Ohio
Retirement
Study
Council

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AM-136-2046-2 of the 136th General Assembly

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Staff Recommendation

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Summary of AM-136-2046-2

AM-136-2046-2 is an amendment to Sub. S.B. 300, a bill making changes to the operations of the Ohio Treasurer of State (TOS). The amendment moves the custodial responsibilities over each state retirement systems' funds and investments from the TOS to their respective state retirement system board. The amendment also transfers the custodial responsibilities over the Ohio Retirement Study Council's (ORSC) funds from the TOS to the ORSC.

The amendment is an update to AM-136-2046-1, which was recommended for approval by the ORSC at its June 11, 2026, meeting. That version of the amendment did not move the custodial responsibilities of Ohio Public Employees Deferred Compensation Program funds and investments from the TOS to the Public Employees Retirement System (PERS) Board, resulting in assets being split between the PERS Board and TOS. AM-136-2046-2 addresses this by moving those deferred compensation program funds to the custody of the PERS Board and is consistent with the ORSC's recommendation made at its June 11, 2026, meeting.

Background

The TOS is the custodian of the funds of each of the five state retirement systems. The TOS selects the banks that will serve as the custodians for systems' assets. For over two decades, various ORSC consultants have repeatedly recommended that Ohio law be amended to grant the retirement systems the authority to select, contract with, manage, and terminate the financial institutions that will provide master custody services to the systems.[1] In general, the consultants describe the retirement systems' lack of direct control of the custodial bank as an "optimization of the suboptimal." Modifying the custodial relationship has been a standing recommendation in the annual ORSC report since 2006 and was unanimously reaffirmed by the ORSC in 2014.[2] Most recently, the ORSC approved an amendment that would implement this recommendation at its June 11, 2026, meeting. The retirement systems' boards have a fiduciary duty to their respective retirement systems.[3]

According to ORSC's consultants, Ohio is one of only four states where the state treasurer selects the custodial bank for state retirement system defined benefit plans

[1] See, for example, the five most recent fiduciary audits: SERS (2016), PERS (2019), STRS, (2022), OP&F (2022), and HPRS (2023). Available online at: https://orsc.org/reports/search?11&pageSize=10&start=1&sort=NewToOld&reportCategory=2&reportType=19.

[2] Jeffery A. Bernard, "List of Previously Raised Recommendations/Actions" (November 3, 2014), page 4. Available online at: https://orsc.org/Assets/EventFiles/289.pdf.

[3] R.C. 145.11, 742.11, 3307.15, 3309.15, and 5505.06.

(Iowa, Ohio, Pennsylvania, and Tennessee).[4] This is considered a lagging practice. The amendment would move the custodial responsibilities over each state retirement systems' funds and investments from the TOS to each retirement system board, putting into effect this long-standing recommendation and aligning Ohio law to best practices.

As custodian, the TOS is required to follow certain depository, collateralization, and other requirements applicable to the Uniform Depository Act.[5] The amendment addresses this by requiring that each board use only the same types of financial institutions to deposit retirement funds as the TOS must use to deposit other funds under the Uniform Depository Act. Likewise, as custodian, the TOS may use an institution that qualifies to act as a trustee under the Uniform Depository Act for purposes of the deposit of investments for safekeeping. The amendment addresses this by authorizing each board to use only the same types of institutions to deposit the board's investments as the TOS currently may use for those investments.

Staff Comments

AM-136-2046-2 would align state law with recommendations that have been made not just by the ORSC, but also by various ORSC consultants in every fiduciary audit conducted.[6] According to ORSC consultants, "the lack of authority for the [boards] to select the custodial banks is a lagging practice, as is the lack of authority for [system staff] to directly manage the custodial bank relationship on a day-to-day basis."[7] The amendment would result in a custodial model that is more consistent with best practices.

Note that in the most recent fiduciary audit of the Highway Patrol Retirement System (HPRS), the consultant stated that "with the more limited resources at HPRS, and the thoughtful and effective selection and oversight process utilized by the Treasurer of State staff, [the current model of TOS selection] could be considered an effective practice for HPRS."[8] The consultant reached this conclusion under the current operating practices at TOS, recommending that the current "constructive and collaborate approach" be developed into a Memorandum of Understanding for the "current policies and procedures with respect to selection and oversight of the custodial bank."

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[4] "Funston Advisory Services, "2023 Fiduciary Performance Audit of the Ohio Highway Patrol Retirement System," page 21. Available online at: https://orsc.org/Assets/Reports/1559.pdf.

[5] R.C. Chapter 135.

[6] The first 10-year fiduciary performance audits required under R.C. 171.04(F) were completed in 2006 (STRS and OP&F).

[7] Funston Advisory Services, "2022 Fiduciary Performance Audit of the State Teachers Retirement System of Ohio," page xvii. Available online at: https://orsc.org/Assets/Reports/1503.pdf.

[8] "Funston Advisory Services, "2023 Fiduciary Performance Audit of the Ohio Highway Patrol Retirement System," pages xviii and 21. Available online at: https://orsc.org/Assets/Reports/1559.pdf.

ORSC Custodial Responsibility

The amendment would transfer the custodial responsibilities over the Council's funds from the TOS to the Council. As ORSC funds derive from the systems, the ORSC recommend they be treated the same.

TOS Payments to the Ohio Police and Fire Pension Fund (OP&F)

The amendment repeals certain additional payments to certain benefit recipients in OP&F. These sections are no longer necessary as the ORSC understands these payments to be historic and no longer made.[9]

Staff Recommendation

The ORSC and various ORSC consultants have consistently recommended that Ohio law be amended to grant the retirement systems the authority to select, contract with, manage, and terminate the financial institutions that will provide master custody services to the systems. Based on these recommendations, the ORSC recommend that the General Assembly recommend approval of AM-136-2046-2.

[9] R.C. 742.3712, 742.361, 742.362, and 742.374.