



Ohio Legislative Service Commission

Bill Analysis

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S.B. 343*

129th General Assembly
(As Introduced)

This comparison of current law and S.B. 343 has two parts. The first part consists of brief descriptions of changes to the Public Employees Retirement System (PERS) under the bill. The second part is a table that compares significant changes in PERS plan features, including contribution rates, benefit eligibility and formulas, cost-of-living adjustments, disability benefits, and service credit purchases.

BILL SUMMARY

PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)

Benefit eligibility and formulas

Eligibility

- Changes retirement and disability benefit eligibility criteria for PERS members (see table, below) by creating three transition groups (R.C. 145.32).¹

Members who under the criteria of current law are eligible to retire no later than five years after the bill's effective date are exempt from the changes to the benefit eligibility criteria and are referred to by PERS as "Group A." Members who on the bill's effective date have 20 years of service credit or will be eligible to retire under existing law's criteria not later than ten years after the bill's effective date are subject to modified eligibility requirements, which will require one or two more years of age or service credit depending on circumstances. They are referred to by PERS as "Group B." Members who are not in either of the above groups are generally required to complete an additional two years of service credit, and except for certain law enforcement and

* This analysis was prepared before the introduction appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

¹ PERS has created a personalized transition group calculator, which is available on its web site at <https://www.opers.org/estimator>. The calculator may assist members in determining their transition groups.

public safety officers, attain at least age 55 to receive a benefit. They are "Group C." The table gives the age and service criteria for each group. The criteria shown for Group A are the same as those in existing law.

- Eliminates two optional benefit formulas that are alternatives to receiving a benefit determined by a percentage of final average salary multiplied by years of service. The eliminated formulas are (1) \$86 multiplied by years of service credit or (2) a benefit consisting primarily of an annuity having a reserve equal to the member's accumulated contributions and a pension equal to the annuity (R.C. 145.33 and 145.34 (repealed)).

Final average salary

- For members in Group C, changes to five (from three) the number of years used to determine final average salary (FAS), which is used to calculate a retirement allowance or disability benefit (R.C. 145.01 and 145.017).
- Provides that FAS will be calculated based on the higher of either (1) the highest calendar years of services, as under current law, or (2) the last continuous months of service, up to and including the last month of service (R.C. 145.017).

"Final average salary" is defined in current law as the result obtained by dividing the total of the member's salary for the full calendar years used in the calculation by that number of years, except that higher salary for a partial year in the last year of service can be substituted for salary for the same period in one of the full calendar years. Instead of substituting the partial year of salary, the bill permits FAS to be calculated using the member's last months of service, up to and including the last month.

Cost of living adjustment (COLA)

- Starting five years after the bill's effective date, changes the COLA to the increase, if any, in the Consumer Price Index (CPI), not exceeding 3% (from an automatic 3%) but only for retirement, disability and survivor benefits granted on or after the bill's effective date (R.C. 145.323).
- Specifies that the PERS vesting provisions do not apply to COLAs granted after the bill's effective date (R.C. 145.561).

Plans of payment

- Revises the plans a member may choose from for payment of a retirement allowance so that the member may choose from only the following: the full allowance, a lesser allowance with a portion continuing after death to a beneficiary for life, or a lesser

allowance with a portion continuing after death to two or more beneficiaries for their lives, but retains the requirement that a married member elect an allowance continuing after death with the spouse as the beneficiary unless the spouse consents to another plan of payment (R.C. 145.46).

Disability

- Excludes cosmetic surgery other than reconstructive surgery from PERS disability coverage (R.C. 145.35).
- Permits the PERS Board to consider a disability benefit application made after contributions cease only if the disabling condition began while the member was contributing or is related to work performed while the member was contributing (R.C. 145.35).
- Eliminates the minimum benefit for disability retirement of \$86 per year of service (R.C. 145.361).
- Denies a disability benefit if before the benefit commences the member continues in or returns to the job the member held at the time the benefit was granted (R.C. 145.35).
- Applies the following provisions to a disability benefit recipient whose application is filed after the bill's effective date (regardless of when the disability occurred):

--Reduces to three years (from five) the number of years the recipient is considered to be on a leave of absence, except that the period may be up to five years if the recipient is receiving rehabilitative services acceptable to the PERS Board (R.C. 145.362).

--Provides that once the leave of absence ends the standard for determining whether the recipient's disability benefit should be terminated is that the recipient is capable of performing a job described in statute instead of capable of performing the recipient's former job (R.C. 145.362).

For disability benefit recipients not receiving rehabilitation services, the bill provides that a benefit may be terminated if the recipient is found to be capable of working in a position that meets all of the following criteria: (1) the position replaces 75% of the recipient's final average salary, (2) the position is found in the recipient's job market, and (3) the recipient is qualified for the position.

--Causes forfeiture of any right a PERS member may have to a disability benefit if the disability was caused by a felony committed by the member (R.C. 145.574 and 2929.194).

--Requires a disability benefit recipient who is eligible for Social Security disability insurance (SSDI) payments to apply for SSDI, and reduces the disability benefit if the total of the benefit and the SSDI payment exceeds the recipient's inflation adjusted final average salary (R.C. 145.363).

Service credit

- Over several years, increases to \$1,000 (from the current \$250) the amount a PERS member must earn in a month to receive full credit for that month and provides for future increases based on increases in the cost of living (R.C. 145.016).

The schedule increases the required amount for a full month's credit to \$750 per month in the first full calendar year after the bill's effective date, \$875 per month in the next full calendar year, and \$1,000 per month in subsequent years, plus, in those years, additional amounts based on increases in the cost of living.

- Changes the cost to the member of purchasing service credit for any of the following to an amount equal to 100% of the additional liability to PERS resulting from the additional credit: service as an elective official, including additional credit; service for which the member was exempted from PERS contributions; prior service; municipal, out of state, or federal service; school board service; and a period while on a leave of absence (R.C. 145.20, 145.201, 145.28, 145.29, 145.291, 145.292, 145.293, 145.299, and 145.47).
- Eliminates free service credit for periods during which a PERS member was out of service and receiving workers' compensation benefits, but permits the member to purchase the credit and requires the employer to make the employer contribution if the member makes the purchase (R.C. 145.01 and 145.2915).
- Requires a PERS member who is elected or appointed to public office to pay both the employee and employer contribution to receive credit for a pay increase that was not paid because it was granted during the member's term in office, rather than paying only the employee contribution (R.C. 145.01 and 145.2916).
- Limits the time during which a PERS member may elect a transfer or purchase of credit for service under the Ohio Police and Fire Pension Fund, State Highway Patrol Retirement System, or Cincinnati Retirement System to a period just before anticipated receipt of a disability or retirement benefit and provides that the credit

cannot be used in determining eligibility for health care coverage or any coverage premium (R.C. 145.295, 145.2911, and 145.2913).

- Limits to five years of service credit the service credit a member is granted for a period during which the member was receiving PERS disability benefits prior to returning to public employment (R.C. 145.362).
- Provides that the surviving spouse of a PERS member who dies on or after the bill's effective date may purchase service credit the member could have purchased only if the member initiated the purchase before death (R.C. 145.452).
- Provides that the bill's service credit changes apply to purchases initiated six months or longer after the bill's effective date (Section 4).

Retirement effective date

- Provides that the effective date of a retirement allowance or re-employment annuity is not later than 90 days prior to the Board's receipt of the member's application for the allowance or annuity (R.C. 145.32, 145.37, and 145.384).

Coordination

- Specifies the amounts that must be paid by the School Employees Retirement System or the State Teachers Retirement System if service credit from one or both of those systems is used in the calculation of a PERS disability or retirement benefit (R.C. 145.37).
- Specifies that total employer contributions from the Ohio Police & Fire Pension Fund and the State Highway Patrol Retirement System are to be transferred to PERS if service credit from one or both of those systems is used in the calculation of a PERS disability or retirement benefit (rather than the lesser of those contributions or amounts that would have been contributed under PERS) (R.C. 145.295).
- Authorizes the Board to permit members who have contributed to more than one PERS retirement plan (defined benefit, member directed, or combined) to have years of service and contributions under those plans combined for the purpose of determining retirement eligibility (R.C. 145.194).
- Authorizes the Board, for those members who have contributed to more than one PERS retirement plan, to establish a uniform beneficiary designation form for use when a member dies before retiring that applies to all PERS plans in which the member has contributions (R.C. 145.431).

If certain conditions are met, a member of PERS may elect to participate in a defined benefit plan, in which a benefit is determined according to a statutory formula; a defined contribution plan, in which a benefit is determined solely by contributions and earnings on those contributions; or a combined plan composed of both a formula benefit and a benefit determined by contributions and earnings. The bill provides, for those who have contributed to more than one plan, for total years of service and contributions made to the plans to be used in determining retirement eligibility and for a uniform beneficiary designation to be used for all plans to which the member contributed.

Membership

- Establishes time limits and procedures for requesting determinations of whether individuals providing personal services to public employers are public employees and subject to PERS membership (R.C. 145.036, 145.037, and 145.038).

Enhanced refund

- Changes the additional amount a member with at least five years of service receives as a refund on withdrawing contributions from 33% with five or more years of service or 66% with ten or more years of service to amounts specified in PERS rules (R.C. 145.401).
- Changes the credit eligible for the enhanced refund to include purchased military service and restored credit (R.C. 145.401).

Health care

Eligibility

- Gives the PERS Board discretion to establish by rule the number of years and types of service credit required to be eligible for health care coverage in retirement (R.C. 145.58).

Current law authorizes, but does not require, the PERS Board to provide health care coverage for retired members and their spouses and dependents. To be eligible for coverage, the retired member must have at least ten years of service credit, not including any of the following: (1) credit obtained under a retirement incentive plan, (2) credit purchased after January 29, 1981, for municipal, out of state, or federal service, or for military service that preceded public service, and (3) credit purchased after May 4, 1992, for service, such as college work study, for which a public employee chose to be exempt from PERS contributions. The bill would permit the Board to determine how much credit and what types would be needed to be eligible for health care coverage.

- Requires the Board to establish an amount to be paid to eligible retirees, disability recipients, or survivors as reimbursement for Medicare Part B premiums they pay, rather than requiring the Board to provide a payment of not less than \$96.40 per month (R.C. 145.58).²

Criminal falsification

- Provides that a member or beneficiary is not eligible for PERS health care coverage if the member or beneficiary is convicted of criminal falsification as a result of making a false statement in an attempt to obtain a health care benefit (R.C. 145.58).
- Includes in the crime of falsification, a misdemeanor of the first degree, providing false information to PERS for the purpose of acquiring health care coverage (R.C. 2929.13).

Overpayments

- Specifically authorizes PERS to collect health care coverage overpayments, including overpayments to third parties, by any means permitted by law (R.C. 145.563).

Deferred Compensation Board

- Authorizes the PERS Board to allow employees of the Ohio Public Employees Deferred Compensation Board to participate in any health care coverage PERS offers its own employees (R.C. 145.09).

Re-employed PERS retirants

- Provides that the rate of interest credited to the accounts of certain re-employed retirants is a rate determined by the PERS Board, rather than PERS's actuarial assumption rate of interest (R.C. 145.473).

Defined contribution plan

- Permits (rather than requires) PERS to transfer a portion of employer contributions made on behalf of PERS defined contribution plan participants to the account used to fund the PERS defined benefit plan (referred to as the "mitigation rate") (R.C. 145.87).
- Applies the beneficiary designation provisions for the defined benefit plan to the defined contribution plans (R.C. 145.82).

² The 2012 Medicare Part B premium for most Medicare participants is \$99.90 per month.

- Authorizes the PERS Board to adopt rules specifying how service credit in the defined benefit plan may be converted to amounts on deposit in a defined contribution plan if a member switches plans (R.C. 145.814).
- Requires a PERS defined contribution plan participant who becomes employed in a PERS-Law Enforcement or PERS Public Safety position to cease participating in the defined contribution plan and instead participate in the defined benefit ("Traditional") plan (R.C. 145.194).

PERS Board

- Provides that the office of a PERS Board member (instead of only the office of an employee member or a retirant member of the Board) who is convicted of or pleads guilty to specified offenses is deemed vacant. Specifies that a person who is convicted of or pleads guilty to any of those offenses is ineligible for either election or appointment (instead of just election) to the PERS Board. (R.C. 145.057.)
- Provides that if an employee member of the PERS Board no longer qualifies to represent the employee group that elected the member, the member's office is considered vacant and a successor member is to be elected (R.C. 145.06).
- Provides that an appointed PERS Board member holds office until the later of the end of the term for which the member is appointed or the date the member's successor takes office (R.C. 145.04).
- Requires that all members of the PERS Board (instead of only newly elected members and individuals appointed to fill a vacancy) complete the orientation program component of the Retirement Board Member Education Program (R.C. 145.041).

Records

- Authorizes the PERS Board to maintain records of the retirement system and its members, contributors, and beneficiaries in either printed or electronic format and to share data with the Ohio Public Employees Deferred Compensation Program, Social Security Administration, and U.S. Centers for Medicare and Medicaid Services (R.C. 145.27).

Accounting, annuity, and other changes

- Removes a prohibition on acquiring certain purchased or granted military service credit when that credit is also used in calculation of another retirement benefit (R.C. 145.30 and 145.301).³
- Provides that a change in a retirement benefit resulting from the death of a beneficiary takes effect the month following the date of death, rather than the month following notice of the death (R.C. 145.64).
- Permits PERS to adjust a retirement benefit if the benefit is incorrectly calculated (R.C. 145.563).
- Makes accounting changes, including changes to the PERS additional annuity program under which a member makes additional deposits to PERS during the member's career and receives an additional annuity during retirement (R.C. 145.23, 145.62, 145.63, and 145.64).
- Requires that any legal action commenced against PERS be filed in Franklin County (R.C. 145.101).
- Specifies that "contributing service" includes service transferred to the defined benefit plan for which contributions were originally made to a defined contribution plan (R.C. 145.01).

Table

The bill establishes three eligibility groups designated by PERS as Group A, B, and C. Membership in a particular group is determined by the years of service the member has on the bill's effective date. The PERS designations are used in the following table.

Members who are eligible to retire no later than five years after the bill's effective date are exempt from the changes to the benefit eligibility criteria and are referred to by PERS as "Group A."⁴ Members who on the bill's effective date have 20 years of service credit or will be eligible to retire under existing law's criteria not later than ten years

³ According to PERS this change is necessary to comply with the federal Pension Protection Act of 2006.

⁴ Members in Group A are subject to changes in the COLA provisions, see "**Cost of living adjustment (COLA)**", above.

after that date are referred to by PERS as "Group B." Members not in either of those groups are "Group C."⁵

Public Employees Retirement System (PERS)

	Current law	S.B. 343
Contributions	Member contributes 10% of the member's salary (<i>R.C. 145.47</i>).	No changes.
	Employers contribute an amount equal to 14% of a member's salary (<i>R.C. 145.48</i>).	No changes.
Retirement eligibility: Regular PERS	Unreduced retirement benefit with 30 years of service credit at any age or five years of service credit and age 65 (<i>R.C. 145.32 and 145.33</i>).	Group A – No changes (<i>R.C. 145.32(A)</i>). Group B – Unreduced benefit with at least 31 years of service credit and age 52; 32 years of service credit at any age; or five years of service credit at age 66 (<i>R.C. 145.32(B)</i>). Group C – Unreduced benefit with at least 32 years of service credit and age 55 or five years of service credit and age 67 (<i>R.C. 145.32(C)</i>).
	Reduced retirement benefit with at least 25 years of service credit and age 55 or older or at least five years of service credit and age 60 or older (<i>R.C. 145.32 and 145.33</i>).	Group A – No changes (<i>R.C. 145.32(A)</i>). Group B – Reduced retirement benefit with 25 years of service credit and age 55 or five years of service credit and age 60 (<i>R.C. 145.32(B)</i>). Group C – Reduced retirement benefit with 25 years of service credit and age 57 or five years of service and age 62 (<i>R.C. 145.32(C)</i>).
Retirement eligibility: PERS Law Enforcement (PERS-LE)	Unreduced retirement benefit with 25 years of service credit in PERS-LE and age 48; 25 years of service credit in PERS-LE and PERS Public Safety and age 52; or 15 years of service credit in PERS-LE	Group A – No changes (<i>R.C. 145.332(A)</i>). Group B – Unreduced benefit with 25 years of service credit in PERS Public Safety or PERS-LE and PERS Public Safety and age 54;

⁵ PERS has created a personalized transition group calculator, which is available on its web site at <https://www.opers.org/estimator>.

	Current law	S.B. 343
	or PERS Public Safety and age 62 (<i>R.C. 145.33</i>).	or 15 years of service credit in PERS-LE or PERS Public Safety and age 64 (<i>R.C. 145.332(B)</i>). Group C – Unreduced benefit with 25 years of service credit in PERS Public Safety or PERS-LE and PERS Public Safety and age 56; or 15 years of service credit in PERS-LE or PERS Public Safety and age 64 (<i>R.C. 145.332(C)</i>).
	Reduced retirement benefit with 25 years of service credit in PERS-LE and PERS Public Safety and age 48; 15 years of service credit in PERS-LE or PERS Public Safety, but payments are deferred until age 52 (<i>R.C. 145.33</i>).	Group A – No changes (<i>R.C. 145.332(D)</i>). Group B – Reduced benefit with 25 years of service credit in PERS-LE and PERS Public Safety and age 48; or 15 years of service credit in PERS-LE and PERS Public Safety and age 52 (<i>R.C. 145.332(D)</i>). Group C – Reduced benefit with 25 years of service credit in PERS-LE and age 48; 25 years of service credit in PERS-LE and PERS Public Safety and age 52; or 15 years of service credit in PERS-LE and PERS Public Safety and age 56 (<i>R.C. 145.332(D)</i>).
Retirement eligibility: PERS Public Safety Officer	Unreduced retirement benefit with 25 years of service credit in PERS Public Safety or Public Safety and PERS-LE and age 52; or with 15 years of service credit in PERS-LE or PERS Public Safety at age 62 (<i>R.C. 145.33</i>).	Group A – No changes (<i>R.C. 145.332(A)</i>). Group B – Unreduced benefit with 25 years of service credit in PERS Public Safety or PERS-LE and PERS Public Safety and age 54; or 15 years of service credit in PERS-LE or PERS Public Safety and age 64 (<i>R.C. 145.332(B)</i>). Group C – Unreduced benefit with 25 years of service credit in PERS Public Safety or PERS-LE and PERS Public Safety and age 56; or 15 years of service credit in PERS-LE or PERS Public Safety and age 64 (<i>R.C. 145.332(C)</i>).
	Reduced retirement benefit with 25 years of service credit in PERS Public Safety or Public Safety and PERS-LE and age 48; with 15 years of service credit in PERS-LE	Group A – No changes (<i>R.C. 145.332(D)</i>). Group B – Reduced benefit with 25 years of service credit in PERS Public Safety or PERS-LE and

	Current law	S.B. 343
	or PERS Public Safety, but payments are deferred until age 52 (<i>R.C. 145.33</i>).	PERS Public Safety and age 48; or 15 years of service credit in PERS-LE or PERS Public Safety and age 52 (<i>R.C. 145.332(D)</i>). Group C – Reduced benefit with 25 years of service credit in PERS Public Safety or PERS-LE and PERS Public Safety and age 52; or 15 years of service credit in PERS-LE or PERS Public Safety and age 56 (<i>R.C. 145.332(D)</i>).
Benefit formula (<i>R.C. 145.33</i>)	2.2% final average salary (FAS) for the first 30 years of service plus 2.5% for each additional year.	Group A – No changes. Group B – No changes. Group C – 2.2% FAS for the first 35 years of service plus 2.5% for each additional year.
Final Average Salary (FAS)	Calculated by averaging the highest three years of salary (<i>R.C. 145.01</i>).	Group A – No changes. Group B – No changes. Group C – Calculated by averaging the highest five years of salary (<i>R.C. 145.017</i>).
	Calculated as the sum of the member's earnable salaries for the appropriate number of full calendar years of contributing service in which the member's earnable salaries were highest (<i>R.C. 145.01</i>).	Calculated as the greater of the amount under current law or the sum of the member's earnable salaries for the appropriate number of months that were the member's last months of service, up to and including the last month (<i>R.C. 145.01</i>).
Cost-of-living adjustment (COLA) (<i>R.C. 145.323</i>)	An annual COLA of 3% is provided to each benefit recipient who has received a benefit for one year.	Until five years after the bill's effective date: 3%. Thereafter, for recipients of benefits beginning not later than the bill's effective date: 3%. For recipients of benefits beginning after the bill's effective date: any increase in the Consumer Price Index, not to exceed 3%.
Purchase of service credit (<i>R.C. 145.20, 145.201, 145.28, 145.29, 145.291, 145.292, 145.293, 145.295, 145.299, 145.30, 145.362, and 145.47</i>)	In most cases, the employee contributions the member would have made, plus interest.	In most cases, 100% of the additional liability to PERS resulting from purchase of the credit. For credit for a period during which the member received disability benefits, limits the credit to up to five years.

	Current law	S.B. 343
Section 4		Delays the effect of the service credit purchase changes until six months after the bill takes effect.
Disability (<i>R.C. 145.35, 145.36, 145.361, 145.362, and 145.363</i>)	Eligibility for disability benefit ceases if the recipient is able to perform the recipient's former job.	For the recipient of a benefit based on an application received by the system on or after the bill's effective date, once the leave of absence expires, eligibility for a disability benefit ceases if the recipient is capable of performing a job that meets certain requirements.
	No provision.	Benefit that would be granted based on an application received by the system on or after the bill's effective date forfeited if the disability was caused by a felony.
	No provision.	Denies a disability benefit to a member who continues or returns to the same employment from which the disability benefit is provided.
	No provision.	Reduces, for certain disability recipients, a disability benefit by any Social Security disability insurance for which the recipient is eligible.
Health care coverage (<i>R.C. 145.58</i>)	To be eligible for health care coverage, a member must have at least ten years of eligible service credit.	Gives the PERS Board discretion to establish by rule the number of years and types of service credit required to be eligible for health care coverage.
Medicaid Part B premium reimbursement (<i>R.C. 145.58</i>)	Board establishes amount of reimbursement, but standard reimbursement cannot be less than \$96.40 per month.	Board establishes amount of reimbursement.

HISTORY

ACTION

DATE

Introduced

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