



Ohio Legislative Service Commission

Final Analysis

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Reps. R. Adams, Amstutz, Anielski, Antonio, Baker, Barnes, Blair, Blessing, Boose, Boyce, Boyd, Bupp, Buchy, Budish, DeVitis, Driehaus, Duffey, Fedor, 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, M. Slaby, Smith, Stebelton, Thompson, Wachtmann, Winburn, Yuko, Batchelder

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This analysis has two parts. The first part describes all the act's changes to laws governing the Public Employees Retirement System (PERS). The second part is a table comparing to prior or continuing law changes to the PERS defined benefit plan, including benefit eligibility and formulas, cost-of-living adjustments, disability benefits, and service credit purchases.

ACT SUMMARY

Retirement eligibility

- Changes retirement and disability benefit eligibility criteria for members of the Public Employees Retirement System (PERS) by creating three transition groups: Group A (members who are eligible to retire or will be eligible not later than January 7, 2018), Group B (members who will be eligible to retire not later than January 7, 2023 or have 20 years of service credit on that date), and Group C (all other members).

Formulas

- For members in Group C, changes to five (from three) the number of years used to determine final average salary (FAS), which is used to calculate retirement allowances and disability benefits.

- Provides that FAS will be calculated based on the sum of the member's earnable salaries for the higher of (1) the highest calendar years of services, as under current law, or (2) the last consecutive months of service, up to and including the last month.
- For members in Group C, changes the FAS formula to 2.2% of FAS for each of the first 35 years of service credit and 2.5% for each year thereafter (from 2.2% for each of the first 30 years and 2.5% for each year thereafter).
- Eliminates two formulas that are alternatives to the FAS formula. The formulas eliminated are (1) \$86 multiplied by years of service credit or (2) a benefit consisting primarily of an annuity with a reserve equal to the member's accumulated contributions and a pension equal to the annuity.

Reduced allowance

- Changes the calculation of the reduced retirement allowance for members in Groups B and C.

Contribution based benefit cap

- Authorizes the PERS Board to establish the "contribution based benefit cap" (CBBC), a limit on the retirement allowance a member may receive.
- Bases the CBBC on the contributions a member has made converted to an annuity and multiplied by a number designated by the Board (the CBBC factor) and compared to the retirement allowance the member would receive under the FAS formula.
- Applies the limit to retirement allowances and to survivor benefits that are based on retirement allowances.
- Provides that, for members in Group A, the reduction caused by the CBBC cannot exceed 5% of the retirement allowance the member would otherwise receive, unless during any full month of service after January 1, 1987, the member's earnable salary was less than \$1,000.

Cost-of-living adjustment (COLA)

- Starting with 2019 (the sixth full calendar year after January 7, 2013), changes the COLA to the increase, if any, in the Consumer Price Index (CPI), not exceeding 3% (from an automatic 3%) for benefits granted on or after January 7, 2013.

- Specifies that the PERS vesting provisions do not apply to COLAs granted after January 7, 2013, to members who retire on or after that date.

Public safety service credit

- Permits the PERS Board to treat service as a public safety officer as service as a law enforcement officer if certain conditions are met.

Plans of payment

- Revises the plans a member may choose from for payment of a retirement allowance so that the member may choose from only the following: the full allowance (single life), a lesser allowance with a portion continuing after death to a beneficiary for life (joint life), or a lesser allowance with a portion continuing after death to two or more beneficiaries for their lives (multiple life), but retains the requirement that a married member elect an allowance continuing after death with the spouse as the beneficiary unless the spouse consents to another plan of payment.

Disability

- Provides that disability coverage extends only to illness or injury that occurs before the member's contributing service terminates, or if the illness or injury results from contributing service, becomes evident not later than two years after that service ends.
- Excludes cosmetic surgery other than reconstructive surgery from PERS disability coverage.
- Applies the following provisions to a disability benefit recipient whose application is filed after January 7, 2013 (regardless of when the disability occurred):
 - Reduces to three (from five) the number of years the recipient is considered to be on a leave of absence, except that the period may be up to five years if the recipient is receiving rehabilitative services acceptable to the PERS Board.
 - Except for law enforcement officers, provides that once the leave of absence ends the standard for determining whether the recipient's disability benefit should be terminated is that the recipient is capable of performing a job described in statute instead of capable of performing the recipient's former job.
- Causes forfeiture of any right a PERS member may have to a disability benefit if the disability was caused by a felony committed by the member after January 7, 2013.

- Denies a disability benefit if before the benefit commences the member continues in or returns to the job the member held at the time the benefit was granted.
- Requires a disability benefit recipient, other than a PERS law enforcement officer, who is eligible for Social Security disability insurance (SSDI) payments to apply for SSDI, and reduces the disability benefit if the total of the benefit and the SSDI payment exceeds the recipient's inflation adjusted final average salary.

Service credit

- Effective January 1, 2014, increases to \$600 the amount a PERS member must earn in a month to receive full credit for that month and provides for future increases based on increases in compensation of township trustees.
- Changes the cost to the member of purchasing service credit for any of the following to an amount equal to 100% of the additional liability to PERS resulting from the additional credit: service as an elective official, including additional credit; service for which the member was exempted from PERS contributions; prior service; municipal, out of state, or federal service; school board service; and a period while on a leave of absence.
- Removes a prohibition on acquiring certain purchased or granted military service credit when that credit is also used in calculation of another retirement benefit.
- Permits the Board to do all of the following:
 - Establish a charge, not exceeding the additional liability to PERS, for credit for military service that interrupted public employment.
 - Require a member who seeks to have service credit restored after having withdrawn contributions to deposit an amount specified by rule of the Board (which may be up to 100% of the additional liability to PERS) instead of the amount withdrawn plus interest.
 - Establish a charge, not exceeding the additional liability to PERS, for credit for a period during which a member was receiving PERS disability benefits and limits the credit to a maximum of five years' credit.
- Eliminates free service credit for periods during which a PERS member was out of service and receiving workers' compensation benefits, but permits the member to purchase the credit and requires the employer to make the employer contribution if the member makes the purchase.

- Requires a PERS member who is elected or appointed to public office to pay both the employee and employer contribution to receive credit for a pay increase that was not paid because it was granted during the member's term in office, rather than paying only the employee contribution as required under prior law.
- Eliminates a provision that specifies how full-time service is determined for a board or commission member for purposes of eligibility to purchase additional service credit and permits the PERS Board to determine by rule who is a full-time board or commission member or elective official for this purpose.
- Limits the time during which a PERS member may elect a transfer or purchase of credit for service under the Ohio Police and Fire Pension Fund, State Highway Patrol Retirement System, or Cincinnati Retirement System to a period just before anticipated receipt of a disability or retirement benefit.
- Provides that credit for military service that interrupts public service will be granted without charge only for service prior to the enactment of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), October 13, 1994.
- Provides that the surviving spouse of a PERS member who dies on or after January 7, 2013, may purchase service credit the member could have purchased only if the member initiated the purchase before death.
- Provides that the act's service credit changes apply to purchases initiated on or after July 7, 2013, or to those purchases not completed not later than July 7, 2018.

Enhanced refund

- Changes the additional amount a member with at least five years of service receives as an enhanced refund on withdrawing contributions from 33% with five or more years of service or 66% with ten or more years of service to amounts specified in PERS rules.
- Changes the service credit used to determine eligibility for the enhanced refund to include purchased military service credit and restored credit.

Retirement effective date

- Provides that the effective date of a retirement allowance or re-employment annuity is not earlier than 90 days prior to the Board's receipt of the member's application for the allowance or annuity.

Coordination with SERS and STRS

- Specifies the amounts that must be paid by the School Employees Retirement System (SERS) or the State Teachers Retirement System (STRS) if service credit from one or both of those systems is used in the calculation of a PERS disability or retirement benefit.

Retirement plans

- Authorizes the Board to permit members who have contributed to more than one PERS retirement plan (one defined benefit and two defined contribution plans) to have years of service under two or more plans combined for the purpose of determining retirement eligibility.
- Authorizes the Board, for those members who have contributed to more than one PERS retirement plan, to establish a uniform beneficiary designation form for use when a member dies before retiring that applies to all PERS plans in which the member has contributions.

Defined contribution plan

- Permits (rather than requires) PERS to transfer a portion of employer contributions made on behalf of PERS defined contribution plan participants to the account used to fund the PERS defined benefit plan (referred to as the "mitigation rate").
- Applies the beneficiary designation provisions for the defined benefit plan to the defined contribution plans.
- Authorizes the PERS Board to adopt rules specifying how service credit in the defined benefit plan may be converted to amounts on deposit in a defined contribution plan if a member switches plans.
- Requires a PERS defined contribution plan participant who becomes employed in a PERS law enforcement or PERS public safety position to cease participating in the defined contribution plan and instead participate in the defined benefit ("Traditional") plan.
- Eliminates a provision under which a defined contribution plan participant may maintain on deposit with PERS or the entity administering the plan any amounts that have accumulated on behalf of the member and makes other accounting changes.

Membership

- Establishes time limits and procedures for requesting determinations of whether individuals providing personal services to public employers are public employees and subject to compulsory PERS membership.

Health care

- Gives the PERS Board discretion to establish by rule the number of years and types of service credit required to be eligible for health care coverage in retirement.
- Requires the Board to establish an amount to be paid to eligible retirees, disability recipients, or survivors as reimbursement for Medicare Part B premiums they pay, rather than requiring the Board to provide a payment of not less than \$96.40 per month.
- Replaces a requirement that PERS pay one half of the premium for the coverage for a spouse or surviving spouse for health care coverage equivalent to Medicare Part A with a provision permitting PERS to pay a portion of the premium.

Criminal falsification

- Provides that a member or beneficiary is not eligible for PERS health care coverage if the member or beneficiary is convicted of criminal falsification as a result of making a false statement in an attempt to obtain a health care benefit.
- Includes in the crime of falsification, a misdemeanor of the first degree, providing false information to PERS for the purpose of acquiring health care coverage.

Overpayments

- Specifically authorizes PERS to collect health care coverage overpayments, including overpayments to third parties, by any means permitted by law.
- Permits PERS to adjust a retirement benefit if the benefit is incorrectly calculated.

Re-employed PERS retirants

- Provides that the rate of interest credited to the accounts of certain re-employed retirants is a rate determined by the PERS Board, rather than PERS's actuarial assumption rate of interest.
- Causes a lump sum payment to the survivor of a re-employed retirement who dies while re-employed and under age 65 to be an amount equal to the retirant's

contributions plus interest, instead of an amount that includes both the retirant's contributions and a portion of the employer's contributions.

PERS Board

- Provides that the office of a PERS Board member (instead of only the office of an employee member or a retirant member of the Board) who is convicted of or pleads guilty to specified offenses is deemed vacant. Specifies that a person who is convicted of or pleads guilty to any of those offenses is ineligible for either election or appointment (instead of just election) to the PERS Board.
- Provides that if an employee member of the PERS Board no longer qualifies to represent the employee group that elected the member, the member's office is considered vacant and a successor member is to be elected.
- Provides that an appointed PERS Board member holds office until the later of the end of the term for which the member is appointed or the date the member's successor takes office.
- Requires that all members of the PERS Board (instead of only newly elected members and individuals appointed to fill a vacancy) complete the orientation program component of the Retirement Board Member Education Program.

Records

- Authorizes the PERS Board to maintain records of the retirement system and its members, contributors, and beneficiaries in either printed or electronic format and to share data with the state's other public retirement systems and with the Ohio Public Employees Deferred Compensation Program, Social Security Administration, and U.S. Centers for Medicare and Medicaid Services, and the Cincinnati Retirement System.

Other changes

- Requires employee contributions to be transmitted to PERS at intervals and in such form as the system requires.
- Makes changes to the PERS additional annuity program under which a member makes additional deposits to PERS during the member's career and receives an additional annuity during retirement.
- Requires that any legal action commenced against PERS be filed in Franklin County.

- Authorizes the PERS Board to allow employees of the Ohio Public Employees Deferred Compensation Board to participate in any health care coverage PERS offers its own employees.
- Makes nonsubstantive technical changes.

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CONTENT AND OPERATION

Retirement plans and eligibility groups

Most members of the Public Employees Retirement System (PERS) are in the defined benefit plan, which PERS refers to as the "Traditional Plan." Under this plan, retirement and disability benefits are generally calculated using a formula based on

final average salary and years of service.¹ PERS has two defined contribution plans: the Member Directed Plan and the Combined Plan. Under these plans benefits are based on contributions and earnings on those contributions.² Benefits under the defined contribution plans are governed by plan documents adopted by the PERS Board, rather than by the Revised Code.

The act makes numerous changes to the defined benefit plan, including changes to plan design features such as benefit eligibility and formulas, cost-of-living adjustments, disability benefits, and service credit purchases. While defined contribution plans are governed primarily by plan documents, the act does make some modifications to statutory requirements for those plans. Additional changes to the law governing PERS affect members participating in either the defined benefit or a defined contribution plan.

For members participating in the defined benefit plan, the effect of the act depends on the "group" to which the member is part. A member's group is determined either by the member's service credit as of January 7, 2013, or by when the member will be eligible to retire under the eligibility requirements of prior law.³

"Group A" includes members who, under the criteria of law in effect prior to January 7, 2013, are eligible to retire or will be eligible no later than January 7, 2018. These member are exempt from most changes made to the defined benefit plan.⁴

"Group B" includes members who, on January 7, 2013, have 20 years of service credit or will be eligible to retire not later than January 7, 2023, under the requirements of law in effect prior to January 7, 2013. These members are generally subject to modifications to benefit eligibility requirements and cost-of-living adjustments.

"Group C" consists of current and future members who are not in either Group A or Group B. These members are subject to all of the act's changes to the defined benefit plan.

¹ Revised Code (R.C.) 145.33.

² R.C. 145.81 (not in the act).

³ PERS has created a calculator that will *estimate* the group to which a person is part (<https://www.opers.org/estimator/>). A member may confirm the group by contacting PERS at 1-800-222-7377.

⁴ These members are subject to changes in the cost-of-living adjustment and may be subject to the contribution based benefit cap (see "**Cost-of-living adjustment**," and "**Contribution based benefit cap**," below).

Retirement eligibility

Changes to retirement eligibility depend on (1) a member's group and (2) whether the member is a "regular" PERS member or a PERS law enforcement or public safety officer.⁵

Regular PERS members

Retirement eligibility criteria for regular members in Group A are unaffected by the act.⁶ To be eligible to retire with no reduction in the retirement allowance, the member must have (1) 30 or more years of service credit or (2) have five or more years of service credit and be age 65 or older. To retire with a reduced allowance, the member must (1) have 25 or more years of service credit and be age 55 or older or (2) have five or more years of service credit and be age 60 or older.

To retire with an unreduced allowance, the act requires regular members in Group B to (1) have 32 or more years of service credit, (2) have 31 or more years and be age 52 or older, or (3) have five or more years of service credit and be age 66 or older.⁷ To retire with a reduced allowance, the member must (1) have five or more years of service credit and be age 60 or older, or (2) have 25 or more years of service credit and be age 55 or older.

For an unreduced allowance, the act requires regular members in Group C to (1) have 32 or more years of service credit and be age 55 or older or (2) have five or more years of service credit and be age 67 or older.⁸ A member in Group C is eligible for a reduced allowance with (1) 25 or more years of service credit and age 57 or (2) five years of service credit and age 62.

Law enforcement and public safety officers

Retirement and disability benefit eligibility and allowances for PERS members who are law enforcement officers or public safety officers differ from those for regular PERS members.⁹ Law enforcement and public safety officers also have higher employee

⁵ For purposes of this analysis, a regular PERS member is any member who is not a PERS law enforcement officer or PERS public safety officer.

⁶ R.C. 145.32(A).

⁷ R.C. 145.32(B).

⁸ R.C. 145.32(C).

⁹ R.C. 145.33 in prior law; 145.332 in the act.

and employer contributions.¹⁰ There are more than 20 types of law enforcement and public safety officers, including deputy sheriffs, township police, and university police officers.¹¹ Under law modified by the act for members in Group B or C, PERS law enforcement officers could retire with unreduced benefits at age 48, PERS public safety officers at 52. The distinction between law enforcement and public safety officers is that to be considered a PERS law enforcement officer a member's primary duties must be to preserve the peace, protect life and property, and enforce the laws of this state. In determining eligibility for retirement under the law enforcement officer provisions, typically only law enforcement service credit is considered, whereas eligibility for retirement under the public safety officer provisions may be based on both law enforcement and public safety service credit.¹²

Law enforcement officers

The retirement eligibility criteria for PERS law enforcement officers in Group A are unaffected by the act.¹³ They may retire with an unreduced allowance with (1) 25 or more years of service credit at age 48 or older or (2) 15 or more years of service at age 62 or older. The act does not change the number of years of service credit a PERS law enforcement officer in Group B or C must have to be eligible to retire, but does change the minimum retirement age. For Group B, the officer must be age 50 or older to retire with 25 years of service credit or 64 or older to retire with 15 years.¹⁴ For Group C, the officer must be age 52 or older to retire with 25 years of service credit, or 64 or older to retire with 15 years.¹⁵

Provisions concerning retirement with a reduced allowance do not apply to law enforcement officers in Group A, since they continue to be eligible to retire at age 48. The act permits law enforcement officers in both Groups B and C to retire with a reduced allowance at age 48 with 25 years of service credit.¹⁶

¹⁰ R.C. 145.49.

¹¹ R.C. 145.01.

¹² R.C. 145.33 in prior law; 145.332 in the act.

¹³ R.C. 145.33(B) in prior law; 145.332(A) in the act .

¹⁴ R.C. 145.33(B) in prior law; 145.332(B) in the act.

¹⁵ R.C. 145.33(B) in prior law; 145.332(C) in the act.

¹⁶ R.C. 145.332(D).

Public safety officers

The retirement eligibility criteria for PERS public safety officers in Group A are unaffected by the act. They are eligible to retire with an unreduced allowance with (1) 25 or more years of service credit at age 52 or older or (2) 15 or more years of service credit at age 62 or older.¹⁷ The act does not change the number of years of service credit a PERS public safety officer in Group B or C must have to be eligible to retire, but does change the minimum retirement age.¹⁸ For Group B, the officer must be age 54 or older to retire with 25 years of service credit, or 64 or older to retire with 15 years. For Group C, the officer must be age 56 or older to retire with 25 years of service credit or 64 or older to retire with 15 years.

As under continuing law, the act permits public safety officers in Group A to retire with a reduced allowance at age 48 with 25 years of service credit.¹⁹ The act applies the same criteria to Group B.²⁰ It permits public safety officers in Group C to retire with a reduced allowance at age 52 with 25 years of service credit.²¹

Law enforcement and public safety officers

In addition to the criteria described above, continuing law modified by the act permits a PERS law enforcement or public safety officer to retire with 15 years of service credit and receive an allowance under a formula that differs from that for retirement under the criteria described above.²² The allowance under this formula is 1.5% of final average salary for each year of service credit. It is deferred until the member is age 52. The act continues the deferral to age 52 for members who will attain that age not later than January 7, 2023. For all others, the allowance is deferred to age 56.

Purchasing law enforcement credit

As mentioned above, only PERS law enforcement service is considered in determining retirement eligibility for a PERS law enforcement benefit. Continuing law authorizes the Board to adopt rules to establish a program under which a member may make payments to PERS to have PERS public safety officer credit used in determining a PERS law enforcement benefit. Up to five years of service credit may be used in this

¹⁷ R.C. 145.33(A) in prior law; 145.332(A) in the act.

¹⁸ R.C. 145.33(B) in prior law; 145.332(B) and (C) in the act.

¹⁹ R.C. 145.33(C) in prior law; 145.332(E)(3) in the act.

²⁰ R.C. 145.33(E)(4).

²¹ R.C. 145.33(E)(5).

²² R.C. 145.33(B) in prior law; 145.332(G) in the act.

way. The act maintains the authority of the Board to establish such a program, but permits the Board to either accept payment for the purchase or reduce the credit so there is no additional liability to PERS. The five-year limit does not apply to a member who accepts reduced credit.²³

Formulas

The PERS defined benefit plan has three formulas for calculating the retirement allowances of regular members and one for the allowances of law enforcement and public safety officers. The most common formula for regular members and the formula for law enforcement and public safety officers use the member's final average salary (FAS), which was generally determined under prior law by dividing by three the sum of the member's three highest calendar years of salary.

For all members in Group C, the act changes FAS to the member's five highest calendar years of salary.²⁴

Final average salary

The years used in determining FAS are full calendar years, except that the higher salary for a partial year in the last year of service is substituted for salary for the same period in one of the full calendar years.²⁵ Instead, the act causes FAS to be determined using either (1) the highest full calendar years, as under continuing law or (2) the member's last consecutive months of service, up to and including the last month.

FAS formulas

The FAS formula in law modified by the act for regular members provides for an annual retirement allowance of 2.2% of the member's FAS for each of the first 30 years of service credit and 2.5% for each year thereafter.²⁶ The act retains this formula for Groups A and B. For members in Group C, the act changes the formula so that 2.5% is used for years after the first 35, instead of after the first 30.²⁷

²³ R.C. 145.2914.

²⁴ R.C. 145.017.

²⁵ R.C. 145.01(K).

²⁶ R.C. 145.33. Under this formula, the annual allowance for a retiree with 30 years of service credit is 66% of final average salary.

²⁷ R.C. 145.33(A).

The formula for law enforcement and public safety officers is also an FAS formula: 2.5% of the member's FAS for each of the first 25 years of service credit and 2.1% for each year thereafter. This formula is unchanged by the act for all groups of law enforcement and public safety officers.²⁸

Alternative formulas

The act eliminates the alternative formulas for regular PERS members who retire after January 7, 2013.²⁹ The formulas eliminated are (1) an annual allowance of \$86 multiplied by years of service and (2) an annual allowance consisting primarily of an annuity with a reserve equal to the member's accumulated contributions and a pension of equal amount.

Reduced allowance

As discussed above, a PERS member may retire early with a reduced allowance. Under law modified by the act, for regular members the full retirement allowance is reduced by 3% to 25% depending on either age or years of service credit at retirement.³⁰ The act retains this method for members in Group A. For regular members in Group B, the formula amount is reduced by a percentage determined by the PERS Board's actuary for each year the member retires before (1) attaining age 66, (2) attaining age 52 with 31 years of service credit, or (3) earning 32 years of service credit.³¹ The reduction for regular members in Group C is similar, except that the reduction is for each year the member retires before either (1) attaining age 67 or (2) attaining age 55 and earning 32 years of service credit.³²

The act permits the actuary to use an actuarially based average percentage reduction to calculate reduced allowance for regular members in Groups B and C.

Law modified by the act permits a PERS public safety officer to retire at age 48 and receive a reduced allowance. The reduction is from 7% to 25%, depending on the member's age at retirement. The act retains this reduction for public safety officers in Group A who are eligible to make this election not later than January 7, 2018.³³ All

²⁸ R.C. 145.332(F).

²⁹ R.C. 145.33 and 145.34 (repealed).

³⁰ R.C. 145.33(A)(2)(a).

³¹ R.C. 145.33(A)(2)(b).

³² R.C. 145.33(A)(2)(c).

³³ R.C. 145.332(E)(3).

other public safety officers and law enforcement officers who retire with a reduced allowance will receive the actuarial equivalent of the unreduced allowance adjusted for age.³⁴

Contribution based benefit cap

The act requires the PERS Board to establish the contribution based benefit cap (CBBC), a limit on retirement allowances and on survivor benefits based on retirement allowances.³⁵ PERS refers to the CBBC as the "anti-spiking provision."³⁶

The act permits the PERS Board to designate the CBBC factor. If a member's retirement allowance exceeds the CBBC determined for the member using the CBBC factor, the retirement allowance is to be reduced. To determine the CBBC, the Board must do the following:

(1) Determine the amount that would result if the total of employee contributions made by the member was paid out as an annuity for the member's life;

(2) Multiply the amount determined under (1) by the Board designated CBBC factor.

If, for example, the CBBC factor was six, PERS would multiply the amount determined under (1), which is based on the member's contributions, by six. The result would be the member's CBBC. If the member's retirement allowance would exceed the CBBC, the retirement allowance is to be reduced to equal the CBBC, unless the member is in Group A. For members in Group A, the reduction caused by the CBBC may not exceed 5% of the retirement allowance the member would otherwise receive. The 5% limit does not apply if, for any full month of service after January 1, 1987, the member's earnable salary was less than \$1,000.

Cost-of-living adjustment

Beginning January 2019, the cost-of-living adjustment (COLA) for recipients of retirement allowances, disability benefits, and survivor benefits granted on or after January 7, 2013, will be the percentage increase in the Consumer Price Index (CPI), not exceeding 3%.³⁷ Under law continuing until January 2019, the increase is 3% annually

³⁴ R.C. 145.332(E)(4) and 145.332(E)(5).

³⁵ R.C. 145.333.

³⁶ "OPERS rolls out anti-spiking calculator," PERSpective, May 20, 2012, available at <http://perspectiveopers.org>.

³⁷ R.C. 145.323.

and is not affected by the CPI. The COLA change will not affect those whose retirement is granted before January 7, 2013. Under the act, the earliest retirement can take effect is the first day of the month following the last day for which compensation is paid. (See "**Retirement effective date**," below.)

COLA and retirement effective date

| Retirement effective date | COLA between January 7, 2013 and January 1, 2019 | COLA after January 1, 2019 |
|--|--|----------------------------|
| Effective <i>prior</i> to January 7, 2013 | 3% | 3% |
| Effective <i>on or after</i> January 7, 2013 | 3% | CPI, not exceeding 3% |

The act modifies PERS vesting statutes.³⁸ Generally, a retirement allowance, annuity, pension, or other benefit under the PERS defined benefit plan vests on the granting of the benefit, which means that the member has earned a nonforfeitable right to the portion of the benefit funded by employer contributions. Contributions made by the member are nonforfeitable at all times. The act specifies that the PERS vesting provisions do not apply to COLAs granted to members who retire on or after January 7, 2013.

Public safety service credit

Under the act, if less than 1% of the contributors to PERS are public safety officers, the PERS Board may treat service as a public safety officer as service as a law enforcement officer. To do this, the Board must adopt a rule. If the rule is adopted, public safety officers will have the same retirement eligibility requirements and pay employee contributions at the same rate as law enforcement officers.³⁹

Plans of payment

At the time of retirement, a PERS member must choose a plan of payment. If the member is married, the plan must be one under which a reduced allowance is paid after the member's death to the surviving spouse, unless the spouse cannot be found or the

³⁸ R.C. 145.561 and 145.95.

³⁹ R.C. 145.332(P) and R.C. 145.49(C). The 2012 employee contribution rates are 11.5% for public safety officers and 12.1% for law enforcement officers.

PERS Board waives the requirement.⁴⁰ Otherwise, the member may choose either (1) a plan under which the full allowance is paid for the member's life or (2) a plan under which a reduced allowance is paid to the member for life and after the member's death a percentage of that allowance is paid to one or more beneficiaries designated by the member. Prior law included six different payment plans based on the number of beneficiaries. The act limits the plans to three: (1) the full allowance for the member's life (called "single life"), (2) a reduced allowance for life continuing in whole or part to a beneficiary after the member's death (called "joint life"), or (3) a reduced allowance for life continuing in whole or part to two, three, or four beneficiaries after the member's death (called "multiple-life"). The act maintains the spousal consent requirement.

Disability benefits

PERS members in the defined benefit plan who have five years of service credit have coverage for long-term disability.⁴¹ Coverage is also provided, regardless of length of service, for on-duty illness or injury of members who are law enforcement or public safety officers.

Coverage deadline

The act provides that disability coverage extends only to illness or injury that occurs before a member's contributing service terminates, or if the illness or injury results from contributing service, becomes evident no later than two years after that service ends.⁴² Under law modified by the act, a PERS member may apply for a disability benefit for up to two years after contributions cease. Under the act, the application must be made within two years from the date the member's contributing service under the defined benefit plan ends.

Cosmetic surgery exclusion

The act provides that PERS disability coverage does not extend to disability resulting from cosmetic surgery other than reconstructive surgery.⁴³

Leave of absence

A provision under which a disability benefit recipient is considered to be on a leave of absence for five years continues under the act for a member whose application

⁴⁰ R.C. 145.46.

⁴¹ R.C. 145.35.

⁴² R.C. 145.35.

⁴³ R.C. 145.35.

for disability benefits is received before January 7, 2013. Regardless of when the disability occurs, a disability benefit recipient whose application is received on or after that date retains membership status and is considered on leave of absence from employment during the first three years following the effective date of the benefit. However, if the member is receiving rehabilitative services acceptable to the Board, the Board may permit the member to retain membership status and be considered on leave of absence from employment for up to five years following the benefits effective date.⁴⁴

Disability standards

The act retains the existing standard for an initial disability determination but expresses it more directly. Under law modified by the act, to be granted a disability benefit a member must be mentally or physically incapacitated for the performance of duty. The act provides that the standard is that the member "is mentally or physically incapable of performing the duties of the position held at the time the disabling condition began or a position with similar duties."⁴⁵ The act establishes a more restrictive standard for continuing a disability benefit if the application is received on or after January 7, 2013.⁴⁶

Disability benefit recipients are subject to annual medical examination, although the Board is authorized to waive the examination if the disability is ongoing. The act permits the Board to specify by rule additional circumstances under which a disability benefit recipient is not required to be reexamined each year.

On completion of an examination, law revised for future recipients requires the Board's physician or physicians to certify whether the recipient is no longer physically and mentally incapable of resuming the service from which the recipient was found disabled. If the recipient is no longer incapable, the disability benefit is terminated. The act retains this standard for any recipient whose application is received before January 7, 2013, or, if after that date, the recipient has been receiving the benefit for less than three years or is receiving rehabilitative services acceptable to the Board and considered on leave of absence.

The act applies the more restrictive standard to a recipient to whom all of the following apply: (1) the application is received on or after January 7, 2013, (2) the benefit has been paid for three years or longer, (3) the recipient was not a PERS law enforcement officer when the disability occurred, and (4) the recipient is not considered

⁴⁴ R.C. 145.362.

⁴⁵ R.C. 145.35.

⁴⁶ R.C. 145.362.

on leave of absence due to receiving rehabilitative services acceptable to the Board. Under this new standard, the disability benefit will be terminated if the recipient is not physically or mentally incapable of performing the duties of a position that meets all of the following criteria:

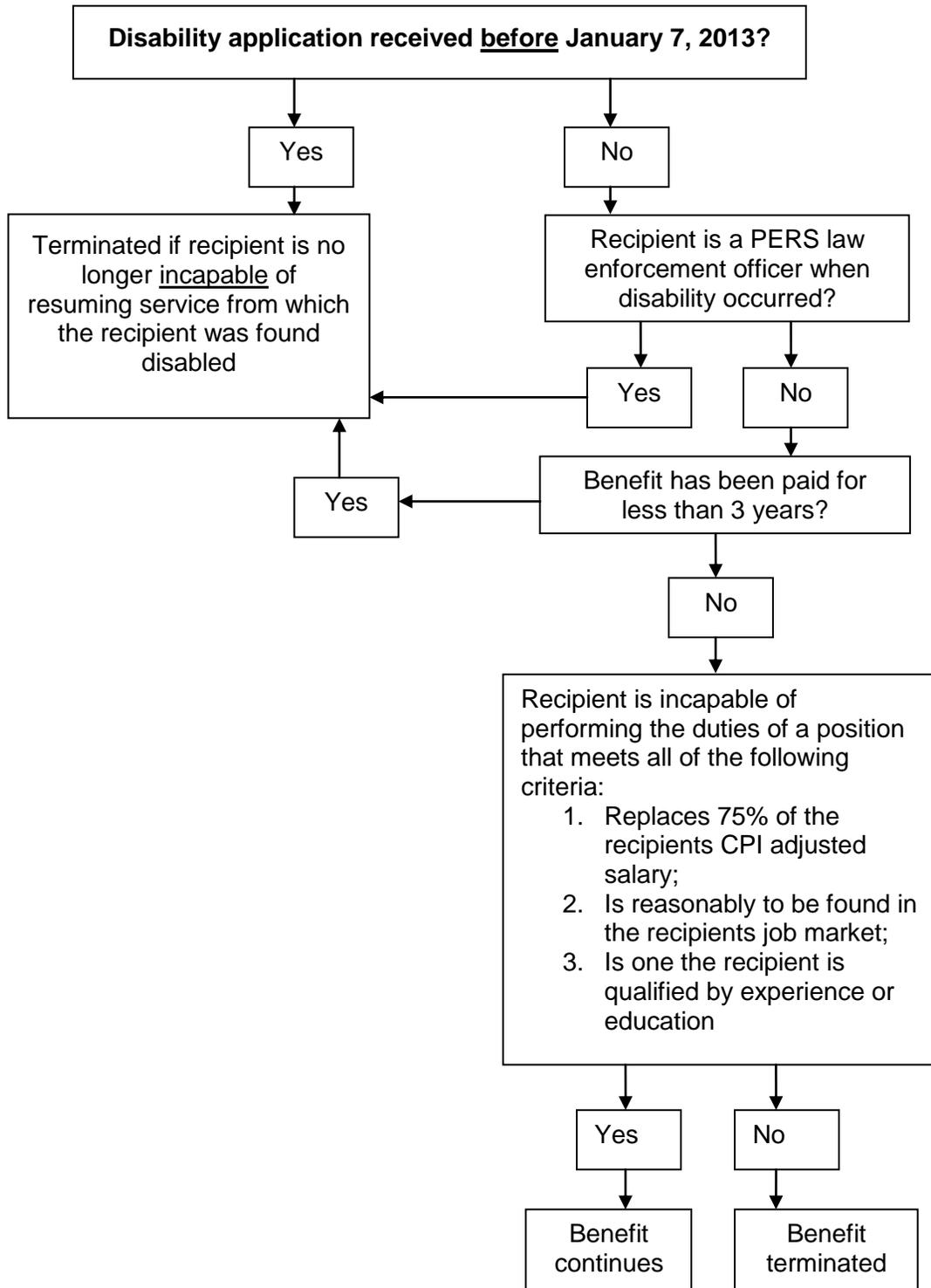
(1) Replaces not less than 75% of the recipient's final average salary, adjusted each year by the actual average increase in the Consumer Price Index;

(2) Is reasonably to be found in the recipient's regional job market;

(3) Is one that the recipient is qualified for by experience or education.

(See "**Disability Chart**" on the following page.)

Disability Chart



Forfeiture

The act expands the current limited forfeiture of a retirement allowance or disability benefit by a PERS member who has been convicted of a felony by creating a new forfeiture provision applicable to a member convicted of a felony committed on or after January 7, 2013, that caused the member's physical or mental disability.⁴⁷ The new provision applies only to cases to which continuing law does not apply.⁴⁸

On the filing of charges against a PERS member alleging that the member committed a felony, the prosecutor assigned to the case is required to send written notice to PERS that the charges have been filed.⁴⁹ The notice must specifically identify the person. PERS is prohibited from granting the member a disability benefit unless it determines that the member's disability was not caused by commission of the felony. If the member qualifies for PERS disability coverage or has already been granted a disability benefit, the retirement system must notify the prosecutor that the member may be subject to forfeiture of any right the member may have to a disability benefit.

If a PERS member is being sentenced for a felony offense that caused a physical or mental disability in the member and was committed on or after January 7, 2013, in addition to any other sanction, the court must order forfeiture of any right of the member to a PERS disability benefit based on that disability.⁵⁰ The forfeiture must be ordered regardless of whether a disability benefit has been requested or granted. The forfeiture is part of, and must be included in, the sentence.

Before sentencing in a case in which the court is required to order forfeiture, the PERS member may request a hearing regarding the forfeiture by delivering a written request for a hearing to the court. If there is a timely request, the court is to schedule the hearing to be conducted before sentencing. Not later than ten days prior to the scheduled date of the hearing, the court must give notice of the hearing date to the member, the prosecutor who handled the case, and PERS. The hearing is limited to determination of whether the member's disability resulted from commission of the offense. If a disability benefit has already been granted, PERS must submit to the court documentation of the evidence on which the benefit was granted.

⁴⁷ R.C. 145.573 and 2929.193 (not in the act, continuing law's forfeiture relates to crimes committed while serving in a position of honor, trust, or profit).

⁴⁸ R.C. 145.574 and 2929.194.

⁴⁹ R.C. 2901.431.

⁵⁰ R.C. 2929.194.

If the member does not make a timely request for a hearing or if a hearing is held and the court determines that the disability resulted from commission of the offense, the court is required to order the forfeiture of any right the member may have to a PERS disability benefit that is based on that disability. If the disability benefit has already been granted, the court must order termination of the benefit.

The court is required to send PERS a copy of the journal entry imposing sentence. On receipt of the journal entry, PERS must comply with the order. If a disability benefit was granted prior to receipt of the order, PERS must terminate the benefit. Any disability benefit paid to the member prior to its termination may be recovered in accordance with continuing law.

The forfeiture provisions are exceptions to provisions of continuing law that provide for vesting of PERS benefits and protect them from attachment and garnishment.⁵¹ The act provides, however, that the new forfeiture provisions do not prevent a member from withdrawing the member's contributions.⁵²

Continued employment

The act provides that a disability benefit that has been granted a member but has not commenced is not to be paid if the member continues in or returns to employment with the same employer in the same position or in a position with duties similar to those of the position the member held at the time the disability benefit was granted.⁵³

Social Security disability insurance offset

PERS members who are also employed in the private sector or have earned Social Security coverage through prior employment may be eligible for disability benefits through Social Security's disability insurance (SSDI) program.

With exceptions discussed below, the act requires a PERS disability benefit recipient whose application is received on or after January 7, 2013, to apply for SSDI payments if the recipient is eligible for them.⁵⁴ The application must be made not later than 90 days after the recipient is granted a PERS disability benefit unless the PERS Board determines from the member's medical records that the member is physically or mentally unable to make the application.

⁵¹ R.C. 145.56, 145.561, and 2329.66.

⁵² R.C. 145.573.

⁵³ R.C. 145.35.

⁵⁴ R.C. 145.363.

A PERS disability benefit recipient who is required to apply for SSDI must file a copy of the completed application with PERS, which must accept the copy as evidence of the member's application. If a recipient fails without just cause to apply for SSDI or to file a copy of the application with PERS, the PERS disability benefit is to be suspended until application is made and a copy of the application is filed with PERS.

A recipient of a PERS disability benefit who also receives SSDI is required by the act to file an annual statement of earnings and include the SSDI amount in the statement.

If in any year the total of a disability benefit recipient's PERS benefit and SSDI payments exceeds the recipient's adjusted final average salary, the annual PERS benefit is to be reduced so that the annual total equals the recipient's adjusted final average salary. The recipient's adjusted final average salary is determined by annually increasing the recipient's final average salary by any increase in the Consumer Price Index, not exceeding 3%. If a disability benefit recipient receives retroactive SSDI payments, PERS is authorized to reduce future PERS disability benefits to recoup any overpayments.

The reductions required by the act do not apply to a recipient who was a PERS law enforcement officer when the disability occurred or to a PERS disability benefit recipient who has at least five years of service credit for periods during which the recipient had earnings from other employment that was subject to Social Security and Medicare taxes.

Benefit calculation

The act adjusts to 62 the age used to determine a disability retirement for members in Group C under an alternative disability benefit formula.⁵⁵ The alternative formula applies to members who no later than October 16, 1992, made an election to receive any future disability benefit under that formula. Under the alternative formula of law continuing for members in Group A or B, a disability benefit is based on the member's years of service credit plus the number of years between the age at which the disability began and age 60.

⁵⁵ R.C. 145.36.

Service credit

Monthly earnings

The act increases the amount a member must earn to receive full service credit.⁵⁶ Under prior law, a member received a month's credit for each month in which the member earned \$250 or more.⁵⁷ Partial credit was granted for months in which a member earned less than \$250.

Effective January 1, 2014, the act increases the required earnings for a full month's credit to \$600 per month. For service on or after that date the required earnings will be increased by the same percentage as any increase in compensation Ohio law specifies for township trustees.⁵⁸ Partial credit is granted for months in which a member earns less than \$600 or the increased amount.

Service credit purchased or obtained

Members of PERS may purchase retirement service credit for a number of types of service for which they have not contributed to PERS. The cost of purchasing the credit varies depending on the type of service. In addition to service that may be purchased, up to three years of credit is provided without any contributions for a period during which a member was out of service and receiving workers' compensation. The act makes a number of changes regarding service credit that may be purchased or obtained under continuing law. These changes take effect for purchases initiated on or after July 7, 2013.⁵⁹

The act changes the cost of purchasing certain types of service credit and imposes a charge on the member and employer for credit related to workers' compensation. The change applies to credit for all of the following: (1) service as an elective official prior to joining PERS,⁶⁰ (2) additional credit that may be purchased by elective or certain appointed officials,⁶¹ (3) service for periods in which a member was exempt from PERS membership,⁶² (4) service rendered in another state, with the United States government,

⁵⁶ R.C. 145.016.

⁵⁷ R.C. 145.01(T).

⁵⁸ R.C. 145.016.

⁵⁹ Section 4.

⁶⁰ R.C. 145.20.

⁶¹ R.C. 145.201.

⁶² R.C. 145.28 and 145.292.

or with an Ohio municipal retirement system,⁶³ (5) a period of absence due to pregnancy or adoption of a child,⁶⁴ (6) a period during which a member was out of service due to illness, injury, or other employer-approved reason,⁶⁵ and (7) service as a school board member.⁶⁶

The act standardizes purchase of credit by requiring a PERS member or former member to do both of the following: (1) submit an application to the PERS Board on a Board approved form and (2) for each year, or portion of a year of credit purchased, pay an amount specified by the Board equal to 100% of the additional liability to PERS resulting from the purchase of the year or portion of a year, as determined by an actuary employed by the Board.⁶⁷ Under prior law, in general, a member was required to pay only employee contributions and interest on those contributions that would have been attributed to the employment.

Credit for prior elective service

Continuing law permits an elective official to purchase service credit for elective service earned prior to joining PERS as long as the service was not subject to Social Security taxes.⁶⁸ Prior to the purchase, the official must have completed one-and-a-half years of PERS contributing service. Under prior law the cost of the credit was calculated by multiplying the member contribution rate in effect at the time of purchase by the official's earnable salary during the period of service, plus interest compounded annually at a rate determined by the PERS Board.

The act changes the cost of the service credit to an amount equal to 100% of the additional liability to PERS resulting from the purchase of each year or portion of a year of credit.

Purchase of additional service credit by certain officials

Continuing law permits a PERS member who is an elective official or is appointed by the Governor with the advice and consent of the Senate to serve as a full-time member of a board, commission, or other public body to purchase additional

⁶³ R.C. 145.293.

⁶⁴ R.C. 145.291.

⁶⁵ R.C. 145.47(G).

⁶⁶ R.C. 145.299.

⁶⁷ R.C. 145.29.

⁶⁸ R.C. 145.20(C).

service credit for which there is no corresponding employment in an amount not to exceed 35% of the credit allowed for the period of service as an elective or appointed official.⁶⁹ A member of a board, commission, or other public body is considered to be serving full time under this provision if full-time service is required by law or if the Director of Administrative Services determines that the duties of the position require full-time service. Additional credit cannot be purchased for military service, part-time service, or service subject to Social Security taxes. For officials whose membership in PERS began on or after January 1, 2001, federal tax law limits the purchase of additional service credit to five years and provides that an official is required to have at least five years of service credit before purchasing the service credit.⁷⁰

Under prior law the service credit was purchased by paying into the Employees' Saving Fund an amount calculated by multiplying the employee contribution rate in effect at the time of purchase by the number of years of credit to be purchased and paying into the Employers' Accumulation Fund an amount equal to the amount paid into the Employees' Fund.

The act changes the cost of the service credit to an amount equal to 100% of the additional liability to PERS resulting from the purchase of each year or portion of a year of credit. In addition, the act eliminates the provision specifying how full-time service is determined and instead permits the PERS Board to determine by rule who is full-time for the purpose of determining eligibility for a purchase of the additional service credit.

Period of exemption

Continuing law permits a PERS member with at least one-and-a-half years of contributing service to purchase service credit for periods in which the member was a state or local government employee but exempt from PERS membership.⁷¹ This may include service as any of the following: (1) a student employed with the school, college, or university in which the student was enrolled and regularly attending classes, (2) an emergency employee serving on a temporary basis in cases of fire, snow, earthquake, flood, or other similar emergency, (3) an individual employed under the "Job Training Partnership Act" (29 U.S.C. 1501), or (4) a teacher employed on a temporary or per annum basis, paid through state funds, or not required to have an educator's license.⁷²

⁶⁹ R.C. 145.201.

⁷⁰ PERS, "Service Credit and Contributing Months," available at <https://www.opers.org/pubs-archive/leaflets/ISL-F.pdf#>.

⁷¹ R.C. 145.28.

⁷² R.C. 145.03, 3307.24, and 3309.23 (not in the act).

The act changes the cost of the service credit to an amount equal to 100% of the additional liability to PERS resulting from the purchase of each year or portion of a year of credit. Under prior law, the cost of the credit was calculated by multiplying the member's earnable salary for the 12 months of contributing service preceding the month in which the member applied to purchase the credit by a percentage established by the PERS Board. If the member purchased the credit in more than one payment, compound interest at a rate specified by the Board was added to the balance remaining after the first payment was made.

Period of absence

Continuing law allows a PERS member who takes a leave of absence approved by the appointing authority or resigns due to pregnancy or adoption of a child and later returns to employment covered by PERS to purchase up to one year of service credit for the period of absence.⁷³ To qualify, the member must complete one year of contributing service after returning from the leave. Under prior law the cost of the credit was calculated by multiplying the earnable salary the member would have received during the leave by the contribution rate in effect at the time of payment, plus interest compounded annually at a rate determined by the PERS Board.

The act changes the cost of the service credit to an amount equal to 100% of the additional liability to PERS resulting from the purchase of each year or portion of a year of credit.

In-term pay increase

Continuing law provides that if a PERS member elected or appointed to an office with a term of two or more years and an annual salary is denied a pay increase due to a constitutional provision prohibiting a pay increase during the member's term of office, the member may elect to have the amount of the member's contributions calculated on the basis of the increased salary.⁷⁴ Under prior law, at any time the member could elect to have the amount by which the member's contribution would have increased withheld from the member's salary or could make a payment to the system equal to the additional amount the member's contribution would have increased, plus interest compounded annually.

The act provides that the member must elect to have the amount of both the member and the employer contributions calculated on the basis of the increased salary

⁷³ R.C. 145.291.

⁷⁴ R.C. 145.01(Y).

(rather than only the member contributions).⁷⁵ The PERS Board is to compute the total additional amount the member and employer would have contributed, or the amount by which each of the member's and employer's contributions would have increased, had the member received the increased salary.

The member making the election is to contribute both the increased employee and employer contributions. The member is required to notify the employer that the member is electing to have the combined amount withheld from the member's salary. The employer is to make the withholding commensurate with the period of denied salary increase and transmit it to the retirement system. The act therefore eliminates the option of making the payment at a later date.

If a member elects to have the amounts described above withheld, the increased average salary is to be used in any benefit calculation.

Workers' compensation

Prior law caused a PERS member to receive up to three years of service credit without making contributions for a period during which the member was out of service and receiving benefits from the Bureau of Workers' Compensation.⁷⁶ The act eliminates the free credit and instead permits the member to purchase credit.⁷⁷ For each year of credit, the member must pay PERS an amount equal to the employee contribution that would have been paid had the member not been out of service, plus compound interest from the first date the member was out of service to the final date of service. The member may choose to purchase only part of the credit. A member employed by more than one public employer is eligible to purchase credit only for the position for which the member received workers' compensation. The number of years that may be purchased remains limited to three.

The act provides that if a member purchases credit, the employer to which workers' compensation benefits are attributed is required to pay PERS an amount equal to the employer contribution the employer would have paid had the member not been out of service. In addition, the employer is required to pay compound interest on those amounts, but only if the employer fails to pay the employer contributions no later than the earlier of five years or three times the time period in which the employee received workers' compensation benefits, beginning on the later of the date the employee returned to employment or January 7, 2013.

⁷⁵ R.C. 145.2916.

⁷⁶ R.C. 145.01(H) and 145.41.

⁷⁷ R.C. 145.01, 145.2915, and 145.41.

PERS Board discretion

The act gives the PERS Board discretion to increase the cost of purchasing three types of service credit: credit for military service that interrupted public service,⁷⁸ credit for restored service (service for which contributions were withdrawn and later repaid),⁷⁹ and credit for a period during which a member was receiving PERS disability benefits.⁸⁰

Military service credit

With regard to the purchase of PERS service credit for military service, Ohio law distinguishes between military service that interrupted public service and military service that did not. Law modified by the act grants up to ten years of free service credit for a public employee whose employment is interrupted by service in the armed forces of the United States.⁸¹ For credit for military service that did not interrupt public service, PERS is authorized to charge an amount that is not less than 50% of the additional liability to PERS resulting from the purchase and currently charges 50% of the liability.⁸²

To qualify for the free service credit, the member must have had one year of employment in a position covered by PERS before beginning active military service and, within two years of being discharged, be re-employed in the public service and complete one year of service credit in a state retirement system or the Cincinnati Retirement System. The act permits the PERS Board to adopt a rule requiring payment for this service credit of up to 100% of the additional liability. Under the act, service credit will be available without charge only for service that occurred prior to the enactment of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), October 13, 1994. It may be possible to purchase the credit under another provision of the Revised Code, but the conditions are somewhat different and both the member and the employer will have to pay the contributions the member would have made to PERS had the member been a public employee during the period of service in the armed forces.⁸³

⁷⁸ R.C. 145.30.

⁷⁹ R.C. 145.31.

⁸⁰ R.C. 145.362.

⁸¹ R.C. 145.30.

⁸² R.C. 145.301.

⁸³ R.C. 145.302 (not in the act).

Regarding military service credit that did not interrupt public service, the act states that the act's amendments concerning purchase of service credit are not to be construed as intent by the System to increase the cost of this credit.⁸⁴

The act also removes a restriction applicable to both military service that interrupted public service and military service that did not. Under this restriction credit could not be obtained for military service used in calculation of another retirement benefit other than Social Security.⁸⁵

Restored service credit

Continuing law permits a member or former member of PERS with at least 18 months of contributing service credit in PERS or another state retirement system, after withdrawal of accumulated contributions and cancellation of service credit, to have the service credit restored by re-depositing the amount withdrawn, plus interest. The interest is compounded annually at a rate determined by the PERS Board from the first day of the month of withdrawal to and including the month of redeposit.

The act permits the PERS Board, by rule, to require deposit of an amount specified in the rule. The amount must not exceed the additional liability to the retirement system that results from granting the credit.

Disability

A former disability benefit recipient who again becomes a contributor to PERS or, other than as a re-employed retirant, to the State Teachers Retirement System or School Employees Retirement System and completes an additional two years of service credit is entitled under law modified by the act to full service credit for the period as a disability benefit recipient.

The act limits the service credit a former disability recipient can receive under this provision to five years. It also provides that, if the PERS Board adopts a rule requiring payment for the service credit, the credit may be granted only on payment of an amount determined under the rule. The rule must not require payment of more than the additional liability to the retirement system resulting from granting the credit. The former recipient may choose to purchase only part of the credit in any one payment.

⁸⁴ Section 7 (the cost of this credit is "not less than" 50% of the additional liability to PERS for the purchase of the credit).

⁸⁵ R.C. 145.30 and 145.301.

Purchase or transfer from another system

A PERS member who has contributed to the Ohio Police and Fire Pension Fund, State Highway Patrol Retirement System, or Cincinnati Retirement System may have contributions and service credit transferred to PERS or, if the member received a refund of contributions to one of those systems, may purchase PERS service credit for service under that system.⁸⁶ The act permits a member to purchase the credit or have the contributions and service credit transferred only if both of the following conditions are met:

- (1) The member is eligible, or with the credit will be eligible, for a retirement or disability benefit;
- (2) The member agrees to retire or accept a disability benefit not later than 90 days after receiving notice from PERS that the credit has been obtained.

Under law modified by the act, the amount paid or transferred for service credit includes the member's contributions to the other system and the lesser of the employer's contributions or the contributions that would have been made by the employer had the member been in PERS at the time of service. The act provides instead that, as well as the member's contributions, the amount paid or transferred includes the lesser of the employer's contributions to the uniform system or the appropriate employer contributions under PERS.

Payment plan for purchasing service credit

A PERS member may purchase or restore service credit by payroll deduction.⁸⁷ The act authorizes the Board to establish by rule a payment plan for the cost of purchasing or restoring service credit. The plan may provide for partial payments and payments by payroll deduction. On receipt of a request from a member eligible to purchase or restore credit, the act requires the retirement system to determine and give notice to the member of the total cost of the credit and the time period in which payments are to be made for the credit to be available at that cost. The system may specify the amount and frequency of payments for credit not purchased in a single payment.

Service credit of a deceased member

Prior law substantially modified by the act permits the surviving spouse or dependents of a PERS member who dies prior to retirement to purchase any service

⁸⁶ R.C. 145.295, 145.2911, 145.2912, and 145.2913.

⁸⁷ R.C. 145.294.

credit the member could have purchased.⁸⁸ The purchase may be made under the same terms and conditions that would have applied to a purchase by the member. Under the act, in the case of a member who dies on or after January 7, 2013, only the surviving spouse may purchase credit the member could have purchased and then only if the member initiated the purchase before death. The terms and conditions for continuing the purchase are to be the same as those that applied at the time the member initiated the purchase. A purchase is considered to have been initiated before the member's death if the member made one or more payments.

Effective date of service credit purchase changes

Initiation and completion of purchases

Purchases of service credit in PERS is unaffected by the act if initiated before July 7, 2013.⁸⁹ Any service credit purchases initiated not later than that date continue at the cost of the credit immediately before that date. However, these purchases must be completed not later than July 7, 2018, to continue at that cost.

Purchase of the same type of service credit

Except as discussed below, a member with an active payroll deduction agreement in which the member has earnings deducted for the purpose of the purchase of service credit cannot initiate a new purchase of the same type of credit under the act's six-month service credit purchase provisions. The exception is that this restriction does not apply to the purchase of additional service credit by certain elective officials and board and commission members (see "**Purchase of additional service credit by certain officials**," above). Two restrictions apply to purchases of the additional service credit: (1) the purchase cannot be initiated for credit based on service for which the earnable salary was less than \$1,000 per month, and (2) if the member fails to complete the payroll deduction agreement, the member receives a refund of the amounts paid under the agreement and any credit purchased with the refunded amount is cancelled.

Enhanced refund

A PERS member who ceases to be a public employee for any cause other than death, retirement, receipt of a disability benefit, or an election to participate in an alternative retirement plan offered by a public institution of higher education may receive a refund of the member's accumulated contributions. If a member dies prior to retirement, the member's accumulated contributions may be paid to the member's

⁸⁸ R.C. 145.452.

⁸⁹ Section 4.

beneficiaries or survivors. A member with sufficient service credit or the member's beneficiary is eligible to receive an enhanced refund – a refund that includes an amount in addition to the member's accumulated contributions.⁹⁰ The additional amount is determined by the member's years of service credit. Under prior law, a member with at least five, but less than ten, years of service credit was eligible to receive an additional amount equal to 33% of the member's eligible contributions. A member with at least ten years of service credit was eligible to receive an additional amount equal to 67% of the member's eligible contributions. The act eliminates these percentages and instead requires the PERS Board to adopt rules specifying the additional amount, which may vary depending on the amount of the member's service credit.

In addition to credit for continuing service, the following types of purchased service credit were included under prior law in determining eligibility for the additional amount: (1) credit for service in the Ohio Police and Fire Pension Fund or State Highway Patrol Retirement System, (2) credit for military service that interrupts public employment, (3) credit for service to the state or a local government that occurred prior to establishing PERS membership, and (4) credit for a leave of absence due to illness, injury, or other employer-approved reason. Under the act, the only types of service credit that will be used to determine the additional amount are credit for contributing service, credit for military service that interrupts public service, and credit for service to a state or local government that occurred prior to establishing PERS membership.

Retirement effective date

The act reduces most retroactive retirement allowances and re-employment annuities by providing that the effective date of retirement or of the annuity is not earlier than 90 days prior to receipt by the PERS Board of the member's completed application.⁹¹ Under prior law these allowances and annuities are effective on the first day of the month immediately following the later of (1) the last day for which compensation was paid or (2) attainment of minimum age or service credit eligibility. A member who did not apply for a time after attaining eligibility could receive a considerable amount as a retroactive payment. Under the act, the retroactive payment is limited to the allowance for 90 days.

The act provides that retirement or a re-employment annuity is effective on the first day of the month immediately following the later of the following:

⁹⁰ R.C. 145.401.

⁹¹ R.C. 145.32, 145.37, and 145.384.

- (1) The last day for which compensation was paid;
- (2) Attainment of minimum age or service credit eligibility;
- (3) Ninety days prior to receipt by the PERS Board of the member's completed application.

For retirement applications received by PERS on or after January 7, 2013, but not later than April 8, 2013, the effective date of the retirement allowance is not earlier than February 1, 2013.⁹²

Coordination with other systems

The laws governing PERS, the State Teachers Retirement System (STRS), and School Employees Retirement System (SERS) provide for coordination of benefits.⁹³ The benefits are considered coordinated because service credit earned in two or all three of these retirement systems can be combined to determine eligibility for a disability or retirement benefit and the amount of the benefit. If a member of one of the systems who has service credit in one or both of the other systems elects coordination, the retirement system in which the member has the greatest service credit determines and pays the total disability or retirement benefit. For example, an STRS member with ten years of STRS service credit and 20 years of PERS credit can retire and be treated as having 30 years of PERS service credit.

When a public employee retires or receives a disability benefit under the coordination of benefits provisions, the system that calculates and pays the benefit receives a payment from the other system or system in which the employee earned service credit.⁹⁴ The act changes the amount of the payment.

Under law modified by the act, the retirement system determining and paying the benefit receives from the other system or systems the employee's contributions plus an amount from the employer's contributions that is based on the employee's

⁹² Section 5. The act specifies that applications received by PERS on or after January 7, 2013, and "not later than ninety days after" have an effective date of February 1, 2013. The day that is "not later than ninety days after" is Sunday, April 7, 2013. R.C. 1.14 provides that if "[t]he time within which an act is required by law to be done . . . when the last day falls on Sunday . . . may be done on the next succeeding day." In this case, applications received by PERS on or after January 7, 2013, but not later than Monday, April 8, 2013, have a retirement effective date of February 1, 2013.

⁹³ R.C. 145.37

⁹⁴ R.C. 145.37.

contributions. The act causes the payment to PERS to be the sum of the following for each year of service:

(1) The amount contributed by the employee or, in the case of purchased service credit, the amount paid by the employee that is attributable to the year of service;

(2) An amount equal to the lesser of the employer's contributions on behalf of the employee for that year of service or the amount that would have been contributed by the employer had the employee been a PERS member at that time;

(3) Interest, compounded annually, on the amounts specified in (1) and (2) at the lesser of the actuarial assumption rate of the retirement system determining and paying the benefit or of the system that is transferring the amounts.

Retirement plans

If certain conditions are met, a member of PERS may elect to participate in the defined benefit ("Traditional") plan, in which a benefit is determined according to a statutory formula; the defined contribution ("Member Directed") plan, in which a benefit is determined solely by contributions and earnings on those contributions; or the Combined Plan composed of both a formula benefit and a benefit determined by contributions and earnings. The act provides, for those who have contributed to more than one plan, for total years of service and contributions made to the plans to be used in determining retirement eligibility and for a uniform beneficiary designation to be used for all plans to which the member contributed.⁹⁵ It also eliminates a requirement that an election to participate in a defined contribution plan be in writing,⁹⁶ although it must still be on a PERS form, and permits expenses of administering a defined contribution plan to be paid from the Expense Fund.⁹⁷

Mitigation rate

For each member participating in a PERS defined contribution plan, prior law requires PERS to transfer a portion of the employer contribution to a fund that is used for the defined benefit plan.⁹⁸ This is referred to as the "mitigation rate." The act makes the transfer permissive. Under the act, the mitigation rate is not to exceed a percentage determined by an actuary appointed by the PERS Board to be necessary to mitigate any

⁹⁵ R.C. 145.195.

⁹⁶ R.C. 145.19.

⁹⁷ R.C. 145.23.

⁹⁸ R.C. 145.87.

negative financial impact on PERS of the member's participation in a defined contribution plan.

Beneficiary designation

The act applies continuing law's defined benefit plan beneficiary provisions to the defined contribution plan.⁹⁹ Under these provisions, a PERS member may designate one or more beneficiaries to receive the member's contributions should the member die before retirement. If there is no valid beneficiary designation in effect at the time of the member's death, the contributions are required to be paid to survivors in an order specified in the Revised Code that begins with the surviving spouse. The act provides that a designation made under either the defined benefit or a defined contribution applies to all plans in which the member participated.¹⁰⁰

Service credit conversion

The act authorizes the PERS Board to specify in rules it adopts how service credit in the defined benefit plan can be converted to amounts on deposit in a defined contribution plan.¹⁰¹

Law enforcement and public safety officers

The act requires a participant in a defined contribution plan who becomes a PERS law enforcement officer or (PERS public safety officer to be transferred to the defined benefit plan.¹⁰² PERS law enforcement officers and PERS public safety officers are not permitted to elect to participate in the defined contribution plans.)

A member affected by this provision may elect to have the member's contributions in the defined contribution plan deposited and credited in the defined benefit plan.

⁹⁹ R.C. 145.82, with cross reference to 145.43.

¹⁰⁰ R.C. 145.431.

¹⁰¹ R.C. 145.814.

¹⁰² R.C. 145.194.

Contributing service

The act specifies that contributing service in the defined contribution plan includes service transferred to that plan for which contributions were originally made to a defined contribution plan.¹⁰³

Deposits

The act eliminates a provision under which a defined contribution plan participant may maintain on deposit with PERS or the entity administering the plan any amounts that have accumulated on behalf of the member. The act also makes other accounting changes concerning funds maintained by PERS related to the defined contribution plan.¹⁰⁴

PERS membership

In the law governing PERS, the definition of "public employee" generally determines who is subject to compulsory PERS membership. "Public employee" includes almost all state and local government employees who are not members of one of the state's other four retirement systems or the Cincinnati Retirement System. In all cases of doubt, the PERS Board is to determine who is a public employee. Its decision is final.¹⁰⁵

The act maintains the principle that the Board determines who is a public employee and the finality of its decisions, but creates procedures and time limits for requesting determinations. Individuals who provided personal services to a public employer on or before January 7, 2013, but were not included in PERS may, not later than one year after that date, request a determination of whether they are public employees and should be in PERS.¹⁰⁶ Those who begin providing services after January 7, 2013, may request the determination not later than five years after the services begin.¹⁰⁷ Exceptions to these deadlines can be made for individuals who are mentally or physically incapacitated when the deadline occurs.

The right to request a determination does not apply to an individual employed by a business entity under contract with a public employer to provide personal services

¹⁰³ R.C. 145.01.

¹⁰⁴ R.C. 145.23, 145.88, and 145.97.

¹⁰⁵ R.C. 145.01.

¹⁰⁶ R.C. 145.037.

¹⁰⁷ R.C. 145.038.

to the employer. "Business entity" means an entity with five or more employees that is a corporation, association, firm, limited liability company, partnership, sole proprietorship, or other entity engaged in business.

Service on or before January 7, 2013

Not later than February 6, 2013, PERS Board is to notify each public employer of the right of an individual who has provided personal services to a determination of whether the individual is a public employee.¹⁰⁸ The notice must be accompanied by a form used to request a determination. Not later than March 8, 2013, the employer must send a notice of the right to seek a determination and a copy of the form to each individual providing personal services who is not classified as a public employee. The notice must be sent to the individual's last known address on record with the employer.

On receipt of a properly completed form, the Board must determine whether the individual should have been classified as a public employee. If the Board determines that the individual is not a public employee, the individual is to be considered an independent contractor with regard to the services in question. The Board's determination is final.

The Board must notify the individual and the employer of its determination. The determination applies to services performed before, on, or after January 7, 2013, for the same employer in the same capacity.

The one-year deadline for requesting a determination applies regardless of whether the individual actually receives notice of the right to request the determination.

Service after January 7, 2013

A public employer who on or after January 7, 2013, begins to receive personal services from an individual it does not classify as a public employee is required by the act to inform the individual of the classification and that no contributions will be made to PERS for the employment.¹⁰⁹ No later than 30 days after the services begin, the employer must require the individual to acknowledge, in writing on a form provided by PERS, that the individual has been informed that the employer does not consider the individual a public employee and no contributions will be made to PERS. The employer must retain the acknowledgement and immediately transmit a copy of it to the system.

¹⁰⁸ R.C. 145.037.

¹⁰⁹ R.C. 145.038.

Regardless of whether the individual has made the acknowledgment required by the act, an individual may request that the Board determine whether the individual is a public employee. The five-year deadline mentioned above applies unless the individual is incapacitated or the employer has not obtained, or has failed to retain, the acknowledgment.

On receipt of a request for a determination, the Board must determine whether the individual is a public employee and notify the individual and the employer. Any determination by the Board applies to services performed before, on, or after January 7, 2013. The Board's determination is final.

Annual report

Each public employer is required by the act to annually transmit to PERS a list of all individuals providing personal services who at any time during the preceding year received compensation for which contributions were not made to PERS.¹¹⁰ The list must be transmitted on or before the last day of January of each year and contain the name of each individual and any other information required by PERS.

If there is doubt at the time the list is compiled, or at any other time, regarding whether an individual providing personal services is a public employee, the employer must make a written request to the Board for a determination. On receipt of the request, the Board must determine whether the individual is a public employee with regard to the services in question. If the board determines that the individual is not a public employee, the employee is to be considered an independent contractor with regard to the services in question.

The act specifically authorizes the Board to adopt administrative rules to implement these provisions.¹¹¹

Health care

Eligibility

Continuing law authorizes, but does not require, the PERS Board to provide health care coverage for retired members and their spouses and dependents. To be eligible under prior law for coverage, the retired member must have had at least ten years of service credit, not including any of the following: (1) credit obtained under a retirement incentive plan, (2) credit purchased after January 29, 1981, for municipal, out

¹¹⁰ R.C. 145.036.

¹¹¹ R.C. 145.038.

of state, or federal service, or for military service that preceded public service, and (3) credit purchased after May 4, 1992, for service, such as college work study, for which a public employee chose to be exempt from PERS contributions. The act permits the Board to determine how much credit and what types are needed to be eligible for health care coverage.¹¹²

Medicare

The act requires the PERS Board to establish by rule the monthly amount it will pay to a benefit recipient to reimburse the recipient for Medicare Part B premiums.¹¹³ Part B covers a variety of medical costs, including doctor visits and hospital outpatient services. Prior law required the Board to pay monthly to each recipient of a retirement, disability, or survivor benefit eligible for Part B an amount determined by the Board for the coverage that was not less than \$96.40. The act authorizes the Board to determine the amount of the reimbursement.

Continuing law requires the PERS Board to make available to a person who is the spouse, widow, or widower of a retiree or disability benefit recipient health care coverage substantially equivalent to health care coverage under Medicare Part A if that person is not eligible for Medicare Part A and is receiving a monthly PERS benefit or allowance. The Board was required under prior law to pay one-half of the premium for the coverage. The act instead permits the Board to pay a portion of the premium while retaining the requirement that the Board make the coverage available to the person.¹¹⁴

Criminal falsification

The crime of falsification is committed when a person knowingly makes a false statement to obtain a public benefit, including a retirement benefit.¹¹⁵ The act provides that the crime includes making a false statement to obtain health care coverage from a state retirement system. The crime is a misdemeanor of the first degree. In addition to criminal liability, a person who is guilty of this crime is liable in a civil action to any person harmed by the crime.

¹¹² R.C. 145.58.

¹¹³ R.C. 145.58.

¹¹⁴ R.C. 145.584.

¹¹⁵ R.C. 2921.13.

The act provides that a member or member's beneficiary who is convicted of falsification as a result of making a false statement in an attempt to obtain health care coverage is not eligible for PERS health care coverage.¹¹⁶

Overpayments

The act extends to overpayments to third parties continuing provisions concerning overpayments of benefits by PERS. It permits withholding from payments due from PERS to the third party and authorizes withholding from a benefit recipient or third party of part (in addition to all under continuing law) of the amount to be repaid. The act also permits PERS to adjust any allowance or benefit if an error occurred in calculating the allowance or benefit.¹¹⁷

Re-employed retirants

Interest

A retired PERS member who is re-employed in a position covered by PERS contributes to PERS, as does the employer. On termination of the re-employment the retirant receives a benefit as either an annuity or a lump sum. The act changes the interest rate used in determining the benefit to a rate determined by the PERS Board, instead of the actuarial assumption rate determined by the Board's actuary.¹¹⁸

Beneficiaries

The act modifies the determination of the lump sum payable to the beneficiary of a re-employed retirant who dies while employed in a position covered by PERS.¹¹⁹ Under law modified by the act, the lump sum is based on the retirant's contributions plus an amount determined by the PERS Board and taken from the employer's contributions. The act causes this calculation to be used only if the retirant is age 65 or older at the time of death. In the case of a re-employed retirant who dies before age 65, the lump sum is the retirant's contributions plus interest.

PERS Board

The act includes several provisions dealing with PERS Board members, including provisions dealing with qualification for office, term of office, and training.

¹¹⁶ R.C. 145.58.

¹¹⁷ R.C. 145.563.

¹¹⁸ R.C. 145.473.

¹¹⁹ R.C. 145.384.

Qualification

The office of an employee member or retirant member of the PERS Board who is convicted of or pleads guilty to a felony or certain theft offenses is deemed vacant under continuing law and a person who is convicted of or pleads guilty to any of the offenses is ineligible to be elected to the Board.¹²⁰ The act extends the vacancy provision to all members of the Board and prohibits election or appointment of any person who is convicted of or pleads guilty to any of the offenses. In addition to the employee and retirant members, the Board includes the treasurer of state's investment designee, the director of administrative services, and two investment expert members.

The act also provides that the office of an employee member of the Board is deemed vacant if the member no longer qualifies to represent the employee group that elected the member.¹²¹ A successor member is to be elected. PERS Board members represent the following groups: state employees, county employees, municipal employees, other local government employees, and college and university employees.¹²²

Term of office

The act provides that a member appointed to the PERS Board holds office until the later of the end of term for which the member was appointed or the date the member's successor takes office, instead of the later of the end of the term or 60 days thereafter.¹²³

Training

The act extends to all members of the PERS Board a requirement that members complete the orientation component of the state's Retirement Board Member Education Program. Prior law required that the component be completed by newly elected members and members appointed to fill a vacancy.¹²⁴

Records

The act authorizes the PERS Board to maintain PERS records in either printed or electronic form and to provide information requested by any of the following: the

¹²⁰ R.C. 145.057.

¹²¹ R.C. 145.06.

¹²² R.C. 145.04.

¹²³ R.C. 145.04.

¹²⁴ R.C. 145.041.

Social Security Administration, U.S. Centers for Medicare and Medicaid, Ohio Public Employees Deferred Compensation Program, Ohio Police and Fire Pension Fund, School Employees Retirement System, State Teachers Retirement System, State Highway Patrol Retirement System, or the Cincinnati Retirement System.¹²⁵

Other changes

Transmission of contributions

Law modified by the act requires the head of each state department, institution, board, and commission, and the fiscal officer of each local authority subject to PERS to deduct from the earnable salary of each contributor to PERS on every payroll of the contributor and on each payroll period, the applicable contributions to PERS. A report is required to be transmitted promptly to PERS showing all deductions for PERS made from the earnable salary of each contributor.

The act requires that contributions be transmitted to PERS for each contributor at intervals and in a form prescribed by PERS.¹²⁶

Additional annuity

The act makes changes to provisions governing the PERS additional annuity program.¹²⁷ Under that program, a member can deposit additional amounts with PERS prior to retirement or while employed as a re-employed retiree. After retirement or termination of re-employment, the amounts deposited are paid the member as an additional annuity.

Among the changes to the additional annuity program is a requirement that application be filed prior to retirement or termination of re-employment. A member who fails to file as required is eligible only for a refund.

The act also modifies the effective date of the annuity. Under prior law, it was the effective date of retirement or, in the case of a person who made the deposits as a re-employed retiree, the effective date of a benefit based on contributions during re-employment. Under the act, the effective date for a member who contributed prior to retirement is the later of the effective date of the member's age and service retirement allowance or the first day of the month following the latest of the following:

¹²⁵ R.C. 145.27.

¹²⁶ R.C. 145.47.

¹²⁷ R.C. 145.62, 145.63, and 145.64.

- (a) The last day for which compensation was paid;
- (b) Attainment of the member's applicable minimum age or service credit eligibility;
- (c) The first day of the month following receipt of an application for an age and service retirement benefit.

The effective date of the annuity for a person who made the deposits while a re-employed retirant is the later of the effective date of a benefit based on contributions made during re-employment or the first day of the month following the latest of the following:

- (a) The last day for which compensation for employment while re-employed was paid;
- (b) Attainment of age 65;
- (c) If the person was previously employed as a re-employed retirant, completion of a period of 12 months since the effective date of the last benefit based on contributions during re-employment;
- (d) Receipt of an application for a benefit based on contributions during re-employment.

An additional annuity may be paid under a plan of payment that provides for payment to one or more surviving beneficiaries. The death of a beneficiary cancels the portion of an annuity that provides continuing payments to the beneficiary. The retirant then receives the actuarial equivalent of the remaining annuity based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary. The change is effective the month following receipt by PERS of notice of the death. The act provides that if PERS receives notice of the death on or after January 7, 2013, the change is effective the month following the date of death.

Legal action

The act requires that any legal action against PERS or the PERS Board or its officers, employees, or board members be filed in the appropriate court in Franklin County.¹²⁸

¹²⁸ R.C. 145.101.

Ohio Public Employees Deferred Compensation Board

The act provides that if the PERS Board provides health care coverage to PERS employees, it may permit employees of the Ohio Public Employees Deferred Compensation Board to participate.¹²⁹ The Deferred Compensation Board is a separate legal entity, but its Board consists of the members of the PERS Board plus a member of the Senate and a member of the House of Representatives.¹³⁰

Delinquent employer contributions

Each employer is required to deduct a percentage of employee contributions and remit the amounts deducted to PERS. Under prior law, an employer who was delinquent in deducting the contributions was subject to simple interest at a rate set by the Board. The act provides instead that the rate is to be equal to the assumed actuarial rate of interest.¹³¹

Accounting changes

Continuing provides that any accumulated member contributions that are not claimed by the member or the member's estate are to be transferred from the Employees' Saving Fund to the Income Fund. (The Income Fund is the fund in which interest is placed.) The act permits unclaimed amounts to remain in the Employees' Saving Fund, but also allows them to be transferred to the Income Fund.¹³²

The act also specifies which PERS funds are to hold contributions made under a defined contribution plan.¹³³

Effective date

While the 90-day effective date of the act is December 26, 2012, its substantive provisions take effect on January 7, 2013 although some may not be implemented until a later date. The following provision is to be implemented after January 7, 2013:

The change in the cost-of-living adjustment is first effective in 2019.

¹²⁹ R.C. 145.09.

¹³⁰ R.C. 148.02, not in the act.

¹³¹ R.C. 145.483.

¹³² R.C. 145.23 and 145.43.

¹³³ R.C. 145.23.

The increase in the monthly earnings necessary to receive a full month of service credit begins January 1, 2014.

The increase in the cost of purchasing service credit applies to purchases initiated on or after July 7, 2013, and completed not later than July 7, 2018.

Nonsubstantive changes

The act makes a number of nonsubstantive changes, including cross reference changes, and repeals certain obsolete provisions.¹³⁴

| Public Employees Retirement System (PERS) | | |
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| | Continuing or Prior Law | Sub. S.B. 343 |
| Transition groups <i>(R.C. 145.32, 145.33, and 145.332)</i> | No provision. | Group A – Members who, under criteria in effect immediately prior to January 7, 2013, will be eligible to retire not later than January 7, 2018. Group B – Members who on January 7, 2013, have 20 years of service credit or, under criteria in effect immediately prior to January 7, 2013, will be eligible to retire not later than January 7, 2023. Group C – All other members. |
| Retirement eligibility: Regular PERS <i>(R.C. 145.32 and 145.33)</i> | <u>Unreduced</u> retirement benefit with 30 years of service credit at any age or 5 years of service credit at age 65. | Group A – No change. Group B – <u>Unreduced</u> benefit with 32 years of service credit at any age; 31 years of service credit at age 52; or 5 years of service credit at age 66. Group C – <u>Unreduced</u> benefit with 32 years of service credit at age 55 or 5 years of service credit at age 67. |
| | <u>Reduced</u> retirement benefit with 25 years of service credit at age 55 or 5 years of service credit at age 60. | Group A – No change. Group B – No change. |

¹³⁴ R.C. 101.92, 101.93, 145.01(E), 145.298, 145.48, and 145.83.

| Public Employees Retirement System (PERS) | | |
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| | Continuing or Prior Law | Sub. S.B. 343 |
| | | Group C – <u>Reduced</u> retirement benefit with 25 years of service credit at age 57 or 5 years of service credit at age 62. |
| Retirement eligibility: PERS Law Enforcement Officers (PERS-LE)¹³⁵ <i>(R.C. 145.33 and 145.332)</i> | <u>Unreduced</u> retirement benefit with 25 years of service credit in PERS-LE at age 48 or 15 years of service credit in PERS-LE or PERS public safety at age 62. | Group A – No change. Group B – <u>Unreduced</u> benefit with 25 years of service credit in PERS-LE at age 50; or 15 years of service credit in PERS-LE or PERS Public Safety at age 64. Group C – <u>Unreduced</u> benefit with 25 years of service credit in PERS-LE at age 52, or 15 years of service credit in PERS-LE or PERS Public Safety at age 64. |
| | <u>Reduced</u> retirement – no provision. | Group A – No provision. Group B – <u>Reduced</u> benefit with 25 years of service credit in PERS-LE at age 48. Group C – Same as Group B. |
| Retirement eligibility: PERS Public Safety Officers (PERS Public Safety) <i>(R.C. 145.33 and 145.332)</i> | <u>Unreduced</u> retirement benefit with 25 years of service credit in PERS Public Safety or Public Safety and PERS-LE at age 52; or with 15 years of service credit in PERS-LE or PERS Public Safety at age 62. | Group A – No change. Group B – <u>Unreduced</u> benefit with 25 years of service credit in PERS Public Safety or PERS-LE and PERS Public Safety and age 54; or 15 years of service credit in PERS-LE or PERS Public Safety at age 64. Group C – <u>Unreduced</u> benefit with 25 years of service credit in PERS Public Safety or PERS-LE and PERS Public Safety and age 56; or 15 years of service credit in PERS-LE or PERS Public Safety at age 64. |

¹³⁵ PERS has two law divisions: law enforcement and public safety. Each has earlier retirement eligibility and higher contribution rates than regular PERS.

| Public Employees Retirement System (PERS) | | |
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| | Continuing or Prior Law | Sub. S.B. 343 |
| | <u>Reduced</u> retirement benefit with 25 years of service credit in PERS Public Safety or Public Safety and PERS-LE at age 48. | Group A – No change. Group B – No change. Group C – <u>Reduced</u> benefit with 25 years of service credit in PERS Public Safety or PERS-LE and PERS Public Safety at age 52. |
| Deferred retirement eligibility: PERS-LE or PERS Public Safety <i>(R.C. 145.33 and 145.32)</i> | Retirement benefit based on reduced formula with 15 years of service credit in PERS-LE or PERS Public Safety deferred to age 52. | If the member will attain 52 not later than January 7, 2023, deferred to age 52, otherwise deferred to age 54. |
| Final average salary (FAS) <i>(R.C. 145.01 and 145.017)</i> | Calculated by averaging the highest <u>three</u> years of salary. | Group A – No change. Group B – No change. Group C – Calculated by averaging the highest <u>five</u> years of salary (<i>R.C. 145.017</i>). |
| | Permits a period in the last years of service to be substituted for the same period in one of the three highest years if the period substituted had a higher salary. | Calculated as the greater of the amount under continuing law or the sum of the member's earnable salaries for the appropriate number of consecutive months that were the member's last months of service, up to and including the last month (<i>R.C. 145.01</i>). |
| Benefit formula: Regular PERS <i>(R.C. 145.33)</i> | <u>Unreduced</u> benefit: 2.2% final average salary (FAS) for the first <u>30</u> years of service plus 2.5% for each additional year. | Group A – No change. Group B – No change. Group C – <u>Unreduced</u> retirement benefit: 2.2% FAS for the first <u>35</u> years of service plus 2.5% for each additional year. |

| Public Employees Retirement System (PERS) | | |
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| | Continuing or Prior Law | Sub. S.B. 343 |
| | <u>Reduced</u> benefit: retirement benefit reduced based on age or service by a percentage specified in the Revised Code. | <p>Group A – No change.</p> <p>Group B – reduced by a percentage determined by the Board's actuary for each year the member retires before the first of (1) attaining age 66, (2) attaining age 52 with 31 years of service credit, or (3) earning 32 years of service credit.</p> <p>Group C – reduced by a percentage determined by the Board's actuary for each year the member retires before the first of (1) attaining age 67 or (2) attaining age 55 with 32 years of service credit.</p> |
| Benefit formula: PERS-LE and PERS Public Safety <i>(R.C. 145.33 and 145.332)</i> | <u>Unreduced</u> benefit: 2.5% FAS for the first 25 years of service plus 2.1% for each additional year. | <p>Group A – No change.</p> <p>Group B – No change.</p> <p>Group C – No change.</p> |
| | <u>Reduced</u> benefit: retirement benefit reduced based on age or service by a percentage specified in the Revised Code (<i>R.C. 145.33</i>). | <p>Group A – No change.</p> <p>Group B – <u>Reduced</u> benefit is the actuarial equivalent of the unreduced benefit adjusted for age.</p> <p>Group C – Same as group B.</p> |
| Contribution based benefit cap (CBBC) <i>(R.C. 145.333)</i> | No provision. | <p>Authorizes the PERS Board to establish a limit (based on a member's contributions) on the retirement benefit the member may receive, but provides that for members in Group A the reduction caused by the limit may not exceed 5% of the retirement allowance the member would otherwise receive unless during any full month of service the member's earnable salary was less than \$1,000.</p> |

| Public Employees Retirement System (PERS) | | |
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| | Continuing or Prior Law | Sub. S.B. 343 |
| Cost-of-living adjustment (COLA) (R.C. 145.323) | Annual COLA of 3% provided to each recipient who has received a benefit for one year, including retirees, disability benefit recipients, and survivors. | Until January 2019, 3%. Thereafter, for recipients of benefits beginning <u>not later than</u> January 7, 2013, 3%. For recipients of benefits beginning <u>after</u> January 7, 2013, any increase in the Consumer Price Index, not to exceed 3%. |
| Monthly earnings (R.C. 145.01 and 145.016) | Member receives full credit for each month earnings are at least \$250. | Effective January 1, 2014, increases to \$600 the amount a PERS member must earn in a month to receive full credit for that month and provides for future increases based on increases in compensation of township trustees. |
| Purchase of service credit (R.C. 145.20, 145.201, 145.28, 145.29, 145.291, 145.292, 145.293, 145.299, and 145.47) | In most cases, the member must pay what the member would have contributed for the service, plus interest. | In most cases, the member must pay 100% of the additional liability to PERS resulting from purchase of the credit. For credit for a period during which the member received disability benefits, limits the credit to up to five years and permits the PERS Board to charge for the credit. |
| Restored service credit (R.C. 145.31) | The amount withdrawn, plus interest. | The member must pay the amount determined under continuing law, or an amount specified by PERS rule, not exceeding 100% of the additional liability to PERS. |
| Military service credit – service that interrupted public employment (R.C. 145.30) | No charge for up to 10 years of credit. No limit on when service occurred. | Board may adopt a rule requiring payment of up to 100% of the additional liability to PERS. Applies only to service before enactment of the Uniformed Services Employment and Reemployment Rights Act (10/13/94). |
| Disability (R.C. 145.35, 145.36, 145.361, 145.362, and 145.363) | Application for a disability benefit must be made not later than two years after contributing service terminates. | Coverage only for illness or injury that occurs before contributing service terminates or, if it results from contributing service, becomes evident no later than two years after termination. |

| Public Employees Retirement System (PERS) | | |
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| | Continuing or Prior Law | Sub. S.B. 343 |
| | <p>Eligibility for disability benefit ceases if the recipient is able to perform the recipient's former job.</p> <p>No provision.</p> <p>No provision.</p> <p>No provision.</p> <p>No provision.</p> | <p>For recipient of a benefit based on an application received by PERS on or after January 7, 2013, once the leave of absence expires eligibility for a disability benefit ceases if the recipient is capable of performing a job that meets certain requirements, except does not apply to recipient whose disability occurred while a PERS law enforcement officer.</p> <p>Benefit that would be granted based on an application received by the system on or after January 7, 2013, forfeited if the disability was caused by a felony.</p> <p>Denies a disability benefit to a member who continues or returns to the same employment from which the disability benefit is provided.</p> <p>Requires application for Social Security Disability Insurance (SSDI), if eligible, and may reduce a disability benefit if the recipient receives SSDI, except for PERS law enforcement officers.</p> <p>Excludes cosmetic surgery other than reconstructive surgery from PERS disability coverage.</p> |
| Health care coverage <i>(R.C. 145.58)</i> | To be eligible for health care coverage, a member must have at least 10 years of eligible service credit. | Gives the PERS Board discretion to establish by rule the number of years and types of service credit required to be eligible for health care coverage. |
| Medicaid Part B premium reimbursement <i>(R.C. 145.58)</i> | Board establishes amount of reimbursement, but standard reimbursement cannot be less than \$96.40 per month. | Board establishes amount of reimbursement. |

HISTORY

| ACTION | DATE |
|---|----------|
| Introduced | 05-08-12 |
| Reported, S. Insurance, Commerce & Labor | 05-16-12 |
| Passed Senate (33-0) | 05-16-12 |
| Reported, H. Health & Aging | 09-10-12 |
| Passed House (94-0) | 09-12-12 |
| Senate concurred in House amendments (32-0) | 09-12-12 |

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