

The Ohio Retirement Study Council

Providing Legislative Oversight of Ohio's Public Pension Plans

Since 1968

The State of Ohio has a long and successful track record regarding its five statewide public pension plans: the State Teachers Retirement System (STRS); Public Employees Retirement System (PERS); School Employees Retirement System (SERS); Highway Patrol Retirement System (HPRS); and the Ohio Police and Fire Pension Fund (OP&F).¹ These five public pension plans have combined assets of over \$135 billion, and provide comprehensive retirement, disability, survivor and post-retirement health care coverage to over 1.3 million active and retired public employees and their dependents. Ohio's public employees are not covered by Social Security.

The Operation Improvement Task Force established in 1991 by the Governor and representing over 150,000 hours from over 250 private sector individuals with expertise in various areas of management made the following observation in its comprehensive review of the operations of the various state agencies, boards and commissions:

*"The Ohio Retirement Study Council (ORSC) plays an important role in the ongoing success of the five retirement funds. The State and the funds were insightful when they established the ORSC."*²

Created in 1968, the ORSC is one of the oldest permanent pension oversight bodies in the nation. It was designed to develop legislative leadership and expertise in the area of public pensions and make possible the best advice and information available for making decisions on public pensions based upon continuing study and research, not the popularity of the idea or external pressures. (Parenthetically, it does not mean that the Ohio General Assembly will always follow such advice; it does indicate, however, that the Ohio General Assembly has committed itself to receive the best information available before such decisions are made.) The ORSC is, therefore, responsible to the legislature, plan participants and citizens of Ohio to ensure that the level of benefits is equitable, the level of funding is sound and the investment of funds is prudent. In this regard, the cooperation of the five state retirement systems is essential to the work of the ORSC because they generally possess the basic information necessary on all public pension matters and because the ORSC has a duty to assemble factual, comparable and consistent data for the legislature on such matters.

¹Created in 1920, the State Teachers Retirement System (STRS) covers teachers in public schools, universities and colleges. The Public Employees Retirement System (PERS) was created in 1935 for state employees and expanded in 1938 for local government employees. The School Employees Retirement System (SERS) was created in 1937 to cover non-teaching employees of the various local school boards and community colleges. The Highway Patrol Retirement System (HPRS) was created in 1941 by the withdrawal of all state troopers from PERS. The Ohio Police and Fire Pension Fund was created in 1967 upon the consolidation of 454 local police and fire relief and pension funds. Created in 1931, the City of Cincinnati Retirement System is the only municipal retirement system in Ohio covering city employees, and predates the statewide PERS by about four years.

²Memorandum from The Andersons Management Corporation to Robert Van Auken, Chair of the Operations Improvement Task Force, July 29, 1991.

Since 1968, both the National Conference of State Legislatures (NCSL) and the American Legislative Exchange Council (ALEC) have recommended that state legislatures establish permanent pension oversight bodies to analyze the operations of their retirement plans on an ongoing basis and to make recommendations for state legislative action based on such analysis.³ Robert Tilove, a recognized expert on pension plans both in the public and private sectors, has also been a strong advocate for the establishment of permanent pension commissions:

“At the very least, a commission can identify the essence of a proposal, attach to it an appropriate cost, spell out some of the implications, and offer an informed viewpoint. Hopefully the commission will be one that is accepted by the public and by government officials, as representing a span of responsible opinion.

There is, in any event, widespread need for governmental mechanisms for developing, maintaining, and changing the policy of a state or local government with respect to its retirement systems. A great deal of pension law grows by patchwork, yielding in time to favoritism and special pressures. An articulated policy that is subject to review is necessary to developing and maintaining a fair and effective law.”⁴

Given the sheer volume of legislation covering a wide spectrum of complex subject matters, legislators frequently find that they have either inadequate information, uncertain understanding, or both, when they are called upon to make decisions about public pension plans. Typically, legislators are accustomed to dealing in two-year budgetary cycles, whereas decisions affecting public pensions plans involve significant long-term costs, such as 30-year benefit obligations. If not made carefully and with foresight, these decisions can seriously threaten the budgetary stability of state and local governments years later when these benefit obligations become due. These decisions can also result in an unfair burden on future generations of taxpayers, who are the ultimate guarantors of these benefit obligations, and adversely affect the credit rating of the state or local government’s debt. Moreover, continuing congressional interest in regulating governmental pension plans makes the need for permanent pension oversight commissions even more apparent as a step toward avoiding federal intervention.

The merits of a permanent pension oversight commission, such as the ORSC, are several. First, pensions are an increasingly complex subject area requiring a high degree of expertise and knowledge; once acquired, it should continue to be made available to legislative bodies through a permanent pension oversight commission. Second, pension laws demand continuous supervision and attention. A single, ill-conceived retirement bill could have serious fiscal consequences that are not fully recognized for many years later. Third, there is a need for continuity of policy based on sound pension principles rather than political pressures and special interests. Pension reforms should always be possible, but they should be accompanied by knowledge of the past. Fourth, a permanent pension oversight commission can apply consistent policy to the perpetual stream of retirement legislation which, if left unchecked, is apt to develop into ultimate disarray through a

³*Public Pensions: A Legislator’s Guide*, National Conference of State Legislatures (1995); *State Employee Retirement Systems: A Decade of Change*, American Legislative Exchange Council (1987).

⁴Tilove, Robert. *Public Employee Pension Funds*, 1976, Columbia University Press, New York, pg. 259.

successive sequence of piecemeal changes without regard to any overriding set of principles. And finally, the growing occurrence of legislative term limits makes the establishment of permanent pension oversight commission essential as both an institutional memory and an independent source of information to help legislators place retirement issues in the widest possible context of public policy and to ensure that sound public policy continues to govern the operations of state retirement systems for future beneficiaries and taxpayers alike.

The ORSC has been established to advise and inform the Ohio General Assembly on all matters relating to the benefits, funding levels, investments and operations of the five statewide retirement systems. The ORSC is an independent, bi-partisan body consisting of three representatives appointed by the Speaker of the House (no more than two of whom may be of the same political party), three senators appointed by the President of the Senate (no more than two of whom may be of the same political party), three gubernatorial appointees representing state government, local government and education (no more than two of whom may be of the same political party), and the five executive directors of the state retirement systems who are non-voting members. By law, the state retirement systems are required to pay a proportionate share of the ORSC's costs based upon their respective assets; the ORSC receives no legislative appropriations.

The statutory design of the ORSC indicates that the Ohio General Assembly intended to create a financially and operationally independent pension oversight body. As indicated above, the ORSC receives no appropriated funds from the General Assembly, thus shielding it from the political pressures inherent in any legislative appropriation process that might otherwise affect the objectivity and independence of the ORSC and its staff to perform their duties. In addition, by granting non-voting membership to the executive directors of the five state retirement systems, potential conflicts in loyalties and responsibilities are avoided by preserving not only the independence of the directors to represent their respective boards on the council, but also the independence of the ORSC and its staff to conduct reviews and make recommendations affecting such boards. Moreover, by granting the ORSC specific authority to employ or hire on a consulting basis such actuarial, legal, investment and other professional services as required, an effective system of checks-and-balances is established, providing the requisite independence and credibility for the ORSC and its staff to carry out their duties with respect to the state retirement systems.

A recent article appearing in the Wall Street Journal on the West Virginia public pension plans further underscores the necessity for effective governmental mechanisms, such as a permanent pension oversight commission, for developing, maintaining and changing the policies of state and local governments with respect to their retirement plans. Faced with one of the most underfunded pension plans in the nation, West Virginia legislators are now scrambling to find money to pay the looming pension bills, and hope to float one of the largest municipal-bond offerings in U.S. history - \$4 billion - in a taxpayer bailout of their public retirement program. According to the article, West Virginia's plight was caused in part by outdated state laws, which until 1998 prohibited their pension funds from investing in stocks. It was also caused in part by inadequate funding of future benefit obligations resulting from a pass-the-buck attitude for decades toward local funding mandates and the use of pension funds to solve budgetary problems. It was further caused in part by the practice of recruiting pension fund trustees who were short on financial expertise but long on political obligations. In short, there was no effective governmental mechanism in place to recommend to the state legislature the necessary pension reforms based on factual information and sound public policy.

The proper management and protection of Ohio's public retirement systems rests on three pillars:

the legislature, the administrators of each retirement system and the ORSC.⁵ These are the institutions charged by law with ensuring the retirement income security for over 1.3 million public employees and their dependents. As more and more experienced legislators leave the state house due to term limits, the ORSC's role as the legislature's long-term memory and source of independent analysis and advice about the state's public retirement systems will likely grow in importance. Several recent editorials appearing in Ohio newspapers have recognized the ORSC as an integral part of a system of checks-and-balances created to ensure the proper operation of the public retirement systems. "... *Independent reviews make comparisons and raise questions that otherwise might not be answered. Whether they are on the mark, they ensure that assumptions, attitudes and practices in the public pension systems will receive periodic challenges, compelling pension officials and legislators either to defend or amend them.*"⁶ "... *The important thing is that the council's activities spur questions and examinations of pension operations. By raising such issues, the council plays an indispensable role in keeping the pension systems, pensioners, taxpayers and lawmakers on their toes. All benefit as a result.*"⁷

In Ohio, the legislature has enacted a number of significant pension reforms over the past decade based upon various studies prepared by and recommendations made by the ORSC, in conjunction with its consulting actuary and other professional advisors. Often times, these pension reforms occur in incremental stages over a period of several years before realization of the ultimate goal. The ORSC plays an important role in keeping the legislature focused on these policy goals from year to year, remaining open to compromise and innovation that leads in the direction of the desired outcome throughout the reform process. To achieve beneficial change for the plan participants, state retirement systems and taxpayers alike, the policy goals should be clearly identified and strictly based upon sound pension principles, notwithstanding occasional political pressures to the contrary. Consistency and continuity are the true hallmarks for any meaningful reform(s), and are the primary function of permanent pension commissions, such as the ORSC.

The major pension reforms in Ohio over the past decade fall under one of the following four general categories:

- Investments;
- Actuarial standards and principles;
- Plan design changes; and
- Post-retirement health care benefits.

Investments

In the early 90's, the ORSC focused legislative attention on the significant role investment earnings

⁵*Pension prudence: Independent review of public funds good*, The Columbus Dispatch Editorial, September 29, 1998.

⁶Ibid.

⁷*New Watchdogs: Term limits boost role of pension council*, The Columbus Dispatch Editorial, November 13, 1999.

play in the overall funding of benefits costs in each retirement system. Of the three sources of revenue - employee contributions, employer contributions, investment earnings - the largest source of revenue for all five retirement systems is investment earnings, funding up to 75 percent of their benefit costs. Thus, investment yields are very important in determining the contributions required from employees, employers and ultimately taxpayers to fund current and future benefit obligations. As a general rule of thumb, an increase of one percentage point in investment yield may reduce contribution requirements by 15 to 20 percent, or pay for a commensurate increase in benefits.

Governed by outdated "legal lists" that severely restricted both the types and amounts of investments that could be made by the five state retirement systems, the ORSC recommended that the legislature expand the retirement systems' investment authority in order to respond to changing financial markets and a changing economy.⁸ In late 1993, the legislature enacted S.B. 43 which modified the "legal lists." This legislation increased the maximum asset allocation to domestic equities from 35 to 50 percent of the retirement systems' total investment portfolio. It further authorized the retirement systems to invest up to 10 percent of their investment portfolio in foreign equities. New investment instruments, such as American depositary receipts, were added to the "legal lists." Historic investment restrictions, such as certain cash dividend requirements, were also eliminated.

As part of a comprehensive review of the laws governing the state retirement systems, the ORSC recommended further expansion of the systems' investment authority in 1996.⁹ This recommendation was adopted by the legislature in S.B. 82 which abolished the "legal lists" and made the systems' investment authority subject to the time-tested "prudent person" standard, as modified by the Employee Retirement Income Security Act.¹⁰ (A similar policy recommendation was adopted by the NCSL Working Group on Pensions as part of the comprehensive revisions made to *Public Pensions: A Legislator's Guide* in July 1995.) The guiding principle for this legislative change in the systems' investment authority was to provide for greater flexibility in board decisions regarding asset allocation and selection of investment vehicles in order to achieve further growth in investment earnings and further diversification of plan assets. The need for the state

⁸A "legal list" generally spells out in varying degrees of detail the types and amounts of investments that can be made. If an investment is not specifically authorized under the legal list, then the retirement systems can not make the investment, regardless of whether it would otherwise be prudent to do so. Legal lists are in need of constant revision in order to keep current with changing financial markets and a changing economy.

⁹*Final Report: Findings, Staff Recommendations and JLC Action*, Joint Legislative Committee to Study Ohio's Public Retirement Plans (December 11, 1996).

¹⁰Under the "prudent person" standard adopted in early 1997, the state retirement systems "shall discharge their duties with respect to the funds solely in the interest of the participants and beneficiaries; for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the public employees retirement system; *with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.*"

retirement systems to respond to changes in the economy and investment markets and to rely upon professional investment managers and economic advisors to guide their decisions were recognized as important components of a sound investment policy.

Given the broad, discretionary investment authority granted to the state retirement systems under S.B. 82, the need for accountability in the investment process was equally recognized as an important component of any sound investment policy. Accordingly, S.B. 82 included provisions that require each system to adopt and publish its basic investment policy at least once every year, including asset allocation targets, risk factors, time horizons, and performance benchmarks for the various asset classes. The legislation also required the systems to comply with the standards adopted by the Association for Investment Management and Research (AIMR) when reporting on their investment performance.

In 1998, the ORSC further recommended that the state retirement systems' investments should be monitored on a regular, objective and comparative basis. This recommendation was subsequently adopted by the legislature last year as part of S.B. 190, which requires the ORSC to conduct a semi-annual review of the systems' investments and report the results thereof to the Governor and legislature. This investment review was designed not only to compare the Ohio retirement systems with one another and with other similar private and public pension funds in the nation but also to evaluate each system in terms of its own internally-adopted investment policies and objectives.

The expansion of the state retirement systems' investment authority, along with a strong economy, has produced double-digit investment returns over the last several years. In turn, these very favorable investment results have significantly improved the funded status of all five systems in Ohio, as indicated in a recent ORSC actuarial review relative to the funding of each system using consistent assumptions and methods.¹¹ As a result, PERS became the first state retirement system to become fully funded in Ohio as determined by its actuarial valuation as of December 31, 1999, meaning that the system's assets equaled or exceeded its actuarial liabilities. Similarly, SERS became the second state retirement system in Ohio to achieve a fully-funded status as reported in its actuarial valuation as of June 30, 2000. The other systems also showed continued progress toward this end. These favorable investment returns have provided for various benefit increases in all five systems, along with contribution reductions in three of the five systems last year.

Actuarial Standards and Principles

One year after the consolidation of 454 financially troubled local police and fire pension funds into a newly established statewide OP&F in 1967, the Ohio legislature created the ORSC to provide continuing oversight and review of the five state retirement systems in Ohio to ensure their financial soundness for current and future beneficiaries and taxpayers alike. Ever since then, the ORSC has steadfastly adhered to the principle that no proposed increase in benefit levels be granted until there is established adequate funding to cover its cost on an actuarial reserve basis. Adherence to this principle has served two major purposes: (1) it has enforced fiscal responsibility so that the long-term costs are recognized currently and *not* simply passed on to future generations of taxpayers; and (2) it has assured the financial security for both current and future beneficiaries.

Over the years, the Ohio legislature has codified into the retirement systems' governing statutes several funding safeguards based upon generally-accepted actuarial standards and principles. In

¹¹ *Study of Ohio Public Retirement Systems*, Milliman & Robertson, Inc. (July 29, 1998)

Ohio, each retirement system is required to have prepared annually by a qualified actuary an actuarial valuation of the pension assets, liabilities and funding requirements of the plan and an actuarial study of the economic, demographic and other experience of the plan at least once every five years.¹² It must also submit the same to the ORSC and the appropriate standing committees of the legislature. These statutory requirements are consistent with the recommended practices adopted by the Government Finance Officers Association (GFOA) for all public pension funds.

With impending legislative terms limits and the resultant loss of legislative leadership and expertise in the area of public pensions, the ORSC recommended in 1996 that the Ohio legislature codify additional safeguards into the retirement systems' governing statutes in order to ensure that sound funding policies continue to govern the operations of the retirement systems well into the future.¹³ Based upon these recommendations, S.B. 82 effected three major funding reforms. The bill established a maximum 30-year funding period, with a ten-year transition period, for each system. This standard is modeled after the national standard adopted by the Governmental Accounting Standards Board (GASB) for all governmental retirement systems.¹⁴ It is intended to maintain inter-generational equity among Ohio taxpayers by limiting the ability to fund benefit costs by simply extending the funding period beyond 30 years and thereby shifting costs to future generations of taxpayers.

S.B. 82 also required each retirement system to have prepared an actuarial cost statement on any introduced retirement legislation having a measurable financial impact upon the system within 60 days of introduction, and to submit it to the ORSC and appropriate legislative standing committees for review. This requirement recognizes that legislative decisions affecting public pension plans often involve significant long-term costs that are not fully recognized for many years later. It is, thus, intended to provide the legislature immediate recognition of the long-term cost implications of any retirement decisions made today.

S.B. 82 also required the retirement systems to report separately their actuarial assets/liabilities for pension benefits that are mandated by statute and become vested upon retirement and their assets/costs for retiree health care benefits that are permitted by statute based upon each system's available resources, but do not become vested upon retirement.¹⁵ This requirement recognizes that

¹²The retirement system's actuary must satisfy all of the following statutory qualifications: (1) be a member of the American Academy of Actuaries; (2) be an associate or fellow of the Society of Actuaries; and (3) have a minimum five years' experience of providing actuarial services to public retirement plans.

¹³*Final Report: Findings, Staff Recommendations and JLC Action*, Joint Legislative Committee to Study Ohio's Public Retirement Plans (December 11, 1996).

¹⁴Governmental Accounting Standards Board Statement No. 25 - Financial Reporting for Defined Benefit Pension Plans and Notes Disclosures for Defined Contribution Plans.

¹⁵Each retirement system retains discretionary authority under the enabling statute to change the level of retiree health care coverage and the costs paid by covered individuals at any time.

the sole legal and financial obligation of the retirement systems is to provide pension benefits earned during the working careers of public employees and that retiree health care benefits, though very important to the overall financial security of public employees, are necessarily secondary to the provision of pension benefits. It is, thus, intended to ensure that the retirement systems accumulate and maintain the necessary actuarial reserves to fund these promised pension benefits, and that such reserves are not used to finance retiree health care benefits with the potential risk of jeopardizing the actuarial soundness of their pension program. This requirement is also consistent with recent statements issued by GASB that require separate accounting for pension benefits and post-employment health care benefits administered by defined benefit plans, such as the Ohio retirement systems.¹⁶

An independent actuarial audit of the Los Angeles County Employees Retirement Association made national headlines in early 1998 when an actuarial error of \$1.2 billion that had existed since 1977 was uncovered. It was also reported that such audits were fairly rare among public pension funds, despite the large sums of money entrusted to them. The ORSC brought this issue to the legislature's attention, and recommended that periodic, independent actuarial audits be performed in all retirement systems in Ohio as a matter of prudent management and oversight thereof. The purpose of such audits is to assure that the actuarial procedures follow professional guidelines, that the actuarial assumptions are reasonable, and that the actuarial calculations resulting therefrom are accurate. In 2000, the legislature adopted this recommendation as part of S.B. 190, requiring the ORSC to have prepared an independent actuarial review of the retirement system's actuarial reports at least once every ten years. This new statutory requirement is consistent with one of the recommended practices adopted by the GFOA for all governmental pension plans, and is intended to provide further assurance of the continued actuarial soundness of the retirement systems in Ohio.¹⁷

Benefit Design Changes

As part of its annual review of the OP&F contribution rates in 1994, the ORSC actuary found that disabilities comprised 41% of all police retirements and 35% of all firefighter retirements during the period 1987-91, compared to 35% and 25%, respectively, during the preceding five-year period.¹⁸ Based upon this finding, the ORSC recommended that a study into the high rates of disability among police and firefighters be conducted to determine whether any statutory and/or administrative changes would be appropriate or desirable as a matter of public policy.

¹⁶Governmental Accounting Standards Board Statement No. 26, Financial Reporting for Post-employment Healthcare Plans Administered by Defined Benefit Pension Plans.

¹⁷Independent actuarial audits have been performed in each retirement system. These audits have found the work to be reasonable and in accordance with generally accepted actuarial principles and practices; the actuarial methods and assumptions to be reasonable and appropriate; and the work to be performed by fully qualified actuaries.

¹⁸*Adequacy of Contribution Rates for the Police and Firemen's Disability and Pension Fund: Review and Recommendations*, Milliman & Robertson, Inc. (December 14, 1994)

In 1996, the disability study was completed.¹⁹ One of the pervasive findings of the study was the general lack of objective criteria to guide the OP&F Board's administration and determination of disability awards. Another major finding was the general lack of employer involvement and accountability in the disability process. Though its focus was limited to OP&F, the study considered "best industry practices" in both the private and public sectors to formulate its recommendations regarding effective disability management, a common interest among the five state retirement systems. It also raised a number of public policy issues that were equally relevant to all five retirement systems.

Based upon the findings and recommendations made in the disability study, H.B. 648 was enacted in 1998 to implement various disability reforms that generally build into each retirement system's disability process objective criteria for making disability determinations and effective controls for monitoring the status of those receiving disability benefits. These reforms include, but are not limited to, the following:

- Establishment of minimum statewide standards for pre-employment medical examinations of prospective police and firefighters;
- Adoption of objective medical and vocational standards, including medical guidelines and use of vocational specialists, as the basis for disability determinations;
- Annual earnings statements;
- Annual medical re-examinations by board physicians;
- Continuing medical treatment as recommended by board physicians;
- Notification of employers upon receipt of disability applications;
- Annual reports on disability experience of each employer.

The Ford Foundation's *Innovations in American Government Program*, which identifies and rewards outstanding and creative problem solving in the public sector, rated the OP&F revised disability process among the top 25% of the programs reviewed for 2000.

Other significant public policy changes were also made in H.B. 648 regarding spouses' and children's benefit rights. Surviving spouses in all five state retirement systems were permitted to remarry at any age without forfeiting their benefits; previously, spouses forfeited their benefits upon remarriage prior to age 55. Also, the automatic form of payment for married individuals became a 50% joint and survivor annuity, unless the spouse gave his or her informed, written consent to waive such annuity. Furthermore, surviving children under age 22 were guaranteed a monthly benefit; previously, the member's spouse or designated beneficiary could elect to take a refund of the member's accumulated contributions upon death and thereby cut off the benefit rights of the remaining survivors. All of these changes were favorably recommended by the ORSC and recognized the societal interest in providing financial security not only to the member, but also to the member's family.

¹⁹*Analysis of Police and Firemen's Disability and Pension Fund Disability Plan, Procedures and Experience*, William M. Mercer, Inc. (November 8, 1996)

Also, in 1996, the ORSC made the following finding as part of its comprehensive review of the laws governing the five state retirement systems: “Portability has become a national retirement issue. It has also become an issue in Ohio in terms of the recruitment of higher education employees and is likely to become an increasing issue for other groups of public employees, such as part-time, short-service and mobile employees, who are required to participate in retirement systems which are designed to benefit older, long-tenure employees and employees making permanent job changes relatively late in their careers.”²⁰ Based upon this finding, the ORSC recommended that an alternative defined contribution (DC) plan be established, along with the existing defined benefit (DB) plan, in the three non-uniformed employee retirement systems (PERS, STRS, SERS) to provide greater benefit portability and options for their members.

In 1997, the legislature took its first, incremental step toward implementing this recommendation by enacting H.B. 586 which established an alternative defined contribution plan administered by private vendors for full-time academic and chief administrative employees of public institutions of higher education electing such plan in lieu of participation in PERS, STRS or SERS. In order to mitigate any negative fiscal impact upon the retirement systems due to the potential loss of contributing members, public institutions of higher education were required to pay a supplemental contribution to the appropriate retirement system, as determined by the ORSC actuary, on the salaries of those individuals electing out of the retirement system and into the alternative DC plan. H.B. 586 also provided an enhanced lump sum refund option to withdrawing STRS members equal to their accumulated contributions with interest, along with a 50% employer match for members with at least five years of service. These legislative changes were intended to address not only the portability needs of Ohio educators but also the recruitment needs of their employers.

Based upon the general popularity of the alternative DC plan and the enhanced refund option established under H.B. 586, the legislature continued to address the issue of pension portability in significant ways. Legislation was enacted in 2000 requiring the PERS, STRS and SERS boards to establish an alternative DC plan for new members and current members with less than five years of service.²¹ The boards are at varying stages of establishing their DC plans based upon the results of employee/employer surveys and the advise of professional consultants, with the STRS plan scheduled to become operational on July 1, 2001. Once established, these alternative DC plans, along with the existing DB plans, will provide members a meaningful choice of plans that best meet their individual retirement needs. The old adage - “one size fits all” - is no longer the case when it comes to the needs of Ohio’s public employees and employers, given the growing interest in pension portability and the increasing competition with the private sector to attract qualified employees in critical areas.

Also, in 2000 the legislature enacted S.B. 144 to provide an enhanced refund option for withdrawing PERS members. This legislation was largely modeled after H.B. 586, requiring PERS to credit interest on the member’s accumulated contributions, along with a 33% match from employer contributions for withdrawing members with five but less than ten years of service and a 67% match for members with at least ten years of service. Moreover, H.B. 535 provided for complete portability of service credit and contributions between the five state retirement systems and

²⁰*Final Report: Findings, Staff Recommendations and JLC Action, Joint Legislative Committee to Study Ohio’s Public Retirement Plans (December 11, 1996)*

²¹H.B. 628 - PERS - (eff. September 21, 2000); S.B. 190 - STRS - (eff. July 13, 2000); S.B. 270 - SERS - (eff. April 9, 2001)

the municipal Cincinnati Retirement System; such portability previously existed among the five state retirement systems. All of these legislative measures were consistent with prior ORSC recommendations and positions concerning the issue of pension portability over the years.

Another significant public policy change was made in H.B. 535 regarding the division of retirement benefits upon termination of marriage. Though public retirement benefits accrued during the marriage were recognized under Ohio's domestic relations law as "marital property," Ohio's public retirement laws prohibited the assignment of such benefits to a former spouse. Under H.B. 535, the legislature amended the laws governing the five state retirement systems to permit the assignment of public retirement benefits payable to a member pursuant to a court order. This legislative change was intended to resolve the inherent conflict between Ohio's domestic relations laws and public retirement laws.

Post-retirement Health Care Benefits

In 1974 the Ohio General Assembly granted the boards of the five state retirement systems discretionary authority to provide health care benefits to retirees and their dependents based upon each retirement system's available resources. Unlike pension benefits that are fixed by statute and become vested upon retirement, post-retirement health care benefits are not a vested right in Ohio and are therefore subject to change at any time upon board action, including the level of coverage and the amount paid by those individuals covered.

Since 1974 the five state retirement systems have provided a comprehensive hospital, medical and prescription drug plan. In 1977 the Ohio General Assembly required the five retirement systems to reimburse benefit recipients for the cost of Medicare Part B (medical portion of Medicare) monthly premiums. Benefit recipients not qualifying for Medicare Part A (hospital portion of Medicare) are provided equivalent coverage under the retirement systems' health care plans.²²

Since the mid-80's, controlling post-retirement health care costs has been and continues to be a primary concern for each retirement system. In 1991 the ORSC conducted a legislative study on the cost and funding of post-retirement health care benefits.²³ Among the various concerns raised in that study was the potential risk that escalating health care costs could jeopardize over time the funding of the retirement systems if their pension reserves were used to cover such costs. Accordingly, the ORSC made several recommendations that were designed to control the retirement systems' health care costs as well as safeguard the retirement systems' pension reserves, including the following:

- Increase deductibles and out-of-pocket maximums;
- Establish premium contribution schedules for retirees;
- Segregate assets reserved for pension benefits from assets available for health care benefits,

²²State and local government employees hired on or after April 1, 1986 are covered under Medicare Part A; those employees hired before then continue to be exempted from mandatory Medicare Part A coverage.

²³*The Costs and Funding of Health Care Benefits Provided by the Ohio Retirement Systems: Findings and Recommendations*, Ohio Retirement Study Council (November 19, 1991)

along with separate accounting and reporting to the ORSC and legislature of such costs; and

- Negotiate on a collective basis with health care providers and provider network managers to establish effective managed care programs that incorporate negotiated payment levels and utilization controls.

Since then, various cost containment measures have been adopted by the retirement systems. These measures include two preferred provider organizations; several health maintenance organizations; a retail pharmacy network; a mail-order prescription drug plan; individual case management; increased co-pays, deductibles and out-of-pocket maximums; required premium contributions; usual, customary and reasonable fees; pre-certification requirements; managed second opinions; second surgical opinions; hospital admission charges; fraud investigations; hospital billing audits; subrogation procedures; and formularies. In addition, the Ohio General Assembly enacted S.B. 82 in 1996 which, among other things, requires each retirement system to provide for separate accounting and reporting of post-retirement health care benefits on an annual basis.

In a new era of escalating health care costs, the state retirement systems' health care plans are *not* alone in dealing with the challenge of providing access to quality health care coverage at a reasonable cost and within the constraints of available resources. The issues of accessibility, coverage and cost have left no employer-sponsored health care plan unaffected and have prompted much legislative activity at both the national and state levels. Given the importance of health care to the overall financial security of retired public employees, the ORSC will continue to monitor closely the cost and funding of post-retirement health care benefits provided by the retirement systems and all legislative proposals seeking to address these issues.

Conclusion

As shown above, a permanent pension commission, such as the ORSC, can serve as an effective governmental mechanism for developing, maintaining, and changing the public policies of state and local governments with respect to their retirement systems. At the very least, it can provide an early-warning signal of potential problems before they reach crisis proportions. Often times, pension reforms occur in incremental stages over a period of several years before realization of the ultimate goal. A permanent pension commission can play an important role in keeping the legislative authority focused on these policy goals from year to year while remaining open to compromise and innovation that leads in the direction of the desired outcome. Articulated policies that are subject to periodic review are essential to developing and maintaining fair, effective and financially sound public retirement systems.

A permanent pension commission can also serve as an integral part of a system of check-and-balances designed to ensure that governmental retirement systems remain financially sound for pensioners and taxpayers alike. Independent reviews allow for comparisons that otherwise might not be made and raise questions that otherwise might not be answered. Whether or not these reviews are subject to debate among professionals, they ensure that the assumptions, practices and policies adopted by public pension funds receive periodic challenges, compelling pension officials and legislators either to defend or amend them. This is all to the good!