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Analysis

Am. Sub. H.B. 158 - Rep. Schuring (As Passed by the Senate)

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ORSC Position

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Am. Sub. H.B. 158 would make the following changes to the Law Enforcement Division of the Public Employees Retirement System (PERS-LE):

- Move full-time regional transit authority police officers and state highway patrol police officers to PERS-LE.

Currently, membership in PERS-LE is limited to sheriffs, deputy sheriffs, township constables and police officers, drug agents, department of public safety enforcement agents, park officers, forest officers, wildlife officers, state watercraft officers, preserve officers, natural resources law enforcement staff officers, park district police officers, conservancy district officers, full-time municipal police officers not in OP&F, Ohio veterans' home police officers, special police officers for mental health institutions, special police officers for institutions for the mentally retarded and developmentally disabled, state university law enforcement officers, Hamilton County Municipal Court bailiffs; House sergeant-at-arms, and assistant House sergeants-at-arms.

- Permit all members of PERS-LE except Hamilton County municipal court bailiffs and those whose primary duties do not include preserving the peace, protecting life and property, and enforcing the laws of their jurisdiction to retire at age 48 with 25 years of service without a reduction in benefits.

Under current law, only sheriffs, deputy sheriffs, and township constables and police officers are permitted to retire at age 48 with 25 years of service without a reduction in benefits. All other members of PERS-LE are not eligible for normal age and service retirement until age 52 with 25 years of service. However, they are eligible to retire with a reduced benefit at age 48 with 25 years of service.

- Establish the employee contribution rate for all members of PERS-LE except Hamilton County municipal court bailiffs at 10.1%. Under the bill, the employee contribution rate for Hamilton County municipal court bailiffs would remain unchanged.

Currently, the contribution rate for members of PERS-LE who are eligible to retire with full benefits at age 48 is 10.1%. The contribution rate for all other members of PERS-LE is currently 9.0%.

- Make survivorship coverage eligible immediately upon employment.

Current law requires members of PERS-LE to have at least eighteen months of service credit before their surviving spouses are eligible to receive survivorship benefits.

- Allow all members of the Law Enforcement Division to be eligible to receive the enhanced refund upon termination of employment.

Currently, members who are eligible to retire at age 48 with 25 years of service (sheriffs, deputy sheriffs, and township constables and police officers) are not eligible to receive the enhanced refund upon termination of employment.

Staff Comments

Regional transit authority police officers and state highway patrol police officers moved to PERS-LE - The law enforcement division of PERS was created by the Ohio General Assembly

in 1975 (H.B. 1312, eff. 3-4-75). The General Assembly recognized that certain law enforcement officers deserved special retirement benefits due to the nature of their employment. At that time only sheriffs and deputy sheriffs were included in the law enforcement division, which allowed them to remain members of PERS, but to retire with benefits similar to those provided by the Ohio Police and Fire Pension Fund (OP&F) and the Highway Patrol Retirement System (HPRS).

One rationale for creating a separate program for sheriffs and deputy sheriffs rather than moving them to OP&F or HPRS was the concern that they might not have the career security that would enable them to attain the required number of years of law enforcement service needed to receive an age and service benefit due to the fact sheriffs are elected officials and, at that time, few sheriff departments had civil service protection. Although only employment as a law enforcement officer may be counted for purposes of retirement under the law enforcement division, the division has a special “back up” provision for members who do not have enough years of law enforcement service to qualify for law enforcement benefits. If law enforcement personnel do not have enough years of law enforcement service to qualify for PERS-LE benefits, they are eligible to retire under the general employees PERS program, which requires only five years of service to qualify for a benefit.

Township constables and police officers were the second group of employees to be moved to the law enforcement division of PERS (H.B. 509, eff. 12-27-79). Prior to their move, the ORSC studied whether they should be transferred to PERS-LE or OP&F. The study concluded there were “no sufficiently important distinctions between the work of members of [OP&F] and the Sheriffs/Deputy Sheriffs program to justify one program or the other as more appropriate for township police. Municipal police, deputy sheriffs, and township police are all peace officers. They are required to have the same basic training; their powers and duties are similar. (*Pension Benefits for Township Police, May 1979, p. 7*) The study concluded that township constables and police officers should be included in PERS-LE rather than OP&F because a large number of them may need regular PERS coverage to qualify for a benefit and the benefits (with the exception of survivor and disability coverage) in PERS-LE were better than those in OP&F at that time.

The original intent of the law enforcement program was to provide benefits for law enforcement officers whose duties and training were similar to those of police officers, but who, at that time, did not have the career security needed to receive a retirement benefit from OP&F. The first groups of employees eligible for benefits under the law enforcement division (sheriffs, deputy sheriffs, and township constables and police) were required to have as primary duties preserving the peace, protecting life and property, and enforcing the laws of the state. As later groups have been added to the division, the emphasis for eligibility has shifted from the primary duties of the employee to the type of training the employee has received. While the training of a member of the law enforcement division is important, it is the duties of the officer of preserving the peace, protecting life and property, and enforcing the laws of their jurisdiction that justify a higher benefit formula and lower retirement age.

Sub. H.B. 158 would move regional transit authority police officers and state highway patrol police officers to PERS-LE. These employees currently are members of the general employees division of PERS. The bill would allow current regional transit authority police officers and state highway patrol police officers to make an election within 90 days of the bill’s effective date to retire under the general employees division of PERS or the law enforcement division. Individuals employed in those positions after the effective date of the bill automatically would be members of the law enforcement division.

Pursuant to R.C. §306.35, regional transit authority police officers have the power and duty to act

as peace officers within transit facilities owned, operated, or leased by the transit authority to protect the transit authority's property and the person and property of passengers, to preserve the peace, and to enforce all laws of the state and ordinances and regulations of political subdivisions in which the transit authority operates. Similarly, state highway patrol police officers are empowered pursuant to R.C. §5503.09 to preserve the peace and enforce the laws of the state with respect to persons and property under their jurisdiction and control. Both groups are also required to complete peace officer basic training. This is consistent with most of the other groups who are currently in PERS-LE.

The following persons are required by R.C. §109.77 to have a certificate awarded by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program in order to receive an original appointment on a permanent basis:

- A peace officer of any county, township, municipal corporation, regional transit authority, or metropolitan housing authority;
- A natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer of the department of natural resources;
- An employee of a park district under section 511.232 [511.23.2] or 1545.13 of the Revised Code;
- An employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code;
- A state university law enforcement officer;
- A special police officer employed by the department of mental health pursuant to section 5119.14 of the Revised Code or the department of mental retardation and developmental disabilities pursuant to section 5123.13 of the Revised Code;
- An enforcement agent of the department of public safety whom the director of public safety designates under section 5502.14 of the Revised Code;
- A special police officer employed by a port authority under section 4582.04 or 4582.28 of the Revised Code.
- An Ohio veterans' home police officer designated under Revised Code section 5907.02.

Additionally, there are other groups of employees who are required by other sections of the Revised Code to complete a peace officer basic training program. For example, state highway patrol police officer and House sergeant-at-arms are not required by R.C. §109.77 to obtain a peace officers basic training certificate, but they are required to complete peace officer basic training pursuant to R.C. §5503.09 and R.C. §101.311, respectively.

Many of the employees covered by the law enforcement division of PERS also are covered by the Ohio Public Safety Officers Death Benefit Fund (DBF). The DBF is designed to provide income protection for the survivors of public employees in occupations that are potentially life-threatening on a day-to-day-basis. Although not all covered employees are required to complete peace officer basic training, they are all involved in public safety and potentially life-threatening occupations. However, not all employees covered by the DBF are eligible for law enforcement retirement benefits.

The following chart indicates which employees are covered by the DBF and which of those are also members of PERS-LE:

Death Benefit Fund	PERS-LE
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member of the Ohio police and fire pension fund	
member of the state highway patrol retirement system	
a county sheriff	sheriffs
deputy sheriff	deputy sheriffs
a full-time regular police officer in a municipal corporation or township	township constables and police officers, municipal police officers not in OP&F
a full-time regular firefighter employed by the state, an instrumentality of the state, a municipal corporation, a township, a joint fire district, or another political subdivision	
a full-time park district ranger or patrol trooper	park district police officers
a full-time law enforcement officer of the department of natural resources	forest officers, preserve officers, wildlife officers park officers, state watercraft officers, natural resources law enforcement staff officers
a full-time department of public safety enforcement agent	department of public safety enforcement agents
a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation	
a full-time law enforcement officer of a conservancy district	conservancy district officers
a correction officer at an institution under the control of a county, a group of counties, a municipal corporation, or the department of rehabilitation and correction	
a state university law enforcement officer	state university law enforcement officers
or a member of a retirement system operated by a municipal corporation who at the time of death was a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of the municipal corporation	
	drug agents
	Ohio veterans' home police officers
	special police officers for mental health institutions
	special police officers for institutions for the mentally retarded and developmentally disabled

Reduction in normal retirement age - Generally, the PERS-LE program, OP&F, and HPRS have maintained similar eligibility requirements and benefit levels for retiring law enforcement and safety personnel. These retirement programs provide for earlier retirement ages and higher benefit formulas than the state pension plans covering non-uniformed employees (PERS, STRS, SERS).

The following chart provides a comparison of OP&F, HPRS, PERS-LE Group A¹, PERS-LE Group B², and the regular division of PERS:

	OP&F	HPRS	PERS-LE GROUP A	PERS-LE GROUP B	PERS
Normal Age and Service Retirement	Age 48 with 25 or more years of service (YOS), age 62 with 15 or more YOS	Age 48 with 25 or more YOS, age 52 with 20 or more YOS	Age 52 with 25 or more YOS, age 62 with 15 or more YOS	Age 48 with 25 or more YOS, age 62 with 15 or more YOS	Age 65 with 5 or more YOS, any age with 30 or more YOS
Early Retirement	Not applicable	Age 48 with 20 but less than 25 YOS	Age 48 with 25 or more YOS	Not applicable	Age 60 with 5 or more YOS
Benefit Formula	2.5% x final average salary (FAS) x 20 YOS; 2% x FAS x next 5 YOS; 1.5% x FAS x YOS over 25	2.5% x FAS x first 20 YOS; 2.25% x next 5 YOS; 2.0% x YOS over 25	2.5% x FAS x 25 YOS; 2.1% x FAS x YOS over 25	2.5% x FAS x 25 YOS; 2.1% x FAS x YOS over 25	2.2% x FAS x 30 years; 2.5% x FAS x YOS over 30
Employee Contribution	Police: 10.00% Fire: 10.00%	9.50%	9.00%	10.10%	State: 8.50% Local: 8.50%

¹PERS-LE Group A consists of all members of PERS-LE except sheriffs, deputy sheriffs, and township constables and police officers.

²PERS-LE Group B consists of sheriffs, deputy sheriffs, and township constables and police officers.

	OP&F	HPRS	PERS-LE GROUP A	PERS-LE GROUP B	PERS
Employer Contribution	Police: 19.50% Fire: 24.00%	23.50%	16.70%	16.70%	State: 13.31% Local: 13.55%
Coverage for Survivors of Active Members	Survivor eligible at any age	Survivor eligible at any age	Survivor eligible at age 62 unless member had dependent children, member had 10 YOS, or spouse is adjudged mentally or physically incompetent.	Survivor eligible at age 62 unless member had dependent children, member had 10 YOS, or spouse is adjudged mentally or physically incompetent.	Survivor eligible at age 62 unless member had dependent children, member had 10 YOS, or spouse is adjudged mentally or physically incompetent.

The normal retirement age was reduced from 52 to 48 with 25 years of service for members of OP&F in 1988 (H.B. 389 eff. 9-9-88) and for members of HPRS in 1989 (H.B. 340 eff. 11-2-89). The normal retirement age was lowered in 2000 from 52 to 48 with 25 years of service for sheriffs, deputy sheriffs, and township constables and police officers in PERS-LE (H.B. 416, eff. 01-01-01). This provision would maintain the traditional parity among the PERS-LE, OP&F and HPRS retirement programs in this regard.

The only group currently in PERS-LE who would not be eligible to retire at age 48 would be the Hamilton County municipal court bailiffs. Under the bill they would not be considered law enforcement officers and their normal retirement age would remain at 52 with 25 years of service, although they still would be able to retire with a reduced benefit at age 48 with 25 years of service. However, they would still be required to have as their primary duties to preserve the peace, to protect life and property, and to enforce the laws of the state.

Currently the Hamilton County Clerk of Courts requires all Hamilton County *criminal* municipal court bailiffs to complete peace officer basic training. Hamilton County *civil* municipal court bailiffs are not in PERS-LE because they are not required to complete peace officer basic training and do not have as their primary duties to preserve the peace, to protect life and property, and to enforce the laws of the state. Revised Code section 145.01 requires the bailiffs in the law enforcement division to complete a “peace officer training school as required by division (C) of section 109.77 of the Revised Code.” It appears this is a mistake and should read “as required by division (D) of section 109.77.” Division (D) requires them to complete a basic training course

for bailiffs.³

Peace Officer Basic Training

The requirements for the peace officer basic training program are adopted by the Peace Officer Training Commission. Currently, the Commission requires applicants to complete a minimum of 550 hours in order to receive a peace officer basic training certificate. The current basic training includes the following topics:

TOPIC	REQUIRED HOURS
Administration	21
Legal	77
Human Relations	76
Firearms	60
Driving	24
Subject Control	34
First Aid	16
Patrol	49
Civil Disorders	17
Traffic	91
Investigation	55
Physical Conditioning	30
Total	550

Bailiff Training

The Peace Officer Training Commission also is responsible for adopting training requirements for bailiffs. The current training for bailiffs includes 160.5 hours in the following topics:

TOPIC	REQUIRED HOURS
Administration	14

³Hamilton County Bailiffs were moved to PERS-LE by H.B. 379 (eff. 11-6-96). When H.B. 379 was first introduced, division (C) of section 109.77 required bailiffs to receive a certificate attesting. Prior to the passage of H.B. 379, R.C. 109.77 was amended by H.B. 566 (eff. 10-16-96), which renumbered division (C) to division (D). This change was not made in H.B. 379.

Legal	8
Human Relations	7.5
Firearms	43
Defensive Tactics	44
Medical Issues	8
Investigation	4
Introduction to Court Security	4
General Court Security Issues	16
Physical Security & Screening	2
Jury Procedures	3
Emergency Procedures & Special Considerations	4
High Risk Trials	3
Total	160.5

Corrections Officers

The training required for corrections officers depends on whether the officer is employed at a state corrections facility or a local jail.

State Corrections Officer Training

In order to be employed as a corrections officer at a state facility, an individual is required to complete training established by the Department of Rehabilitation and Corrections (DRC). The DRC requires all staff at state facilities (including corrections officers) to complete a three week training course at the Corrections Training Academy, one week at the institution where they will be working for orientation and two weeks at the institution for on-the-job-training. In addition, corrections officers spend an additional week at the Academy receiving training in unarmed self-defense and firearms certification. According to officials at the Corrections Training Academy, corrections officers receive approximately 120 hours of training during that time period. The training for corrections officers consists of the following major areas:

TOPIC	REQUIRED HOURS (APPROX)
Administration	19

Safety and Health	7
Mental Health	8
Communications and Relations	12
Physical Skills	55
Security	27
Total	128

Ohio Peace Officer Training Commission Corrections Basic Training for Local Jails

The Peace Officer Training Commission establishes the training curriculum for corrections basic training for local jails. The curriculum requires corrections officers at local jails to have 120 hours training in the following subjects:

TOPIC	REQUIRED HOURS
Training Overview & Orientation	1
Legal	17
Jail Security	26
Human Relations	26
Special Inmate Needs	19
Technical Skills	31
Total	120

OP&F Police Officer Training

Police officers covered by OP&F are required to complete, at a minimum, peace officer basic training. However, local police departments are free to require additional training for their police officers. For example, the Cincinnati police department requires a total of 880 hours of training at the Cincinnati Police Academy.

Highway Patrol Training

By way of comparison, the training requirements for Ohio State Troopers, who are members of HPRS, are more stringent than those required in order to receive a peace officer training certificate. State Trooper Cadets are required to complete a 37 week course at the Ohio State

Highway Patrol Academy. The training is separated into three parts: (1) cadet training (24 weeks), (2) on-the-job field training (12 weeks), and (3) post graduate training (1 week). The cadet training consists of the following:

TOPIC	REQUIRED HOURS
Administration	210
Legal	57
Human Relations	71
Firearms	103
Driving	48
Investigations	45
Crash Investigation	71
Patrol	105
Traffic Enforcement	97
Civil Disorders	25
Unarmed Self-Defense/Officer Safety	95
Prisoner Booking and Handling	2
First Aid	16
Physical Conditioning	72
Total	1,017

Survivorship Coverage - The bill would provide survivorship coverage to surviving spouses of members of PERS-LE immediately upon employment. Currently, members of PERS-LE, like members of the state and local divisions of PERS, must have at least eighteen months of service credit in order for their spouses to be eligible for survivorship coverage. The change in eligibility is consistent with OP&F and HPRS.

Employee contribution rate - When the normal retirement age was lowered in OP&F (H.B. 389) and HPRS (H.B. 340), the employee contribution rate was increased as part of the funding of the additional liabilities created under those bills. The employee contribution rate was increased from 9.5% to 10% for police and firefighters and from 9% to 10.5% for state troopers. Additionally, when the normal retirement age for sheriffs, deputy sheriffs, and township

constables and police officers was lowered to age 48 with 25 years of service, the employee contribution rate for those members was increased to pay for the additional liability created by the change (H.B. 416). At that time the employee contribution rate for those law enforcement officers was set at 1.1% higher than the employee contribution rate for all other members of PERS-LE, which raised it from 9.0% to 10.1%. The 1.1% increase was the additional amount necessary, when combined with the employer rate of 16.7%, to fund the cost of the additional liability.

Enhanced refund for all law enforcement personnel - Last session S.B. 144 (eff. 9-14-00) was enacted, which provided an enhanced refund to members of PERS who withdrew their contributions upon termination of employment. That bill allowed members to receive annual compound interest on their contributions. Members with at least five years of service but less than ten years of service receive an additional 33% of the member's "eligible contributions," while members with at least ten years of service receive an additional 67% of the member's "eligible contributions." However, sheriffs, deputy sheriffs, and township constables or police officers who would be eligible to retire with full benefits prior to age 52 were excluded from this provision. (This provision was clarified in H.B. 535, eff. 3-15-01.)

As introduced, the bill would have made all PERS-LE members eligible to receive an enhanced refund upon termination of employment except sheriffs, deputy sheriffs, and township constables and police officers. As amended in the Senate Ways and Means Committee, H.B. 158 would eliminate this distinction and allow all members of the law enforcement division to be eligible to receive the enhanced refund upon termination of employment.

Fiscal Impact

See the attached actuarial analysis prepared by Milliman USA.

ORSC Position

At its meeting of June 13, 2001, the Ohio Retirement Study Council voted to recommend that the 124th General Assembly approve H.B. 158 upon the adoption of the following amendments:

- Offer current members of PERS-LE Group A listed in this bill the option of remaining under the current retirement provisions of normal retirement at age 52 with 25 years of service with the enhanced refund provision or moving to Group B which allows normal retirement at age 48 with 25 years of service but no enhanced refund provision.
- Statutorily require all members of PERS-LE to complete peace officer basic training in order to be members of PERS-LE and allow all members of PERS-LE to retire at age 48 with 25 years of service if they are required to have as their primary duties to preserve the peace, to protect life and property, and to enforce the laws of their jurisdiction, as certified by their employer. All current members of PERS-LE in this bill meet these

criteria except Hamilton County municipal court bailiffs who are not statutorily required to complete peace officer basic training.

- Make PERS-LE survivor coverage eligible immediately upon employment. This is consistent with the provisions of the other two uniformed systems.

These amendments were incorporated into the bill in the House Retirement and Aging Committee on June 13, 2001 and the Senate Ways and Means Committee on October 2, 2001.

At the October 11, 2001 Senate Ways and Means Committee meeting, the bill was amended to allow all members of PERS-LE to be eligible to receive an enhanced refund upon termination of employment.

Effective Date

February 1, 2002