Bill Analysis

Kathryn E. Likley *Legislative Service Commission*

H.B. 449

125th General Assembly
(As Reported by H. Banking, Pensions, and Securities)

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**

BILL 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 in lieu of a benefit for the period of re-employment.

- Requires the benefit for a married retirant's period of re-employment to include a survivor benefit, unless the retirant obtains spousal consent to another form of payment or to a payment of contributions.

CONTENT AND OPERATION

Background

Current law provides for a retirant (retired member) of any 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) to receive a benefit for the period of re-employment.[1]

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[1] *There are four state retirement systems in addition to PERS: the State Teachers Retirement System, School Employees Retirement System, Ohio Police and Fire Pension Fund, and State Highway Patrol Retirement System. The bill addresses employment of retirants by PERS, OP&F, STRS, and SERS, but not SHPRS. This is because any 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.*

The benefit consists of an annuity equal to the retirant's accumulated contributions for the period of re-employment and an equal amount of the employer's contributions.[2] On terminating the re-employment a retirant must make an election of whether to receive the benefit as a lump sum payment or as a monthly annuity, payable either as a single lifetime annuity or as a joint and survivor benefit, except that the retirant receives a lump sum payment if the annuity would be less than $25 per month. Current law does not require the retirant to obtain spousal consent to the election.

Payment of a benefit under current law commences on the latest of the following dates:

(1) The last day for which the retirant receives compensation for re-employment in a position covered by PERS, OP&F, STRS, or SERS;

(2) Attainment by the retirant of age 65;

(3) If the retirant is receiving or previously received a benefit for re-employment under PERS, OP&F, STRS, or SERS, 12 months after the effective date of the most recent benefit.

The bill

Return of contributions

(R.C. 145.384(H), 145.385, 742.26(H), 3307.352(D), and 3309.344(E))

The bill permits a retirant re-employed in a PERS, OP&F, STRS, or SERS position to elect to receive payment of the retirant's contributions for the period of re-employment, plus interest, in lieu of a benefit, provided that the retirant is unmarried or includes with the election application a written statement of the spouse's consent to the payment in lieu of a benefit.[3] The retirant is not required to wait until age 65 to receive the contributions, but must meet the following conditions:

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[2] If the retirant is a PERS retirant who commenced employment as a re-employed retirant less than two months after retiring, the benefit does not include the retirant's contributions made during the first two months after retiring. Those contributions are returned to the retirant on death or termination of the re-employment. (Revised Code § 145.38(B)(4)(a).)

*[3] See "**Spousal consent to plan of payment**" for further explanation.*

(1) The retirant has not reached age 65 and has terminated re-employment for any cause other than death or the receipt of a benefit for re-employment;

(2) Three months have elapsed since the retirant terminated re-employment;

(3) The retirant has not returned to public service, other than certain service exempted from contribution to PERS, during that three-month period.

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) and (I), 746.26(F) and (I), 3307.352(A) and (D), and 3309.344(A) and (F))

Under current law, 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] Under the bill, if an unmarried 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.

In the case of a married retirant, the bill 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.

Spousal consent

(R.C. 145.384(I), 746.26(I), 3307.352(E), and 3309.344(F))

The bill specifies that 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 bill provides that consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.

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[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.*

Death of a beneficiary

(R.C. 145.384, 742.26, 3307.352, and 3309.344)

Current law 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 bill creates a similar provision 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 is to be paid to the beneficiary's estate.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-30-04	pp. 1746-1747
Reported, H. Banking, Pensions, & Securities	05-20-04	p. 1941

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