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# *Analysis*

## **H.B. 286 – Rep. Willamowski** *As Introduced*

February 8, 2006

### **ORSC Position**

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H.B. 286 would make the following changes to the Public Employees Retirement System (PERS):

- Include full-time municipal park rangers and township police cadets in the Law Enforcement Division of PERS (PERS-LE).

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

- Define “law enforcement officer” and “public safety officer” for purposes of determining, upon employment, mandatory employee contributions and eligibility for normal retirement under the existing benefit structure of the PERS law enforcement (PERS-LE) division.

Under current law the determination is contained in the benefits section of law.

### **Staff Comments**

The bill defines a municipal park ranger as a full-time employee of a municipal corporation who is commissioned to secure the peace and enforce the laws in the municipal park and has been awarded a certificate attesting to satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program. A township police cadet is a person who is employed full-time by a township and participating in the township’s police cadet program.

The bill provides that service earned as a municipal park ranger or township police cadet prior to the effective date of the bill may be used toward a benefit under PERS-LE if the member pays the additional amount the member and the member’s employer would have contributed had the member been covered under PERS-LE, plus annual compound interest. If the member does not pay the additional amount, the member may elect to have credit for the prior service prorated based on the amount the member and employer would have contributed had the member been covered under PERS-LE.

The bill would allow current rangers and cadets 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. Individuals employed as a cadet or ranger after the effective date of the bill automatically would be members of the law enforcement division.

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 the Ohio Police and Fire Pension Fund. 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.

H.B. 286 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. Therefore, including municipal park rangers in the law enforcement division would be consistent with the other members who are currently in PERS-LE.

In 2001, H.B. 215 was introduced, but not enacted, and would have allowed municipal park rangers to be included in PERS-LE. The ORSC voted to recommend that they be included in PERS-LE if current rangers who elected to transfer to PERS-LE were required to pay the additional amount they and their employer would have contributed had they been covered under PERS-LE, plus interest in order to receive full credit for prior service or have such credit prorated. However, since then the Council has moved to require members to pay the full actuarial liability created by any purchase of credit. For example, the ORSC recently recommended H.B. 71 for approval if it were amended to require the member to pay the full cost of the additional actuarial liability created by the purchase of the inactive duty service credit. In addition, the ORSC is working with the retirement systems to review service credit provisions that require members to pay less than the full actuarial liability resulting from the purchase of credit.

H.B. 286 would also allow township police cadets who are employed full-time by a township and participating in the township's police cadet program to be included in PERS-LE. 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.

Current law provides that law enforcement officers whose primary duties are to preserve the peace, protect life and property and enforce the laws of their jurisdiction are eligible for normal retirement at age 48 with 25 years of service under PERS-LE.<sup>1</sup> These law enforcement officers are required to contribute 10.1% of pay, which is fixed by statute. Law

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<sup>1</sup>“Law enforcement officer” means a sheriff, deputy sheriff, township police officer, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the mentally retarded and developmentally disabled, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, municipal public safety director, or state highway patrol police officer.

enforcement officers whose primary duties were other than to preserve the peace, protect life and property and enforce the laws of their jurisdiction and Hamilton county municipal court bailiffs are eligible for normal retirement at age 52 with 25 years of service under PERS-LE, though they may retire as early as age 48 with 25 years of service on a reduced benefit. These law enforcement officers and bailiffs are required to contribute 9% of pay, which is set by the PERS board.<sup>2</sup>

The bill would define “PERS law enforcement officer” and “PERS public safety officer” so as to determine, upon employment rather than at retirement, the applicable benefit and contribution required under the PERS-LE program. Under current law the language determining whether a member can retire at age 48 or 52 is contained in the benefits section of law. This bill would move the language to the definition section of law but would make no changes to the benefits provided to those two groups. Under the bill, “PERS law enforcement officers” are defined as those law enforcement officers footnoted, municipal park rangers, and township police cadets whose primary duties are to preserve the peace, protect life and property and enforce the laws of this state as determined by their employer. “PERS public safety officers” are defined as Hamilton county municipal court bailiffs, those law enforcement officers footnoted, municipal park rangers, and township police cadets whose primary duties are other than to preserve the peace, protect life and property and enforce the laws of this state as determined by their employer. This provision is identical to a provision included in H.B. 272 (126<sup>th</sup> G.A.), which the Council voted to approve.

The following chart provides a comparison of the benefits provided to law enforcement officers, public safety officers, and members in the local government division of PERS:

	PERS Law Enforcement (primary duties are to preserve the peace, protect life and property and enforce the laws)	PERS Public Safety (primary duties are <b>other than</b> to preserve the peace, protect life and property and enforce the laws, Hamilton County Bailiffs)	PERS Local Government
Normal Age and Service Retirement	Age 48 with 25 or more YOS, age 62 with 15 or more YOS	Age 52 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	Not applicable	Age 48 with 25 or more YOS	Age 60 with 5 or more YOS
Benefit Formula	2.5% x FAS x 25 YOS;	2.5% x FAS x 25	2.2% x FAS x 30

<sup>2</sup> H.B. 272 (126<sup>th</sup> G.A.) would authorize the PERS board to establish the employee contribution rate for “PERS law enforcement officers,” at 1.1% of pay higher than the rate established by the PERS board for “PERS public safety officers.” This was the amount actuarially determined to be necessary to fund the cost of the age 48 normal retirement provision adopted in H.B. 416 (eff. 1-1-01) for these law enforcement officers. Current law authorizes the PERS board to establish the employee contribution rates of all other employees covered by PERS, up to a maximum 10% of pay.

	PERS Law Enforcement (primary duties are to preserve the peace, protect life and property and enforce the laws)	PERS Public Safety (primary duties are <b>other than</b> to preserve the peace, protect life and property and enforce the laws, Hamilton County Bailiffs)	PERS Local Government
	2.1% x FAS x YOS over 25	YOS; 2.1% x FAS x YOS over 25	years; 2.5% x FAS x YOS over 30
Employee Contribution	10.10%	9.00%	9.00%
Employer Contribution	16.93%	16.93%	13.70%

**Fiscal Impact** – According to the PERS actuary, Gabriel, Roeder, Smith & Company, data for a detailed measurement of the potential financial effect of H.B. 286 was not available, however, there are estimated to be 15 people who would become newly eligible for law enforcement benefits. As a result of the small change in the size of the covered group, the financial effects of the bill could be absorbed within the current rate structure and the change in the amortization period would be less than one year. However, as of the December 31, 2004 actuarial valuation, the funding period for the law enforcement division of PERS was 41 years, well above the maximum 30 years required by Ohio law. The actuary noted that as the number of PERS members who qualify for law enforcement benefits continues to increase, additional financial pressure will be put on both the pension and retiree health programs.

**ORSC Position** – The Ohio Retirement Study Council voted at its February 8, 2006 meeting to recommend that the 126<sup>th</sup> Ohio General Assembly disapprove H.B. 286 based on the funded status of the Law Enforcement Division of PERS.