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# *Analysis*

## **Sub. H.B. 439 - Rep. Mead**

**(As Reported Out of the House Health,  
Retirement and Aging Committee)**

May 13, 1998

## ORSC Position

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The bill would make the following change to the current leave of absence provision under the Public Employees Retirement System (PERS) law:

- Allow a member who resigned due to pregnancy to purchase up to one year of service credit. The member must return to employment as a contributor to PERS for at least 12 months and pay an amount equal to what the member would have contributed had she continued working at the earnable salary prior to resignation, plus annual compound interest from the date of leave to the date of purchase. The bill would apply to all PERS members who resigned due to pregnancy subsequent to January 1, 1935 and have not retired.

Current law allows for the purchase of up to one year of service credit for leave of absence, however there is no provision allowing members who were forced to resign due to pregnancy to purchase service credit for that time off.

The bill would make the following changes to the State Teachers Retirement System (STRS):

- Allow a member who, prior to July 1, 1982, was granted a leave of absence for pregnancy or resigned due to pregnancy and who later returned to employment as a contributor to STRS to purchase up to two years of service credit. The member must pay an amount equal to the employee rate of contribution in effect at the time of leave multiplied by the member's annual compensation for full-time employment during the first year of service in Ohio following the end of the absence, plus annual compound interest from the date the absence ended to the date of payment.
- Require credit purchased for leaves of absence or resignation due to pregnancy to be included in determining the amount of service credit that can be purchased by an employer for a member participating in a retirement incentive plan.

### **Staff Comments**

The Pregnancy Disabilities Act of 1978 amended Title VII of the Civil Rights Act of 1964, which applies to most private employers as well as state and local government units. The amendment requires that women affected by pregnancy be treated the same as employees disabled as a result of sickness or accident with respect to employee benefits (including leave, disability income, and medical benefits). Current law reflects this federal law by allowing women who take a leave of absence due to pregnancy to purchase that leave time the same as a member who was on leave due to any other disability. However, under PERS law, women who resigned due to pregnancy prior to the enactment of the Pregnancy Disabilities Act of 1978 are not eligible to purchase the service credit for the time they were not working.

In 1985 Am. Sub. S.B. 378 (115th G.A.) was enacted, which applied to members of STRS. For the first time, members who had taken leaves of absence or were forced to resign due to pregnancy prior to July 1, 1982 were permitted to purchase up to two years of service credit during a one-year open window period. The open window period was extended for one year in 1986 (Am. H.B. 676, 116th G.A.) and again for another year in 1996 (Am. Sub. H.B. 254, 121st G.A.). The cost to the member was the employee rate of contribution in effect at the time the absence commenced multiplied by the member's annual compensation during her first year back, plus annual compound interest from the date of absence to the date of payment. The member also was required to submit evidence documenting that the resignation was due to pregnancy.

Am. Sub. H.B. 254 as introduced allowed members to purchase service credit at any time prior to retirement. The ORSC staff recommended that the Council vote to recommend that the General Assembly approve the bill as introduced. The Council, however, voted to recommend that a one-year open window be adopted.

Sub. H.B. 439 would reopen the window and once again allow members who took leaves of absence or were forced to resign due to pregnancy prior to July 1, 1982 to purchase up to two years of that time at any time prior to retirement. The cost to the member would be the same as under previous windows. Additionally, the bill would permit that time to be included when determining the amount of service credit that can be purchased by an employer for a member of STRS participating in an early retirement incentive plan.

Members of the School Employees Retirement System (SERS) who resigned due to pregnancy prior to September 9, 1988 were also permitted to purchase up to two years of service credit pursuant to H.B. 290 (117th G.A.), during a one year open window period, provided the member earned one year of service credit subsequent to her return to employment and returned to work not later than the first day of classes of the third school year following resignation. The member was required to pay an amount equal to the member's contributions for the first year of full-time Ohio service following termination of absence, plus annual compound interest and submit evidence that the resignation was due to pregnancy.

This bill would make PERS law consistent with the other non-uniformed employee systems by permitting members who were forced to resign due to pregnancy to purchase service credit for that time, although PERS limits that amount of time to one year rather than two years.

Both STRS and SERS law requires the member to submit evidence satisfactory to the board documenting that her resignation was due to pregnancy. Language similar to this should be adopted to further bring PERS law into line with the other non-uniformed employee systems.

**Fiscal Impact**

According to the PERS actuary, Gabriel, Roeder, Smith & Company, data for a detailed measure of the potential cost to PERS of this proposed change was not available. However, based on the present average cost of a year of service and assuming that there would be much less than 1,000 such service purchases a year, they estimated that:

- the overall financial effect would be less than 0.01% of covered payroll;
- neither the amount of nor the funding period for unfunded actuarial accrued liabilities would be affected;
- the cost could be absorbed within the current rate structure; and
- the system would continue to satisfy funding objectives established by the board.

According to the STRS actuary, Buck Consultants, statistics were unavailable to estimate the number of current members who would be eligible to purchase service if the window were reopened. However, they estimate that the number of years of service purchased would range from 500 to 1,000 years. This estimate is reasonable assuming that the majority of members who could purchase credit did so during the previous open window. The actuary estimates that the total cost for each year purchased would be \$13,650, with the fund paying \$11,310 of the cost for each year

**Sub. H.B. 439**

**April 14, 1998**

and the member paying the remainder. If 1,000 years of service are purchased under the provisions of Sub. H.B. 439, the actuary estimates that the total cost would not be greater than \$13.650 million, with the fund paying \$11.310 million. According to the actuary, the bill would have no effect on the STRS funding period, which is currently 26.9 years according to the Actuarial Valuation for the year ended June 30, 1997.

**ORSC Position**

At its meeting of September 10, 1997, the Ohio Retirement Study Council voted to recommend that the General Assembly approve H.B. 439 upon the adoption of an amendment requiring the member to submit evidence satisfactory to the PERS board documenting that her resignation was due to pregnancy.

**Staff Recommendation for Sub. H.B. 439**

The staff recommendation is that the Ohio Retirement Study Council vote to recommend that the General Assembly approve H.B. 439 upon the adoption of an amendment requiring the member to submit evidence satisfactory to the PERS board documenting that her resignation was due to pregnancy.

**ORSC Position on Sub. H.B. 439**

At its meeting of April 14, 1998, the Ohio Retirement Study Council voted to recommend that the General Assembly approve Sub. H.B. 439 upon the adoption of an amendment requiring the PERS member to submit evidence satisfactory to the PERS board documenting that her resignation was due to pregnancy. This amendment was adopted in the House Retirement Subcommittee.