



Ohio Legislative Service Commission

Bill Analysis

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(As Reported by H. Health & Aging)

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

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

BILL SUMMARY

Retirement eligibility

- Changes retirement and disability benefit eligibility criteria for members of the Public Employees Retirement System (PERS) by creating three transition groups: Group A (members who are eligible to retire or will be eligible within five years of the bill's effective date), Group B (members who will be eligible to retire within ten years of the bill's effective date or have 20 years of service credit), and Group C (all other members).

Formulas

- For members in Group C, changes to five (from three) the number of years used to determine final average salary (FAS), which is used to calculate retirement allowances and disability benefits.
- Provides that FAS will be calculated based on the sum of the member's earnable salaries for the higher of (1) the highest calendar years of services, as under current law, or (2) the last consecutive months of service, up to and including the last month.

* This analysis was prepared before the report of the House Health and Aging Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- For members in Group C, changes the FAS formula to 2.2% of FAS for each of the first 35 years of service credit and 2.5% for each year thereafter (from 2.2% for each of the first 30 years and 2.5% for each year thereafter).
- Eliminates two formulas that are alternatives to the FAS formula. The formulas eliminated are (1) \$86 multiplied by years of service credit or (2) a benefit consisting primarily of an annuity with a reserve equal to the member's accumulated contributions and a pension equal to the annuity.

Reduced allowance

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

Contribution based benefit cap

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

Cost-of-living adjustment (COLA)

- Starting with the sixth year 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%) for benefits granted on or after the bill's effective date.
- Specifies that the PERS vesting provisions do not apply to COLAs granted after the bill's effective date to members who retire on or after the bill's effective date.

Public safety service credit

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

Plans of payment

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

Disability

- Provides that disability coverage extends only to illness or injury that occurs before the member's contributing service terminates, or if the illness or injury results from contributing service, becomes evident not later than two years after that service ends.
- Excludes cosmetic surgery other than reconstructive surgery from PERS disability coverage.
- Applies the following provisions to a disability benefit recipient whose application is filed after 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.

--Except for law enforcement officers, provides that once the leave of absence ends the standard for determining whether the recipient's disability benefit should be terminated is that the recipient is capable of performing a job described in statute instead of capable of performing the recipient's former job.

- Causes forfeiture of any right a PERS member may have to a disability benefit if the disability was caused by a felony committed by the member after the bill's effective date.
- Denies a disability benefit if before the benefit commences the member continues in or returns to the job the member held at the time the benefit was granted.

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

Service credit

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

paid because it was granted during the member's term in office, rather than paying only the employee contribution.

- Eliminates a provision that specifies how full-time service is determined for a board or commission member for purposes of eligibility to purchase additional service credit and permits the PERS Board to determine by rule who is a full-time board or commission member or elective official for this purpose.
- Limits the time during which a PERS member may elect a transfer or purchase of credit for service under the Ohio Police and Fire Pension Fund, State Highway Patrol Retirement System, or Cincinnati Retirement System to a period just before anticipated receipt of a disability or retirement benefit.
- Provides that credit for military service that interrupts public service will be granted without charge only for service prior to the enactment of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), October 13, 1994.
- Provides that the surviving spouse of a PERS member who dies on or after the bill's effective date may purchase service credit the member could have purchased only if the member initiated the purchase before death.
- Provides that the bill's service credit changes apply to purchases initiated six months or longer after the bill's effective date or to those purchases not completed by five years and six months after the bill's effective date.

Retirement effective date

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

Coordination with SERS and STRS

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

Retirement plans

- Authorizes the Board to permit members who have contributed to more than one PERS retirement plan (one defined benefit and two defined contribution plans) to have years of service under two or more plans combined for the purpose of determining retirement eligibility.

- Authorizes the Board, for those members who have contributed to more than one PERS retirement plan, to establish a uniform beneficiary designation form for use when a member dies before retiring that applies to all PERS plans in which the member has contributions.
- Eliminates a requirement that an election to participate in a defined contribution plan be in writing, but retains the requirement that it be on a PERS form.
- Permits expenses of administering a defined contribution plan to be paid from the defined contribution fund.

Defined contribution plan

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

Membership

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

Enhanced refund

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

Health care

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

Criminal falsification

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

Overpayments

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

Re-employed PERS retirants

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

- Causes a lump sum payment to the survivor of a re-employed retirement who dies while re-employed and under age 65 to be an amount equal to the retirant's contributions plus interest, instead of an amount that includes both the retirant's contributions and a portion of the employer's contributions.

PERS Board

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

Records

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

Other changes

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

- Authorizes the PERS Board to allow employees of the Ohio Public Employees Deferred Compensation Board to participate in any health care coverage PERS offers its own employees.
- Makes nonsubstantive technical changes.
- Establishes a January 7, 2013, effective date for the bill.

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CONTENT AND OPERATION

Retirement eligibility

Most members of the Public Employees Retirement System (PERS) are in the defined benefit plan, which PERS refers to as the "Traditional Plan." Under this plan, retirement and disability benefits are generally calculated using a formula based on final average salary and years of service.¹ PERS has two defined contribution plans: the Member Directed Plan and the Combined Plan. Under these plans benefits are based on contributions and earnings on those contributions.² Benefits under the defined contribution plans are governed by plan documents adopted by the PERS Board, rather than by the Revised Code.

The bill makes a number of changes to the defined benefit plan. The effect on a member depends on (1) the member's service credit on the bill's effective date or when the member will be eligible to retire under the criteria of current law and (2) whether the member is a "regular" PERS member or a PERS law enforcement or public safety officer.³ Members who under the criteria of current law are eligible to retire or will be eligible no later than five years after the bill's effective date are exempt from changes to the benefit eligibility criteria⁴ and are referred to by PERS as "Group A."⁵ Members who on the bill's effective date have 20 years of service credit or will be eligible to retire under existing criteria not later than ten years after that date are subject to modified eligibility requirements, which require one or two more years of age or service credit depending on circumstances. They are "Group B."⁶

"Group C" consists of current and future PERS members who are not in either of the other groups.⁷ Regular members are generally required to earn an additional two years of service credit and attain at least age 55 to receive a retirement allowance.

¹ Revised Code (R.C.) 145.33.

² R.C. 145.81 (not in the bill).

³ For purposes of this analysis, a regular PERS member is any member who is not a PERS law enforcement officer or PERS public safety officer.

⁴ These members are, however, subject to changes in the cost-of-living adjustment (see "**Cost-of-living adjustment**," below).

⁵ R.C. 145.32(A) and 145.332(A). Credit transferred from another system may be used in determining a member's group as long as it was earned in the other system before the bill's effective date.

⁶ R.C. 145.32(B) and 145.332(B).

⁷ R.C. 145.32(C) and 145.332(C).

Eligibility requirements for PERS members in the law enforcement and public safety divisions are discussed below (see "**Law enforcement and public safety officers**").

Regular PERS members

Retirement eligibility criteria for regular members in Group A are the same as those in existing law.⁸ To be eligible to retire with no reduction in the retirement allowance, the member must have (1) 30 or more years of service credit or (2) have five or more years of service credit and be age 65 or older. To retire with a reduced allowance, the member must (1) have 25 or more years of service credit and be age 55 or older or (2) have five or more years of service credit and be age 60 or older.

To retire with an unreduced allowance, the bill requires regular members in Group B to (1) have 32 or more years of service credit, (2) have 31 or more years and be age 52 or older, or (3) have five or more years of service credit and be age 66 or older.⁹ To retire with a reduced allowance, the member must (1) have five or more years of service credit and be age 60 or older, (2) have 25 or more years of service credit and be age 55 or older, or (3) have 31 or more years of service credit and be age 52 or older.

For an unreduced allowance, the bill requires regular members in Group C to (1) have 32 or more years of service credit and be age 55 or older or (2) have five or more years of service credit and be age 67 or older.¹⁰ A member in Group C is eligible for a reduced allowance with (1) 25 or more years of service credit and age 57 or (2) five years of service credit and age 62.

Law enforcement and public safety officers

Retirement and disability benefit eligibility and allowances for PERS members who are law enforcement officers or public safety officers differ from those for regular PERS members.¹¹ Law enforcement and public safety officers also have higher employee and employer contributions.¹² There are more than 20 types of law enforcement and public safety officers, including deputy sheriffs, township police, and university police officers.¹³ Under current law, PERS law enforcement officers can retire

⁸ R.C. 145.32(A).

⁹ R.C. 145.32(B).

¹⁰ R.C. 145.32(C).

¹¹ R.C. 145.33 in current law; 145.332 in the bill.

¹² R.C. 145.49.

¹³ R.C. 145.01.

with unreduced benefits at age 48, PERS public safety officers at 52. The distinction between law enforcement and public safety officers is that to be considered a PERS law enforcement officer a member's primary duties must be to preserve the peace, protect life and property, and enforce the laws of this state. In determining eligibility for retirement under the law enforcement officer provisions, typically only law enforcement service credit is considered, whereas eligibility for retirement under the public safety officer provisions may be based on both law enforcement and public safety service credit.¹⁴

Law enforcement officers

The retirement eligibility criteria for PERS law enforcement officers in Group A are those of existing law.¹⁵ They may retire with an unreduced allowance with (1) 25 or more years of service credit at age 48 or older or (2) 15 or more years of service at age 62 or older. The bill does not change the number of years of service credit a PERS law enforcement officer in Group B or C must have to be eligible to retire, but does change the minimum retirement age. For Group B, the officer must be age 50 or older to retire with 25 years of service credit or 64 or older to retire with 15 years.¹⁶ For Group C, the officer must be age 52 or older to retire with 25 years of service credit, or 64 or older to retire with 15 years.¹⁷

Provisions concerning retirement with a reduced allowance do not apply to law enforcement officers in Group A, since they continue to be eligible to retire at age 48. The bill permits law enforcement officers in both Groups B and C to retire with a reduced allowance at age 48 with 25 years of service credit.¹⁸

Public safety officers

PERS public safety officers in Group A are eligible to retire with an unreduced allowance under the criteria of current law: (1) 25 or more years of service credit at age 52 or older or (2) 15 or more years of service credit at age 62 or older.¹⁹ The bill does not change the number of years of service credit a PERS public safety officer in Group B or

¹⁴ R.C. 145.33 in current law; 145.332 in the bill.

¹⁵ R.C. 145.33(B) in current law; 145.332(A) in the bill.

¹⁶ R.C. 145.33(B) in current law; 145.332(B) in the bill.

¹⁷ R.C. 145.33(B) in current law; 145.332(C) in the bill.

¹⁸ R.C. 145.332(D).

¹⁹ R.C. 145.33(A) in current law; 145.332(A) in the bill.

C must have to be eligible to retire, but does change the minimum retirement age.²⁰ For Group B, the officer must be age 54 or older to retire with 25 years of service credit, or 64 or older to retire with 15 years. For Group C, the officer must be age 56 or older to retire with 25 years of service credit or 64 or older to retire with 15 years.

As under current law, the bill permits public safety officers in Group A to retire with a reduced allowance at age 48 with 25 years of service credit.²¹ The bill applies the same criteria to Group B.²² It permits public safety officers in Group C to retire with a reduced allowance at age 52 with 25 years of service credit.²³

Law enforcement and public safety officers

In addition to the criteria described above, current law permits a PERS law enforcement or public safety officer to retire with 15 years of service credit and receive an allowance under a formula that differs from that for retirement under the criteria described above.²⁴ The allowance under this formula is 1.5% of final average salary for each year of service credit. It is deferred until the member is age 52. The bill continues the deferral to age 52 for members who will attain that age not later than ten years after the bill's effective date. For all others, the allowance is differed to age 56.

Purchasing law enforcement credit

As mentioned above, only PERS law enforcement service is considered in determining retirement eligibility for a PERS law enforcement benefit. Current law authorizes the Board to adopt rules to establish a program under which a member may make payments to PERS to have PERS public safety officer credit used in determining a PERS law enforcement benefit. Up to five years of service credit may be used in this way. The bill maintains the authority of the Board to establish such a program, but permits the Board to either accept payment for the purchase or reduce the credit so there is no additional liability to PERS. The five-year limit does not apply to a member who accepts reduced credit.²⁵

²⁰ R.C. 145.33(B) in current law; 145.332(B) and (C) in the bill.

²¹ R.C. 145.33(C) in current law; 145.332(D) in the bill.

²² R.C. 145.33(D).

²³ R.C. 145.33(D).

²⁴ R.C. 145.33(B) in current law; 145.332(F) in the bill.

²⁵ R.C. 145.2914.

Formulas

The PERS defined benefit plan has three formulas for calculating the retirement allowances of regular members and one for the allowances of law enforcement and public safety officers. The most common formula for regular members and the formula for law enforcement and public safety officers use the member's final average salary (FAS), which is generally determined under current law by dividing by three the sum of the member's three highest calendar years of salary. For all members in Group C, the bill changes FAS to the member's five highest calendar years of salary.²⁶

Final average salary

The years used in determining FAS are full calendar years, except that the higher salary for a partial year in the last year of service is substituted for salary for the same period in one of the full calendar years.²⁷ Instead, the bill causes FAS to be determined using either (1) the highest full calendar years, as under current law or (2) the member's last consecutive months of service, up to and including the last month.

FAS formulas

The FAS formula in current law for regular members provides for an annual retirement allowance of 2.2% of the member's FAS for each of the first 30 years of service credit and 2.5% for each year thereafter.²⁸ The bill retains this formula for Groups A and B. For members in Group C, the bill changes the formula so that 2.5% is used for years after the first 35, instead of after the first 30.²⁹

The formula for law enforcement and public safety officers is also an FAS formula: 2.5% of the member's FAS for each of the first 25 years of service credit and 2.1% for each year thereafter.³⁰ This formula is unchanged by the bill for all groups of law enforcement and public safety officers.³¹

²⁶ R.C. 145.017.

²⁷ R.C. 145.01(K).

²⁸ R.C. 145.33. Under this formula, the annual allowance for a retiree with 30 years of service credit is 66% of final average salary.

²⁹ R.C. 145.33(A).

³⁰ R.C. 145.33(B).

³¹ R.C. 145.332.

Alternative formulas

The bill eliminates the alternative formulas for regular PERS members who retire after its effective date.³² The formulas eliminated are (1) an annual allowance of \$86 multiplied by years of service and (2) an annual allowance consisting primarily of an annuity with a reserve equal to the member's accumulated contributions and a pension of equal amount.

Reduced allowance

As discussed above, a PERS member may retire early with a reduced allowance. Under current law, for regular members the full retirement allowance is reduced by 3% to 25% depending on either age or years of service credit at retirement.³³ The bill retains this method for members in Group A. For regular members in Group B, the formula amount is reduced by a percentage determined by the PERS Board's actuary for each year the member retires before (1) attaining age 66, (2) attaining age 52 with 31 years of service credit, or (3) earning 32 years of service credit.³⁴ The reduction for regular members in Group C is similar, except that the reduction is for each year the member retires before either (1) attaining age 67 or (2) attaining age 55 and earning 32 years of service credit.³⁵

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

Current law permits a PERS public safety officer to retire at age 48 and receive a reduced allowance. The reduction is from 7% to 25%, depending on the member's age at retirement. The bill retains this reduction for public safety officers who are eligible to make this election not later than five years after the bill's effective date.³⁶ All other public safety officers and law enforcement officers who retire with a reduced allowance will receive the actuarial equivalent of the unreduced allowance adjusted for age.

³² R.C. 145.33 and 145.34 (repealed).

³³ R.C. 145.33(A).

³⁴ R.C. 145.33(A).

³⁵ R.C. 145.33(A).

³⁶ R.C. 145.332(D).

Contribution based benefit cap

The bill requires the PERS Board to establish the contribution based benefit cap (CBBC), a limit on retirement allowances and on survivor benefits based on retirement allowances.³⁷ PERS refers to the CBBC as the "anti-spiking provision."³⁸

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

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

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

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

Cost-of-living adjustment

Beginning with the sixth calendar year after the bill takes effect, the cost-of-living adjustment (COLA) for recipients of retirement allowances, disability benefits, and survivor benefits will be the percentage increase in the Consumer Price Index (CPI), not exceeding 3%.³⁹ Under current law, the increase is 3% annually and is not affected by the CPI. The change in the COLA will affect all members whose retirement is granted after the bill's effective date, regardless of Group. It will not affect those whose retirement is granted on or before the bill's effective date. (Under the bill, the earliest retirement can take effect is the first day of the month following the last day for which compensation is paid. So, for example, the earliest the retirement of a member whose

³⁷ R.C. 145.333.

³⁸ "OPERS rolls out anti-spiking calculator," PERSpective, May 20, 2012, available at <http://perspectiveopers.org>.

³⁹ R.C. 145.323.

last day of work is June 15 could take effect is July 1.) (See "**Retirement effective date**," below.)

The bill modifies PERS vesting statutes.⁴⁰ Under current law, a retirement allowance, annuity, pension, or other benefit under the PERS defined benefit plan vests on the granting of the benefit, which means that the member has earned a nonforfeitable right to the portion of the benefit funded by employer contributions. Contributions made by the member are nonforfeitable at all times. The bill specifies that the PERS vesting provisions do not apply to COLAs granted after its effective date to members who retire on or after that date.

Public safety service credit

Under the bill, if less than 1% of the contributors to PERS are public safety officers, the PERS Board may treat service as a public safety officer as service as a law enforcement officer. To do this, the Board must adopt a rule. If the rule is adopted, public safety officers will have the same retirement eligibility requirements and pay employee contributions at the same rate as law enforcement officers.⁴¹

Plans of payment

At the time of retirement, a PERS member must choose a plan of payment. If the member is married, the plan must be one under which a reduced allowance is paid after the member's death to the surviving spouse, unless the spouse cannot be found or the PERS Board waives the requirement.⁴² Otherwise, the member may choose either (1) a plan under which the full allowance is paid for the member's life or (2) a plan under which a reduced allowance is paid to the member for life and after the member's death a percentage of that allowance is paid to one or more beneficiaries designated by the member. Current law provides for six different plans based on the number of beneficiaries. The bill limits the plans to three: (1) the full allowance for the member's life (called "single life"), (2) a reduced allowance for life continuing in whole or part to a beneficiary after the member's death (called "joint life"), or (3) a reduced allowance for life continuing in whole or part to two, three, or four beneficiaries after the member's death (called "multiple life"). The bill maintains the spousal consent requirement.

⁴⁰ R.C. 145.561 and 145.95.

⁴¹ R.C. 145.332(O) and R.C. 145.49(C). The 2012 employee contribution rates are 11.5% for public safety officers and 12.1% for law enforcement officers.

⁴² R.C. 145.46.

Disability benefits

PERS members in the defined benefit plan who have five years of service credit have coverage for long-term disability.⁴³ Coverage is also provided, regardless of length of service, for on-duty illness or injury of members who are law enforcement or public safety officers.

Application for a disability benefit must be made within two years from the date the member ceases to make contributions to the PERS defined benefit plan, unless the PERS Board determines that the member's medical records demonstrate conclusively that at the time the two-year period ended the member was physically or mentally incapacitated for duty and unable to make an application.

Current law requires Medical examination of a member who has applied for a disability benefit to be conducted by a competent disinterested physician or physicians selected by the Board to determine whether the member is mentally or physically incapacitated for the performance of duty by a disabling condition either permanent or presumed to be permanent. A disability is presumed to be permanent if it is expected to last for a continuous period of not less than 12 months following the filing of the application. If the physician or physicians determine that a member qualifies for a disability benefit, the board concurs with the determination, and the member agrees to medical treatment, the member is to be granted a disability benefit.

A disability benefit recipient retains membership status and is considered on leave of absence from employment during the first five years following the effective date of a disability benefit. Should the Board determine that a disability benefit recipient is no longer disabled before the leave of absence ends, the recipient's last employer before being found disabled must restore the recipient to the recipient's previous position and salary or a similar position and salary unless the recipient was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

Coverage deadline

The bill provides that disability coverage extends only to illness or injury that occurs before a member's contributing service terminates, or if the illness or injury results from contributing service, becomes evident no later than two years after that service ends.⁴⁴ Under current law, a PERS member may apply for a disability benefit for up to two years after contributions cease. Under the bill, the application must be made

⁴³ R.C. 145.35.

⁴⁴ R.C. 145.35.

within two years from the date the member's contributing service under the defined benefit plan ends.

Cosmetic surgery exclusion

The bill provides that PERS disability coverage does not extend to disability resulting from cosmetic surgery other than reconstructive surgery.⁴⁵

Leave of absence

The current provision under which a disability benefit recipient is considered to be on a leave of absence for five years continues under the bill for disability benefit recipients whose application is received before the bill's effective date. Regardless of when the disability occurs, a disability benefit recipient whose application is received on or after the bill's effective date retains membership status and is considered on leave of absence from employment during the first three years following the effective date of the benefit. However, if the member is receiving rehabilitative services acceptable to the Board, the Board may permit the member to retain membership status and be considered on leave of absence from employment for up to five years following the effective date of the benefit.⁴⁶

Disability standards

The bill retains the existing standard for an initial disability determination but expresses it more directly. Under current law, to be granted a disability benefit a member must be mentally or physically incapacitated for the performance of duty. The bill provides that the standard is that the member "is mentally or physically incapable of performing the duties of the position held at the time the disabling condition began or a position with similar duties."⁴⁷ The bill establishes a more restrictive standard for continuing a disability benefit if the application is received on or after the bill's effective date.⁴⁸

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

⁴⁵ R.C. 145.35.

⁴⁶ R.C. 145.362.

⁴⁷ R.C. 145.35.

⁴⁸ R.C. 145.362.

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

The bill applies the more restrictive standard to a recipient to whom all of the following apply: (1) the application is received on or after the bill's effective date, (2) the benefit has been paid for three years or longer, (3) the recipient was not a PERS law enforcement officer when the disability occurred, and (4) the recipient is not considered on leave of absence due to receiving rehabilitative services acceptable to the Board. Under this new standard, the disability benefit will be terminated if the recipient is not physically or mentally incapable of performing the duties of a position that meets all of the following criteria:

- (1) Replaces not less than 75% of the member's final average salary, adjusted each year by the actual average increase in the Consumer Price Index;
- (2) Is reasonably to be found in the member's regional job market;
- (3) Is one that the member is qualified for by experience or education.

Forfeiture

The bill expands the current limited forfeiture of a retirement allowance or disability benefit by a PERS member who has been convicted of a felony by creating a new forfeiture provision applicable to a member convicted of a felony committed after the bill's effective date that caused the member's physical or mental disability.⁴⁹ The new provision applies only to cases to which existing law does not apply.⁵⁰

On the filing of charges against a PERS member alleging that the member committed a felony, the prosecutor assigned to the case is required to send written notice to PERS that the charges have been filed.⁵¹ The notice must specifically identify the person. PERS is prohibited from granting the member a disability benefit unless it

⁴⁹ R.C. 145.573 and 2929.193 (not in the bill).

⁵⁰ R.C. 145.574 and 2929.194.

⁵¹ R.C. 2901.431.

determines that the member's disability was not caused by commission of the felony. If the member qualifies for PERS disability coverage or has already been granted a disability benefit, the retirement system must notify the prosecutor that the member may be subject to forfeiture of any right the member may have to a disability benefit.

If a PERS member is being sentenced for a felony offense that caused a physical or mental disability in the member and was committed on or after the bill's effective date, in addition to any other sanction, the court must order forfeiture of any right of the member to a PERS disability benefit based on that disability.⁵² The forfeiture must be ordered regardless of whether a disability benefit has been requested or granted. The forfeiture is part of, and must be included in, the sentence.

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

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

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

The forfeiture provisions are exceptions to provisions of current law that provide for vesting of PERS benefits and protect them from attachment and garnishment.⁵³ The

⁵² R.C. 2929.193.

⁵³ R.C. 145.56, 145.561, and 2329.66.

bill provides, however, that the new forfeiture provisions do not prevent a member from withdrawing the member's contributions.⁵⁴

Continued employment

The bill provides that a disability benefit that has been granted a member but has not commenced is not to be paid if the member continues in or returns to employment with the same employer in the same position or in a position with duties similar to those of the position the member held at the time the benefit was granted.⁵⁵

Social Security disability insurance offset

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

With exceptions discussed below, the bill requires a PERS disability benefit recipient whose application is received on or after the bill's effective date to apply for SSDI payments if the recipient is eligible for them.⁵⁶ The application must be made not later than 90 days after the recipient is granted a PERS disability benefit unless the PERS Board determines from the member's medical records that the member is physically or mentally unable to make the application.

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

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

If in any year the total of a disability benefit recipient's PERS benefit and SSDI payments exceeds the recipient's adjusted final average salary, the annual PERS benefit is to be reduced so that the annual total equals the recipient's adjusted final average salary. The recipient's adjusted final average salary is determined by annually increasing the recipient's final average salary by any increase in the Consumer Price

⁵⁴ R.C. 145.573.

⁵⁵ R.C. 145.35.

⁵⁶ R.C. 145.363.

Index, not exceeding 3%. If a disability benefit recipient receives retroactive SSDI payments, PERS is authorized to reduce future PERS disability benefits to recoup any overpayments.

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

Benefit calculation

The bill adjusts to 62 the age used to determine a disability retirement for members in Group C under an alternative disability benefit formula.⁵⁷ The alternative formula applies to members who no later than October 16, 1992, made an election to receive any future disability benefit under that formula. Under the current alternative formula, a disability benefit is based on the member's years of service credit plus the number of years between the age at which the disability began and age 60.

Service credit

Monthly earnings

The bill increases the amount a member must earn to receive full service credit.⁵⁸ Currently, a member receives a month's credit for each month in which the member earns \$250 or more.⁵⁹ Partial credit is granted for months in which a member earns less than \$250.

Effective January 1, 2014, the bill increases the required earnings for a full month's credit to \$600 per month. For service on or after January 1, 2014, the required earnings will be increased by the same percentage increase, if any, in compensation Ohio law specifies for township trustees.⁶⁰

Service credit purchased or obtained

Members of PERS may purchase retirement service credit for a number of types of service for which they have not contributed to PERS. The cost of purchasing the

⁵⁷ R.C. 145.36.

⁵⁸ R.C. 145.016.

⁵⁹ R.C. 145.01(T).

⁶⁰ R.C. 145.016.

credit varies depending on the type of service. In addition to service that may be purchased, up to three years of credit is provided without any contributions for a period during which a member was out of service and receiving workers' compensation. The bill makes a number of changes regarding service credit that may be purchased or obtained under current law. These changes take place six months after the bill's effective date.⁶¹

The bill changes the cost of purchasing certain types of service credit and imposes a charge on the member and employer for credit related to workers' compensation. The change applies to credit for all of the following: (1) service as an elective official prior to joining PERS,⁶² (2) additional credit that may be purchased by elective or certain appointed officials,⁶³ (3) service for periods in which a member was exempt from PERS membership,⁶⁴ (4) service rendered in another state, with the United States government, or with an Ohio municipal retirement system,⁶⁵ (5) a period of absence due to pregnancy or adoption of a child,⁶⁶ (6) a period during which a member was out of service due to illness, injury, or other employer-approved reason,⁶⁷ and (7) service as a school board member.⁶⁸

The bill standardizes purchase of credit by requiring a PERS member or former member to do both of the following: (1) submit an application to the PERS Board on a Board approved form and (2) for each year, or portion of a year of credit purchased, pay an amount specified by the Board equal to 100% of the additional liability to PERS resulting from the purchase of the year or portion of a year, as determined by an actuary employed by the Board.⁶⁹ Under current law, in general, a member is required to pay only employee contributions and interest on those contributions that would have been attributed to the employment.

⁶¹ Section 4.

⁶² R.C. 145.20.

⁶³ R.C. 145.201.

⁶⁴ R.C. 145.28 and 145.292.

⁶⁵ R.C. 145.293.

⁶⁶ R.C. 145.291.

⁶⁷ R.C. 145.47(G).

⁶⁸ R.C. 145.299.

⁶⁹ R.C. 145.29.

Credit for prior elective service

Current law permits an elective official to purchase service credit for elective service earned prior to joining PERS as long as the service was not subject to Social Security taxes.⁷⁰ Prior to the purchase, the official must have completed one-and-a-half years of PERS contributing service. The cost of the credit is calculated by multiplying the member contribution rate in effect at the time of purchase by the official's earnable salary during the period of service, plus interest compounded annually at a rate determined by the PERS Board.

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

Purchase of additional service credit by certain officials

Current law permits a PERS member who is an elective official or is appointed by the Governor with the advice and consent of the Senate to serve as a full-time member of a board, commission, or other public body to purchase additional service credit for which there is no corresponding employment in an amount not to exceed 35% of the credit allowed for the period of service as an elective or appointed official.⁷¹ A member of a board, commission, or other public body is considered to be serving full time under this provision if full-time service is required by law or if the Director of Administrative Services determines that the duties of the position require full-time service. Additional credit cannot be purchased for military service, part-time service, or service subject to Social Security taxes. For officials whose membership in PERS began on or after January 1, 2001, federal tax law limits the purchase of additional service credit to five years and provides that an official is required to have at least five years of service credit before purchasing the service credit.⁷²

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

⁷⁰ R.C. 145.20(C).

⁷¹ R.C. 145.201.

⁷² PERS, "Service Credit and Contributing Months," available at <https://www.opers.org/pubs-archive/leaflets/ISL-F.pdf#>.

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

Period of exemption

Current law permits a PERS member with at least one-and-a-half years of contributing service to purchase service credit for periods in which the member was a state or local government employee but exempt from PERS membership.⁷³ This may include service as any of the following: (1) a student employed with the school, college, or university in which the student was enrolled and regularly attending classes, (2) an emergency employee serving on a temporary basis in cases of fire, snow, earthquake, flood, or other similar emergency, (3) an individual employed under the "Job Training Partnership Act" (29 U.S.C. 1501), or (4) a teacher employed on a temporary or per annum basis, paid through state funds, or not required to have an educator's license.⁷⁴

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

Period of absence

Current law allows a PERS member who takes a leave of absence approved by the appointing authority or resigns due to pregnancy or adoption of a child and later returns to employment covered by PERS to purchase up to one year of service credit for the period of absence.⁷⁵ To qualify, the member must complete one year of contributing service after returning from the leave. The cost of the credit is calculated by multiplying the earnable salary the member would have received during the leave by the

⁷³ R.C. 145.28.

⁷⁴ R.C. 145.03, 3307.24, and 3309.23 (not in the bill).

⁷⁵ R.C. 145.291.

contribution rate in effect at the time of payment, plus interest compounded annually at a rate determined by the PERS Board.

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

In-term pay increase

Current law provides that if a PERS member elected or appointed to an office with a term of two or more years and an annual salary is denied a pay increase due to a constitutional provision prohibiting a pay increase during the member's term of office, the member may elect to have the amount of the member's contributions calculated on the basis of the increased salary.⁷⁶ The member may elect to have the amount by which the member's contribution would have increased withheld from the member's salary or may make a payment to the system equal to the additional amount the member's contribution would have increased, plus interest compounded annually.

The bill provides that the member must elect to have the amount of both the member and the employer contributions calculated on the basis of the increased salary (rather than only the member contributions).⁷⁷ The PERS Board is to compute the total additional amount the member and employer would have contributed, or the amount by which each of the member's and employer's contributions would have increased, had the member received the increased salary.

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

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

Workers' compensation

Current law causes a PERS member to receive up to three years of service credit without making contributions for a period during which the member was out of service

⁷⁶ R.C. 145.01(Y).

⁷⁷ R.C. 145.2916.

and receiving benefits from the Bureau of Workers' Compensation.⁷⁸ The bill eliminates the free credit and instead permits the member to purchase credit.⁷⁹ For each year of credit, the member must pay PERS an amount equal to the employee contribution that would have been paid had the member not been out of service, plus compound interest from the first date the member was out of service to the final date of service. The member may choose to purchase only part of the credit. A member employed by more than one public employer is eligible to purchase credit only for the position for which the member received workers' compensation. The number of years that may be purchased remains limited to three.

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

Enhanced refund

A PERS member who ceases to be a public employee for any cause other than death, retirement, receipt of a disability benefit, or an election to participate in an alternative retirement plan offered by a public institution of higher education may receive a refund of the member's accumulated contributions. If a member dies prior to retirement, the member's accumulated contributions may be paid to the member's beneficiaries or survivors. A member with sufficient service credit or the member's beneficiary is eligible to receive an enhanced refund – a refund that includes an amount in addition to the member's accumulated contributions.⁸⁰ The additional amount is determined by the member's years of service credit. A member with at least five, but less than ten, years of service credit is eligible to receive an additional amount equal to 33% of the member's eligible contributions. A member with at least ten years of service credit is eligible to receive an additional amount equal to 67% of the member's eligible contributions. The bill eliminates these percentages and instead requires the PERS Board to adopt rules specifying the additional amount, which may vary depending on the amount of the member's service credit.

⁷⁸ R.C. 145.01(H) and 145.41.

⁷⁹ R.C. 145.01, 145.2915, and 145.41.

⁸⁰ R.C. 145.401.

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

PERS Board discretion

The bill gives the PERS Board discretion to increase the cost of purchasing three types of service credit: credit for military service that interrupted public service,⁸¹ credit for restored service (service for which contributions were withdrawn and later repaid),⁸² and credit for a period during which a member was receiving PERS disability benefits.⁸³

Military service credit

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

To qualify for the free service credit, the member must have had one year of employment in a position covered by PERS before beginning active military service and, within two years of being discharged, be re-employed in the public service and complete one year of service credit in a state retirement system or the Cincinnati Retirement System. The bill provides that if the PERS Board adopts a rule requiring payment for this service credit, the credit is to be granted only if payment is made. The rule may not require payment of more than the additional liability to the retirement

⁸¹ R.C. 145.30.

⁸² R.C. 145.31.

⁸³ R.C. 145.362.

system resulting from granting the credit. A member may choose to purchase only part of the credit in any one payment.⁸⁴

Regarding military service credit that did not interrupt public service, the bill states that the bill's amendments concerning purchase of service credit are not to be construed as intent by the System to increase the cost of this credit.⁸⁵

The bill also removes a restriction applicable to both military service that interrupted public service and military service that did not. Under this restriction credit cannot be obtained for military service used in calculation of another retirement benefit other than Social Security.⁸⁶

Restored service credit

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

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

Disability

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

The bill limits the service credit a former disability recipient can receive under this provision to five years. It also provides that, if the PERS Board adopts a rule requiring payment for the service credit, the credit may be granted only on payment of an amount determined under the rule. The rule must not require payment of more than

⁸⁴ R.C. 145.30.

⁸⁵ Section 7.

⁸⁶ R.C. 145.30 and 145.301.

the additional liability to the retirement system resulting from granting the credit. The former recipient may choose to purchase only part of the credit in any one payment.

Service in the armed forces

Current law provides for free service credit for members whose public service is interrupted by service in the armed forces if the conditions described above are met⁸⁷ (see "**Military service credit**," above). Under the bill, service credit will be available without charge only for service that occurred prior to the enactment of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), October 13, 1994. It may be possible to purchase the credit under another provision of the Revised Code, but the conditions are somewhat different and both the member and the employer will have to pay the contributions the member would have made to PERS had the member been a public employee during the period of service in the armed forces.⁸⁸

Purchase or transfer from another system

A PERS member who has contributed to the Ohio Police and Fire Pension Fund, State Highway Patrol Retirement System, or Cincinnati Retirement System may have contributions and service credit transferred to PERS or, if the member received a refund of contributions to one of those systems, may purchase PERS service credit for service under that system.⁸⁹ The bill permits a member to purchase the credit or have the contributions and service credit transferred only if both of the following conditions are met:

(1) The member is eligible, or with the credit will be eligible, for a retirement or disability benefit;

(2) The member agrees to retire or accept a disability benefit not later than 90 days after receiving notice from PERS that the credit has been obtained.

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

⁸⁷ R.C. 145.30.

⁸⁸ R.C. 145.302 (not in the bill).

⁸⁹ R.C. 145.295, 145.2911, 145.2912, and 145.2913.

Payment plan for purchasing service credit

A PERS member may purchase or restore service credit by payroll deduction.⁹⁰ The bill authorizes the Board to establish by rule a payment plan for the cost of purchasing or restoring service credit. The plan may provide for partial payments and payments by payroll deduction. On receipt of a request from a member eligible to purchase or restore credit, the bill requires the retirement system to determine and give notice to the member of the total cost of the credit and the time period in which payments are to be made for the credit to be available at that cost. The system may specify the amount and frequency of payments for credit not purchased in a single payment.

Service credit of a deceased member

Current law permits the surviving spouse or dependents of a PERS member who dies prior to retirement to purchase any service credit the member could have purchased.⁹¹ The purchase may be made under the same terms and conditions that would have applied to a purchase by the member. Under the bill, in the case of a member who dies on or after its effective date, only the surviving spouse may purchase credit the member could have purchased and then only if the member initiated the purchase before death. The terms and conditions for continuing the purchase are to be the same as those that applied at the time the member initiated the purchase. A purchase is considered to have been initiated before the member's death if the member made one or more payments.

Effective date of service credit purchase changes

Initiation and completion of purchases

Purchases of service credit in PERS is unaffected by the bill until six months after its effective date.⁹² Any service credit purchases initiated not later than that date continue at the cost of the credit immediately before that date. These purchases must be completed not later than five years and six months after the bill's effective date.

Purchase of the same type of service credit

Except as discussed below, a member with an active payroll deduction agreement in which the member has earnings deducted for the purpose of the purchase of service credit cannot initiate a new purchase of the same type of credit under the

⁹⁰ R.C. 145.294.

⁹¹ R.C. 145.452.

⁹² Section 4.

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

Retirement effective date

The bill reduces most retroactive retirement allowances and re-employment annuities by providing that the effective date of retirement or of the annuity is not earlier than 90 days prior to receipt by the PERS Board of the member's completed application.⁹³ Currently these allowances and annuities are effective on the first day of the month immediately following the later of (1) the last day for which compensation was paid or (2) attainment of minimum age or service credit eligibility. A member who does not apply for a time after attaining eligibility can receive a considerable amount as a retroactive payment. Under the bill, the retroactive payment will be limited to the allowance for 90 days.

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

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

For retirement applications received by PERS between the bill's effective date and 90 days thereafter, the effective date of the retirement allowance is not earlier than the first day of the month following the bill's effective date.⁹⁴

⁹³ R.C. 145.32, 145.37, and 145.384.

⁹⁴ Section 5.

Coordination with other systems

The laws governing PERS, the State Teachers Retirement System (STRS), and School Employees Retirement System (SERS) provide for coordination of benefits.⁹⁵ The benefits are considered coordinated because service credit earned in two or all three of these retirement systems can be combined to determine eligibility for a disability or retirement benefit and the amount of the benefit. If a member of one of the systems who has service credit in one or both of the other systems elects coordination, the retirement system in which the member has the greatest service credit determines and pays the total disability or retirement benefit. For example, an STRS member with ten years of STRS service credit and 20 years of PERS credit can retire and be treated as having 30 years of PERS service credit.

When a public employee retires or receives a disability benefit under the coordination of benefits provisions, the system that calculates and pays the benefit receives a payment from the other system or system in which the employee earned service credit.⁹⁶ The bill changes the amount of the payment.

Under current law, the retirement system determining and paying the benefit receives from the other system or systems the employee's contributions plus an amount from the employer's contributions that is based on the employee's contributions. The bill causes the payment to PERS to be the sum of the following for each year of service:

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

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

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

Retirement plans

If certain conditions are met, a member of PERS may elect to participate in the Defined Benefit ("Traditional") Plan, in which a benefit is determined according to a statutory formula; the Defined Contribution ("Member Directed") Plan, in which a

⁹⁵ R.C. 145.37, 3307.57, and 3309.35.

⁹⁶ R.C. 145.37, 3307.57, and 3309.35.

benefit is determined solely by contributions and earnings on those contributions; or the Combined Plan composed of both a formula benefit and a benefit determined by contributions and earnings. The 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.⁹⁷ It also eliminates a requirement that an election to participate in a defined contribution plan be in writing,⁹⁸ although it must still be on a PERS form, and permits expenses of administering a defined contribution plan to be paid from the Expense Fund.⁹⁹

Mitigation rate

For each member participating in a PERS defined contribution plan, current law requires PERS to transfer a portion of the employer contribution to a fund that is used for the defined benefit plan.¹⁰⁰ This is referred to as the "mitigation rate." The bill makes the transfer permissive. Under the bill, the mitigation rate is not to exceed a percentage determined by an actuary appointed by the PERS Board to be necessary to mitigate any negative financial impact on PERS of the member's participation in a defined contribution plan.

Beneficiary designation

The bill applies current law's defined benefit plan beneficiary provisions to the defined contribution plan.¹⁰¹ Under these provisions, a PERS member may designate one or more beneficiaries to receive the member's contributions should the member die before retirement. If there is no valid beneficiary designation in effect at the time of the member's death, the contributions are required to be paid to survivors in an order specified in the Revised Code that begins with the surviving spouse. The bill provides that a designation made under either the defined benefit or a defined contribution applies to all plans in which the member participated.¹⁰²

⁹⁷ R.C. 145.195.

⁹⁸ R.C. 145.19.

⁹⁹ R.C. 145.23.

¹⁰⁰ R.C. 145.87.

¹⁰¹ R.C. 145.82, with cross reference to 145.43.

¹⁰² R.C. 145.431.

Service credit conversion

The bill authorizes the PERS Board to specify in rules it adopts how service credit in the defined benefit plan can be converted to amounts on deposit in a defined contribution plan.¹⁰³

Law enforcement and public safety officers

The bill requires a participant in a defined contribution plan who becomes a PERS law enforcement officer or PERS public safety officer to be transferred to the defined benefit plan.¹⁰⁴ PERS law enforcement officers and PERS public safety officers are not permitted by current law to elect to participate in the defined contribution plans.

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

Contributing service

The bill specifies that contributing service in the defined contribution plan includes service transferred to that plan for which contributions were originally made to a defined contribution plan.¹⁰⁵

Deposits

The bill eliminates a provision under which a defined contribution plan participant may maintain on deposit with PERS or the entity administering the plan any amounts that have accumulated on behalf of the member. The bill also makes other accounting changes concerning funds maintained by PERS related to the defined contribution plan.¹⁰⁶

PERS membership

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

¹⁰³ R.C. 145.814.

¹⁰⁴ R.C. 145.194.

¹⁰⁵ R.C. 145.01.

¹⁰⁶ R.C. 145.23, 145.88, and 145.97.

cases of doubt, the PERS Board is to determine who is a public employee. Its decision is final.¹⁰⁷

The bill would maintain the principle that the Board determines who is a public employee and the finality of its decisions, but would create procedures and time limits for requesting determinations. Individuals who provided personal services to a public employer on or before the bill's effective date but were not included in PERS may, not later than one year after that date, request a determination of whether they are public employees and should be in PERS.¹⁰⁸ Those who begin providing services after the bill's effective date may request the determination not later than five years after the services begin.¹⁰⁹ Exceptions to these deadlines can be made for individuals who are mentally or physically incapacitated when the deadline occurs.

The right to request a determination does not apply to an individual employed by a business entity under contract with a public employer to provide personal services to the employer. "Business entity" means an entity with five or more employees that is a corporation, association, firm, limited liability company, partnership, sole proprietorship, or other entity engaged in business.

Service on or before the bill's effective date

Not later than 30 days after the bill's effective date, the PERS Board is to notify each public employer of the right of an individual who has provided personal services to a determination of whether the individual is a public employee.¹¹⁰ The notice must be accompanied by a form used to request a determination. Not later than 60 days after the bill's effective date, the employer must send a notice of the right to seek a determination and a copy of the form to each individual providing personal services who is not classified as a public employee. The notice must be sent to the individual's last known address on record with the employer.

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

¹⁰⁷ R.C. 145.01.

¹⁰⁸ R.C. 145.037.

¹⁰⁹ R.C. 145.038.

¹¹⁰ R.C. 145.037.

The Board must notify the individual and the employer of its determination. The determination applies to services performed before, on, or after the bill's effective date for the same employer in the same capacity.

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

Service after the bill's effective date

A public employer who on or after the bill's effective date begins to receive personal services from an individual it does not classify as a public employee is required by the bill to inform the individual of the classification and that no contributions will be made to PERS for the employment.¹¹¹ No later than 30 days after the services begin, the employer must require the individual to acknowledge, in writing on a form provided by PERS, that the individual has been informed that the employer does not consider the individual a public employee and no contributions will be made to PERS. The employer must retain the acknowledgement and immediately transmit a copy of it to the system.

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

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

Annual report

Each public employer is required by the bill to annually transmit to PERS a list of all individuals providing personal services who at any time during the preceding year received compensation for which contributions were not made to PERS.¹¹² The list must be transmitted on or before the last day of January of each year and contain the name of each individual and any other information required by PERS.

¹¹¹ R.C. 145.038.

¹¹² R.C. 145.036.

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

The bill specifically authorizes the Board to adopt administrative rules under existing law to implement these provisions.¹¹³

Health care

Eligibility

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.¹¹⁴

Medicare

The bill requires the PERS Board to establish by rule the monthly amount it will pay to a benefit recipient to reimburse the recipient for Medicare Part B premiums.¹¹⁵ Part B covers a variety of medical costs, including doctor visits and hospital outpatient services. Current law requires the Board to pay monthly to each recipient of a retirement, disability, or survivor benefit who is eligible for Part B an amount determined by the Board for the coverage that is not less than \$96.40. The bill authorizes the Board to determine the amount of the reimbursement.

Current law requires the PERS Board to make available to a person who is the spouse, widow, or widower of a retiree or disability benefit recipient health care coverage substantially equivalent to health care coverage under Medicare Part A if that

¹¹³ R.C. 145.038.

¹¹⁴ R.C. 145.58.

¹¹⁵ R.C. 145.58.

person is not eligible for Medicare Part A and is receiving a monthly PERS benefit or allowance. The Board is required to pay one-half of the premium for the coverage. The bill instead permits the Board to pay a portion of the premium.¹¹⁶

Criminal falsification

The crime of falsification is committed when a person knowingly makes a false statement to obtain a public benefit, including a retirement benefit.¹¹⁷ The bill provides that the crime includes making a false statement to obtain health care coverage from a state retirement system. The crime is a misdemeanor of the first degree. In addition to criminal liability, a person who is guilty of this crime is liable in a civil action to any person harmed by the crime.

The bill provides that a member or member's beneficiary who is convicted of falsification as a result of making a false statement in an attempt to obtain health care coverage is not eligible for PERS health care coverage.¹¹⁸

Overpayments

The bill extends to overpayments to third parties current provisions concerning overpayments of benefits by PERS. It permits withholding from payments due from PERS to the third party and authorizes withholding from a benefit recipient or third party of part (in addition to all under current law) of the amount to be repaid. The bill also permits PERS to adjust any allowance or benefit if an error occurred in calculating the allowance or benefit.¹¹⁹

Re-employed retirants

Interest

A retired PERS member who is re-employed in a position covered by PERS contributes to PERS, as does the employer. On termination of the re-employment the retirant receives a benefit as either an annuity or a lump sum. The bill changes the interest rate used in determining the benefit to a rate determined by the PERS Board, instead of the actuarial assumption rate determined by the Board's actuary.¹²⁰

¹¹⁶ R.C. 145.584.

¹¹⁷ R.C. 2921.13.

¹¹⁸ R.C. 145.58.

¹¹⁹ R.C. 145.563.

¹²⁰ R.C. 145.473.

Beneficiaries

The bill modifies the determination of the lump sum payable to the beneficiary of a re-employed retirant who dies while employed in a position covered by PERS.¹²¹ Under current law, the lump sum is based on the retirant's contributions plus an amount determined by the PERS Board and taken from the employer's contributions. The bill causes this calculation to be used only if the retirant is age 65 or older at the time of death. In the case of a re-employed retirant who dies before age 65, the lump sum is the retirant's contributions plus interest.

PERS Board

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

Qualification

The office of an employee member or retirant member of the PERS Board who is convicted of or pleads guilty to a felony or certain theft offenses is deemed vacant under current law and a person who is convicted of or pleads guilty to any of the offenses is ineligible to be elected to the Board.¹²² The bill extends the vacancy provision to all members of the Board and prohibits election or appointment of any person who is convicted of or pleads guilty to any of the offenses. In addition to the employee and retirant members, the Board includes the treasurer of state's investment designee, the director of administrative services, and two investment expert members.

The bill also provides that the office of an employee member of the Board is deemed vacant if the member no longer qualifies to represent the employee group that elected the member.¹²³ A successor member is to be elected. PERS Board members represent the following groups: state employees, county employees, municipal employees, other local government employees, and college and university employees.¹²⁴

Term of office

The bill provides that a member appointed to the PERS Board holds office until the later of the end of term for which the member was appointed or the date the

¹²¹ R.C. 145.384.

¹²² R.C. 145.057.

¹²³ R.C. 145.06.

¹²⁴ R.C. 145.04.

member's successor takes office, instead of the later of the end of the term or 60 days thereafter.¹²⁵

Training

The bill extends to all members of the PERS Board a requirement that members complete the orientation component of the state's Retirement Board Member Education Program. Current law requires that the component be completed by newly elected members and members appointed to fill a vacancy.¹²⁶

Records

The bill authorizes the PERS Board to maintain PERS records in either printed or electronic form and to provide information requested by any of the following: the Social Security Administration, U.S. Centers for Medicare and Medicaid, Ohio Public Employees Deferred Compensation Program, Ohio Police and Fire Pension Fund, School Employees Retirement System, State Teachers Retirement System, State Highway Patrol Retirement System, or the Cincinnati Retirement System.¹²⁷

Other changes

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

The bill requires that contributions be transmitted to PERS for each contributor at intervals and in a form prescribed by PERS.¹²⁸

Additional annuity

The bill makes changes to provisions governing the PERS additional annuity program.¹²⁹ Under that program, a member can deposit additional amounts with PERS prior to retirement or while employed as a re-employed retiree. After retirement or

¹²⁵ R.C. 145.04.

¹²⁶ R.C. 145.041.

¹²⁷ R.C. 145.27.

¹²⁸ R.C. 145.47.

¹²⁹ R.C. 145.62, 145.63, and 145.64.

termination of re-employment, the amounts deposited are paid the member as an additional annuity.

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

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

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

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

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

An additional annuity may be paid under a plan of payment that provides for payment to one or more surviving beneficiaries. The death of a beneficiary cancels the portion of an annuity that provides continuing payments to the beneficiary. The retirant then receives the actuarial equivalent of the remaining annuity based on the

number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary. The change is effective the month following receipt by PERS of notice of the death. The bill provides that if PERS receives notice of the death on or after the effective date of the bill, the change is effective the month following the date of death.

Legal action

The bill requires that any legal action against PERS or the PERS Board or its officers, employees, or board members be filed in the appropriate court in Franklin County.¹³⁰

Ohio Public Employees Deferred Compensation Board

The bill provides that if the PERS Board provides health care coverage to PERS employees, it may permit employees of the Ohio Public Employees Deferred Compensation Board to participate.¹³¹ The Deferred Compensation Board is a separate legal entity, but its Board consists of the members of the PERS Board plus a member of the Senate and a member of the House of Representatives.¹³²

Delinquent employer contributions

Each employer is required to deduct a percentage of employee contributions and remit the amounts deducted to PERS. Under current law, an employer who is delinquent in deducting the contributions is subject to simple interest at a rate set by the Board. The bill provides instead that the rate is to be equal to the assumed actuarial rate of interest.¹³³

Accounting changes

Current law provides that any accumulated member contributions that are not claimed by the member or the member's estate are to be transferred from the Employees' Saving Fund to the Income Fund. (The Income Fund is the fund in which interest is placed.) The bill permits unclaimed amounts to remain in the Employees' Saving Fund, but also allows them to be transferred to the Income Fund.¹³⁴

¹³⁰ R.C. 145.101.

¹³¹ R.C. 145.09.

¹³² R.C. 148.02, not in the bill.

¹³³ R.C. 145.483.

¹³⁴ R.C. 145.23 and 145.43.

The bill also specifies which PERS funds are to hold contributions made under a defined contribution plan.¹³⁵

Nonsubstantive changes

The bill makes a number of nonsubstantive changes, including cross reference changes, and repeals certain obsolete provisions.¹³⁶

Public Employees Retirement System (PERS)		
	Current Law	Sub. S.B. 343 (As Reported by H. Health & Aging)
Transition groups (R.C. 145.32, 145.33, and 145.332)	No provision.	Group A – Members who, under current criteria, will be eligible to retire not later than five years after the bill's effective date. Group B – Members who on the bill's effective date have 20 years of service credit or, under current criteria, will be eligible to retire not later than 10 years after that date. Group C – All other members.
Retirement eligibility: Regular PERS (R.C. 145.32 and 145.33)	<u>Unreduced</u> retirement benefit with 30 years of service credit at any age or 5 years of service credit at age 65.	Group A – No change. Group B – <u>Unreduced</u> benefit with 32 years of service credit at any age; 31 years of service credit at age 52; or 5 years of service credit at age 66. Group C – <u>Unreduced</u> benefit with 32 years of service credit at age 55 or 5 years of service credit at age 67.
	<u>Reduced</u> retirement benefit with 25 years of service credit at age 55 or 5 years of service credit at age 60.	Group A – No change. Group B – No change. Group C – <u>Reduced</u> retirement benefit with 25 years of service credit at age 57 or 5 years of service credit at age 62.

¹³⁵ R.C. 145.23.

¹³⁶ R.C. 101.92, 101.93, 145.01(E), 145.298, 145.48, and 145.83.

Public Employees Retirement System (PERS)		
	Current Law	Sub. S.B. 343 (As Reported by H. Health & Aging)
Retirement eligibility: PERS Law Enforcement Officers (PERS-LE)¹³⁷ <i>(R.C. 145.33 and 145.332)</i>	<u>Unreduced</u> retirement benefit with 25 years of service credit in PERS-LE at age 48 or 15 years of service credit in PERS-LE or PERS public safety at age 62.	Group A – No change. Group B – <u>Unreduced</u> benefit with 25 years of service credit in PERS-LE at age 50; or 15 years of service credit in PERS-LE or PERS Public Safety at age 64. Group C – <u>Unreduced</u> benefit with 25 years of service credit in PERS-LE at age 52, or 15 years of service credit in PERS-LE or PERS Public Safety at age 64.
	<u>Reduced</u> retirement – no provision.	Group A – No provision. Group B – <u>Reduced</u> benefit with 25 years of service credit in PERS-LE at age 48. Group C – Same as Group B.
Retirement eligibility: PERS Public Safety Officers (PERS Public Safety) <i>(R.C. 145.33 and 145.332)</i>	<u>Unreduced</u> retirement benefit with 25 years of service credit in PERS Public Safety or Public Safety and PERS-LE at age 52; or with 15 years of service credit in PERS-LE or PERS Public Safety at age 62.	Group A – No change. Group B – <u>Unreduced</u> benefit with 25 years of service credit in PERS Public Safety or PERS-LE and PERS Public Safety and age 54; or 15 years of service credit in PERS-LE or PERS Public Safety at age 64. Group C – <u>Unreduced</u> benefit with 25 years of service credit in PERS Public Safety or PERS-LE and PERS Public Safety and age 56; or 15 years of service credit in PERS-LE or PERS Public Safety at age 64.

¹³⁷ PERS has two law divisions: law enforcement and public safety. Each has earlier retirement eligibility and higher contribution rates than regular PERS.

Public Employees Retirement System (PERS)		
	Current Law	Sub. S.B. 343 (As Reported by H. Health & Aging)
	<u>Reduced</u> retirement benefit with 25 years of service credit in PERS Public Safety or Public Safety and PERS-LE at age 48.	Group A – No change. Group B – No change. Group C – <u>Reduced</u> benefit with 25 years of service credit in PERS Public Safety or PERS-LE and PERS Public Safety at age 52.
Deferred retirement eligibility: PERS-LE or PERS Public Safety <i>(R.C. 145.33 and 145.32)</i>	Retirement benefit based on reduced formula with 15 years of service credit in PERS-LE or PERS Public Safety deferred to age 52.	If the member will attain 52 not later than 10 years after the bill's effective date, deferred to age 52, otherwise deferred to age 54.
Final average salary (FAS) <i>(R.C. 145.01 and 145.017)</i>	Calculated by averaging the highest <u>three</u> years of salary.	Group A – No change. Group B – No change. Group C – Calculated by averaging the highest <u>five</u> years of salary (<i>R.C. 145.017</i>).
	Permits a period in the last years of service to be substituted for the same period in one of the 3 highest years if the period substituted had a higher salary.	Calculated as the greater of the amount under current law or the sum of the member's earnable salaries for the appropriate number of consecutive months that were the member's last months of service, up to and including the last month (<i>R.C. 145.01</i>).
Benefit formula: Regular PERS <i>(R.C. 145.33)</i>	<u>Unreduced</u> benefit: 2.2% final average salary (FAS) for the first <u>30</u> years of service plus 2.5% for each additional year.	Group A – No change. Group B – No change. Group C – <u>Unreduced</u> retirement benefit: 2.2% FAS for the first <u>35</u> years of service plus 2.5% for each additional year.

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

Public Employees Retirement System (PERS)		
	Current Law	Sub. S.B. 343 (As Reported by H. Health & Aging)
Cost-of-living adjustment (COLA) <i>(R.C. 145.323)</i>	Annual COLA of 3% provided to each recipient who has received a benefit for one year, including retirees, disability benefit recipients, and survivors.	Until the sixth year after the bill's effective date, 3%. Thereafter, for recipients of benefits beginning <u>not later than</u> the bill's effective date, 3%. For recipients of benefits beginning <u>after</u> the bill's effective date, any increase in the Consumer Price Index, not to exceed 3%.
Monthly earnings <i>(R.C. 145.01 and 145.016)</i>	Member receives full credit for each month earnings are at least \$250.	Effective January 1, 2014, increases to \$600 the amount a PERS member must earn in a month to receive full credit for that month and provides for future increases based on increases in compensation of township trustees.
Purchase of service credit <i>(R.C. 145.20, 145.201, 145.28, 145.29, 145.291, 145.292, 145.293, 145.299, and 145.47)</i>	In most cases, the member must pay what the member would have contributed for the service, plus interest.	In most cases, the member must pay 100% of the additional liability to PERS resulting from purchase of the credit. For credit for a period during which the member received disability benefits, limits the credit to up to 5 years and permits the PERS Board to charge for the credit.
Restored service credit <i>(R.C. 145.31)</i>	The amount withdrawn, plus interest.	The member must pay the amount determined under current law, or an amount specified by PERS rule, not exceeding 100% of the additional liability to PERS.
Military service credit – service that interrupted public employment <i>(R.C. 145.30)</i>	No charge for up to 10 years of credit. No limit on when service occurred.	Board may adopt a rule requiring payment of up to 100% of the additional liability to PERS. Applies only to service before enactment of the Uniformed Services Employment and Reemployment Rights Act (10/13/94).
Disability <i>(R.C. 145.35, 145.36, 145.361, 145.362, and 145.363)</i>	Application for a disability benefit must be made not later than two years after contributing service terminates.	Coverage only for illness or injury that occurs before contributing service terminates or, if it results from contributing service, becomes evident no later than two years after termination.

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

HISTORY

ACTION	DATE
Introduced	05-08-12
Reported, S. Insurance, Commerce & Labor	05-16-12
Passed Senate (33-0)	05-16-12
Reported, H. Health & Aging	--

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