

OR SC

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Analysis

Sub. H.B. 194 - Rep. Vesper (As Enacted by the General Assembly)

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ORSC Position

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Generally, Am. Sub. H.B. 194 makes the following changes in the Police and Firemen's Disability and Pension Fund (PFDPF):

- Increases the statutory survivor benefit for the following groups of surviving spouses from \$410 to \$550 per month, effective July 1, 1999, and indexes it to the average percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), up to a maximum of three percent, which shall be applied to the \$550 base, effective July 1, 2000 and the first of July in each year thereafter:
 - all current surviving spouses of members who retired prior to September 16, 1998;
 - all current and future surviving spouses who cease to be eligible for the deceased member's full monthly salary, as indexed, under the Firemen and Policemen's Death Benefit Fund;
 - future surviving spouses of members who retired prior to September 16, 1998 and who die within one year of the effective date of the bill; and
 - future surviving spouses of members who are *not* eligible for service retirement at the time of death and who are *not* killed in the line of duty.

Excluded from the bill are spouses of members who retire on or after September 16, 1998; spouses who are receiving or eligible for the deceased member's full monthly salary, as indexed, under the Death Benefit Fund; and spouses of members who, on or after September 16, 1998, are eligible for service retirement at the time of death. Their statutory survivor benefit remains \$410 per month. (R.C. §§742.37, 742.3718)

- Provides current retirees who retired prior to September 16, 1998 and who did not elect a joint/survivor annuity option at the time of retirement a one-year window to elect a joint/survivor annuity providing the actuarial equivalent of the retiree's allowance for life, and such allowance or a portion thereof to the retiree's spouse for life. The PFDPF board shall notify these retirees in writing, no later than 30 days after the effective date of the bill, of the available election and the consequences of failure to make the election. Retirees wishing to make the election shall notify the board not later than 120 days after the effective date of the bill. The board shall advise the retiree of the joint/survivor annuity options and have a determination made of the monthly benefit payable under the option selected by the retiree. No later than one year after the effective date of the bill, the retiree shall file another statement, on a form provided by the board, that the retiree elects to receive benefits under the joint/survivor annuity option specified in the statement. Benefits under the joint/survivor annuity option shall commence on the first day of the first month following filing of the statement with the board.

Spouses of retirees who die within the one-year window become eligible for the increased statutory survivor benefits provided under the bill. Spouses of retirees who die after the one-year window continue to receive \$410 per month. (R.C. §§742.3715, 742.3718)

- Increases the statutory survivor benefit for current and future surviving children under age 18 (22 if student) of members from \$118 to \$150 per month effective July 1, 1999. Upon receiving a benefit for twelve months, the surviving child would become eligible for an annual percentage cost-of-living allowance (COLA), up to a maximum of three percent, as provided under existing law. The first COLA increase is payable to eligible children

beginning July 1, 2000.

Excluded from the bill are surviving children who are receiving or become eligible for benefits under the Death Benefit Fund that are based on the deceased member's full monthly salary, as indexed. (R.C. §§742.37, 742.3720)

- Increases the statutory survivor benefit for current and future dependent parents of members from \$79 to \$100 per month for each parent, or \$158 to \$200 per month for one parent effective July 1, 1999. Upon receiving a benefit for twelve months, dependent parents would become eligible for an annual percentage COLA, up to a maximum of three percent, as provided under existing law. The first COLA increase is payable to eligible parents beginning July 1, 2000. (R.C. §§742.37, 742.3720)
- Increases the monthly benefit of individuals who are receiving on July 1, 1999 a service benefit, an on-duty permanent and total disability benefit, or an off-duty disability benefit based on an award made prior to September 16, 1998 of less than \$550 to \$550. The increase to \$550 shall be used for purposes of calculating the annual percentage COLA.

Excluded from the bill are individuals who are receiving an on-duty partial disability benefit on July 1, 1999 and individuals who are receiving a benefit based on the reduced benefit formula applicable to members who voluntarily resign or are discharged with at least 15 years of service. (R.C. §§742.3718, 742.39)

- Makes the above benefit increases described above retroactive to January 1, 1998 by providing a one-time lump sum payment, no later than the first day of the second month following the effective date of the bill, to eligible survivors and retirees. If the recipient of the lump sum payment dies before July 1, 1999, the fund shall not recover any portion of the payment made. The maximum lump sum payment is limited to \$2,520. The bill also includes an emergency clause due to the significant loss of purchasing power suffered by these survivors and retirees as a result of inflation. (Sections 5 and 6 of the bill)
- Requires the Ohio Retirement Study Council to prepare and submit the following reports to the chairpersons of the standing committees of the House and Senate with primary responsibility for retirement legislation no later than one year after the effective date of the bill:
 - A review of the COLA provisions of all five statewide retirement systems in Ohio, including the fiscal impact upon the systems of providing an annual three percent COLA that is not based on the Consumer Prices Index and, in the case of PFDPF, of removing limitations on the COLA eligibility requirements.
 - A review of the plan adopted by the PFDPF board to reduce the fund's amortization period to 30 years by December 31, 2006, including the establishment of criteria to ensure the fund's compliance with such plan.
 - A review of the benefits paid to spouses of members who retired before September 16, 1998, including the fiscal impact upon PFDPF of increasing the benefits paid to some or all of these spouses. (Section 4 of the bill)
- Authorizes a township to enter into an agreement with the PFDPF board to make a single payment to pay off its pre-1967 debt at a negotiated discount, and authorizes it to issue

Chapter 133. securities, including special obligation securities, with a maturity date no later than December 31, 2035, for the purpose of providing some or all of the funds required to satisfy the township's obligation under the agreement. The bill permits a township to enter into agreements with other townships or municipal corporations to issue Chapter 133. securities on behalf of those townships or municipal corporations. Similarly, the bill permits a municipal corporation to enter into agreements with other municipal corporations for the purpose of issuing such securities. (R.C. §§133.09, 133.20, 505.265, 717.07, and 742.30)

Background - Individuals receiving statutory survivor benefits from PFDPF have *not* had a benefit increase since 1988 (H.B. 389 - effective July 1, 1988).¹ These statutory survivor benefits are *not* subject to the annual COLA applicable to all other benefits provided by PFDPF.

In addition to the statutory survivor benefits described above, PFDPF surviving beneficiaries may qualify for other benefits. PFDPF members who retired on or after February 28, 1980 could elect to receive an actuarially-reduced retirement allowance for life, with the same allowance or some portion thereof continuing to be paid to the surviving spouse for life.² The joint/survivor annuity is in addition to the statutory survivor benefit provided by PFDPF, and is subject to the annual COLA.

PFDPF members who retired prior to February 28, 1980 were provided a one-year window beginning September 1984 and ending September 1985 to elect a joint/survivor annuity option.

Surviving spouses of active members who are eligible for service retirement at the time of death automatically qualify for a 50% joint/survivor annuity, in addition to the statutory survivor benefits provided by PFDPF.

Surviving spouses of active members who are killed in the line of duty or die from injuries sustained in the line of duty qualify for benefits under the Death Benefit Fund. The annual benefit is equal to the full salary of the deceased member, plus any increases in salary the member would have been granted, minus any survivor benefits provided by PFDPF. The benefit is payable until the earlier of the spouse's remarriage or the date the member would have first become eligible for service retirement. Upon the deceased member's service retirement eligibility date, the benefit is reduced by one-half, with no further offset for the statutory survivor benefit provided by PFDPF.

Surviving spouses of members who retire on or after September 16, 1998 have a legal right to a 50% joint/survivor annuity, in addition to the statutory survivor benefits provided by PFDPF, unless they give their informed written consent to waive it.

¹The statutory survivor benefits provided by PFDPF apply to survivors of both active and retired members. In contrast, the statutory survivor benefits provided by PERS, STRS and SERS apply to survivors of active members only. Retirees of these retirement systems must elect an actuarially-reduced joint and survivor annuity in order to provide any survivor income protection after their death.

²Effective July 24, 1990 married members who elect a single life annuity or a joint and survivor annuity providing less than one-half of the member's pension to the surviving spouse are required to provide a written statement signed by the spouse acknowledging such election. Effective September 16, 1998 the spouse's informed written consent is required to waive the spouse's right to a 50% joint and survivor annuity.

Therefore, the group of surviving spouses who, prior to enactment of this bill, qualify for only \$410 per month is limited to the following:

- surviving spouses of members who retired prior to February 28, 1980 and died prior to September 1985 without having had an opportunity to elect a joint and survivor annuity during the one-year window;

- surviving spouses of active members who are *not* eligible for service retirement at the time of death and whose deaths are *not* duty-related.
- surviving spouses of retired members who had an opportunity, but chose *not* to elect a joint/survivor annuity (perhaps without the spouse's knowledge prior to July 24, 1990 and without the spouse's consent prior to September 16, 1998).

Fiscal Impact - The Council's actuary, Milliman & Robertson (M&R), has determined that \$127.5 million is the maximum additional liability that can be financed by PFDPF based on the latest actuarial data without increasing contributions and without jeopardizing the fund's ability to obtain a 30-year funding period no later than calendar year end 2006, as required by law. In order to stay within these financial constraints, it is not possible at this time to provide the benefit increases proposed under the bill to **all** PFDPF surviving spouses, the total cost of which has been determined by M&R to be \$256.9 million. Therefore, the bill seeks to provide, within the fund's available resources as determined by the Council's actuary, benefit improvements to those PFDPF survivors and retirees who are among the most needy and dependent upon the legislature for financial relief. The bill is also premised on current and future retirees assuming responsibility for the financial welfare of their spouses.

M&R has determined that the above benefit improvements would create \$92.2 million additional liability to PFDPF, which falls within the \$127.5 million it recommended could be financed without increasing contributions and without jeopardizing the fund's ability to reduce its funding period to 30 years no later than calendar year 2006, as required by law. The actual election patterns of retirees who are provided a one-year window to select a joint/survivor annuity may produce a cost to the fund, though any attempt to estimate such potential cost would be too speculative.

ORSC Position - At its meeting of November 5, 1998 the Ohio Retirement Study Council voted to recommend that the Ohio General Assembly approve Sub. H.B. 194 with the following amendments which have been incorporated into Am. Sub. H.B. 194:

- That the proposed benefit increases to eligible survivors and retirees be made retroactive to January 1, 1998 by providing a one-time lump sum payment, and declare an emergency.
- That the ORSC review the cost-of-living provisions in all five statewide retirement systems, including the fiscal impact upon the systems of providing a fixed three percent annual COLA and, in the case of PFDPF, of removing the limitations in the existing COLA eligibility requirements; review the plan adopted by the PFDPF board to reduce the fund's amortization period to 30 years no later than calendar year end 2006, as required by law, including criteria for ensuring compliance with such plan; and review the benefits paid to spouses of PFDPF members who retired prior to September 16, 1998, including the fiscal impact upon the fund of increasing such benefits to some or all of these spouses.
- That a municipal corporation be permitted to enter into agreements with other municipal corporations to issue on behalf of those municipal corporations securities for the purpose of paying off the municipal corporations' pre-1967 accrued liabilities to PFDPF on a discount basis negotiated by the fund and municipal corporations.
- LSC technical amendment.

Effective Date - December 21, 1998