



# Ohio Legislative Service Commission

## Bill Analysis

Amy J. Rinehart

### Sub. S.B. 342

129th General Assembly  
(As Passed by the Senate)

**Sens.** Niehaus and Kearney, Bacon, Eklund, Hite, Jones, Lehner, Schiavoni, Seitz, Tavares

This analysis has two parts. The first part describes all of the bill's changes to the law governing the State Teachers Retirement System (STRS). The second part is a table comparing to current law significant changes in STRS plan features, including contribution rates, benefit eligibility and formulas, cost-of-living adjustments, and disability benefits.

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## BILL SUMMARY

### Contributions

- Beginning July 1, 2013, increases the employee contribution rate, which is paid by STRS members, by increments to 14% (from 10%) of compensation.
- For compensation earned on or after July 1, 2017, permits the STRS Board to reduce the employee contribution rate to less than 14% if the Board's actuary determines that a reduction in the rate does not materially impair the fiscal integrity of the retirement system.

### Retirement eligibility and formulas

#### Eligibility

- Beginning August 1, 2015, changes eligibility requirements for unreduced retirement benefits for STRS members but retains the current provision under which a member may retire with an unreduced benefit at age 65 with a minimum of five years of service credit, except that under the bill the credit must be "qualifying" service credit.
- Beginning August 1, 2015, changes eligibility requirements for retirement benefits for STRS members who elect to retire early and receive a reduced benefit but retains the current provision under which a member may retire with a reduced benefit at

age 60 with a minimum of five years of service credit, except that under the bill the credit must be "qualifying" service credit.

- Permits the STRS Board to adjust retirement eligibility requirements if the Board's actuary determines that an adjustment does not materially impair the fiscal integrity of the retirement system or is necessary to preserve the fiscal integrity of the system.
- For retirement effective on or after August 1, 2015, reduces the rate used to calculate benefits to 2.2% of final average salary (FAS) for each year of service credit beyond 30 years, rather than 2.5% plus an amount increasing by .1% of FAS for each year beyond 30.
- For benefits beginning on or after August 1, 2015, changes to five (from three) the number of years used to determine final average salary (FAS), which is used to calculate a retirement allowance or disability benefit.
- Permits an STRS member who under current law on July 1, 2015 would be eligible to retire, to retire on or after August 1, 2015 and receive the greater of the benefit determined under the current benefit formula or the new benefit formula established by the bill.
- Effective July 1, 2013, eliminates the commuted service calculation, which is an alternative to the final average salary method of calculating a retirement allowance.
- Effective July 1, 2013, eliminates the \$86 minimum benefit calculation in the final average salary formula.

### **Cost-of-living adjustment (COLA)**

- Effective August 1, 2013, reduces the COLA to an annual 2% (from 3%), except that no COLA's will be granted from July 1, 2013, through June 30, 2014, to persons retiring prior to July 1, 2013, or until July 1, 2015, to persons retiring on or after July 1, 2013.
- Authorizes the STRS Board to adjust the COLA if the Board's actuary determines, in its annual actuarial valuation or in other evaluations, that an adjustment does not materially impair the fiscal integrity of the retirement system or is necessary to preserve the fiscal integrity of the system.
- For those receiving an allowance or benefit beginning on or after August 1, 2013, increases to five years (from one year) the time that must pass before the first COLA is granted unless the allowance or benefit was immediately preceded by a disability benefit that was terminated because the recipient reached retirement age.

- Provides that the retirement allowance of an STRS member whose disability benefit terminates and is immediately replaced by a retirement allowance will be increased by any COLAs granted while the member was receiving the disability benefit and specifies that the increase is based on the plan of payment selected by the member.
- States the General Assembly's intent in enacting modifications to COLAs.

## **Disability**

- Provides that only "qualifying service credit" can be used to determine eligibility for a disability benefit.
- For members who did not earn any service credit before July 1, 2013: (1) increases to ten, from five, the number of years of service credit required to be eligible for STRS disability benefits and (2) reduces to one year, from two, the time period during which a member may apply for a disability benefit after contributing service ends.
- Replaces current law's provision specifying that the disability benefit of an STRS member terminates if the member is employed as a teacher by a school or institution with a provision specifying that a member receiving an STRS disability benefit is ineligible to perform any teaching service, as defined by the STRS Board, and that a disability benefit terminates if the recipient performs any teaching service while receiving disability benefits.
- Permits an STRS disability benefit recipient whose benefit is terminated because of teaching service to submit to the STRS Board information specifying that the recipient did not perform teaching services while receiving disability benefits. Requires the Board to determine whether the benefit was correctly terminated; if not, the benefit is to be reinstated and any missed payments paid to the recipient.
- Requires an STRS disability benefit recipient who received a disability benefit and performed teaching services for the same month to repay the amount of the benefit received from the beginning of employment.
- Permits an STRS disability benefit recipient whose benefit is terminated because the recipient is no longer considered incapacitated to request a hearing to be conducted in accordance with procedures established by the STRS Board.
- Specifies that an STRS member whose disability benefit terminates because the member has reached retirement age is ineligible to receive a further STRS disability benefit.

- Effective July 1, 2013, for an STRS disability benefit recipient who returns to contributing service, limits the service credit that may be granted for all periods on disability leave to the lesser of five years or the number of years of contributing service after the disability benefit terminated.
- Provides that a determination made by a physician that an STRS member does not qualify for a disability benefit is to be evaluated by a board of medical review composed of "at least" three physicians, rather than three physicians.
- Clarifies that the STRS Board may forgo, rather than waive, medical examination for a disability recipient if the Board's physician "determines," rather than "certifies," that the recipient's disability is ongoing or may require additional examinations if the Board's physician determines that additional information should be obtained.
- Extends disability coverage to participants in the STRS combined plan.

### **Service credit**

- Increases the cost of purchasing service credit under STRS for any of the following to an amount equal to 100% of the actuarial liability to STRS resulting from the purchase: service for which the member was exempt from membership in STRS, the School Employees Retirement System (SERS), or the Public Employees Retirement System (PERS); private school and out-of-state teaching; military service prior to STRS membership; certain credit earned in PERS or SERS; a period of absence due to pregnancy or adoption of a child; and school board service. Generally applies the increased cost to purchases that are not completed by January 1, 2014.
- Eliminates the interest-free period for purchasing STRS service credit for a leave of absence and instead requires a member to pay compound interest at a rate determined by the STRS Board, unless the credit is purchased during the leave.
- Permits members to transfer to STRS military service credit purchased under the Ohio Police and Fire Pension Fund (OP&F), State Highway Patrol Retirement System (SHPRS), or Cincinnati Retirement System, but limits total military service credit to five years.
- Provides that an STRS member may purchase a total of up to five years of credit for military service that interrupted teaching, rather than five years for "each period" of interrupted service.
- Specifies that an STRS member may not purchase service credit for prior service or service in PERS or SERS if that service was used to: (1) calculate a retirement benefit that has already been paid to the member by another retirement program other than

Social Security or (2) make contributions for five or more years to a defined contribution plan if the member has been paid all contributions or is not entitled to be paid any contributions.

- Permits an STRS member participating in the STRS combined plan to purchase service credit for a period of time in which the member was prevented from making contributions due to illness or injury.
- Eliminates the ability of the surviving spouse or dependents of a deceased STRS member to purchase most types of service credit the member could have purchased.
- Repeals law providing for establishment of retirement incentive plans.
- Repeals law providing for purchase of "non-Ohio valued" service credit, which is used for determining eligibility but not in calculating a member's benefits.
- Provides that "qualifying service credit" for purposes of determining eligibility for STRS retirement based on only five years of service credit, for a disability benefit, or survivor benefits includes only credit for which contributions were made to STRS, PERS, or SERS, credit restored under STRS, PERS, or SERS, and credit transferred to STRS from OP&F, SHPRS, or the Cincinnati Retirement System.
- Includes in STRS membership any licensed teacher who is performing state-funded auxiliary services for nonpublic school students, regardless of whether the services are rendered in a public school or whether the teacher is employed under a contract with a third party.

### **Retroactive and vacation pay**

- Excludes the following from compensation for the purpose of STRS contributions and benefits: (1) amounts paid to a teacher by an employer as a retroactive payment of earnings, damages, or back pay under a court order or settlement agreement, unless STRS receives teacher and employer contributions, plus interest, for each year or portion of a year paid under the order or agreement and (2) amounts paid for vacation pay covering the same period for which other salary, compensation, or other benefits are paid by PERS or SERS.

### **Benefit suspension and termination**

- Permits STRS to suspend a retirement, disability, or survivor benefit or a benefit to a beneficiary if STRS has good cause to believe that the person receiving the benefit is incapacitated and no other person has authority to act or receive the benefit on the person's behalf or STRS learns that the person receiving the benefit is missing and no

person provides evidence satisfactory to STRS that the person is alive and entitled to receive the benefit.

- In the case of a person who is missing, provides for the benefit to be terminated on presentation to the STRS Board of a decree of presumed death and specifies that the termination is retroactive to the date the benefit was suspended.

## **Coordination**

- In the case of an STRS, PERS, or SERS member with service credit in more than one of those retirement systems, provides that eligibility for a disability benefit is to be determined by the system in which the member has the most service credit, which is the system that calculates and pays the benefit.
- Specifies the amounts that must be paid by PERS or SERS if service credit from one or both of those systems is used in the calculation of an STRS disability or retirement benefit.

## **Beneficiaries**

- Provides that, when a retirant elects to change the plan of payment after a marriage or remarriage, only the new spouse may be added as a beneficiary, except that if there are four beneficiaries that must be retained pursuant to a court order or the payment to any beneficiary under the court order would be reduced, the spouse cannot be added.
- Provides that if an STRS member receiving payments under a plan that includes payments to a former spouse pursuant to a court order elects a new plan of payment, consent of the former spouse is not required if the new plan will not affect payments to the former spouse.
- Specifies that an STRS member may designate two or more persons as beneficiaries to be paid the member's accumulated contributions on the member's death. Effective July 1, 2013, requires the member to specify the percentage each is to receive and provides that if the percentages are not specified, the contributions are to be divided equally among the beneficiaries.
- Provides that if a designated beneficiary is deceased, the amount allocated to the deceased beneficiary is to be allocated to the remaining beneficiaries based on the percentage of the amount that each beneficiary is to be paid.

- Requires that, for a beneficiary to receive any unpaid amounts due an annuitant on the annuitant's death, the beneficiary designation must be received by (instead of filed with) the STRS Board prior to the annuitant's death.
- Provides that if an annuitant does not have a beneficiary, an amount not exceeding the cost of the annuitant's burial expenses may be paid to the person responsible for those expenses.

## **Survivor benefits**

- For members who have not earned service credit before July 1, 2013, requires five (instead of one and one-half) years of qualifying service credit by a deceased member for survivors to be eligible for STRS survivor benefits and requires the deceased member to have died not later than one year after the date contributing service terminated.
- Regardless of when membership began, provides that only qualifying service credit can be used to determine whether STRS survivors benefits will be granted.
- Provides that, for a child to be qualified for an STRS survivor's benefit, the child must never have been married and, if qualified based on a physical or mental incompetency, the incompetency must have occurred prior to age 18 or age 22 if a full-time student and be continuing.
- Provides that, for a surviving spouse to be considered qualified for an STRS survivor's benefit based on a physical or mental incompetency, the incompetence must be established at the time of the member's death and be continuing.
- Removes a requirement that an STRS survivor benefit be terminated by reason of active military service.
- Permits a survivor to receive STRS survivor benefits if the deceased member was receiving a disability benefit within 12 months prior to the date of death and was contributing to STRS, PERS, or SERS at the time of death.
- Provides that if the deceased member was receiving a disability benefit at the time of death, a survivor benefit will be increased by any cost-of-living adjustments granted while the deceased member was receiving the disability benefit, and if eligibility for a survivor benefit is not established until more than one year after the member's death, the benefit will be increased by the cost-of-living adjustments that would have been made had the benefit begun in the year in which the member died. Specifies that the increase is based on the plan of payment selected by the member.

- Provides that an STRS member who has, at the time of death, more than 29 but less than 30 years of service credit, is presumed to have 30 years of service credit only if the death occurs prior to August 1, 2015.

## **Refunds**

- Provides for interest and matching funds on withdrawal of contributions that were restored after having previously been withdrawn.
- Specifies that an STRS member who returned to active employment after receiving a disability benefit and later elects to withdraw accumulated contributions is ineligible for interest or matching funds on the contributions being withdrawn.

## **Recovery of overpayments**

- Provides for the recovery from a retirant or beneficiary of an overpayment made by STRS to a former spouse or child support enforcement agency, from any survivor or beneficiary receiving benefits of an overpayment to a survivor or beneficiary, or from any person, including a third party on the person's behalf, for health care overpayments (including Medicare) or any other payments.

## **Health care**

- Creates a health care fund, to which amounts allocated by the STRS Board for health care and any earnings are to be credited.
- Provides that, if STRS discontinues health care coverage, any remaining surplus funds are to be distributed to employers who have contributed to the health care fund.
- Permits, rather than requires, the STRS Board to reimburse Medicare Part B premiums to benefit recipients and provides that reimbursement may be made only to recipients who are "enrolled in" (rather than "eligible for") Medicare Part B.
- Limits the monthly Medicare Part B premium reimbursement to an amount determined by the STRS Board that is not to exceed 90% of the basic premium, except that the reimbursement cannot exceed the amount actually paid for coverage.
- Provides that STRS is permitted, rather than required, to offer long-term care coverage.

## **Re-employment of an STRS retiree**

- Provides that retirees re-employed in positions subject to STRS who are receiving benefits under either a PERS or SERS defined contribution plan or an alternative retirement plan are subject to the two-month forfeiture of benefits that applies to re-employed STRS defined benefit plan participants.
- Provides that the amount forfeited each month during the two-month period is equal to the amount of the retiree's monthly single life annuity.
- Extends to STRS defined contribution plan and combined plan participants provisions currently applicable to STRS defined benefit plan participants that deal with retirement from one position while holding one or more other government positions.
- Provides that an STRS member who also holds one or more positions covered by STRS or other state retirement systems may retire and continue contributing to STRS or other state retirement systems only if the member continuously held the positions for 12 consecutive months immediately prior to retirement.
- Permits an STRS contributor who also holds one or more positions covered by other state retirement systems to retire from those positions and continue to contribute to STRS if the compensation for each of the positions from which the contributor is retiring is greater than the compensation for the position covered by STRS.

## **Defined contribution plan**

- Eliminates a requirement that an STRS member who elected a defined contribution plan and wishes to stay in it make a further election immediately prior to the member's fifth year of participation, and instead permits the member to stay in the plan initially selected without making an election or to elect to change plan participation.
- Provides that a former STRS member who returns to teaching service is ineligible to participate in an STRS defined contribution plan if the member previously made an election to cease participation in the plan.
- Permits (rather than requires) STRS to transfer a portion of employer contributions made on behalf of STRS defined contribution plan participants to the account used to fund the STRS defined benefit plan (referred to as the "mitigation rate").

## STRS Board

- Provides that the office of an STRS Board member, instead of 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 the specified offenses is ineligible for election or appointment, instead of just for election, to the STRS Board.
- Adds to the membership of the committee that selects an internal auditor for the STRS Board any additional Board members appointed to the committee by the Board.

## Records

- Extends confidentiality provisions to personal information concerning members participating in the STRS defined contribution plan.
- Includes the e-mail address of an STRS member in the member's personal history record, which is excluded from public inspection.
- Prohibits medical reports or recommendations received by the STRS Board in relation to disability or survivor benefits from being released to the individual concerned or from being considered a medical record generated and maintained by a health care provider in the process of establishing a therapeutic relationship.

## Plan names

- Creates statutory definitions for "STRS defined benefit plan" and "STRS defined contribution plan" and replaces cross-references with the defined terms.

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## CONTENT AND OPERATION

### Member contributions

Members of the State Teachers Retirement System (STRS) are required to contribute a percentage of their compensation to STRS.<sup>1</sup> The rate specified in the Revised Code is 8%, but the STRS Board has authority to increase it to a rate not exceeding 10%, which it has done. The bill increases employee contributions, which are paid by members, as follows, but specifies that the rate cannot be greater than 14%:

- Compensation earned not later than June 30, 2013: 10%
- Compensation earned between July 1, 2013 and June 30, 2014: 11%
- Compensation earned between July 1, 2014 and June 30, 2015: 12%
- Compensation earned between July 1, 2015 and June 30, 2016: 13%
- Compensation earned on or after July 1, 2016: 14%

For compensation earned on or after July 1, 2017, the bill permits the Board to reduce the employee contribution rate to less than 14% if the Board's actuary determines in its annual actuarial valuation or in other evaluations that a reduction in the rate does not materially impair the fiscal integrity of the retirement system.

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<sup>1</sup> In STRS, compensation is referred to as "earned compensation," which includes salary, wages, and other compensation, but not fringe benefits or incidental payments (R.C. 3307.01).

## Retirement eligibility

### Unreduced retirement allowance

Under current law, an STRS member is eligible to retire and receive an unreduced retirement allowance at age 65 with 5 years of service credit or at any age with 30 years of service credit. The bill retains the provision under which a member is eligible to retire at age 65 with 5 years of service credit, but specifies that the service credit must be "qualifying service credit" (see "**Qualifying service credit**," below). Over a number of years, beginning August 1, 2015, the bill increases to 35 (from 30) the years of service credit required to be eligible to retire and receive an unreduced allowance. It requires members retiring on or after August 1, 2026, to be at least age 60 (rather than any age) to receive the unreduced allowance. Under a schedule contained in the bill, a member is eligible to retire with an unreduced retirement allowance if the member meets one of the following requirements:

--Before August 1, 2015, has 30 or more years of service credit at any age;

--On or after August 1, 2015, but before August 1, 2017, has 31 or more years of service credit at any age;

--On or after August 1, 2017, but before August 1, 2019, has 32 or more years of service credit at any age;

--On or after August 1, 2019, but before August 1, 2021, has 33 or more years of service credit at any age;

--On or after August 1, 2021, but before August 1, 2023, has 34 or more years of service credit at any age;

--On or after August 1, 2023, but before August 1, 2026, has 35 or more years of service credit at any age;

--On or after August 1, 2026, has 35 or more years of service credit and has attained age 60.<sup>2</sup>

### Reduced retirement allowance

Current law permits an STRS member to retire early and receive a reduced retirement allowance at age 60 with 5 years of service credit or at age 55 with 25 years of service credit. The bill retains the provision under which a member is eligible to retire

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<sup>2</sup> R.C. 3307.58(B)(1).

with a reduced benefit at age 60 with at least 5 years of service credit, but specifies that the service credit must be "qualifying service credit" (see "**Qualifying service credit**," below). Over a number of years, beginning August 1, 2015, the bill increases to 30 (from 25) the years of service credit required to be eligible to retire with a reduced allowance. Under a schedule contained in the bill, a member is eligible to retire with a reduced retirement allowance if the member meets one of the following requirements:

--Before August 1, 2015, has 25 or more years of service credit and has attained age 55;

--On or after August 1, 2015, but before August 1, 2017, has 26 or more years of service credit and has attained age 55 or has 30 or more years of service credit at any age;

--On or after August 1, 2017, but before August 1, 2019, has 27 or more years of service credit and has attained age 55 or has 30 or more years of service credit at any age;

--On or after August 1, 2019, but before August 1, 2021, has 28 or more years of service credit and has attained age 55 or has 30 or more years of service credit at any age;

--On or after August 1, 2021, but before August 1, 2023, has 29 or more years of service credit and has attained age 55 or has 30 or more years of service credit at any age;

--On or after August 1, 2023, has 30 or more years of service credit at any age.<sup>3</sup>

### **Board discretion**

The bill permits the STRS Board to adjust the retirement eligibility requirements for all members if the Board's actuary, in its annual actuarial valuation or other evaluations, determines that an adjustment does not materially impair the fiscal integrity of the retirement system or is necessary to preserve the fiscal integrity of the system.<sup>4</sup>

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<sup>3</sup> R.C. 3307.58(B)(2).

<sup>4</sup> R.C. 3307.58(B)(3).

## **Benefit formulas**

### **Final average salary**

STRS uses a formula to calculate the retirement allowance or disability benefit of an STRS member. The most common formula uses the member's final average salary (FAS), which is generally determined under current law by dividing by three the sum of the member's three highest calendar years of compensation. For benefits beginning on or after August 1, 2015, the bill changes to five the number of years used to determine FAS.<sup>5</sup>

### **FAS formulas**

The FAS formula in current law for STRS 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% plus an amount increasing by .1% of FAS for each year of service beyond 30. For members whose retirement effective date is on or after August 1, 2015, the bill modifies the formula so that 2.2% of FAS is used for all of the member's years of service.<sup>6</sup>

### **Alternative formulas**

Effective July 1, 2013, the bill eliminates the alternative benefit formulas for STRS members. The formulas eliminated are (1) an annual allowance of \$86 multiplied by years of service and (2) the commuted service calculation, which is an annual allowance consisting primarily of an annuity with a reserve equal to the member's accumulated contributions and a pension of equal amount.<sup>7</sup>

### **Reduced allowance**

An STRS member may retire early and receive a reduced retirement allowance. The allowance is reduced if the member retires with less than 30 years of service credit or before age 65. The bill retains this provision for those whose retirement is effective before August 1, 2015.<sup>8</sup> For these members, the allowance for early retirement is determined by a percentage reduction specified in the Revised Code that is based on

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<sup>5</sup> R.C. 3307.501.

<sup>6</sup> R.C. 3307.501(C)(2).

<sup>7</sup> R.C. 3307.58(D)(2) and (H).

<sup>8</sup> R.C. 3307.58(E)(1).

years of service credit or attained age.<sup>9</sup> For all others, the bill requires the allowance to be reduced by a percentage determined by the STRS Board's actuary for each year the member retires before meeting the retirement eligibility requirements established by the bill for an unreduced allowance.

The bill permits the actuary to use an actuarially based average percentage reduction to calculate reduced allowances.<sup>10</sup>

### **Special provision for members eligible to retire on July 1, 2015**

The bill permits an STRS member who under current law would on July 1, 2015 be eligible to retire (5 or more years of service credit and age 60, 25 or more years of service credit and age 55, or at least 30 years of service credit), to retire on or after August 1, 2015, and receive the greater of the benefit determined under the current benefit formula or the new benefit formula established by the bill.<sup>11</sup>

### **Cost-of-living adjustment (COLA)**

#### **COLA amount**

The STRS Board is required to provide a cost-of-living adjustment (COLA) by annually increasing by 3% the allowance or benefit paid to each recipient of an allowance or benefit under the STRS defined benefit plan. Effective August 1, 2013, the bill reduces the COLA to an annual 2%, except that no COLAs will be granted from July 1, 2013, through June 30, 2014, to persons retiring prior to July 1, 2013, or until July 1, 2015, to persons retiring on July 1, 2013.<sup>12</sup>

#### **Board discretion**

The bill authorizes the STRS Board to adjust the COLA if the Board's actuary determines, in its annual actuarial valuation or in other evaluations, that an adjustment does not materially impair the fiscal integrity of the retirement system or is necessary to preserve the fiscal integrity of the system.<sup>13</sup>

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<sup>9</sup> The reduction ranges from 3% to 25%. For instance, an STRS member who has 29 years of service credit and retires before age 65 receives a 5% reduction, or 95% of the unreduced benefit.

<sup>10</sup> R.C. 3307.58(E)(2).

<sup>11</sup> R.C. 3307.58(F).

<sup>12</sup> R.C. 3307.67(A) and (D).

<sup>13</sup> R.C. 3307.67(E).

## Eligibility

For certain recipients, the bill increases the time that must pass before the first COLA is granted. For those receiving an allowance or benefit beginning on or after August 1, 2013, it provides that a recipient is eligible for a COLA upon receiving the allowance or benefit for five years, unless the allowance or benefit was immediately preceded by a disability benefit that was terminated. Under current law, a recipient is eligible for a COLA upon receiving an allowance or benefit for 12 months.<sup>14</sup>

The bill also states the General Assembly's legislative intent in enacting modifications to COLAs.<sup>15</sup>

### **COLAs for certain former disability benefit recipients**

A member whose disability benefit terminates because the member has reached retirement age may elect service retirement. The bill provides that the retirement allowance of a member whose disability benefit terminates and is immediately replaced by a retirement allowance will be increased by any COLAs granted while the member was receiving the disability benefit, plus any additional amount the member received while receiving the disability benefit. It specifies that the increase is based on the plan of payment selected by the member. The benefit used to calculate any future COLAs will be based on the plan of payment selected by the member, plus any additional amount added to the benefit that established a new base benefit.<sup>16</sup>

## Disability

### Eligibility

The bill provides that only "qualifying service credit" (rather than "total service credit") may be used to determine eligibility for an STRS disability benefit (see "**Qualifying service credit**," below).<sup>17</sup> "Total service credit" is generally all of the member's service credit, whether earned, obtained, or purchased.<sup>18</sup>

For members with service credit earned before July 1, 2013, the bill retains the current provision under which an STRS member must have five years of qualifying

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<sup>14</sup> R.C. 3307.67(B).

<sup>15</sup> Section 3.

<sup>16</sup> R.C. 3307.58(I).

<sup>17</sup> R.C. 3307.62.

<sup>18</sup> R.C. 3307.50(B).

service credit to eligible for STRS disability benefits. For members who do not have service credit earned before that date, a member must have ten years of qualifying service credit to be eligible for disability benefits.<sup>19</sup>

### **Application deadline**

The current provision under which an STRS member may apply for a disability benefit for up to two years after contributing service ends continues under the bill for members with service credit earned before July 1, 2013. For members who do not have service credit earned before that date, the bill reduces to one year the time during which a member may apply for a disability benefit after contributing service ends.<sup>20</sup>

### **Disability determination**

Current law requires an STRS member who applies for a disability benefit to undergo a medical examination conducted by a physician selected by the STRS Board to determine whether the member qualifies for a disability benefit. If the Board concurs with the determination and the member agrees to medical treatment, the member is to be granted a disability benefit.<sup>21</sup>

The bill provides that a determination made by the Board's physician that a member does not qualify for a disability benefit is to be evaluated by a board of medical review composed of "at least" three physicians, rather than three physicians.<sup>22</sup>

### **Termination of disability benefit**

#### **Teaching service**

The bill replaces the current provision specifying that an STRS disability benefit terminates if the member is employed as a teacher by a school or institution with a provision specifying that the disability benefit terminates if the member performs any teaching service, as determined by the STRS Board.

The Board is to notify a disability benefit recipient that a benefit has been terminated. The bill permits an STRS disability benefit recipient whose benefit has been terminated due to teaching to submit to the Board, not later than 30 days after the date the notice is sent, information specifying that the recipient did not perform teaching

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<sup>19</sup> R.C. 3307.62(A).

<sup>20</sup> R.C. 3307.62(D).

<sup>21</sup> R.C. 3307.62(C) and (E).

<sup>22</sup> R.C. 3307.62(E).

services while receiving disability benefits along with any supporting evidence available to the recipient. The Board is permitted to designate an individual to review the information and submit a recommendation to the Board. The Board is to review the information and any accompanying evidence and determine whether the benefit was correctly terminated; if not, the benefit is to be reinstated and any missed payments paid to the recipient. The bill specifies that the Board's decision is final.

The bill requires an STRS disability benefit recipient who received a disability benefit and performed teaching services for the same month to repay the amount of the benefit received from the beginning of employment (rather than during employment). Under current law, repayment is by the employer.

### **Incapacity**

The disability benefit of an STRS member terminates if the Board concurs in a determination made by the Board's physician that the benefit recipient is no longer incapacitated. The bill specifies that the Board is to notify the recipient of the Board's order that a disability benefit is terminated. At the request of the recipient a hearing must be conducted in accordance with procedures established by the STRS Board.<sup>23</sup>

### **Age**

The bill specifies that a member whose disability benefit terminates because the member has reached retirement age is ineligible to receive a further STRS disability benefit.<sup>24</sup>

### **Medical examination**

Under current law, an STRS disability benefit recipient is subject to annual medical examination, except that the STRS Board may waive examination for a benefit recipient if the Board's physician certifies that the recipient's disability is ongoing. The bill instead provides that the Board may forgo examination if the Board's physician determines that the recipient's disability is ongoing or may require additional examinations if the Board's physician determines that additional information should be obtained.<sup>25</sup>

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<sup>23</sup> R.C. 3307.48(B).

<sup>24</sup> R.C. 3307.62(I).

<sup>25</sup> R.C. 3307.48(B).

## **Service credit for period of disability**

Under current law, an STRS disability benefit recipient who returns to employment covered by STRS, PERS, or SERS and completes an additional two years of contributing service receives free service credit for the period of the disability benefit. Effective July 1, 2013, the bill limits the free service credit that an STRS member may receive for all periods on disability leave to the lesser of five years or the number of years of contributing service after the disability benefit terminates.<sup>26</sup>

## **Disability coverage for STRS combined plan participants**

The bill extends disability coverage to participants in the STRS combined plan. Currently, only those participating in the STRS defined benefit plan have coverage for disability.<sup>27</sup>

## **Service credit**

### **Purchase of service credit**

STRS members may purchase retirement service credit for a number of types of service for which they have not contributed to STRS. The cost of purchasing the credit varies with the type of service. Depending on the date the credit is purchased, the bill generally increases the cost of purchasing service credit under STRS for all of the following: (1) service for periods in which a member was exempt from STRS, PERS, or SERS membership,<sup>28</sup> (2) private school and out-of-state teaching service,<sup>29</sup> (3) military service prior to STRS membership,<sup>30</sup> (4) certain credit earned in PERS or SERS,<sup>31</sup> (5) a period of absence due to pregnancy or adoption of a child,<sup>32</sup> and (6) school board service.<sup>33</sup>

If the purchase of credit will be completed by December 31, 2013, the bill provides that for each year, or portion of a year of credit purchased, the member pays

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<sup>26</sup> R.C. 3307.48.

<sup>27</sup> R.C. 3307.48(A).

<sup>28</sup> R.C. 3307.73.

<sup>29</sup> R.C. 3307.73.

<sup>30</sup> R.C. 3307.751.

<sup>31</sup> R.C. 3307.76.

<sup>32</sup> R.C. 3307.771.

<sup>33</sup> R.C. 3307.78.

the amount required by current law. A purchase is considered completed only if the member's completed application is received by STRS not later than December 31, 2013, and STRS receives all payments by June 30, 2014.<sup>34</sup>

The bill also provides that, if on the bill's effective date, a member is purchasing the credit through a payroll deduction plan and at least one deduction has been made, the member pays the amount required by current law. A member purchasing credit through a payroll deduction plan may pay in a single payment the balance of the cost of the credit.<sup>35</sup>

If the purchase will not be completed until on or after January 1, 2014, for each year, or portion of a year of credit purchased, the member is to pay an amount specified by the STRS Board equal to 100% of the additional liability to STRS resulting from the purchase of the year or portion of a year, as determined by an actuary employed by the Board.<sup>36</sup>

Regardless of when the purchase is completed, the bill requires a member to submit an application to the STRS Board in a manner or form approved by the Board.<sup>37</sup> As under current law, a member may choose to purchase only part of the credit in any one payment.<sup>38</sup>

The bill requires the Board to adopt rules establishing criteria for determining eligibility for purchases of service credit and procedures for purchases of credit. Any determination of the Board is final.<sup>39</sup>

The bill provides that the service credit is included in the member's total service credit. If a member dies or withdraws from service, any payment made for the purchase of credit will be considered as accumulated contributions of the member.<sup>40</sup>

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<sup>34</sup> R.C. 3307.70(A)(2)(a).

<sup>35</sup> R.C. 3307.70(A)(1)(c) and (B)(2).

<sup>36</sup> R.C. 3307.70(A)(2)(b).

<sup>37</sup> R.C. 3307.70(A)(1).

<sup>38</sup> R.C. 3307.70(C).

<sup>39</sup> R.C. 3307.70(D).

<sup>40</sup> R.C. 3307.70(E).

## **Period of exemption**

Current law permits an STRS member with at least one-and-a-half years of contributing service in STRS, PERS, or SERS to purchase service credit for periods in which the member was exempt from membership in those systems. If the purchase will not be completed until on or after January 1, 2014, the bill generally increases the cost of the credit to an amount equal to 100% of the additional liability to STRS resulting from the purchase of each year or portion of a year of credit.<sup>41</sup> Under current law, the cost of the credit is calculated by multiplying the member's earnable salary for the 12 months of contributing service preceding the month in which the member applies to purchase the credit by a percentage established by the STRS Board. If the member purchases the credit in more than one payment, compound interest at a rate specified by the Board is added to the balance remaining after the first payment is made.<sup>42</sup>

## **Private school and out-of-state teaching service**

Current law permits an STRS member to purchase up to five years of service credit for private school and out-of-state teaching service and for out-of-state public service that, if rendered in Ohio, would have been covered by STRS or another public retirement system.<sup>43</sup>

If the purchase will not be completed until on or after January 1, 2014, the bill generally increases the cost of the credit to an amount equal to 100% of the additional liability to STRS resulting from the purchase of each year or portion of a year of credit.<sup>44</sup> Under current law, the cost of the credit is an amount determined by the STRS Board that is not less than 50% of the additional liability resulting from the purchase of the year or portion of a year, as determined by an actuary employed by the Board.<sup>45</sup>

## **Military service prior to STRS membership**

Current law permits an STRS member who commences teaching service after military service to purchase up to five years of service credit for service in the armed forces and an additional five years of service credit for time spent as a prisoner of war.<sup>46</sup>

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<sup>41</sup> R.C. 3307.70 and 3307.74(B).

<sup>42</sup> R.C. 3307.73(B) and (C).

<sup>43</sup> R.C. 3307.74(A).

<sup>44</sup> R.C. 3307.70 and 3307.74(B).

<sup>45</sup> This applies to STRS members commencing membership on or after July 1, 1989 (R.C. 3309.74).

<sup>46</sup> R.C. 3307.751.

If the purchase will not be completed until on or after January 1, 2014, the bill generally increases the cost of the credit to an amount equal to 100% of the additional liability to STRS resulting from the purchase of each year or portion of a year of credit.<sup>47</sup> Under current law, the cost of the credit is an amount determined by the STRS Board that is not less than 50% of the additional liability resulting from the purchase of the year or portion of a year, as determined by an actuary employed by the Board.<sup>48</sup>

### **Credit earned in PERS or SERS**

Current law permits an STRS member to purchase service credit for prior service in PERS or SERS for which contributions were not made.<sup>49</sup> If the purchase will not be completed until on or after January 1, 2014, the bill generally increases the cost of the credit to an amount equal to 100% of the additional liability to STRS resulting from the purchase of each year or portion of a year of credit.<sup>50</sup> Under current law, the cost of the credit is an amount determined by the STRS Board that is not less than 50% of the additional liability resulting from the purchase of the year or portion of a year, as determined by an actuary employed by the Board.<sup>51</sup>

### **Period of absence due to pregnancy or adoption of a child**

Current law permits an STRS member to purchase up to two years of service credit for a leave of absence or resignation due to pregnancy or adoption of a child.<sup>52</sup> If the purchase will not be completed until on or after January 1, 2014, the bill generally increases the cost of the credit to an amount equal to 100% of the additional liability to STRS resulting from the purchase of each year or portion of a year of credit.<sup>53</sup> Under current law, the cost of the credit is calculated by multiplying the employee contribution rate in effect at the time the leave commenced by the member's annual compensation for the first year of service following the leave, plus interest compounded annually at a rate determined by the STRS Board.<sup>54</sup>

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<sup>47</sup> R.C. 3307.70.

<sup>48</sup> This applies to STRS members commencing membership on or after July 1, 1989 (R.C. 3309.74).

<sup>49</sup> R.C. 3307.76.

<sup>50</sup> R.C. 3307.70.

<sup>51</sup> R.C. 3307.76(B).

<sup>52</sup> The leave or resignation must have occurred prior to July 1, 1982 (R.C. 3307.771).

<sup>53</sup> R.C. 3307.70.

<sup>54</sup> R.C. 3307.771.

## **School board service**

Current law permits an STRS member to purchase one-quarter year of service credit for each year of service rendered as a school board or governing board member if the member (1) is eligible to retire or will be eligible to retire as a result of purchasing the credit and (2) agrees to retire within 90 days of receipt of the cost of the credit.<sup>55</sup> If the member does not retire within 90 days, STRS is to withdraw the amount paid and refund the amount paid by the member.

If the purchase will not be completed until on or after January 1, 2014, the bill generally increases the cost of the credit to an amount equal to 100% of the additional liability to STRS resulting from the purchase of each year or portion of a year of credit.<sup>56</sup> Currently, the cost of the credit is the additional liability to STRS resulting from the purchase of each year or portion of a year of credit.<sup>57</sup>

## **Credit for leave of absence**

Current law allows an STRS member who takes a leave of absence due to illness or injury or who has been granted a leave for educational, professional, or other reasons approved by the STRS Board to purchase up to two years of service credit for each period of absence or leave.

The bill permits an STRS member participating in the STRS combined plan to purchase this credit. Currently, only members participating in the STRS defined benefit plan may do so.<sup>58</sup>

For up to two years following the last day of the year in which the absence or leave terminated, the cost of the credit under current law is the employee contribution that would have been made had the member remained in the position. If the absence or leave begins and ends in the same year, the credit may be purchased by payroll deduction. If the credit is purchased more than two years after the last day of the year in which the absence or leave terminated, the cost of the credit is the employee contribution that would have been made had the member remained in the position, plus interest compounded annually on both the employee and employer contribution.

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<sup>55</sup> Credit may be purchased only for school board or governing board service rendered between September 1, 1920, and July 1, 1991. (State Teachers Retirement System, *Service as an Ohio Public School Board Member* (last visited July 13, 2012), available at <<https://www.strsoh.org/active/6g12.html>>.)

<sup>56</sup> R.C. 3307.70.

<sup>57</sup> R.C. 3307.78(C).

<sup>58</sup> R.C. 3307.77.

The bill instead requires a member to pay compound interest on both the employee and employer contribution if the absence or leave does not begin or end in the same year or the credit is not purchased during the leave.<sup>59</sup>

### **Military service credit transferred to STRS**

Current law permits STRS members participating in the STRS defined benefit plan to purchase up to five years of service credit for military service. This is usually service that occurred prior to becoming a member. Members may also transfer to STRS any service credit purchased under PERS or SERS for military service prior to joining that retirement system, but the total cannot exceed five years.

The bill permits members to transfer to STRS military service credit purchased under the Ohio Police and Fire Pension Fund (OP&F), State Highway Patrol Retirement System (SHPRS), or Cincinnati Retirement System. As under current law, the total military service credit allowed cannot exceed five years.<sup>60</sup>

### **Military service interrupting teaching**

An STRS member may purchase service credit for military service that interrupted the member's STRS teaching service, provided the member was employed in an STRS position prior to the military service and returned to an STRS position within three months of completing the military service. The bill provides that a member may purchase a total of up to five years of service credit for military service that interrupted teaching, rather than five years for "each period" of interrupted service.<sup>61</sup>

### **Credit for prior teaching service**

An STRS member may purchase service credit for comparable teaching service not covered by STRS, such as out-of-state teaching service and other public service that occurred outside Ohio. Under current law, a member may not purchase service credit for service that is used to calculate a retirement benefit that is being paid or is payable in the future to the member by another retirement program other than Social Security.

The bill specifies that a member may not purchase credit for prior service if that service was used to: (1) calculate a retirement benefit that has already been paid to the member by another retirement program other than Social Security or (2) make

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<sup>59</sup> R.C. 3307.77(D).

<sup>60</sup> R.C. 3307.751.

<sup>61</sup> R.C. 3307.752.

contributions for five or more years to a defined contribution plan if the member has been paid all contributions or is not entitled to be paid any contributions.<sup>62</sup>

### **Surviving spouse or dependents**

Current law permits the surviving spouse or dependents of an STRS member who dies prior to receipt of a retirement allowance to purchase any service credit the member, had the member not died, would have been eligible to purchase under the same terms and conditions that the deceased member could have purchased the credit.

The bill eliminates the ability of the surviving spouse or dependents of a deceased STRS member to purchase most types of service credit the member could have purchased. The surviving spouse or dependents may no longer purchase credit for the following:<sup>63</sup> (1) restoring service in STRS,<sup>64</sup> (2) service for periods in which an employer failed to make retirement contributions to STRS,<sup>65</sup> (3) service for periods in which a member was exempt from STRS, PERS, or SERS membership,<sup>66</sup> (4) private school and out-of-state teaching service,<sup>67</sup> (5) military service prior to STRS membership,<sup>68</sup> (6) military service that interrupts STRS membership,<sup>69</sup> (7) certain credit earned in PERS or SERS,<sup>70</sup> (8) a period during which a member was out of service due to illness, injury, or other employer-approved reason,<sup>71</sup> and (9) a period of absence due to pregnancy or adoption of a child.<sup>72</sup>

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<sup>62</sup> R.C. 3307.74.

<sup>63</sup> R.C. 3307.79.

<sup>64</sup> R.C. 3307.71.

<sup>65</sup> R.C. 3307.72.

<sup>66</sup> R.C. 3307.73.

<sup>67</sup> R.C. 3307.74.

<sup>68</sup> R.C. 3307.751.

<sup>69</sup> R.C. 3307.752.

<sup>70</sup> R.C. 3307.76.

<sup>71</sup> R.C. 3307.77.

<sup>72</sup> R.C. 3307.771.

However, the bill retains the ability of a surviving spouse or dependents to transfer to STRS any service credit the deceased member had on deposit with OP&F, SHPRS, or the Cincinnati Retirement System.<sup>73</sup>

### **Retirement incentive plans**

The bill repeals the law providing for establishment of retirement incentive plans. Current law permits an STRS employer to establish a retirement incentive plan for its employees who are participating in the STRS defined benefit plan. Under a retirement incentive plan, the employer purchases service credit for eligible members in return for an agreement to retire within 90 days of receiving the credit. To be eligible to participate in a plan, a member must be at least age 50 and be eligible to retire or be made eligible by the service credit purchased by the employer.<sup>74</sup>

### **"Non-Ohio valued" service credit**

The bill repeals the law providing for the purchase of "non-Ohio valued" service credit, which is used for determining eligibility for a retirement benefit. The credit cannot be used to calculate a retirement or disability benefit or to determine eligibility for disability benefits, health care, or survivor benefits.<sup>75</sup> Under current law, an STRS member may purchase "non-Ohio valued" service credit for the following: (1) public out-of-state teaching service, (2) civilian service with the United States government, (3) military service, (4) other out-of-state public employment, and (5) for members with at least ten years of total service credit, out-of-state private school teaching.<sup>76</sup>

### **Qualifying service credit**

For purposes of determining eligibility for retirement, disability, and survivor benefits under the STRS defined benefit plan, the bill provides that only certain types of service credit are "qualifying service credit." The following are qualifying service credit:

- (1) Credit for service for which the member made contributions to STRS, PERS, or SERS;
- (2) Service credit restored under STRS, PERS, or SERS;

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<sup>73</sup> R.C. 3307.761 and 3307.763.

<sup>74</sup> R.C. 3307.54 (repealed).

<sup>75</sup> State Teachers Retirement System, *Ohio Non-Valued Credit* (last visited July 16, 2012), available at <<https://www.strsoh.org/active/6g13.html>>.

<sup>76</sup> R.C. 3307.741 (repealed).

(3) Service credit transferred to STRS from OP&F, SHPRS, or the Cincinnati Retirement System.<sup>77</sup>

### **STRS membership**

The bill includes in the membership of STRS any licensed teacher who is performing state-funded auxiliary services for nonpublic school students, regardless of whether the services are rendered in a public school or whether the teacher is employed under a contract with a third party. The result is that these individuals and their employers will be required to contribute to STRS and will earn service credit in STRS.<sup>78</sup>

### **Retroactive and vacation pay**

"Compensation," as defined in the law governing STRS, is used to determine a member's final average salary, which in turn is used to determine retirement and disability benefits. The bill excludes the following from compensation: (1) amounts paid to a teacher by an employer as a retroactive payment of earnings, damages, or back pay under a court order or court-adopted settlement agreement, or other settlement agreement, unless STRS receives teacher and employer contributions, plus interest compounded annually at a rate determined by the STRS Board, for each year or portion of a year paid under the order or agreement for which the Board determines the teacher was improperly paid, regardless of the teacher's ability to recover on such amounts improperly paid and (2) amounts paid for vacation pay covering the same period for which other salary, compensation, or other benefits are paid by PERS or SERS.<sup>79</sup>

### **Benefit suspension and termination**

The bill permits STRS to suspend a retirement, disability, or survivor benefit or a benefit to a beneficiary if (1) STRS has good cause to believe that the person receiving the benefit is incapacitated and no other person has authority to act or receive the benefit on the person's behalf or (2) STRS learns that the person receiving the benefit is missing and no person provides evidence satisfactory to STRS that the person is alive and is entitled to receive the benefit.<sup>80</sup>

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<sup>77</sup> R.C. 3307.58(A).

<sup>78</sup> R.C. 3307.01(B)(4).

<sup>79</sup> R.C. 3307.01(L)(2).

<sup>80</sup> R.C. 3307.42(B)(1).

Benefits are to resume on presentation of evidence satisfactory to the STRS Board that the person is no longer incapacitated or is alive and entitled to receive benefits. Any missed payments are to be paid in a single lump sum payment.<sup>81</sup>

In the case of a person who is missing, the bill provides for the benefit to be terminated on presentation to the Board of a decree of presumed death and specifies that the termination is retroactive to the date the benefit was suspended.<sup>82</sup>

## **Coordination of benefits**

The laws governing STRS, PERS, and SERS provide for coordination of benefits. 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.

Under the bill, eligibility for a disability benefit is to be determined by the board of the retirement system in which the member has the most service credit, which is the system that will calculate and pay the benefit. The retirement system calculating and paying the benefit must certify the determination to the board of each other retirement system in which the member has service credit and is to be accepted by that board as sufficient for granting a disability benefit. Current law provides that in determining eligibility for a disability benefit, the medical examiner's report to the retirement board of STRS, PERS, or SERS is to be accepted by the boards of all of those systems.<sup>83</sup>

The bill specifies the amounts that must be paid by PERS or SERS if service credit from one or both of those systems is used in the calculation of an STRS disability or retirement benefit. For each year of service, the bill requires STRS to receive from PERS, SERS, or both of those systems all of the following:

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

(2) An amount equal to the lesser of the employer's contributions made on behalf of the member to PERS or SERS for that year of service or the amount that would have been contributed had the member been an STRS member at the time the credit was earned;

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<sup>81</sup> R.C. 3307.42(B)(2).

<sup>82</sup> R.C. 3307.42(B)(3).

<sup>83</sup> R.C. 3307.57.

(3) If applicable, an amount equal to the amount paid on behalf of the member by a PERS employer for delinquent contributions;

(4) Compound interest on the amounts specified above.<sup>84</sup>

Current law requires the retirement system that will determine and pay the benefit to receive from the other retirement system or systems the member's refundable account at retirement or the effective date of a disability benefit plus an amount from that system's employers' accumulation fund equal to the member's refundable account, less interest.

## **Beneficiaries**

### **Plan of payment**

On retirement, an STRS member must select a plan of payment for the retirement allowance. The retirant may select a single lifetime benefit, which ends on the retirant's death, or a lesser amount that will continue in whole or part to one or more beneficiaries after the retirant's death.

Current law permits a change in the plan of payment if an STRS retirant becomes married or remarried. The bill provides that, when a retirant elects to change the plan of payment after a marriage or remarriage, the new spouse must be added as a beneficiary, except that, if there are four beneficiaries that must be retained pursuant to a court order or the payment to any beneficiary under a court order would be reduced, the spouse may not be added.<sup>85</sup>

Current law permits an STRS member receiving payments under a plan that includes payments to a former spouse pursuant to a court order to elect a new plan of payment only with consent of the former spouse. The bill provides that consent is not required if the new plan will not affect payments to the former spouse.<sup>86</sup>

The bill specifies that, when a retirant elects to change the plan of payment after a marriage or remarriage, the election must be signed by the retirant and received by the Board prior to the retirant's death.<sup>87</sup>

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<sup>84</sup> R.C. 3307.57(B)(6).

<sup>85</sup> R.C. 3307.60(G).

<sup>86</sup> R.C. 3307.60(G).

<sup>87</sup> R.C. 3307.60(G)(2).

## **Designation of beneficiaries**

The beneficiary of an STRS member who has not retired is the person designated by the member on a form filed with the STRS Board or, if there is not a valid designation, a statutory beneficiary. The bill specifies that a member may designate two or more persons as beneficiaries to be paid the member's accumulated contributions on the member's death. Effective July 1, 2013 and subject to rules adopted by the STRS Board, it requires the member to specify the percentage each beneficiary is to receive and provides that if the percentages are not specified, the contributions are to be divided equally among the beneficiaries.

The bill also provides that if a designated beneficiary is deceased, the amount allocated to the deceased beneficiary is to be allocated to the remaining beneficiaries based on the percentage of the amount that each beneficiary is to be paid.<sup>88</sup>

## **Receipt of beneficiary designation**

The bill requires that, for a beneficiary to be paid the member's accumulated contributions on the member's death or to receive any unpaid amounts due an annuitant on the annuitant's death,<sup>89</sup> the beneficiary designation must be received by (instead of filed with) the STRS Board prior to the member's or the annuitant's death.<sup>90</sup>

## **Annuitant's burial expenses**

The beneficiary of an annuitant is the person designated by the annuitant on a form filed with the STRS Board or, if there is not a valid designation, a statutory beneficiary. The statutory beneficiaries are the annuitant's surviving spouse, children, dependent parents, parents, and estate, in that order of precedence. The bill provides that if an annuitant does not have a beneficiary, an amount not exceeding the cost of the annuitant's burial expenses may be paid to the person responsible for burial expenses.<sup>91</sup>

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<sup>88</sup> R.C. 3307.562(B).

<sup>89</sup> An annuitant is the last person who received a monthly benefit pursuant to the plan of payment selected by the former member (R.C. 3307.562(D)).

<sup>90</sup> R.C. 3307.562(D)(1).

<sup>91</sup> R.C. 3307.562(D)(2).

## Survivor benefits

### Eligibility

Under the bill, only "qualifying service credit" may be used to determine eligibility for a survivor's benefit (see "**Qualifying service credit**," above).<sup>92</sup> Under current law, "Ohio service credit" is used to determine eligibility for benefits, which is generally all of the member's service credit.<sup>93</sup>

The bill modifies eligibility for STRS survivor benefits. For STRS members who have service credit earned before July 1, 2013, the bill requires one-and-a-half years of "qualifying service credit" (rather than "Ohio service credit") by a deceased member for survivors to be eligible for STRS survivor benefits, with at least one-quarter year of "qualifying service credit" (rather than "Ohio contributing service credit") in the two-and-a-half years prior to the date of death. For these members, the bill maintains the current number of years of service credit required to be eligible for survivor benefits, but changes the type of service credit that will be counted towards meeting eligibility for benefits.

For members who do not have service credit earned before July 1, 2013, the bill requires five years of "qualifying service credit" by a deceased member for survivors to be eligible for survivor benefits and requires the deceased member to have died not later than one year after the date contributing service terminated.<sup>94</sup>

The bill adds to the circumstances under which a survivor is eligible to receive STRS survivor benefits. The bill permits a survivor to receive survivor benefits if the deceased member was receiving a disability benefit within 12 months prior to the date of death and was contributing to STRS, PERS, or SERS at the time of death. Under current law, a survivor is eligible to receive STRS survivor benefits if the deceased member had earned one-and-a-half years of Ohio service credit, with at least one-quarter year of Ohio service credit in the two-and-a-half years prior to the date of death or the deceased member was receiving a disability benefit at the time of death.<sup>95</sup>

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<sup>92</sup> R.C. 3307.50(B) and 3307.66(A).

<sup>93</sup> R.C. 3307.50(B).

<sup>94</sup> R.C. 3307.66(C).

<sup>95</sup> R.C. 3307.66(C).

## Qualified survivors

Only qualified survivors are eligible for survivor benefits. These are the member's surviving spouse, children, and dependent parents.

The bill modifies the requirements for a child to be qualified for a survivor's benefit. Under current law, the child must be unmarried and one of the following: (1) under age 18, or under 22 if a full-time student, (2) or any age if physically or mentally incompetent. The bill provides instead that, for a child to be qualified, the child must never have been married and, if qualified based on a physical or mental incompetency, the incompetency must have occurred prior to age 18 (or age 22 if a full-time student) and be continuing.<sup>96</sup>

For a surviving spouse to be qualified for a survivor's benefit, the spouse must be one of the following: (1) age 62, (2) caring for a qualified child, (3) adjudged physically or mentally incompetent, or (4) any age if the deceased member had at least ten years of Ohio service credit or was eligible for service retirement. The bill modifies this by providing that a surviving spouse must be age 62 "or older" and if qualified based on a physical or mental incompetency, the incompetence must be established at the time of the member's death and be continuing.<sup>97</sup>

## Commencement and termination of survivor benefits

The bill revises when payment of STRS survivor benefits begins. It requires a qualified survivor to file with the STRS Board an application for benefits. If application is received not later than one year after the date of the member's death, benefits are to begin on the first day of the month following the date of death. If application is received later than one year from the date of death, benefits are to begin on the first day of the month immediately following receipt of application by the Board. Under current law, benefits commence on the first day of the month following the day on which the person becomes a qualified survivor.<sup>98</sup>

The bill removes a requirement that a survivor benefit be terminated during active military service. Under current law, benefits provided to a survivor must be terminated on the occurrence of any of the following: (1) first marriage, (2) abandonment, (3) adoption, or (4) active military service.<sup>99</sup>

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<sup>96</sup> R.C. 3307.66(B)(2).

<sup>97</sup> R.C. 3307.66(B)(1).

<sup>98</sup> R.C. 3307.66(E).

<sup>99</sup> R.C. 3307.66(E).

## **COLAs for survivor benefits**

The bill provides if the deceased member was receiving a disability benefit at the time of death, a survivor benefit will be increased by any COLAs granted while the deceased member was receiving the disability benefit, plus any additional amount the deceased member received while receiving the disability benefit. It specifies that the increase is based on the monthly survivor benefit.

If eligibility for a survivor benefit is not established until more than one year after the member's death, the benefit will be increased by the cost-of-living adjustments that would have been made had the benefit begun in the year in which the member died. However, the benefit used to calculate any future COLAs will be based on the plan of payment selected by the survivor, plus any additional amounts added to the benefit that established a new base benefit to the deceased member.<sup>100</sup>

### **"29 or more" years of service credit**

The bill provides that an STRS member who has, at the time of death, more than 29 but less than 30 years of service credit is presumed to have 30 years of service credit only if the member's death occurs prior to August 1, 2015. Current law specifies only that the member's death must have occurred on or after August 20, 1976.<sup>101</sup>

## **Refunds**

An STRS member participating in the STRS defined benefit plan who ceases to be a teacher for any cause other than death, retirement, receipt of a disability benefit, or an election to participate in an alternative retirement plan may withdraw the member's accumulated contributions. The member or member's beneficiary is eligible to receive interest and matching funds on the member's accumulated contributions.<sup>102</sup>

The bill provides for interest and matching funds on withdrawal of contributions that were restored after having previously been withdrawn. Currently, interest and matching funds are allowed only on (1) contributions deducted from salary and (2) service credit purchases for leaves of absence.<sup>103</sup>

The bill specifies that a member who returns to active employment after receiving a disability benefit and later elects to withdraw the member's accumulated

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<sup>100</sup> R.C. 3307.66(C).

<sup>101</sup> R.C. 3307.79.

<sup>102</sup> R.C. 3307.563.

<sup>103</sup> R.C. 3307.563(A)(2)(b).

contributions is ineligible for interest and matching funds on the contributions being withdrawn.<sup>104</sup>

## **Recovery of overpayments**

The bill expands the authority of STRS to recover overpayments made to certain individuals. Currently, if a person is paid any benefit or payment by STRS to which the person is not entitled, the benefit is to be repaid to the system by that person. If the person fails to repay, STRS is to withhold the amount due from any benefit the person or person's beneficiary is eligible to receive from STRS or collect the amounts in any other matter provided by law.

The bill authorizes STRS to take the following actions, depending on the person to which an overpayment was made and the person who fails to make a repayment:

(1) If the overpayment was made to an alternate payee (former spouse) under a division of property order, STRS may withhold the amount due from any benefit due a retirant who was subject to the division of property order or due a survivor or beneficiary of that retirant. Therefore, under the bill, STRS may withhold amounts incorrectly paid to an alternate payee by withholding amounts payable to a retirant or beneficiary or survivor or beneficiary of the retirant. If the survivor or beneficiary fails to repay, STRS is authorized to withhold the amount due from any benefit or payment due any other survivor or beneficiary of the retirant receiving benefits or payments from STRS.

(2) If the overpayment was made to a child support enforcement agency that fails to repay an overpayment of child support, STRS may withhold the amount due from any benefit due a survivor or beneficiary of the retirant who was subject to the child support order.

(3) If the overpayment was made on behalf of a person for a health care or Medicare benefit to a third party and the third party fails to repay, STRS is required to withhold the amount due, or portion of the amount due, from any payment or benefit due to the person or person's beneficiary.

The bill authorizes STRS to collect amounts due in any other manner it considers appropriate, as provided by law.<sup>105</sup>

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<sup>104</sup> R.C. 3307.563(B).

<sup>105</sup> R.C. 3307.47.

## Health care

### Health Care Fund

Under current law, STRS is permitted, but not required, to provide health care coverage to individuals receiving retirement, disability, or survivor benefits. In some cases the coverage supplements Medicare; in others it is the recipient's primary health care coverage. The STRS Board may contract for coverage for individuals receiving service retirement or disability or survivor benefits under its defined benefit plan. The Board may cover all or part of the cost to be paid from appropriate STRS funds.<sup>106</sup>

The bill establishes a 401(h) account<sup>107</sup> within the STRS pension trust and names it the Health Care Fund. The bill provides for amounts allocated by the STRS Board for health care and earnings to accumulate in the Fund. It provides that the cost of retiree health care coverage is to be paid from the Fund.<sup>108</sup>

The bill provides that if STRS discontinues health care coverage, after all obligations are paid, remaining amounts in the Health Care Fund are to be redistributed to employers that have contributed to the Fund.<sup>109</sup>

### Medicare Part B

The bill permits, rather than requires, the STRS Board to reimburse Medicare Part B premiums to retirement and disability benefit recipients who are "enrolled in" (rather than "eligible for") Medicare Part B. The bill limits the monthly Medicare Part B premium reimbursement to an amount determined by the Board that is not to exceed 90% of the basic premium, except that the reimbursement cannot exceed the amount actually paid for coverage.<sup>110</sup> Currently, the amount of the reimbursement is the greater

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<sup>106</sup> R.C. 3307.39.

<sup>107</sup> A 401(h) account is an account within a qualified trust that permits funds to be deposited and realize earnings with certain tax advantages. The funds may then be used to provide health care coverage for retired members. The account must be subordinate (that is, deposits to the account must be less than 25% of total pension contributions) and separate from the pension fund. "401(h)" refers to the Internal Revenue Code section that authorizes the creation of these accounts: 26 United States Code 401(h).

<sup>108</sup> R.C. 3307.14(H).

<sup>109</sup> R.C. 3307.143.

<sup>110</sup> The standard 2012 Medicare Part B monthly premium is \$99.90. (Medicare.gov, *Medicare Monthly Premiums*, last visited June 1, 2012, available at <<http://www.medicare.gov/cost/>>.)

of \$29.90 or an amount determined by multiplying the basic premium by the recipient's years of service.<sup>111</sup>

### **Long-term care insurance**

The bill provides that STRS is permitted, rather than required, to offer coverage for long-term care insurance.<sup>112</sup> Long-term care insurance generally covers care that is not covered by health insurance or Medicare. Depending on the policy, it may cover home care, assisted living, adult daycare, hospice care, and nursing home care.

### **Re-employment of an STRS retirant**

#### **Two-month forfeiture**

Under current law, an STRS retirant or other system retirant who has received a retirement allowance for less than two months when re-employment begins forfeits the retirement allowance for any month of re-employment during the two-month period. On termination of the employment or on the retirant's death, the contributions made during that period will be refunded. The retirant's service and contributions made during the two-month period cannot be used in calculating a benefit for the retirant's employment with that employer.<sup>113</sup> The bill extends the two-month forfeiture of benefits to retirants re-employed in positions subject to STRS who are receiving benefits under either a PERS or SERS defined contribution plan or an alternative retirement plan. In addition, the bill provides that the amount forfeited during the two-month period is equal to the amount of the retirant's monthly single life annuity.

#### **Retiring from one position while continuing to hold a government position**

The bill extends the following provisions to STRS members participating in the STRS defined contribution plan and combined plan that currently apply to those participating in the STRS defined benefit plan:

(1) A member holding two or more STRS positions may retire from the position for which annual compensation at the time of retirement is highest and continue to contribute to STRS for the other position or positions.

(2) A member holding an STRS position and one or more positions covered by another state retirement system may retire from the STRS position and continue to

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<sup>111</sup> R.C. 3307.39.

<sup>112</sup> R.C. 3307.391.

<sup>113</sup> R.C. 145.38(B)(4), 742.26(D), 3307.35(F), and 3309.341(C).

contribute to the other retirement system or systems if compensation for the STRS position at the time of retirement is highest.

(3) A member holding two or more STRS positions and at least one position covered by another state retirement system may retire from the STRS position for which compensation is highest at the time of retirement and continue to contribute to both STRS and the other retirement system.<sup>114</sup>

The bill also permits an STRS contributor who also holds one or more positions covered by other state retirement systems to retire from those positions and continue to contribute to STRS if the compensation for each of the positions from which the contributor is retiring is greater than the compensation for the position covered by STRS.<sup>115</sup>

The bill creates a new provision regarding STRS members retiring from one position while holding one or more other government positions. The bill provides that an STRS member may retire from one or more positions covered by STRS or other state retirement systems and continue contributing to STRS or other state retirement systems only if the member continuously held the positions for which the member continues to contribute for 12 consecutive months immediately prior to retirement.<sup>116</sup>

## **Defined contribution plan**

### **Change of plan participation**

The bill eliminates a requirement that an STRS member who elected to participate in the STRS defined contribution plan or the STRS combined plan and wishes to stay in the plan to make a further election immediately prior to the member's fifth year of participation. Instead, the bill permits a member to stay in the plan initially selected without making an election or to elect to change plan participation and instead participate in the STRS defined benefit plan or in another STRS defined contribution plan.

Current law provides that an STRS member who elects to participate in the STRS defined contribution or the STRS combined plan ceases participation in that plan and instead participates in the STRS defined benefit plan, beginning on the July 1 that follows the fourth anniversary of the member's STRS employment. To avoid this

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<sup>114</sup> R.C. 3307.351(B).

<sup>115</sup> R.C. 3307.351(B)(4).

<sup>116</sup> R.C. 3307.351(E).

change in plan participation, the member must elect, in writing, to continue to participate in the defined contribution plan or the combined plan.<sup>117</sup>

### **Eligibility**

The bill provides that a former STRS member who returns to teaching service is ineligible to participate in an STRS defined contribution plan if the member previously made an election to cease participation in the plan. Under current law, an individual is ineligible to participate in the STRS defined contribution plan if: (1) at the time employment commences, the individual is participating in an STRS defined benefit plan or is a re-employed retirant or (2) the individual elected to participate in an alternative retirement plan.<sup>118</sup>

### **Mitigation rate**

The bill permits, rather than requires, STRS to transfer to the Employers' Trust Fund a portion of employer contributions made on behalf of STRS defined contribution plan participants. If a transfer is made, the bill provides that the portion transferred is not to exceed (rather than is to equal) the percentage of members' compensation determined by the STRS Board's actuary to be necessary to mitigate any negative financial impact on the retirement system resulting from the participation of members in a defined contribution plan.<sup>119</sup>

## **STRS Board**

### **Membership**

The STRS Board consists of the following members:

- (1) One investment designee, appointed by the Treasurer of State;
- (2) Four employee members, elected by STRS members;
- (3) Two retirant members, elected by former STRS members receiving STRS retirement or disability benefits;

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<sup>117</sup> R.C. 3307.25(E).

<sup>118</sup> R.C. 3307.25(D).

<sup>119</sup> R.C. 3307.84.

(4) Two investment expert members, one appointed by the Governor and one appointed jointly by the Speaker of the House and the President of the Senate.<sup>120</sup>

The bill provides that the office of any STRS Board member who is convicted of or pleads guilty to committing a felony or theft offense, or violating certain ethics laws is considered vacant. Under current law, the automatic vacancy provision applies only to the employee and retirant Board members. The bill also specifies that a person who is convicted of or pleads guilty to the above offenses is ineligible for election or appointment (instead of only election) to the Board.<sup>121</sup>

### **Committee for selection of internal auditor**

The bill adds to the membership of the committee that selects an internal auditor for the STRS Board any additional Board members appointed to the committee by the Board. Currently, the committee consists of the following Board members: (1) one retirant member, (2) one contributing member, and (3) one ex officio member.<sup>122</sup>

### **Records**

For the most part, records of the STRS Board are open to the public for inspection. However, the personal history record of a member, contributor, or retirant is confidential and generally exempt from public inspection. Under current law, "retirant" means an individual granted a service retirement under the STRS defined benefit plan. The bill extends the Board's confidentiality provisions to STRS defined contribution plan participants by providing that "retirant" includes a former member receiving a benefit under an STRS defined contribution plan.<sup>123</sup>

The bill includes e-mail addresses in personal history records, which as discussed above, are generally exempt from public inspection. "Personal history record" currently includes the following information related to a member, former member, contributor, former contributor, retirant, or beneficiary: address, telephone number, social security number, record of contributions, correspondence with STRS, and any other information deemed confidential by STRS.<sup>124</sup>

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<sup>120</sup> R.C. 3307.05.

<sup>121</sup> R.C. 3307.061.

<sup>122</sup> R.C. 3307.044.

<sup>123</sup> R.C. 3307.20(A)(2).

<sup>124</sup> R.C. 3307.20(A)(1).

Under current law, all medical reports and recommendations received by the Board for purposes of determining eligibility for disability or survivor benefits are privileged except under certain circumstances. The bill specifies that the privilege applies to medical reports and recommendations received by the Board from a member, member's physician, Board-assigned physician, or other entity providing medical reports and recommendations to the Board.<sup>125</sup>

The bill prohibits a medical report or recommendation received by the Board in relation to disability or survivor benefits from being released to the individual concerned or from being considered a medical record generated and maintained by a health care provider in the process of establishing a therapeutic relationship. It maintains the requirement of current law that, on written request of the individual concerned, copies of medical reports and recommendations be made available to the personal physician, attorney, or authorized agent of the individual concerned or the Board-assigned physician.<sup>126</sup>

## **Plan names**

The bill creates statutory definitions for "STRS defined benefit plan" and "STRS defined contribution plan" and replaces cross-references with the defined terms. Currently, the Revised Code refers to the defined benefit and defined contributions plans by cross-references to the Revised Code sections that govern each plan.<sup>127</sup>

## **Technical corrections and clarifications**

The bill makes the following technical corrections and clarifications:

- Clarifies that neither "member" nor "contributor" in STRS includes a member or retiree's surviving spouse whose only connection to STRS is an account in an STRS defined contribution plan.<sup>128</sup>
- Clarifies the period in which an STRS superannuate or retiree receives interest on contributions.<sup>129</sup>

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<sup>125</sup> R.C. 3307.20(C)(1).

<sup>126</sup> R.C. 3307.20(C)(2).

<sup>127</sup> R.C. 3307.01(N) and (O) and sections containing cross-references.

<sup>128</sup> R.C. 3307.01(C) and (D).

<sup>129</sup> R.C. 3307.352.

- Clarifies that an actuary is an actuarial "professional contracted with or employed by" the STRS Board.<sup>130</sup>
- Corrects cross-references to Revised Code sections.

### State Teachers Retirement System (STRS)

	Current law	The bill
Member contributions (R.C. 3307.26 and 3307.28)	Member contributes 10% of the member's compensation.	Member contributions as follows:  (1) Compensation earned not later than June 30, 2013: 10%  (2) Compensation earned between July 1, 2013 and June 30, 2014: 11%  (3) Compensation earned between July 1, 2014 and June 30, 2015: 12%  (4) Compensation earned between July 1, 2015 and June 30, 2016: 13%  (5) Compensation earned on or after July 1, 2016: 14%  (6) Compensation earned on or after July 1, 2017: STRS Board may reduce contribution to less than 14% if the Board's actuary determines that a reduction does not materially impair the fiscal integrity of the retirement system.
Retirement eligibility (R.C. 3307.58)	<u>Unreduced</u> retirement benefit – 5 years of service credit at age 65 or 30 years of service credit at any age.	<u>Unreduced</u> benefit – 5 or more years of service credit at age 65 or older or one of the following:  --Before August 1, 2015, 30 or more years of service credit at any age;  --On or after August 1, 2015, but before August 1, 2017, 31 or more years of service credit at any age;

<sup>130</sup> R.C. 3307.01(J).

	Current law	The bill
		<p>--On or after August 1, 2017, but before August 1, 2019, 32 or more years of service credit at any age;</p> <p>--On or after August 1, 2019, but before August 1, 2021, 33 or more years of service credit at any age;</p> <p>--On or after August 1, 2021, but before August 1, 2023, 34 or more years of service credit at any age;</p> <p>--On or after August 1, 2023, but before August 1, 2026, 35 or more years of service credit at any age;</p> <p>--On or after August 1, 2026, 35 or more years of service credit at age 60.</p>
	<p><u>Reduced</u> retirement benefit – 5 years of service credit at age 60 or 25 years of service credit at age 55.</p>	<p><u>Reduced</u> benefit – 5 or more years of service credit at age 60 or one of the following:</p> <p>--Before August 1, 2015, 25 or more years of service credit at age 55;</p> <p>--On or after August 1, 2015, but before August 1, 2017, 26 or more years of service credit at age 55 or 30 or more years of service credit at any age;</p> <p>--On or after August 1, 2017, but before August 1, 2019, 27 or more years of service credit at age 55 or 30 or more years of service credit at any age;</p> <p>--On or after August 1, 2019, but before August 1, 2021, 28 or more years of service credit at age 55 or 30 or more years of service credit at any age;</p> <p>--On or after August 1, 2021, but before August 1, 2023, 29 or more years of service credit at age 55 or 30 or more years of service credit at any age;</p>

	Current law	The bill
		--On or after August 1, 2023, 30 or more years of service credit at any age.
Retirement eligibility: Board discretion (R.C. 3307.58)	No provision.	STRS Board may adjust retirement eligibility requirements if the Board's actuary determines that an adjustment does not materially impair the fiscal integrity of the retirement system or is necessary to preserve the fiscal integrity of the system.
Final average salary (FAS) (R.C. 3301.501)	Calculated by averaging the highest <b>three</b> years of compensation.	For benefits beginning on or after August 1, 2015, calculated by averaging the highest <b>five</b> years of compensation.
Benefit calculation (R.C. 3307.58)	2.2% of final average salary (FAS) for each of the first 30 years of service, plus 2.5% and an additional .1% for each year above 30 years of service credit (i.e., at 35 years of service credit, 2.9%).	No change for (1) those whose retirement effective date is before August 1, 2015, and (2) those who on July 1, 2015, meet eligibility requirements of current law (30 years of service; age 55 with 25 years of service; or age 60 with 5 years of service);  For all others, 2.2% of final average salary for each year of service.
Cost-of-living adjustment (COLA) (R.C. 3307.67)	An annual cost-of-living adjustment (COLA) of 3% granted to each allowance or benefit recipient. <sup>131</sup>	Beginning August 1, 2013, COLA of 2%, except that no COLA will be granted from July 1, 2013, through June 30, 2014, to persons retiring prior to July 1, 2013, or until July 1, 2015, to persons retiring on or after July 1, 2013.
	COLA granted one year after first receiving an allowance or benefit.	For those receiving an allowance or benefit on or after August 1, 2013, five years (instead of one year) must pass before the first COLA is applied to an allowance or benefit, unless retirement is immediately preceded by a disability benefit.
	No provision.	STRS Board may adjust the COLA if the Board's actuary determines

<sup>131</sup> Allowance or benefit recipient includes retirees, survivors, and disability recipients.

	Current law	The bill
		that an adjustment does not materially impair the fiscal integrity of the retirement system or is necessary to preserve the fiscal integrity of the system.
Disability (R.C. 3307.62)	Eligible for disability coverage after five years of service.  May apply for disability benefit no later than two years after the end of STRS contributing service.	For those becoming STRS members on or after July 1, 2013, a member must earn 10 years of qualifying service credit to be eligible for disability coverage.  For those becoming STRS members on or after July 1, 2013, may apply for disability benefits no later than one year after the end of STRS contributing service.

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## HISTORY

### ACTION

### DATE

Introduced

05-08-12

Reported, S. Insurance, Commerce & Labor

05-16-12

Passed Senate (31-2)

05-16-12

S0342-PS-129.docx/jc

