Ohio Legislative Service Commission

Ruhaiza Ridzwan

Fiscal Note & Local Impact Statement

Bill: Am. Sub. S.B. 42 of the 130th G.A.

Date: December 11, 2014

Status: As Enacted

Sponsor: Sens. Manning and Gardner

Local Impact Statement Procedure Required: No

Contents: To revise the law governing the state retirement systems, to allow a private sector employer to automatically deduct from an employee's compensation contributions to an employee retirement plan or program, to change the optional qualifications to be eligible for the office of sheriff, and to authorize school districts with a safety and security tax levy to report how the district is using funding from that levy to the Ohio Department of Education

State Fiscal Highlights

- The provision that allows an employer to create and implement a program to automatically withhold a specified percentage of employees' wages to be contributed on behalf of the employees to certain employee retirement plans would significantly increase participation in those retirement plans.[1] Thus, it could reduce personal income tax (PIT) revenues, potentially significantly. The state GRF would bear 96.68% of the revenue loss from the PIT. The remaining 3.32% would be borne by the Local Government Fund (LGF) and the Public Library Fund (PLF).
- Some of the changes related to the five state retirement systems – the Public Employees Retirement System (PERS), the State Teachers Retirement System (STRS), School Employees Retirement System (SERS), the Ohio Police and Fire Pension Fund (OP&F), and the State Highway Patrol Retirement System (SHPRS) may reduce the systems' expenditures and liabilities. However, the magnitude of such reduction is undetermined.

Local Fiscal Highlights

- The provision related to automatic enrollment in employee retirement plans would significantly increase participation in certain retirement plans. Thus, it could reduce PIT revenues, potentially significantly. The state GRF would bear 96.68% of the revenue loss from the PIT. The remaining 3.32% would be borne by the LGF and the PLF, which would reduce revenue to counties, municipalities, townships, and libraries.

[1] Some research suggests that automatic employee payroll deductions for certain retirement plans significantly increase participation and savings in retirement plans. If this research is accurate, the provision could reduce personal income tax revenues.

- The provision related to pay increase for election workers may minimally increase counties' expenditures related to such workers' pay.
- The provision related to legal action may minimally increase Franklin County's costs related to court proceedings; any such costs may be partially recovered through court filing fees.

Detailed Fiscal Analysis

State's retirement systems

The bill makes various changes to law governing the five state retirement systems – the Public Employees Retirement System (PERS), the State Teachers Retirement System (STRS), School Employees Retirement System (SERS), the Ohio Police and Fire Pension Fund (OP&F), and the State Highway Patrol Retirement System (SHPRS).

The bill modifies the procedures for coordinating benefits under the PERS, SERS, and STRS for members who have service credit in more than one of these systems. The bill defines the responsibilities of the "paying system" and "transferring system" and specifies the amount that each "transferring system" must transmit to the "paying system," less the "retention percentage," which is the portion of contribution that may be retained by the "transferring system." The bill specifies requirements related to service credit restoration after certain members' withdrawal and cancellation. The bill provides that any payment associated with coordinating benefits from the "paying system" does not affect the member's membership in the other retirement systems or any right the member may have to a benefit or return of contributions under those systems. The bill allows the systems to make long-term care insurance available to benefit recipients and their family members. Current law requires such insurance to be available. The bill also requires each of Ohio's state retirement systems to pay the costs of the decennial actuarial review of the system that is commissioned by the Ohio Retirement Study Council (ORSC).

The bill provides that a PERS member is allowed to purchase service credit for missed work with a public employer while receiving workers' compensation if the member returns to employment covered by PERS and specifies the cumulative years of such credit that may be used for coordination of benefits with STRS and SERS. The bill revises standards related to PERS disability coverage and disability benefit filing requirements. The bill specifies that the amounts required to fund a qualified governmental excess benefit arrangement be included in the employer's contribution paid into PERS. The bill increases from $500 to $600 per calendar year the amount that an election worker can earn, without being required to become a member of PERS.

The bill permits the PERS Board to adopt rules specifying a method for adjustment for and recovery of erroneous benefit payments, including associated penalty or interest. The bill also allows the PERS Board to reimburse certain retirant or disability benefit recipients who are not eligible to receive hospital insurance benefits under the federal old age, survivors, and disability insurance program for payment of premiums for federal hospital insurance benefits. The bill specifies that the amount, as determined by the Board, must (1) not exceed the premiums paid for the hospital insurance benefits, and (2) be available to the spouse, widow, or widower of the retirant or disability benefit recipient. Under existing law, the PERS Board must make an insurance coverage substantially equivalent to the federal hospital insurance benefits available to certain retirant or disability benefit recipients.

The bill removes the provision that permits the SERS executive director to be a member of the Board; under existing law the SERS Board is required to employ an executive director who will serve as secretary of the Board and who may be a member of the Board. The bill revises certain filing requirements by school districts to SERS. The bill modifies the frequency of employer contribution and payment by school districts to SERS. The bill also makes other changes related to deduction and payment certification requirements.

The bill revises the appointment and term of SHPRS Board members. The bill revises recordkeeping requirements, including allowing SHPRS to produce certain public records in electronic format. The bill allows SHPRS to disclose certain information requested by certain entities, including the other four state retirement systems. The bill requires that any legal action brought against SHPRS, or its Board, officers, employees, or Board members in their official capacities be filed in the appropriate court in Franklin County, Ohio. The bill requires SHPRS to submit its annual valuation report by not later than the first day of September, instead of July, following the year for which the valuation was made. The bill modifies SHPRS membership determination and procedures for recovery of erroneous benefit payments.

The bill revises certain service retirement eligibility requirements related to STRS service retirement following termination of a disability. The bill specifies that uncompensated volunteer work is not employment for purposes of a superannuate or other system retirant under STRS. The bill also revises the terms of the employee firefighter members of the Board of Trustees of OP&F (specifically, it staggers their terms).

Fiscal effect

The bill would have no direct fiscal effect on the state. The provision related to pay increase for election workers may minimally increase counties' expenditures related to such workers' pay. The provision related to legal action may minimally increase Franklin County's costs related to court proceedings; any such costs may be partially recovered through court filing fees.

Some of the changes may reduce the systems' expenditures and liabilities. However, the magnitude of such reduction is undetermined. The provision related to decennial actuarial review of the five state systems would decrease the ORSC's administrative costs, but increase each system's administrative costs. ORSC receives its funding from a portion of investment income made on assets of the five retirement systems, based on each system's assets. Each system's administrative costs are also funded by its investment income.

Automatic enrollment in retirement plans

The bill also allows an employer to create and implement a program to automatically withhold a specified percentage of employees' wages to be contributed on behalf of the employees to certain qualified employee retirement plans, specifically employee retirement plans described in section 401(k) or 403(b) of the Internal Revenue Code, or a payroll deduction individual retirement account plan described in section 408 or 408A of the Internal Revenue Code. The bill specifies that the program must allow an employee to affirmatively elect not to participate in the program and not have wages withheld under the program. The bill also specifies procedures and requirements related to the program.

Fiscal effect

Some research[2] suggests provisions like the automatic employee payroll deductions for certain retirement plans would significantly increase participation and savings in retirement plans. If this research is accurate, the provision could reduce personal income tax revenues, potentially significantly. The state GRF would bear 96.68% of the revenue loss from the PIT. The remaining 3.32% would be borne by the Local Government Fund (LGF) and the Public Library Fund (PLF). Any revenue loss to the LGF and PLF will decrease distributions to each county, local subdivision, and libraries.

Reporting school safety and security levy expenditures

The bill states that the board of education of any school district that levies a tax for the purpose of providing for school safety and security may report to the department of education how the district is using revenue from that tax. This provision has no fiscal effect.

State Superintendent's presentation to education committees

The bill requires the Superintendent of Public Instruction to present updated academic standards or updated model curricula, as applicable, in person at a public hearing of the respective committees of the House of Representatives and Senate that consider education legislation, not later than 60 days prior to the adoption of such

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[2] Based on a study, *The Power of Suggestion: Inertia in 401(k) Participation And Savings Behavior*, by Brigitte C. Madrian and Dennis F. Shea, published in The Quarterly Journal of Economics, November 2001.

standards or curricula. (Existing law does not require the personal appearance, and provides for 45 days.)

County sheriff qualifications

The bill modifies the qualifications necessary for one to serve as a county sheriff. Continuing law provides several mandatory qualifications a person must meet to be eligible to run for or hold the office of sheriff. This provision has no fiscal effect.

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