



The Ohio Retirement Study Council
88 East Broad Street, Suite 1175
Columbus, OH 43215-3506
Phone: (614)228-1346
Fax: (614)228-0118
Website: www.orsc.org

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Kirk Schuring

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Analysis

H.B. 320 – Rep. Schneider (As Introduced)

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ORSC Position

Glenn Kacic - Contact Person
(614)228-1346

H.B. 320 would make the following changes to the laws governing the School Employees Retirement System (SERS):

- Changes the eligibility requirements to be nominated for election as an employee member of the SERS board (R.C. §3309.07);
- Establishes a statutory procedure for payment of benefits in the case of a beneficiary who is deceased or can not be located (R.C. §§3309.44, 3309.50);
- Revises the service credit provisions governing leaves-of-absence (R.C. §3309.474);
- Revises the health care provisions (R.C. §3309.69); and
- Makes the board's authority to establish a defined contribution plan(s) for its members permissive rather than mandatory (R.C. §3309.81).

Details and comments of these changes follow.

Board Elections - The bill would reduce from 500 to 250 the minimum number of signatures required for an employee member to be nominated for election to the SERS board. It would also reduce from ten to five the number of counties in which at least 20 signatures must be obtained. The nomination requirements for the retirant member would remain the same under the bill; i.e., a minimum 150 signatures with at least ten signatures from at least five counties.

For comparative purposes, PERS and STRS laws require a minimum 500 signatures with at least 20 signatures from at least ten counties for employee members to be nominated for election to their respective boards. OP&F law requires a minimum 100 signatures with at least 20 signatures from at least five counties.

The above changes would effectively make it less difficult for individual members to be nominated for election to the SERS board, especially those individuals who are not otherwise endorsed by large statewide employer or employee organizations.

Beneficiary Procedures - The bill would establish a statutory procedure for SERS to follow in cases where the member's beneficiary is deceased or can not be located. The bill provides that if the beneficiary is deceased or can not be located within 180 days of the retirement system being notified of the member's death, that beneficiary shall cease to qualify for any benefit and the statutory succession established under existing SERS laws shall determine the beneficiary for purposes of qualifying for any benefits payable. In the case of distributing the deceased member's accumulated contributions or any remaining accumulated contributions not otherwise paid to the member, the order of precedence is generally as follows: (1) the member's surviving spouse; (2) the member's children share and share alike; (3) the member's parents share and share alike; and (4) the member's estate. In the case of distributing the lump sum \$1,000 death benefit, the order of precedence is as follows: (1) the member's designated beneficiary; (2) the member's surviving spouse; (3) the member's

children share and share alike; (4) the member's parents share and share alike; (5) the person responsible for burial expenses; and (6) the member's estate.

The above changes are generally consistent with current PERS and STRS laws, which provide for the statutory succession of beneficiaries when a beneficiary is deceased or can not be located within 90 days. The purpose of the above changes is to allow SERS to settle the deceased member's account within a reasonable period of time.

Service Credit for Leaves-of-Absence - The bill would relocate the SERS provisions governing approved leaves-of-absence from the employee contribution section of law to a new section of law. Under existing law, a member who is prevented from making contributions to SERS on account of an approved leave-of-absence may, upon returning to contributing service, have deductions made from other payrolls during the year to make up the missed employee contributions for the period of the leave-of-absence. The bill would amend existing law to limit the purchase of credit to no more than two years for each period of leave, with a total maximum limit of the lesser of five years or the member's total accumulated years of Ohio service credit. The bill would also require the member to pay for each year of service both the employee and employer contributions that would have been made had the member remained employed in the position held when the leave began, plus annual compound interest on that amount at a rate determined by the board from the first day of the year following the date the leave began to the date of payment. Under the bill, a leave period begins on the first day the approved leave-of-absence commences and ends on the earlier of the date the approved leave terminates or the date the member returns to contributing service.

It is recommended that this section of the bill be amended further to clarify that the member may not purchase more than two years of service credit for each period of leave.

Health Care Provisions - The bill would relocate the SERS law governing the provision of Medicare Part A (hospital) equivalent benefits from a separate section of law to the general section of law governing the provision of retiree health care benefits.

By way of background, Medicare was established under the Social Security Amendments of 1965 and consisted of two components: Part A (hospital insurance coverage) and Part B (medical insurance coverage for physician fees and other outpatient services). Medicare Part A (hospital) was made compulsory; Part B (medical), voluntary. Medicare became operational in 1966. Generally, individuals who are age 65 and eligible for Social Security qualify for Medicare Part A (hospital), including their spouses. All individuals, regardless of whether they are eligible for Social Security, may elect Medicare Part B (medical).

In response, the Ohio General Assembly enacted legislation in 1967 requiring PERS, STRS and SERS to make available coverage substantially equivalent to Medicare Part A (hospital) to Ohio's public employees who were age 65 and ineligible for Social Security, including their spouses. This requirement became effective January 1, 1968. The underlying rationale for this legislation was that since Ohio's public employees are required to contribute to PERS, STRS and SERS in lieu of Social Security, many career public employees would not qualify for Social Security and consequently Medicare Part A (hospital). It was, therefore,

incumbent upon the state pension funds to provide Medicare Part A (hospital) equivalent coverage for these individuals and their spouses.

The Consolidated Omnibus Budget Reconciliation Act of 1985 provided for mandatory Medicare coverage for state and local government employees hired on or after April 1, 1986. Going forward, these employees will qualify for Medicare Part A (hospital) coverage, regardless of whether they otherwise qualify for Social Security through other covered employment. However, career public employees in Ohio hired prior to April 1, 1986 will continue to depend on PERS, STRS and SERS for Medicare Part A equivalent coverage though their numbers will continue to decline each year through mortality.

The bill would make two substantive changes to the existing Medicare Part A equivalent authority. First, it would eliminate the minimum 25% subsidy for Medicare Part A equivalent coverage and allow the SERS board to determine the costs to be paid by covered individuals which is consistent with the board's current authority to fix the amount of premiums paid by benefit recipients for retiree health care benefits. Second, it would make the provision of Medicare Part A equivalent coverage permissive rather than mandatory for the spouse or surviving spouse of benefit recipients who do not otherwise qualify. *It is recommended that the provision of Medicare Part A equivalent coverage remain mandatory for such spouses which is consistent with PERS and STRS laws governing Medicare Part A equivalent benefits given the history and underlying rationale for this mandate as described above.*

The bill would eliminate the definition of "ineligible individual" established by statute for purposes of participating in the SERS retiree health care programs, and allow the SERS board to establish eligibility criteria and other requirements for participation in such programs which is consistent with the laws governing the STRS, OP&F and HPRS retiree health care programs. This change is intended to provide the SERS board the same discretionary authority as currently granted to the STRS, OP&F and HPRS boards to make appropriate changes in retiree health care eligibility as circumstances warrant in a timely manner without the need to seek legislation each time a change is required.

The bill would also provide that any individual who fails to pay any required premium for SERS retiree health care coverage or otherwise receives any such coverage or payment to which the individual is not entitled shall repay any amount due to SERS. SERS is authorized to withhold the amount due from any benefit otherwise due to the individual or the individual's beneficiary or collect the amount in any other manner provided by law, which is consistent with the laws governing the recovery of overpayment of all other benefits provided by SERS.

All other changes to the law governing SERS retiree health care coverage simply clarify and reinforce the discretionary authority granted to the retirement boards since the enabling legislation authorizing the Ohio retirement systems to subsidize such coverage effective January 1, 1974 in offering, structuring and financing retiree health care benefits, including the authority to modify or terminate such coverage at any time.

Defined Contribution Plans - The bill would make the current SERS board's authority to establish a defined contribution plan(s) permissive rather than mandatory. This current mandate was adopted in S.B. 270 (eff. 4/1/2001) for SERS based upon one of the recommendations included in the Joint Legislative Committee to Study Ohio's Public Retirement Plan's final report that "an alternative defined contribution plan be established, in conjunction with the existing defined benefit plan, in the three non-uniformed employee systems to provide greater portability and options for employees." (December 11, 1996) No legislative time line was provided, however. Similar mandates were adopted for STRS in S.B. 190 (eff. 7/13/2000) and for PERS in H.B. 628 (eff. 9/21/2000). The STRS alternative defined contribution and hybrid plans became operational on July 1, 2001. The PERS alternative defined contribution and hybrid plans became operational on January 1, 2003.

According to SERS staff, the SERS board commissioned The Segal Company to statistically verify member interest and identify the costs of implementing a defined contribution plan in 2002. Segal surveyed 10,000 SERS members who had less than five years of service and would be eligible for the DC plan. They found that 1% of new SERS members were interested in a DC option based solely on their own investments and 89% of new members preferred a guaranteed retirement. Segal found that the least expensive method of developing and implementing a DC option would be to completely outsource the development and maintenance of the option. According to Segal this would require about \$1 million in start-up costs and \$1.3 million annually to operate. In February 2003, the SERS board decided that it was not in the best interest of its members to develop a DC option; however, the board requested that staff revisit the studies at a later time, and in the interim, request a language change making the current statute permissive rather than mandatory.

Since the SERS member survey was conducted in 2002 during the worst financial market since the Great Depression, the results of that survey may be skewed. Also, it is not the prerogative for the board to decide whether to comply with a legislative mandate established in early 2001, even though no legislative time line was provided. *It is recommended that the proposed change be deferred until a more up-to-date member survey is conducted by SERS, in consultation with the ORSC, no later than one year after the effective date of the bill.*

Financial Impact - According to the SERS actuary, H.B. 320 would have no negative actuarial impact upon SERS.

ORSC Position – At its meeting of October 12, 2005, the Ohio Retirement Study Council voted to recommend that the 126th Ohio General Assembly approve H.B. 320 upon the adoption of the following amendments:

- *That the newly-established leave-of-absence service credit provision be amended further to clarify that the member may not purchase more than two years of service credit for each period of leave;*
- *That the provision of Medicare Part A equivalent coverage remain mandatory for spouses and surviving spouses of benefit recipients who do not qualify for Medicare*

Part A which is consistent with PERS and STRS laws governing Medicare Part A equivalent benefits given the history and underlying rationale for this mandate; and

- *That the proposed change to the legislative mandate requiring SERS to establish a DC plan for its members be deferred until a more up-to-date member survey is conducted by SERS, in consultation with the ORSC, no later than one year after the effective date of the bill.*

