Ohio Legislative Service Commission

Bill Analysis

Jeffery A. Bernard

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(As Passed by the Senate)

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

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

BILL SUMMARY

Member contribution rates

- Beginning July 2, 2013, increases Ohio Police and Fire Pension Fund (OP&F) employee contributions rates by increments to 12.25% (from 10%) of salary.

- Beginning July 2, 2015, authorizes the OP&F Board to increase member contribution rates if the Board's actuary determines that an increase is necessary to meet funding period requirements.

Retirement eligibility

- For those who become OP&F members on or after July 2, 2013, increases to age 52 (from 48) the age a member must attain to be eligible for an unreduced retirement pension.

- Establishes a reduced pension at age 48 with 25 years of service for those who become members on or after July 2, 2013.

- Authorizes the Board to increase age and service requirements for all members if the Board's actuary determines that an increase is necessary to meet funding period requirements.

Salary and average annual salary

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

Cost-of-living adjustment (COLA)

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

Disability

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

Employer contributions

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

Deferred Retirement Option Plan (DROP)

- Requires members electing on or after July 2, 2013, to participate in DROP to participate for five (rather than three) years to receive the full DROP accrual, and specifies how member contributions are to accrue to the participant's benefit.

OP&F reports

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

Other provisions

- Provides that a member remains a member of the Fund for the duration of active military duty.

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

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CONTENT AND OPERATION

Member contribution rates

Each member of the Ohio Police and Fire Pension Fund (OP&F) is currently required to contribute 10% of the member's salary to the Fund. The bill increases contribution rates to 12.5% of salary in the following steps:

(1) For salary earned in pay periods that begin no later than July 1, 2013, the current 10% of salary;

(2) For salary earned in pay periods beginning on or after July 2, 2013, but no later than July 1, 2014, 10.75% of salary;

(3) For salary earned in pay periods beginning on or after July 2, 2014, but no later than July 1, 2015, 11.5% of salary;

(4) For salary earned in pay periods beginning on or after July 2, 2015, 12.25% of salary.[1]

On or after July 2, 2015, the bill authorizes the OP&F Board to increase member contributions beyond 12.25% of salary if the Board, in consultation with its actuary, determines that an increase is necessary to meet the Fund's amortization requirements.[2] Under current law, OP&F is required to establish a period of not more than 30 years to amortize the system's unfunded actuarial accrued pension liabilities, or adopt a plan to reduce the period to not more than 30 years.[3]

Retirement eligibility

The bill increases the statutory retirement age for those who become OP&F members on or after July 2, 2013. Under current law a member is eligible for an unreduced retirement benefit with at least 25 years of OP&F service credit at age 48 or older, or 15 or more years of service credit at age 62 or older. For those who become members on or after July 2, 2013, the bill requires 25 or more years of OP&F service credit at age 52 or older. These members will still be able to retire with 15 or more years of service credit at age 62 or older.[4]

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[1] R.C. 742.31.

[2] R.C. 742.31.

[3] R.C. 742.16.

[4] R.C. 742.37.

The bill establishes a reduced benefit at age 48 or older with 25 or more years of service for those who become members on or after July 2, 2013. The benefit is reduced to be the actuarial equivalent, as determined by the Fund's actuary, of the benefit had the member retired at age 52.[5]

Board discretion

The bill authorizes the OP&F Board to increase, by rule, the age and years of service necessary to receive a pension. An increase may be made if, in consultation with its actuary, the Board determines that an increase is necessary to meet the 30-year amortization requirement of current law.[6]

Salary and average annual salary (AAS)

The bill modifies both the pay included as salary and the number of years of salary used to determine average annual salary (AAS). An OP&F retiree receives a pension determined by AAS and years of service credit. AAS refers to the highest average salary of a member during a specified number of years. Under current law, three years are averaged to determine a member's AAS. For members with less than 15 years of service credit on July 1, 2013, the bill increases the number of years to five.[7]

"Salary" in current law excludes certain compensation, including "terminal pay."[8] Terminal pay is any payments made on termination of employment for such things as accrued but unused leave and certain overtime pay. The bill provides that these payments are terminal pay regardless of whether the payments are made before or after termination of employment. Pay for overtime work is terminal pay under the bill if it is <u>not</u> included in a payroll for a period ending not later than 60 days after the overtime is worked. The bill authorizes the Board to establish definitions of salary and terminal pay that differ than those in the Revised Code, and permits it to use elements of the compensation provisions of the U.S. Internal Revenue Code and federal income tax W-2 forms for this purpose.[9]

For members who, as of July 1, 2013, have 15 or more years of service credit, the bill excludes from AAS salary increases that exceed increases made in the three years

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[5] R.C. 742.37.

[6] R.C. 742.161. The amortization period requirement is in R.C. 742.16.

[7] R.C. 742.37.

[8] R.C. 742.01.

[9] R.C. 742.013.

preceding the three years prior to retirement. This "salary benchmark" is determined as follows:

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

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

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

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

Any salary exceeding the benchmark is excluded from salary used to determine AAS. Contributions made on the excess salary are to be refunded to the member in accordance with rules adopted by the Board.[10]

Cost-of-living adjustment (COLA)

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

The bill also removes a provision specifying that the pension or benefit used in the first calculation of a COLA remains the base for any future COLA and a provision specifying that the anniversary date of the first increase is to be used for future increases, instead specifying that the increase is to be annual.[11]

Disability benefits

Under current law, one basis on which an OP&F member may be eligible for disability benefits is that the member is partially disabled or disabled by heart disease or any chronic cardiovascular or respiratory disease. Under current law, to be eligible

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[10] R.C. 742.01(G) and 742.012.

[11] R.C. 742.3716.

for a benefit for heart disease or a chronic cardiovascular or respiratory disease a pre-employment examination must demonstrate that the condition did not exist prior to employment. The bill provides that to be eligible on this basis a member must have a *permanent* partial disability or *permanent* disability caused by heart disease or a chronic cardiovascular or respiratory disease.

The bill authorizes the Board to grant a disability benefit on the basis of heart disease or a chronic cardiovascular or respiratory disease even without evidence of the pre-employment examination if competent medical evidence is submitted to the Board documenting that the disease was not evident prior to or at the time of entry into a police or fire department.[12]

Current law provides that a person who is a *disability benefit recipient* or *separated spouse* and is paid any benefit to which the person is not entitled must repay OP&F. If the person fails to repay OP&F, the amount is to be withheld from any benefit or payment due the person. The bill provides that the repayment provision applies to *any* person who receives a benefit to which the person is not entitled and that the amount may be withheld from the person *or the person's beneficiary*.[13]

Employer contributions

Employers of police officers contribute an amount equal to 19.5% of police officer salaries to OP&F; employers of firefighters contribute an amount equal to 24% of firefighter salaries. These amounts are required by current law to be remitted to OP&F quarterly. The bill requires the amounts to be remitted monthly.[14]

Deferred Retirement Option Plan (DROP)

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

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[12] R.C. 742.38.

[13] R.C. 742.64.

[14] R.C. 742.35.

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

Only a portion of a member's contributions to OP&F during DROP participation accrue to the benefit of the member. Under current law this amount increases until reaching 100% after *three* years of participation. For a member electing on or after July 2, 2013, to participate in DROP, the member receives 100% of member contributions after participating in DROP for *five* years. Member contributions accrue to a member according to the following schedule:

(1) For the period ending not later than three years after first participating, 50%;

(2) For the period beginning three years after first participating and ending on the fifth anniversary of participation, 75%;

(3) For periods after five years of participation, 100%.[15]

The bill provides that OP&F members making an election on or after July 2, 2013, to participate in DROP will not receive a cost-of-living adjustment while participating.[16]

Reports

OP&F reports

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

(1) The actuarial valuation, which includes a study of the assets, liabilities, and OP&F funding requirements (the report is used to determine whether the Fund is able to amortize all unfunded actuarial accrued pension liabilities over a 30-year period).[17] The first triennial report is to be made no later than November 1, 2013.

[15] R.C. 742.444.

[16] R.C. 742.3716.

[17] R.C. 171.04, 742.14, and 742.16.

(2) A report on health care provided through OP&F. The first triennial report is due no later than December 31, 2013.[18]

(3) A report on the progress of funding of employer's accrued liability (referring to funds owed OP&F by employers when OP&F assumed the pension liabilities of municipal and township fire and police departments).[19]

Employer reports

Each employer is required to send OP&F monthly reports on the contributions made by its employees to OP&F and remit the contributions to OP&F along with the report. The bill changes the date the report and remittance is due from the last day of the month following the last day of the reporting period to the last day of the month following the last *business* day of the reporting period.[20]

Other provisions

Remittance of employer's accrued liability

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

The bill authorizes the OP&F Board to seek payment through the Office of Budget and Management (OBM) for past due accrued liability amounts. On certification by the Board to the OBM Director of any amount due, the Director is to withhold from the employer any amount available, not to exceed the amount certified as due OP&F, from any amounts under the Director's control that are payable or due the employer. The Director is required to pay the amount withheld to OP&F.[21]

OP&F membership

Current law defines a member of OP&F as a person who is contributing a percentage of the person's annual salary to OP&F as a result of service in a police or fire department. A person is also a member of the Fund for 12 months after dismissal,

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[18] R.C. 742.14.

[19] R.C. 742.30.

[20] R.C. 742.32.

[21] R.C. 742.301.

resignation, or start of a granted leave of absence. For a person to be eligible for disability benefits and other member benefits the person must be an OP&F member.

The bill includes as an OP&F member a member of the Ohio National Guard, Ohio Military Reserve, Ohio Naval Militia, or a reserve component of the armed forces of the United States who is absent from employment subject to OP&F due to active military duty because of an executive order issued by the President or an act of Congress for the duration of the active military duty.[22]

Board election

The bill provides that a person is eligible to vote in an election for an OP&F board member if the person was a member or retiree on the January 31st before the termination of the board member's expiring term instead of a member or retiree on the first Monday of March preceding expiration of that term.[23]

Technical

The bill makes the following technical changes:

--Deletes an obsolete provision regarding rules adopted prior to August 20, 1976.[24]

--Makes changes in terminology for the designation of member beneficiaries.[25]

--Removes references to "active" service.[26]

--Changes references to the Medicare program.[27]

--Makes cross-reference changes.[28]

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[22] R.C. 742.01.

[23] R.C. 742.04.

[24] R.C. 742.10.

[25] R.C. 742.3711.

[26] R.C. 742.37, 742.38, and 742.39.

[27] R.C. 742.45.

[28] R.C. 742.63.

Table

The following table compares to current law significant changes made by the bill in the OP&F plan, including contribution rates, benefit eligibility and formulas, cost-of-living adjustments, deferred retirement option plan (DROP) accruals, and disability benefits.

Ohio Police & Fire Pension Fund (OP&F)

	Current law	The bill
Member contribution rates *(R.C. 742.31)*	Member contributes 10% of the member's salary.	Member contributions increased according to the following schedule: (1) Salary earned in pay periods that begin no later than July 1, 2013, maintains current 10% rate; (2) Salary earned in pay periods beginning on or after July 2, 2013, but no later than July 1, 2014, 10.75%; (3) Salary earned in pay periods beginning on or after July 2, 2014, but no later than July 1, 2015, 11.5%; (4) Salary earned in pay periods beginning on or after July 2, 2015, 12.25%. On and after July 2, 2015, the Board may increase member contributions if the Board's actuary determines an increase is necessary to meet funding period requirements.
Retirement eligibility *(R.C. 742.37)*	Unreduced retirement benefit with 25 years of service credit and age 48 or 15 years of service credit and age 62.[29]	(1) Unreduced retirement benefit with 25 years of service credit at age 48, for those who become members <u>before</u> July 2, 2013. (2) Unreduced retirement benefit with 25 years of service at age 52,

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

	Current law	The bill
		for those who become members <u>on or after</u> July 2, 2013. (3) Unreduced retirement benefit with 15 years of service credit and age 62 remains unchanged in the bill.
	No provision.	Reduced retirement benefit with 25 years of service credit at age 48.
Retirement eligibility Board discretion *(R.C. 742.161)*	No provision.	Authorizes the Board to increase age and service requirements for all members if the Board's actuary determines an increase is necessary to meet funding period requirements.
Benefit formula *(R.C. 742.37)*	2.5% average annual salary (AAS) for the first 20 years of service credit plus 2% for the 21st through 25th year, plus 1.5% for service credit beyond 25 years.[30]	No changes for unreduced pension. Reduced pension adjusted to be the actuarial equivalent of the pension had the member retired at age 52.
Average annual salary (AAS)	Calculated by averaging the highest **three** years of salary *(R.C. 742.01)*.	(1) For members who have 15 or more years of service credit <u>on or before</u> July 1, 2013, AAS calculated by averaging the highest **three** years of salary. (2) For members who have less than 15 years of service credit <u>on</u> July 1, 2013, AAS calculated by averaging the highest **five** years of salary *(R.C. 742.01, 742.37, and 742.39)*.
Salary *(R.C. 742.01 and 742.012)*	Statutory definitions of salary and terminal pay used to calculate employee contributions and benefit amounts.	Permits the Board to adopt rules that establish definitions of salary and terminal pay that differ from those in the Revised Code. The Board may use information from W-2 forms for this purpose.

[30] The benefit cannot exceed 72% AAS.

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

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

HISTORY

ACTION	DATE
Introduced	05-08-12
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Passed Senate (30-3)	05-16-12

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