained age 65.

(4) For SERS re-employed retirants, the lump sum is to be given when the retirant dies before receiving a benefit or a return of contributions. The lump sum is to be calculated in the same manner as for the re-employed retirant electing a lump sum payment rather than an annuity (discounting the benefit to present value using a rate of interest determined by the SERS Board).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-30-04	pp. 1746-1747
Reported, H. Banking, Pensions, & Securities	05-20-04	p. 1941
Passed House (99-0)	05-26-04	pp. 2028-2029
Reported, S. Health, Human Services & Aging	11-30-04	p. 2321
Passed Senate (29-0)	12-07-04	pp. 2414-2415
House concurred in Senate amendments (96-0)	12-08-04	pp. 2389-2390

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