



Ohio Legislative Service Commission

Final Analysis

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Sub. S.B. 340

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(As Passed by the General Assembly)

Sens. Niehaus and Kearney, Bacon, Coley, Hite, Jones, Lehner, Schiavoni, Seitz

Reps. R. Adams, Amstutz, Anielski, Antonio, Baker, Blair, Blessing, Boose, Boyce, Boyd, Buchy, Budish, Driehaus, Duffey, Fende, Foley, Garland, Goyal, Grossman, Hackett, C. Hagan, R. Hagan, Heard, Henne, Hill, Letson, Lynch, Martin, McGregor, Milkovich, Murray, Newbold, Pillich, Ramos, Roegner, Ruhl, Sears, Smith, Stebelton, Stinziano, Thompson, Wachtmann, Winburn, Young, Yuko, Batchelder

Effective date: January 7, 2013; certain provisions effective June 24, 2013; Section 4 effective December 26, 2012

This analysis has two parts. The first part describes all of the act's changes to laws governing the Ohio Police and Fire Pension Fund (OP&F). The second part is a table that compares to continuing or prior law OP&F plan features, including contribution rates, benefit eligibility and formulas, cost-of-living adjustments, Deferred Retirement Option Plan (DROP) accruals, and disability benefits.

ACT SUMMARY

Member contribution rates

- Beginning July 2, 2013, increases Ohio Police and Fire Pension Fund (OP&F) employee contributions rates by increments to 12.25% (from 10%) of salary.
- Not earlier than November 1, 2017, authorizes the OP&F Board to adjust member contribution rates if the Board's actuary determines that an adjustment is appropriate to the fiscal integrity of the Fund.

Retirement eligibility

- For those who become OP&F members after July 1, 2013, increases to age 52 (from 48) the age a member must attain to be eligible for an unreduced retirement pension.
- Establishes a reduced pension at age 48 with 25 years of service for those who become members after July 1, 2013.

- Not earlier than November 1, 2017, authorizes the Board to adjust age and service requirements for all members if the Board's actuary determines that an adjustment is appropriate to the fiscal integrity of the Fund.

Salary and average annual salary

- For members with less than 15 years of service credit on July 1, 2013, increases to five (from three) the number of years used to determine a member's average annual salary (AAS), which is used in calculating pensions and disability benefits.
- Establishes a salary benchmark under which certain salary increases are excluded from AAS for members with 15 or more years of service as of July 1, 2013.
- Permits the Board to determine what constitutes salary and terminal pay.

Cost-of-living adjustment (COLA)

- Provides for the lesser of a 3% COLA or the increase in the Consumer Price Index, if any, for members who have less than 15 years of service credit on July 1, 2013, or become members of the Fund on or after that date.
- Provides that a COLA is provided only to recipients who have attained age 55 and have received a pension or benefit for one year, except that disability recipients who are permanently and totally disabled are not required to have attained age 55.

Disability

- Requires a disability recipient to be *permanently* disabled to be eligible to receive a partial disability benefit or benefit as a result of heart disease or a chronic cardiovascular or respiratory disease.
- Authorizes the Board to provide a disability benefit as a result of heart disease or a chronic cardiovascular or respiratory disease, even if there is no documentation of an examination proving that the condition did not exist prior to or at the time of entry into a police or fire department if competent medical evidence documents that the disease was not evident prior to or at the time of entry into the department.

Employer contributions

- Requires employers to remit employer contributions monthly (rather than quarterly).

Deferred Retirement Option Plan (DROP)

- Requires members electing after July 1, 2013, to participate in DROP to participate for five (rather than three) years to receive the full DROP accrual, and specifies how member contributions are to accrue to the participant's benefit.

OP&F reports

- Requires certain Board reports to be completed triennially (rather than annually).

Other provisions

- Provides that a member remains a member of the Fund for the duration of active military duty.
- Provides that a person who is a member or retirant is eligible to vote in a board election if the person was a member or retirant on the January 31st before the end of the expiring term, rather than the first Monday of March before the end of that term.

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CONTENT AND OPERATION

Member contribution rates

Each member of the OP&F Pension Fund is currently required to contribute 10% of the member's salary to the Fund. The act increases contribution rates to 12.5% of salary in the following steps:

- (1) For salary earned in pay periods that begin no later than July 1, 2013, the current 10% of salary;
- (2) For salary earned in pay periods beginning on or after July 2, 2013, but no later than July 1, 2014, 10.75% of salary;
- (3) For salary earned in pay periods beginning on or after July 2, 2014, but no later than July 1, 2015, 11.5% of salary;
- (4) For salary earned in pay periods beginning on or after July 2, 2015, 12.25% of salary.¹

Board discretion: contribution rates

The OP&F Board is required by continuing law, not less often than once each quinquennial (five year) period, to prepare an actuarial investigation of the actuarial assumptions of the Fund, including mortality, service, and other experience of members of the Fund. These assumptions are used in the actuarial valuation of the Fund's pension assets, liabilities, and funding requirements.² Following the quinquennial investigation due November 1, 2017, and each quinquennial period thereafter, the act authorizes the OP&F Board, by rule, to adjust the employee contribution rate as follows:

- (1) Increase the rate if an increase is needed to preserve the fiscal integrity of the Fund;
- (2) Decrease the rate if a decrease will not materially impair the fiscal integrity of Fund.³

¹ R.C. 742.31.

² R.C. 742.14.

³ R.C. 742.31(B).

Retirement eligibility

The act increases the statutory retirement age for those who become OP&F members after July 1, 2013. Under continuing law modified by the act a member is eligible for an unreduced retirement benefit with at least 25 years of OP&F service credit at age 48 or older, or 15 or more years of service credit at age 62 or older. For those who become members after July 1, 2013, the act requires 25 or more years of OP&F service credit at age 52 or older. These members will still be able to retire with 15 or more years of service credit at age 62 or older.⁴

The act establishes a reduced benefit at age 48 or older with 25 or more years of service for those who become members on or after July 2, 2013. The benefit is reduced to be the actuarial equivalent, as determined by the Fund's actuary, of the benefit had the member retired at age 52.⁵

Board discretion: retirement eligibility

As discussed above ("**Board discretion: contribution rates**") the Board is required to prepare an investigation of the Fund's actuarial assumptions.⁶ Following the investigation due November 1, 2017, and each quinquennial period thereafter, the act authorizes the OP&F Board, by rule, to adjust age and years of service credit required to receive a pension or benefit as follows:

(1) Increase the requirements if an increase is needed to preserve the fiscal integrity of the Fund;

(2) Decrease the requirements if a decrease will not materially impair the fiscal integrity of the Fund.⁷

Salary and average annual salary (AAS)

The act modifies both the pay included as salary and the number of years of salary used to determine average annual salary (AAS). An OP&F retiree receives a pension determined by AAS and years of service credit. AAS refers to the highest average salary of a member during a specified number of years. Under continuing law modified by the act, three years are averaged to determine a member's AAS. For

⁴ R.C. 742.37.

⁵ R.C. 742.37.

⁶ R.C. 742.14.

⁷ R.C. 742.161.

members with less than 15 years of service credit on July 1, 2013, the act increases the number of years to five.⁸

"Salary" in continuing law excludes certain compensation, including "terminal pay."⁹ Terminal pay is any payments made on termination of employment for such things as accrued but unused leave and certain overtime pay. The act provides that these payments are terminal pay regardless of whether the payments are made before or after termination of employment. Pay for overtime work is terminal pay under the act if it is not included in a payroll for a period ending not later than 60 days after the overtime is worked. The act authorizes the Board to establish definitions of salary and terminal pay that differ than those in the Revised Code, and permits it to use elements of the compensation provisions of the U.S. Internal Revenue Code and federal income tax W-2 forms for this purpose.¹⁰

For members who, as of July 1, 2013, have 15 or more years of service credit, the act excludes from AAS salary increases that exceed increases made in the three years preceding the three years prior to retirement. This "salary benchmark" is determined as follows:

(1) Add together the member's salaries for each of the three years immediately preceding the three-year period that precedes the member's effective date of retirement and divide the total by three;

(2) Multiply the amount determined under (1) by 110%;

(3) Multiply the amount determined under (2) by 110%;

(4) Multiply the amount determined under (3) by 110%. The amount determined under (4) is the benchmark.

Any amount exceeding the benchmark is excluded from salary used to determine AAS. Contributions made on salary exceeding the benchmark are to be refunded to the member in accordance with rules adopted by the Board.¹¹

⁸ R.C. 742.37.

⁹ R.C. 742.01.

¹⁰ R.C. 742.013.

¹¹ R.C. 742.01(G) and 742.012.

Cost-of-living adjustment (COLA)

Law modified by the act provides an annual cost-of-living adjustment (COLA) of 3% to each recipient of an OP&F retirement pension or disability benefit who has received the pension or benefit for at least one year. The act makes changes to the COLA for members who as of July 1, 2013 do not have at least 15 years of service credit and are not receiving an OP&F pension or disability benefit to the lesser of 3% or the increase in the Consumer Price Index. It provides that a COLA is provided only to recipients who have attained age 55 and have received a pension or benefit for one year, except that recipients of benefits for permanent and total disability are not required to have attained age 55.¹²

Disability benefits

Under continuing law, one basis on which an OP&F member may be eligible for disability benefits is that the member is partially disabled or disabled by heart disease or any chronic cardiovascular or respiratory disease. Under law modified by the act, to be eligible for a benefit for heart disease or a chronic cardiovascular or respiratory disease a pre-employment examination must demonstrate that the condition did not exist prior to employment. The act provides that to be eligible on this basis a member must have a *permanent* partial disability or *permanent* disability caused by heart disease or a chronic cardiovascular or respiratory disease.

The act authorizes the Board to grant a disability benefit on the basis of heart disease or a chronic cardiovascular or respiratory disease even without evidence of the pre-employment examination if competent medical evidence is submitted to the Board documenting that the disease was not evident prior to or at the time of entry into a police or fire department.¹³

Continuing law provides that a person who is a *disability benefit recipient* or *separated spouse* and is paid any benefit to which the person is not entitled must repay OP&F. If the person fails to repay OP&F, the amount is to be withheld from any benefit or payment due the person. The act provides that the repayment provision applies to *any* person who receives a benefit to which the person is not entitled and that the amount may be withheld from the person or *the person's beneficiary*.¹⁴

¹² R.C. 742.3716.

¹³ R.C. 742.38.

¹⁴ R.C. 742.64.

Employer contributions

Employers of police officers contribute an amount equal to 19.5% of police officer salaries to OP&F; employers of firefighters contribute an amount equal to 24% of firefighter salaries. These amounts are required by prior law to be remitted to OP&F quarterly. The act requires the amounts to be remitted monthly, except that employer contributions for employee payrolls paid during the period beginning January 7, 2013, and ending April 7, 2013, have a delayed due date. These contributions are due as follows:

- (1) One third no later than December 31, 2013;
- (2) One third no later than December 31, 2014;
- (3) One third no later than December 31, 2015.¹⁵

Deferred Retirement Option Plan (DROP)

A deferred retirement option plan (DROP) is an arrangement under which a retirement system member who is eligible to retire and receive a pension continues to work. Instead of having continued compensation and additional years of service taken into account for purposes of the plan's benefit formula, the member has a pension, member contributions, and interest accrue to a separate account during each year of the continued employment. On termination of employment, the member receives a lump sum distribution of the amounts accrued in the account, in addition to whatever pension the member is eligible to receive at the time DROP participation began.

The act modifies (1) the first date a DROP participant may begin to receive accrued amounts and (2) the percentage of a member's contributions that are included in the accrual. Under continuing law modified by the act, the distribution of DROP accruals may begin not earlier than *four* years after initial DROP participation. The act maintains this as the earliest date of distribution for members whose election to participate is effective before July 2, 2013. For all others, DROP accruals may be distributed no earlier than *six* years after initial DROP participation.¹⁶

Only a portion of a member's contributions to OP&F during DROP participation accrue to the benefit of the member. Under continuing law modified by the act this amount increases until reaching 100% after *three* years of participation. For a member electing on or after July 2, 2013, to participate in DROP, the member receives 100% of

¹⁵ R.C. 742.35 and Section 3.

¹⁶ R.C. 742.444.

member contributions after participating in DROP for *five* years. Member contributions accrue according to the following schedule:

- (1) For the period ending not later than three years after first participating, 50%;
- (2) For the period beginning three years after first participating and ending on the fifth anniversary of participation, 75%;
- (3) For periods after five years of participation, 100%.¹⁷

The act provides that OP&F members whose election to participate in DROP is effective on or after July 2, 2013, will not receive a cost-of-living adjustment (COLA) while participating.¹⁸ Members whose election is effective prior to that date will not be eligible for a COLA until attaining age 55 and participating in the plan for 12 months.

Reports

OP&F reports

The OP&F Board is required to complete a number of reports annually. The act provides that some of these reports are to be made triennially. The reports to be completed triennially are:

(1) The actuarial valuation, which includes a study of the assets, liabilities, and OP&F funding requirements (the report is used to determine whether the Fund is able to amortize all unfunded actuarial accrued pension liabilities over a 30-year period).¹⁹ The first triennial report is to be made no later than November 1, 2013.

(2) A report on health care provided through OP&F. The first triennial report is due no later than December 31, 2013.²⁰

(3) A report on the progress of funding of employer's accrued liability (referring to funds owed OP&F by employers when OP&F assumed the pension liabilities of municipal and township fire and police departments).²¹

The act also eliminates the requirement that the Board annually report on the adequacy of contribution rates of police officer and firefighter employers.

¹⁷ R.C. 742.443.

¹⁸ R.C. 742.3716.

¹⁹ R.C. 171.04, 742.14, and 742.16.

²⁰ R.C. 742.14.

²¹ R.C. 742.30.

Employer reports

Each employer is required to send OP&F monthly reports on the contributions made by its employees to OP&F and remit the contributions to OP&F along with the report. The act changes the date the report and remittance is due from the last day of the month following the last day of the reporting period to the last day of the month following the last *business* day of the reporting period.²²

Other provisions

Remittance of employer's accrued liability

As discussed above, amounts are due OP&F by employers for OP&F's assumption of municipal and township fire and police department pension liabilities. This is known as the employer accrued liability. Continuing law establishes a payment schedule and penalties for unpaid amounts due OP&F.

The act authorizes the OP&F Board to seek payment through the Office of Budget and Management (OBM) for past due accrued liability amounts. On certification by the Board to the OBM Director of any amount due, the Director is to withhold from the employer any amount available, not to exceed the amount certified as due OP&F, from any amounts under the Director's control that are payable or due the employer. The Director is required to pay the amount withheld to OP&F.²³

OP&F membership

Continuing law defines a member of OP&F as a person who is contributing a percentage of the person's annual salary to OP&F as a result of service in a police or fire department. A person is also a member of the Fund for 12 months after dismissal, resignation, or start of a granted leave of absence. For a person to be eligible for disability benefits and other member benefits the person must be an OP&F member.

The act includes as an OP&F member a member of the Ohio National Guard, Ohio Military Reserve, Ohio Naval Militia, or a reserve component of the armed forces of the United States who is absent from employment subject to OP&F due to active military duty because of an executive order issued by the President or an act of Congress for the duration of the active military duty.²⁴

²² R.C. 742.32.

²³ R.C. 742.301.

²⁴ R.C. 742.01.

Board election

The act provides that a person is eligible to vote in an election for an OP&F board member if the person was a member or retiree on the January 31st before the termination of the board member's expiring term instead of a member or retiree on the first Monday of March preceding expiration of that term.²⁵

Technical

The act makes the following technical changes:

--Deletes an obsolete provision regarding rules adopted prior to August 20, 1976.²⁶

--Makes changes in terminology for the designation of member beneficiaries.²⁷

--Removes references to "active" service.²⁸

--Changes references to the Medicare program.²⁹

--Makes cross-reference changes.³⁰

Effective date

While the 90-day effective date of the act is December 26, 2012, most of its substantive provisions take effect January 7, 2013. The exception to the January 7, 2013, effective date is that the provisions authorizing the OP&F Board to adjust age and service requirements for retirement, and to adjust member contribution rates beyond the increases required by the act, take effect June 24, 2013 (180 days after the act's 90-day effective date). However, these provisions cannot be implemented until after November 1, 2017.

Table

The following table compares significant continuing or prior law features of the OP&F plan to those features in the act, including contribution rates, benefit eligibility

²⁵ R.C. 742.04.

²⁶ R.C. 742.10.

²⁷ R.C. 742.3711.

²⁸ R.C. 742.37, 742.38, and 742.39.

²⁹ R.C. 742.45.

³⁰ R.C. 742.63.

and formulas, cost-of-living adjustments, deferred retirement option plan (DROP) accruals, and disability benefits.

Ohio Police & Fire Pension Fund (OP&F)

	Prior or continuing law	Sub. S.B. 340
Member contribution rates <i>(R.C. 742.31)</i>	Member contributes 10% of the member's salary.	Member contributions increased according to the following schedule: (1) Salary earned in pay periods that begin no later than July 1, 2013, maintains current 10% rate; (2) Salary earned in pay periods beginning on or after July 2, 2013, but no later than July 1, 2014, 10.75%; (3) Salary earned in pay periods beginning on or after July 2, 2014, but no later than July 1, 2015, 11.5%; (4) Salary earned in pay periods beginning on or after July 2, 2015, 12.25%.
Contribution rate – Board discretion <i>(R.C. 742.31)</i>	No provision	Not earlier than November 1, 2017, and each quinquennial (five year) period thereafter, authorizes the OP&F Board to adjust the employee contribution rate as follows: (1) Increase the rate if an increase is needed to preserve the fiscal integrity of the Fund; (2) Decrease the rate if a decrease will not materially impair the fiscal integrity of the Fund.
Retirement eligibility <i>(R.C. 742.37)</i>	Unreduced retirement benefit with 25 years of service credit and age 48 or 15 years of service credit and age 62. ³¹	(1) Unreduced retirement benefit with 25 years of service credit at age 48, for those who become members <u>before</u> July 2, 2013. (2) Unreduced retirement benefit with 25 years of service at age 52,

³¹ A member may also retire at age 48 with 15 years of service credit, provided 25 years have elapsed since the member became a full-time police officer or firefighter in OP&F.



	Prior or continuing law	Sub. S.B. 340
	No provision.	for those who become members <u>on or after</u> July 2, 2013. (3) Unreduced retirement benefit with 15 years of service credit and age 62 remains unchanged in the act. Reduced retirement benefit with 25 years of service credit at age 48.
Retirement eligibility Board discretion (R.C. 742.161)	No provision.	Not earlier than November 1, 2017, and each quinquennial period thereafter, authorizes the OP&F Board to adjust age and years of service credit required to receive a pension or benefit as follows: (1) Increase the requirements if an increase is needed to preserve the fiscal integrity of the Fund; (2) Decrease the requirements if a decrease will not materially impair the fiscal integrity of the Fund.
Benefit formula (R.C. 742.37)	2.5% average annual salary (AAS) for the first 20 years of service credit plus 2% for the 21st through 25th year, plus 1.5% for service credit beyond 25 years. ³²	No changes for unreduced pension. Reduced pension adjusted to be the actuarial equivalent of the pension had the member retired at age 52.
Average annual salary (AAS)	Calculated by averaging the highest three years of salary (R.C. 742.01).	(1) For members who have 15 or more years of service credit <u>on or before</u> July 1, 2013, AAS calculated by averaging the highest three years of salary. (2) For members who have less than 15 years of service credit <u>on</u> July 1, 2013, AAS calculated by averaging the highest five years of salary (R.C. 742.01, 742.37, and 742.39).

³² The benefit cannot exceed 72% AAS.

	Prior or continuing law	Sub. S.B. 340
Salary (R.C. 742.01 and 742.012)	Statutory definitions of salary and terminal pay used to calculate employee contributions and benefit amounts.	Permits the Board to adopt rules that establish definitions of salary and terminal pay that differ from those in the Revised Code. The Board may use information from W-2 forms for this purpose.
Terminal pay (R.C. 742.01 and 742.012)	With limited exceptions, excludes as terminal pay certain payments made by an employer to an employee on termination of employment so the payments are not subject to contributions or used in benefit calculations. No provision.	Provides that these payments can be considered terminal pay regardless of whether the payments are made before or after termination. For members who, as of July 1, 2013, have 15 or more years of service credit establishes a "salary benchmark" under which certain increases are excluded from salary for the purpose of determining average annual salary. Requires that contributions for salary that exceeds the salary benchmark be refunded in accordance with rules adopted by the OP&F Board.
Cost-of-living adjustment (COLA) (R.C. 742.3716)	Annual cost-of-living allowance of 3% provided to each retirement pension or disability benefit recipient who has received the pension or benefit for one year.	(1) Annual COLA of 3% for those who have at least 15 years of service credit on or before July 1, 2013. (2) Annual COLA of the lesser of 3% or the increase in the Consumer Price Index, if any for all others. COLA is provided only to recipients who have attained age 55 and have received the pension or benefit for one year, except that disability recipients who are permanently and totally disabled do not have to have attained age 55.

	Prior or continuing law	Sub. S.B. 340
Deferred retirement option plan (DROP) (R.C. 742.3716, 742.44, 742.443, and 742.444)	Member is required to participate in DROP for three years to receive the full DROP accrual. Inclusion of COLA in the DROP accrual.	Member who before July 2, 2013, elects to participate is required to participate in DROP for five years to receive the full accrual. (1) Member whose DROP participation begins before July 2, 2013, continues to receive COLAs in the DROP accrual on attaining age 55. (2) Member whose DROP participation begins on or after July 2, 2013, does not receive COLAs in the accrual.
Disability (R.C. 742.38)	Provides benefits for a partial disability or disability caused by heart disease or chronic cardiovascular or respiratory disease. To be eligible for a benefit for heart disease or chronic cardiovascular or respiratory disease, requires a pre-employment examination (R.C. 742.38).	Requires <i>permanent</i> partial disability or <i>permanent</i> disability caused by heart disease or chronic cardiovascular or respiratory disease. Authorizes the Board to grant the benefit even without the examination if competent medical evidence is submitted to the Board documenting that the disease was not evident prior to or at the time of entry into a police or fire department (R.C. 742.38).

HISTORY

ACTION	DATE
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