



Sub. S.B. 133*

125th General Assembly

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

Sens. Wachtmann, Schuring, Austria, Amstutz, Stivers, Harris, Dann, Spada, Coughlin, Armbruster, Jordan, Randy Gardner, Jacobson

BILL SUMMARY

State retirement board membership

- Requires the Secretary of State to oversee the administration of elections of state retirement system board members.
- Replaces the Attorney General (AG) on the Public Employees Retirement System (PERS) Board with the Treasurer of State; adds an additional employee member, a PERS member who is a county commissioner, prosecutor, auditor, sheriff, treasurer, recorder, engineer, or coroner, to be appointed by the Governor; and adds an additional member, known as the investment expert member, who is to be appointed by the Governor and meet certain statutorily specified qualifications.
- Replaces the AG on the board of trustees of the Ohio Police and Fire Pension Fund with the Treasurer of State and adds two additional members, known as the investment expert members, who are to be appointed by the Governor and have certain statutorily specified qualifications.
- Replaces the AG on the State Teachers Retirement Board with the Treasurer of State; permits the Superintendent of Public Instruction to appoint a designee who has the same statutory qualifications as an investment expert member; adds an additional retired teacher member;

* *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.*

and adds an additional member, known as the school board member, who is to be appointed by the Governor.

- Replaces the AG on the School Employees Retirement Board with a member known as the investment expert member, who is to be appointed by the Governor and have certain statutorily specified qualifications; adds an additional member, known as the school board member, who is appointed by the Governor and must be a member of a city, local, exempted village, or joint vocational school board district board of education or an educational service center governing board, but need not be a member of the retirement system.
- Adds to the State Highway Patrol Retirement Board the Director of Public Safety and the Treasurer of State and adds two investment expert members, who must be appointed by the Governor and have certain statutorily specified qualifications.
- Provides that a member of a state retirement board who, pursuant to the bill, is replaced on that board by an elected or appointed member remains in office until the replacement member is appointed or elected.
- Provides that when a person is elected to be a successor employee member of a state retirement board to fill a vacancy the successor employee member holds office only until the next board election that occurs not less than 90 days after the successor employee member's election.
- Specifies that a person who served as an elected or appointed member of a state retirement board one or more entire fiscal years in fiscal years 2000, 2001, or 2002 is ineligible for reelection or reappointment to the board if the person has accepted reimbursements for travel and travel-related expenses from the board that have an annual average of more than \$10,000 for those fiscal years.

State retirement board member elections

- Requires that the election of board members be held under the board's direction in accordance with rules the Secretary of State is to adopt.
- Provides for the Secretary of State to certify nominating petitions for state retirement system board elections and the results of the elections.

- Requires each candidate for a state retirement system board to file with the Secretary of State two complete, accurate, and itemized campaign finance disclosure statements if the candidate, or the candidate's campaign committee, receives a contribution or in-kind contribution or makes an expenditure in connection with efforts to be elected to the board.
- Requires each candidate for a state retirement system board to file with the Secretary of State a complete, accurate, and itemized financial disclosure statement if the candidate, or the candidate's campaign committee, receives a contribution or in-kind contribution or makes an expenditure in connection with the candidate's efforts to be elected to fill a vacancy on a state retirement board.
- Requires each individual, partnership, or other entity that makes an independent expenditure in connection with a candidate's efforts to be elected to a state retirement board to file with the Secretary of State two complete, accurate, and itemized statements setting forth in detail the independent expenditures.
- Prohibits specified persons from failing to comply with the requirements specified in the three preceding dotpoints.
- Prohibits a person, during the course of a person seeking nomination for, or during any campaign for, election to a state retirement board, from knowingly and with intent to affect the person's nomination or the outcome of the campaign take specified fraud-related actions by means of campaign materials, an advertisement on radio or television or in a newspaper or periodical, a public speech, or press release.
- Requires each state retirement system to make documents regarding filling a vacancy of an elected member of the system's board available at the request of any person.
- Requires each system also to furnish to the Secretary of State for the purpose of certifying an election any necessary personal history records kept by the system.

Suspension and removal of board members

- Provides that a member of a state retirement board charged with committing a felony, a theft offense, or an ethics law violation is suspended from the board while the charges are pending and terminates the suspension if the charges are resolved in a manner not resulting in the member being convicted or pleading guilty to the offense.
- Deems vacant the position of a suspended member who pleads guilty to or is convicted of the offense.
- Makes ineligible for election to a state retirement board a person who has pleaded guilty to or been convicted of an offense for which a member would be suspended.

Civil action

- Authorizes the AG to maintain a civil action against a state retirement board member who breaches the member's fiduciary duty to the retirement system for harm resulting from that breach.

Ethics

- Requires the following persons file an annual financial disclosure statement with the Ohio Ethics Commission: (1) the members of each state retirement board, (2) each employee of a state retirement system who is a licensed state retirement system investment officer, (3) the former legislator members of the Ohio Retirement Study Council (ORSC) and ORSC members appointed by the Governor, and (4) ORSC employees other than employees who perform purely administrative or clerical functions.
- Prohibits a person who is a member of the board of a state retirement system, a state retirement system investment officer, or an employee of a state retirement system whose position involves substantial and material exercise of discretion in the investment of retirement system funds from soliciting or accepting payment of actual travel expenses, including expenses incurred with the travel for lodging, meals, food, and beverages; and prohibits any person from giving payment of actual travel expenses to such a board member, officer, or employee.

- Requires each state retirement board, in consultation with the Ohio Ethics Commission, to develop an ethics policy and submit this policy to ORSC for approval; authorizes ORSC to approve the policy on the advice of the Ohio Ethics Commission.
- Requires each state retirement board to periodically provide ethics training to members and employees of the board.
- Requires the Ohio Ethics Commission, if it finds by a preponderance of the evidence that a state retirement system board member has violated the ethics law, to report its findings to ORSC, as well as to a prosecuting authority.
- Requires each state retirement board to establish a procedure to ensure that each board employee is informed of the procedure for filing a complaint with the Ohio Ethics Commission or the appropriate prosecuting attorney.
- Expressly states that nothing in the bill may be construed to be a limitation of the Ohio Ethics Commission's authority, responsibility, and powers under the ethics law as it existed immediately prior to the bill's effective date as applied to members and employees of the state retirement boards; any authority, power, or responsibilities of the Ohio Ethics Commission expressly created by the bill are in addition to any authority, power, or responsibilities of the Commission in effect immediately prior to the bill's effective date.

Board member training

- Requires the state retirement boards to jointly develop a retirement board member training program that includes an orientation component and a continued training component.
- Requires newly elected and appointed state retirement board members to attend the orientation component of the retirement board member training program and requires board members with at least one year of experience to attend, not less than twice a year, one or more programs of the continued training component.

Chief investment officer

- Requires each state retirement board to designate a licensed state retirement system investment officer to be the chief investment officer for the system.
- Requires the chief investment officer to reasonably supervise the licensed state retirement system investment officers and other persons employed by the state retirement system with a view toward preventing specified types of violations, which supervision includes the adoption, implementation, and enforcement of written policies and procedures reasonably designed to prevent persons employed by the retirement system from misusing material, nonpublic information in violation of those laws, rules, and regulations.
- Creates a "safe harbor" in which no chief investment officer is considered to have failed to satisfy the officer's duty of reasonable supervision if the officer has performed specified activities.
- Requires the chief investment officer to ensure that securities transactions are executed in such a manner that the state retirement system's total costs or proceeds in each transaction are the most favorable under the circumstances.
- Creates a "safe harbor" in which no chief investment officer is considered to have failed to satisfy the officer's duty of best execution if the officer has followed certain practices.

Licensing investment officers

- Prohibits, effective 90 days after the effective date of this provision, any person from acting as a state retirement system investment officer unless the person is so licensed by the Division of Securities in the Department of Commerce.
- Prohibits a state retirement system investment officer from acting as a dealer, salesperson, investment advisor, or investment advisor representative.
- Grants the Division of Securities regulatory authority over state retirement system investment officers.

- Prohibits a state retirement system investment officer from (1) employing any device, scheme, or artifice to defraud any state retirement system, (2) engaging in any act, practice, or course of business that operates or would operate as a fraud or deceit on any state retirement system, (3) engaging in any act, practice, or course of business that is fraudulent, deceptive, or manipulative, or (4) if the person is a chief investment officer, knowingly failing to comply with any policy adopted regarding the duty of reasonable supervision or the duty to execute favorable transactions.

Ohio Retirement Study Council

- Adds as new ORSC members two former General Assembly members.
- Requires that one of the Governor's three appointees to ORSC have investment experience.
- Requires ORSC to review all rules proposed by each retirement system and make recommendations on those rules to the Joint Committee on Agency Rule Review.
- Requires each state retirement board, in consultation with the Ohio Ethics Commission, to review any existing policy regarding travel and travel expenses of members and employees of that board and adopt rules establishing a new or revised policy.
- If a state retirement board intends to award a bonus to any employee of the board, requires the board to adopt rules establishing a policy regarding employee bonuses.
- Requires each state retirement board to provide copies of the above rules to each member of ORSC.
- Requires each state retirement board to submit to ORSC a proposed operating budget, including an administrative budget for the board, for the next immediate fiscal year and adopt that budget not earlier than 60 days after it is submitted to ORSC.
- Requires each state retirement board to submit to ORSC a plan describing how the board will improve the dissemination of public information pertaining to the board.

- Authorizes ORSC to have a performance audit of each state retirement system conducted by an independent auditor at least once every five years.
- Authorizes ORSC to request that the Auditor of State perform a financial or special audit on a state retirement system and requires the Auditor to report the results of the audit to ORSC in a timely manner.
- Authorizes ORSC to establish a uniform format for any report that the state retirement boards are required to submit to ORSC and, if ORSC establishes a uniform format for a report, requires each state retirement board to submit the report in that format.
- Provides that the AG is ORSC's legal adviser.

HISTORY

| ACTION | DATE | JOURNAL ENTRY |
|---|----------|---------------|
| Introduced | 10-02-03 | p. 1068 |
| Reported, S. Health, Human Services, and Aging | --- | --- |

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