



Sub. H.B. 449*

125th General Assembly

(As Reported by S. Health, Human Services & Aging)

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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.
- 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.
- 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

** This analysis was prepared before the report of the Senate Health, Human Services, and Aging Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

obtains spousal consent to another form of payment or to a payment of contributions.

- For 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 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

Background

(R.C. 145.38, 145.384, 742.26, 3307.35, 3307.352, 3309.341, and 3309.344)

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 The benefit consists of an annuity equal to the retirant's accumulated contributions for the period of re-employment and an equal amount from the employer's

¹ *The bill addresses employment of retirants by PERS, OP&F, STRS, and SERS, but not the State Highway Patrol Retirement System (SHPRS). This is because 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.*

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, except that the retirant receives a lump sum payment if the annuity would be less than \$25 per month. Under PERS re-employed retirant provisions, an annuity is payable either as a single lifetime annuity or a joint and survivor benefit.³ The OP&F, STRS, and SERS re-employed retirant provisions do not permit a joint and survivor benefit to be paid. 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 (or age 60 if the re-employment is in a position covered by OP&F);

(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(B)(1) and (H), 145.385, 742.26(F)(1) and (H), 3307.352(B), and 3309.344(B))

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 in lieu of a benefit if the following conditions are met:

² *If the retirant 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.*

³ *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.*

(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).⁴

(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).

Interest paid on the contributions varies among the retirement systems:

- For PERS re-employed retirees, 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 retirees, the bill simply provides that interest is paid.
- For STRS re-employed retirees, interest paid is at the rate determined by the STRS Board, credited to the date that the re-employed retiree terminated the employment for which the contributions were made.

⁴ See "Spousal consent" for further explanation.

- 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 current PERS 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. 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 current OP&F law, STRS law, and SERS law, if a retirant elects to receive the benefit for re-employment as a monthly annuity, the annuity must be paid as the retirant's single lifetime annuity; a joint and survivor benefit is not an option.

The bill 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 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. 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 bill 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 bill.

(4) For PERS re-employed retirants, permits the retirant to delay the commencement of the benefit to a date specified by the retirant. (Currently, the benefit must commence on the latest of: (1) the last day for which the retirant

receives compensation for re-employment, (2) attainment by the retirant of age 65, or (3) if the retirant is receiving or previously received a benefit under PERS, OP&F, STRS, or SERS, 12 months after the effective date of the most recent benefit.

(5) For STRS and SERS re-employed retirants, the bill changes the employer's contribution to the annuity as well as the interest rate the accumulated contributions earn. Under current law, the annuity has 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 recommends, and the SERS Board approves, a different rate (SERS). Under the bill, the applicable retirement board will determine the amount that comes from employer contributions and the rate of interest. Similarly, the bill changes the method for discounting the benefit to present value for determining the lump sum payment from discounting using the current actuarial assumption rate of interest to a rate of interest determined by the board.

Spousal consent

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

The bill 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 bill 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))

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 makes the following changes to these provisions:

(1) The bill 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 bill 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 bill (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	---	---

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