Bill Analysis

Kathryn Likley *Legislative Service Commission*

H.B. 152

127th General Assembly
(As Introduced)

Reps. Widener, Seitz, Flowers, Combs

BILL SUMMARY

- Requires each school board to adopt an alternative retirement plan for teachers and non-teaching employees.
- Requires a school board to offer eligible employees the option of participating in an alternative retirement plan in lieu of membership in the State Teachers Retirement System (STRS) or School Employees Retirement System (SERS).
- Establishes as the employee contribution to an alternative retirement plan the same percentage of compensation (10%) the employee would contribute to STRS or SERS.
- Establishes as the school board contribution to an alternative retirement plan the same percentage of employee compensation the board would contribute to STRS or SERS (14%) but provides that part of the contribution (an amount equal to up to 6% of the employee's compensation) goes to STRS or SERS.

CONTENT AND OPERATION

Background

Current law requires each public institution of higher education[1] to offer certain full-time employees the option of participating in an alternative retirement plan, rather than in the state retirement plan that would otherwise cover the

[1] "Public institution of higher education" includes state universities, the Northeastern Ohio Universities College of Medicine, university branches, technical colleges, state community colleges, community colleges, and municipal universities (R.C. 3305.01).

employee's position: the Public Employees Retirement System (PERS), State Teachers Retirement System (STRS), or School Employees Retirement System (SERS). To be eligible to participate, the employee must have commenced employment on or after a date determined by statute or have completed less than five years of service covered by PERS, STRS, or SERS on that date.

The law requires that an alternative retirement plan be a defined contribution plan[2] under which a portion of a participating employee's compensation and a contribution from the employer are deposited in an individual account created for the employee. The employee directs the investment of those contributions. Each alternative retirement plan must be offered pursuant to a contract between the employer and a provider designated by the Superintendent of Insurance. It must be a qualified plan under section 401(a) of the U.S. Internal Revenue Code. (R.C. 3305.02, not in the bill.)

The bill

Adoption of school board alternative retirement plans

(R.C. 3305.01, 3305.03, 3305.04, and 3305.07)

The bill requires each school board to establish and provide for the administration of an alternative retirement plan and offer the option to participate to employees who are or would be members of STRS or SERS and meet certain eligibility criteria (see "***Election to participate in an alternative retirement plan***," below).[3] A "school board" for the purpose of these requirements is the board of education of a city, local, exempted village, or joint vocational school district; the governing board of an educational service center; or the governing authority of a community school.

Each school board must adopt an alternative retirement plan by entering into a contract with an alternative retirement plan provider that has been

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[2] A defined contribution plan is a type of retirement plan in which the amount of the annual contributions are specified. Individual accounts are set up for each participant, and benefits are based on the amounts credited to these accounts (through employer contributions and, if applicable, employee contributions), plus any investment earnings on the money in the account. (U.S. Department of Labor, Bureau of Labor Statistics Glossary, http://www.bls.gov/bls/glossary.htm, visited 4-27-07.

[3] The bill extends this requirement to school boards by substituting "employer" for "public institution of higher education." "Employer" is defined as a school board or the board of trustees of a public institution of higher education.

designated by the Superintendent of Insurance.[4] The contract must provide for termination of the contract if the provider ceases to be a designated provider.

Election to participate in an alternative retirement plan

(R.C. 3305.05 and 3305.052)

Elections by existing school board employees

An eligible employee employed by a school board on the bill's effective date may elect to participate in an alternative retirement plan if, on the day immediately preceding the bill's effective date, the employee had accrued less than five years of service credit in a state retirement system. The election must be made not later than 120 days after the employer establishes the plan.[5]

Elections by new school board employees

An eligible employee whose employment by a school board begins on or after the bill's effective date may elect to participate in an alternative retirement plan. The election must be made not later than 120 days after the employment begins, or if the school board has not established an alternative retirement plan at that time, not later than 120 days after the date the school board establishes a plan. The bill does not specify the time by which school boards must establish alternative retirement plans.

The bill requires each school board that employs a person who is eligible to make an election to participate in an alternative retirement plan to notify the appropriate state retirement system within ten days of employing the person. The notice must be submitted as specified by the retirement system and must include the employee's name and address.

Making the election

An election to participate in an alternative retirement plan must be submitted in writing to the designated officer of the school board. Once submitted, the election is irrevocable while the employee continues employment with the school board.

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[4] For the criteria to be used by the Superintendent to designate alternative retirement plan providers, see **COMMENT**.

[5] If the member is employed in a number of different positions with the employer, the election to participate in an alternative retirement plan in one position applies to all positions with that employer.

If the employee is an existing school board employee, the election takes effect on the day the election is submitted. If the employee is a new school board employee, the election takes effect on the starting date of employment. An election to participate in an alternative retirement plan forever bars the employee from claiming or purchasing service credit under any state retirement system for the period of employment during which the election is in effect.

An eligible employee who does not make an election in the specified period is deemed to have elected to participate in the state retirement system to which that employment applies. However, the bill permits an eligible employee who terminates employment with the employer, then returns to employment at least one year later as an eligible employee, to make an election to participate in an alternative retirement plan as a new employee.

Notice of election

Not later than ten days after receiving an election to participate in an alternative retirement plan, the school board's designated officer must file a certified copy of the election with the state retirement system to which the employee's employment would be subject. If the employee is already a member of STRS or SERS, not later than 30 days after receiving the copy of the employee's election, the retirement system must do one of the following:

(1) If the employee was participating in a defined benefit plan under STRS or SERS,[6] pay to the alternative retirement plan provider selected by the employee any employee and employer contributions made to the retirement system by or on behalf of the employee for the period beginning on the day the employee commenced employment and ending on the day before the day contributions to the alternative retirement plan commenced, less the amount due the retirement system.[7]

(2) If the employee was participating in the STRS defined contribution plan,[8] pay to the alternative retirement plan provider selected by the employee the amount on deposit in the employee's individual account for the period beginning on the day the employee commenced employment and ending on the day before the day contributions to the alternative retirement plan commenced.

[6] A defined benefit plan is a retirement plan under which members receive retirement benefits under a specific, predetermined formula that uses compensation, years of service, and sometimes age. (U.S. Department of Labor Statistics Glossary, 4-27-07.)

[7] See "***Contributions to an alternative retirement plan***," below.

[8] SERS has not established a defined contribution plan.

Contributions to an alternative retirement plan

(R.C. 3105.80, 3305.06, and 3305.061)

The bill requires a school board employee who elects to participate in an alternative retirement plan to contribute to the plan the percentage of compensation the employee would contribute to STRS or SERS (10%). The school board must contribute an amount equal to the percentage of the employee's compensation the school board would have contributed to STRS or SERS (14%), less an amount that is actually paid to STRS or SERS. The payment to STRS or SERS is required by current law, which provides that the employer must contribute a certain amount to the state retirement system to which the employee would otherwise belong. This amount is determined by the Ohio Retirement Study Council, but cannot exceed an amount equal to 6% of the employee's salary.

Contributions to alternative retirement plans may be subject to a division of marital property order on termination of marriage to the same extent as contributions to STRS or SERS.

Selecting a provider

(R.C. 3305.053)

Current law, expanded by the bill to school boards, requires employers to permit employees who make an election to participate in an alternative retirement plan to do all of the following:

(1) Select an alternative retirement plan provider from among the providers that have entered into a contract with the employer;

(2) Except as specified in (3) below, contract with only one provider in any plan year;

(3) Change the provider selected under (1) at the following times:

(a) Once during the first payroll period in any plan year;

(b) Any time the provider selected by the member ceases to be designated by the Department of Insurance as an alternative retirement plan provider.

If an employee changes providers under (3) above, the bill requires the provider to transfer to the new provider the employee's account balance, either in whole or in part, as directed by the employee.

Technical changes

(R.C. 3105.80, 3305.03, 3307.01, and 3309.01)

The bill makes conforming changes to several Revised Code sections.

COMMENT

Designation of an alternative retirement plan provider

(R.C. 3305.03)

Current law requires the Superintendent of Insurance to designate at least three entities to provide alternative retirement plans for public institutions of higher education. The same designations would apply to school boards under the bill. In designating a provider, the Superintendent must consider all of the following:

(1) The experience of the provider in providing investment options under alternative retirement programs in other states;

(2) The potential effectiveness of the provider in recruiting eligible employees to enter into contracts and in retaining those contracts;

(3) The nature and extent of the rights and benefits to be provided under the investment options;

(4) The relationship between the rights and benefits under the investment options and the amount of the contributions made under those options;

(5) The suitability of the rights and benefits under the investment options to the needs and interests of eligible employees;

(6) The capability of the provider to provide the rights and benefits under the investment options;

(7) Any other matters the Superintendent considers relevant.

Under the law, an entity must be designated an alternative retirement plan provider if the entity is authorized to conduct business in Ohio with regard to the investment options to be offered under an alternative retirement plan and offers the same or similar investment options as those to be offered under an alternative retirement plan in at least ten other states.

HISTORY

ACTION	DATE
Introduced	04-17-07

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