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Analysis

Sub. H.B. 215 - Rep. Willamowski (As Reported out of the Senate Ways and Means Committee)

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ORSC Position

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H.B. 215 - Rep. Willamowski

H.B. 215 would include full-time municipal park rangers and township police cadets in the Law Enforcement Division of the Public Employees Retirement System (PERS-LE).

Currently, these members participate in the local government division of PERS.

Staff Comments

H.B. 215 would move municipal park rangers and township police cadets from the local government division of PERS to PERS-LE Group B. As members of PERS-LE Group B they would be eligible to retire with full benefits at age 48 with 25 years of service. The bill would allow current rangers to make an election within 90 days of the bill's effective date to retire under the general employees division of PERS or the law enforcement division. Current cadets and individuals employed as a cadet or ranger after the effective date of the bill automatically would be members of the law enforcement division. *As amended by the House Retirement and Aging Committee, municipal park rangers and township police cadets who elect to transfer to PERS-LE would be required to pay the additional amount they and their employer would have contributed had they been covered under the PERS-LE division, plus annual compound interest at a rate determined by the PERS board, in order to receive full credit for prior service as a municipal park ranger or township police cadet or have such credit for prior service prorated by the PERS board.*

The following chart provides a comparison of PERS-LE Group A¹, PERS-LE Group B², and the local government division of PERS:

	PERS-LE GROUP A	PERS-LE GROUP B	PERS (Local Government)
Normal Age and Service Retirement	Age 52 with 25 or more YOS, age 62 with 15 or more YOS	Age 48 with 25 or more YOS, age 62 with 15 or more YOS	Age 65 with 5 or more YOS, any age with 30 or more YOS
Early Retirement	Age 48 with 25 or more YOS	Not applicable	Age 60 with 5 or more YOS

¹PERS-LE Group A consists of Hamilton County municipal court bailiffs, those PERS-LE members who chose to remain in Group A, and members whose primary duties do not involve preserving the peace, protecting life and property, and enforcing the laws of their jurisdiction.

²Group B consists of all PERS-LE members except Hamilton County municipal court bailiffs, those PERS-LE members who chose to remain in Group A, and members whose primary duties do not involve preserving the peace, protecting life and property, and enforcing the laws of their jurisdiction.

H.B. 215 - Rep. Willamowski

	PERS-LE GROUP A	PERS-LE GROUP B	PERS (Local Government)
Benefit Formula	2.5% x FAS x 25 YOS; 2.1% x FAS x YOS over 25	2.5% x FAS x 25 YOS; 2.1% x FAS x YOS over 25	2.2% x FAS x 30 years; 2.5% x FAS x YOS over 30
Employee Contribution	9.00%	10.10%	Local: 8.50%
Employer Contribution	16.70%	16.70%	Local: 13.55%

The employee contribution rate for the rangers would be increased from 8.5% to 10.10% while the employer contribution rate would be increased from 13.55% to 16.70% as a result of the move to PERS-LE.

The law enforcement division of PERS was created by the Ohio General Assembly in 1975 (H.B. 1312, eff. 3-4-75). The General Assembly recognized that certain law enforcement officers deserved special retirement benefits due to the nature of their employment. At that time only sheriffs and deputy sheriffs were included in the law enforcement division, which allowed them to remain members of PERS, but to retire with benefits similar to those provided by the Ohio Police and Fire Pension Fund (OP&F) and the Highway Patrol Retirement System (HPRS).

One rationale for creating a separate program for sheriffs and deputy sheriffs rather than moving them to OP&F or HPRS was the concern that they might not have the career security that would enable them to attain the required number of years of law enforcement service needed to receive an age and service benefit due to the fact sheriffs are elected officials and, at that time, few sheriff departments had civil service protection. Although only employment as a law enforcement officer may be counted for purposes of retirement under the law enforcement division, the division has a special “back up” provision for members who do not have enough years of law enforcement service to qualify for law enforcement benefits. If law enforcement personnel do not have enough years of law enforcement service to qualify for PERS-LE benefits, they are eligible to retire under the general employees PERS program, which requires only five years of service to qualify for a benefit.

Township constables and police officers were the second group of employees to be moved to the law enforcement division of PERS (H.B. 509, eff. 12-27-79). Prior to their move, the ORSC studied whether they should be transferred to PERS-LE or OP&F. The study concluded there were “no sufficiently important distinctions between the work of members of [OP&F] and the Sheriffs/Deputy Sheriffs program to justify one program or the other as more appropriate for township police. Municipal police, deputy sheriffs, and township police are all peace officers.

H.B. 215 - Rep. Willamowski

They are required to have the same basic training; their powers and duties are similar. (*Pension Benefits for Township Police, May 1979, p. 7*) The study concluded that township constables and police officers should be included in PERS-LE rather than OP&F because a large number of them may need regular PERS coverage to qualify for a benefit and the benefits (with the exception of survivor and disability coverage) in PERS-LE were better than those in OP&F at that time.

The original intent of the law enforcement program was to provide benefits for law enforcement officers whose duties and training were similar to those of police officers, but who, at that time, did not have the career security needed to receive a retirement benefit from OP&F. The first groups of employees eligible for benefits under the law enforcement division (sheriffs, deputy sheriffs, and township constables and police) were required to have as primary duties preserving the peace, protecting life and property, and enforcing the laws of the state. As later groups have been added to the division, the emphasis for eligibility has shifted from the primary duties of the employee to the type of training the employee has received. While the training of a member of the law enforcement division is important, it is the duties of the officer of preserving the peace, protecting life and property, and enforcing the laws of their jurisdiction that justify a higher benefit formula and lower retirement age.

Many of the employees covered by the law enforcement division of PERS also are covered by the Ohio Public Safety Officers Death Benefit Fund (DBF). The DBF is designed to provide income protection for the survivors of public employees in occupations that are potentially life-threatening on a day-to-day-basis. Although not all covered employees are required to complete peace officer basic training, they are all involved in public safety and potentially life-threatening occupations. However, not all employees covered by the DBF are eligible for law enforcement retirement benefits.

The following chart indicates which employees are covered by the DBF and which of those are also currently members of PERS-LE:

Death Benefit Fund	PERS-LE
member of the Ohio police and fire pension fund	
member of the state highway patrol retirement system	
a county sheriff	sheriffs
deputy sheriff	deputy sheriffs
a full-time regular police officer in a municipal corporation or township	township constables and police officers, municipal police officers not in OP&F
a full-time regular firefighter employed by the state, an instrumentality of the state, a municipal corporation, a township, a joint fire district, or another political subdivision	

H.B. 215 - Rep. Willamowski

a full-time park district ranger or patrol trooper	park district police officers
a full-time law enforcement officer of the department of natural resources	forest officers, preserve officers, wildlife officers park officers, state watercraft officers, natural resources law enforcement staff officers
a full-time department of public safety enforcement agent	department of public safety enforcement agents
<i>a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation</i>	
a full-time law enforcement officer of a conservancy district	conservancy district officers
a correction officer at an institution under the control of a county, a group of counties, a municipal corporation, or the department of rehabilitation and correction	
a state university law enforcement officer	state university law enforcement officers
or a member of a retirement system operated by a municipal corporation who at the time of death was a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of the municipal corporation	
	drug agents
	Ohio veterans' home police officers
	special police officers for mental health institutions
	special police officers for institutions for the mentally retarded and developmentally disabled
	Hamilton County Municipal Court bailiffs

H.B. 215 would require municipal park rangers to complete peace officer basic training and to be commissioned to secure the peace and to enforce the laws in a municipal park. This is consistent with the Council's recommendation for H.B. 158 (eff. 2-1-02) that all members of PERS-LE should be statutorily required to complete peace officer basic training and have as their primary duties to preserve the peace, to protect life and property, and to enforce the laws of their jurisdiction, as certified by their employer. According to testimony before the House Health and Retirement Committee, municipal park rangers perform duties similar to those performed by park district police officers, who are currently members of PERS-LE. Therefore, including municipal park rangers in the law enforcement division would be consistent with the other

H.B. 215 - Rep. Willamowski

members who are currently in PERS-LE Group B.

There are also other groups of employees who meet the criteria for membership in PERS-LE, but are not currently included in this bill. For example, the port authority officers from the Toledo-Lucas County Port Authority and the Dayton International Airport Police and metropolitan housing authority police officers from the Cuyahoga Metropolitan Housing Authority have asked to be included in the bill. It is unclear how many more port authority officers and metropolitan housing authority police officers would be eligible for inclusion in PERS-LE. Traditionally, when groups of employees have been included in PERS-LE, all members of the group were included. For example, all deputy sheriffs, not just those from particular counties, are included in the law enforcement division. As a matter of public policy it would be unfair to transfer to PERS-LE only a subset of an entire group of employees. Given the statewide nature of Ohio's public pension systems, there should be equal pension treatment among similarly situated employees.

Additionally, a group of police officers who were cadets with the Delhi police department prior to the creation of the law enforcement division in 1975 have asked to have their service as cadets counted toward a law enforcement benefit. When the law enforcement division was created, their cadet time earned in 1973 and 1974 was not counted toward their law enforcement benefit, although they were working for the police department and contributing to PERS while training as cadets during those years. This would be consistent with changes made for state highway patrol cadets in H.B. 382 (eff. 6-30-91). Prior to H.B. 382 state highway patrol cadets had the option of joining PERS. H.B. 382 required them to become members of HPRS rather than PERS and thereby allowed their service as cadets to count toward a benefit in HPRS.

S.B. 119 (eff. 2-20-02) requires all employers who employ a peace officer to report that information to the Ohio Peace Officer Training Commission. Because metropolitan housing authority police officers and port authority officers are considered peace officers pursuant to R.C. §109.71, their employers would be required to report this information. Once this information is obtained, a better estimate of the cost associated with moving these groups of employees to PERS-LE could be made.

Fiscal Impact

According to the PERS actuary, Gabriel, Roeder, Smith & Company (GRS), data was not available for a detailed measurement of the potential financial effect of H.B. 215 (as introduced) on PERS. However, there are estimated to be 12 persons who would become eligible for law enforcement benefits. Based on the December 31, 2000 actuarial valuation, the change in eligibility could be absorbed within the current law enforcement rate structure. The ORSC actuary, Milliman USA, has reviewed this analysis and concurs.

We also were asked to review whether H.B. 215 would be affordable if port authority officers

H.B. 215 - Rep. Willamowski

from the Toledo-Lucas County Port Authority and the Dayton International Airport Police, metropolitan housing authority police officers from the Cuyahoga Metropolitan Housing, and police cadets who were in training prior to the creation of the law enforcement division were included. GRS has indicated that data is not available for these employees, however, they estimate there are to be approximately 142 members affected. According to GRS, these 142 members could be absorbed into PERS-LE Group B within the current rate structure. Their analysis was based on the December 31, 2000 Actuarial Valuation of PERS adjusted to reflect:

1. The effect of the recently adopted changes in demographic and economic assumptions
2. Investment results through October 2001
3. The transfer of most of Group A members to Group B along with extending the enhanced refund provision to all law enforcement members as a result of H.B. 158.

Milliman USA has reviewed this analysis and concurs based on the relatively small number of members affected.

Although it is affordable to include in the law enforcement division the specific groups of employees who asked to be included in the bill, it is unclear whether it would be affordable to include all port authority officers and metropolitan housing authority police officers in PERS-LE.

Staff Recommendation

The staff recommendation is that the Ohio Retirement Study Council vote to recommend that the 124th General Assembly approve H.B. 215 as introduced (including only municipal park rangers in PERS-LE). Any amendments to include port authority officers and metropolitan housing authority police officers in H.B. 215 should be deferred until it can be determined whether it is affordable to include all port authority officers and metropolitan housing authority police officers in PERS-LE.

ORSC Position

At its meeting of March 13, 2002, the Ohio Retirement Study Council voted to recommend that the 124th General Assembly approve H.B. 215, as introduced, upon the adoption of the following amendment:

- require current municipal park rangers who elect to transfer to PERS-LE to pay the additional amount they and their employer would have contributed had they been covered under the PERS-LE division, plus annual compound interest at a rate determined by the PERS board, in order to receive full credit for prior service as a municipal park ranger or have such credit for prior service prorated by the PERS board.

This amendment was adopted at the March 20, 2002 meeting of the House Retirement and Aging Committee.

H.B. 215 - Rep. Willamowski

At the April 17, 2002 meeting of the Ohio Retirement Study Council, the Council recommended approval of an amendment that would move metropolitan housing authority police officers to PERS-LE and allow prior service as a metropolitan housing authority police officer to be counted toward a benefit in PERS-LE provided the member pays the differential in the cost of their prior service. This amendment has not been adopted.

At the May 8, 2002 meeting of the Ohio Retirement Study Council, the Council recommended approval of an amendment that would require all law enforcement officers in PERS-LE, not just deputy sheriffs and township constables and police officers, to have as their primary duties to preserve the peace, to protect life and property, and to enforce the laws of their jurisdiction in order to be members in that division. This amendment was adopted at the May 28, 2002 meeting of the Senate Ways and Means Committee.