



**Ohio
Retirement
Study
Council**

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To: ORSC Members
From: Jeffery A. Bernard, Senior Research Associate **JAB**
Date: September 14, 2023
Subject: Am. Sub. H.B. 33 (Budget bill)

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Am. Sub. H.B. 33 of the 135th General Assembly (biennial budget bill) contains a number of provisions relating to the state retirement systems. This memo details only the provisions of the budget bill pertaining to the state retirement systems.

Two provisions included in the budget bill were previously recommended for approval by the ORSC: 1) implementation of a Contribution Based Benefit Cap (CBBC) in the School Employees Retirement System (SERS); and 2) administrative changes to the Public Employees Retirement System (PERS) combined plan. Additionally, Am. Sub. H.B. 33 includes a new permit for substitute teaching, a new service purchase option for certain PERS members, and altered the appointing authority for one member of the State Teachers Retirement System (STRS) board in order to conform with changes made to the State Board of Education.

School Employees Retirement System (SERS) Contribution Based Benefit Cap (CBBC)

Am. Sub. H.B. 33 implements in SERS a Contribution Based Benefit Cap (CBBC) which limits, in certain instances, the benefit a retiree can receive. The CBBC is intended to prevent spiking of final average salary, which can occur when a member works the majority of their public career in a lower paid position, then a few years prior to retirement, the member receives a considerable salary increase. The member's final average salary is then increased out of proportion to the salary he or she received during the majority of their career. The CBBC is designed so it will not impact members who receive typical salary increases and promotions throughout

their careers. The change is substantively the same as the PERS CBBC, which was implemented in 2013 under S.B. 343 (pension reform).

The ORSC recommended approval of a SERS CBBC at its May 24, 2022, meeting and was introduced this year as H.B. 146 (Rep. Bird).¹

PERS Combined Plan

PERS maintains a traditional defined benefit plan and a defined contribution plan. PERS also offers a hybrid “combined plan” that provides a benefit that is determined partly by a defined benefit plan formula and partly by contributions, and earnings on those contributions, made by the member. Members of this PERS combined plan are eligible for survivor and disability benefits similar to members of the traditional defined benefit plan. As of January 1, 2022, PERS closed the combined plan to new members as there was a declining number of participants.²

Am. Sub. H.B. 33 provides statutory authority for PERS to encompass the existing members of the combined plan into the PERS traditional plan. *This is an administrative change only.* The PERS defined benefit and the defined contribution plan are not impacted by the administrative changes under the act.

The ORSC recommended approval of the concept of this administrative change at its May 24, 2022, meeting.³

Pre-Service Teaching for Compensation

Am. Sub. H.B. 33 creates a three-year pre-service teaching permit for student teachers.⁴ Under the permit, student teachers may substitute teach and receive compensation for it. Under prior law, these individuals preparing to become licensed teachers or educational assistants were prohibited from being compensated for their service and the service was, therefore, not covered under any retirement system.

Under continuing law, *licensed* substitute teachers are specifically included as a teacher for purposes of membership in STRS.⁵ Under Am. Sub. H.B. 33, service under the new

¹ “AM-134-3442 of the 134th General Assembly,” May 24, 2022. Available online at: <https://www.orsc.org/Assets/EventFiles/1027.pdf>.

² As of January 1, 2022, there were 10,246 combined plan participants. Gordon Gatién, PERS Director of External Relations, telephone conversation (May 20, 2022).

³ “G-134-0655 of the 134th General Assembly,” May 24, 2022. Available online at: <https://www.orsc.org/Assets/EventFiles/1031.pdf>.

⁴ R.C. 3319.0812.

⁵ R.C. 3319.226 and R.C. 3307.01.

permit is *not specifically* covered by STRS.⁶ Instead, an argument could be made to include them as either STRS, SERS, or potentially PERS members, and it is likely that permit holders will be divided between the systems based on employer-level decisions.

However, since licensed substitute teachers are members of STRS and these permit holders are in the process to become licensed in a position covered by STRS, these new permit holders should participate in STRS (and *not* SERS or PERS). A likely result of Am. Sub. H.B. 33 is that individuals holding a permit and training to become a licensed teacher (and therefore a member of STRS), will have split service in STRS and SERS or PERS. ORSC has consistently held that similarly situated employees be treated as equally as possible.⁷ Based on prior recommendations, ORSC staff recommend that STRS membership specifically include the new permit holders in order to properly place these individuals with similarly situated STRS members.

Staff recommendation on pre-service teaching for compensation substitute teachers:
ORSC staff recommend that an amendment be sought as soon as possible to specify that service under the new substitute teaching permit is a STRS covered position. This will remove any ambiguity on the membership status of these individuals

Additional PERS service credit purchase

Under Am. Sub. H.B. 33, a PERS member appointed by the Speaker of the House or Senate President to serve full time as a member of a board, commission, or other public body may, before retirement, purchase additional PERS service credit for the appointment period in an amount up to 35% of the credit allowed for that period.⁸ Continuing law allows 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 the additional service credit for the period as an elective or appointed official. As under continuing law for service purchases, the purchase cost is to be equal to 100% of the additional liability resulting from the purchase.

According to the LSC analysis, it appears that “only the members of the Transportation Review Advisory Council appointed by the Speaker or President could earn enough

⁶ R.C. 3307.01.

⁷ See, for example, the treatment of employees of County Boards of Development of Disabilities who work in an educational setting (Analysis of H.B. 572 of the 132nd General Assembly; available online at: <https://www.orsc.org/Assets/Reports/1285.pdf>).

⁸ R.C. 145.201.

salary in a month to be considered full time and eligible to purchase additional PERS service credit under the bill.”⁹

STRS Board Composition

In provisions unrelated to the state retirement systems, Am. Sub. H.B. 33 transfers powers and duties of the State Board of Education and the Superintendent of Public Instruction to the Department of Education and Workforce. One duty transferred is the appointment authority of one member of the State Teachers Retirement Board.¹⁰ This change does not alter the composition of the board but transfers the appointing authority.

⁹ H.B. 33 Bill Analysis, As Passed by the Senate, 583 (available online at: <https://www.legislature.ohio.gov/download?key=21197&format=pdf>).

¹⁰ R.C. 3307.05.