



The Ohio Retirement Study Council  
88 East Broad Street, Suite 1175  
Columbus, OH 43215-3506  
Phone: (614) 228-1346  
Fax: (614) 228-0118  
Website: [www.orsc.org](http://www.orsc.org)

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# *Analysis*

## **Sub. S.B. 342 – Sens. Niehaus and Kearney (As Enacted)**

**September 19, 2012**

**Staff Recommendation**

**Anne Erkman - Contact Person  
(614) 228-1346**

Sub. S.B. 342 makes the following changes to the laws governing the State Teachers Retirement System (STRS) in order to ensure the continued solvency of the retirement system:

- Increase the employee contribution rate from the current range of 8-10% to a maximum of 14%. (R.C. §3307.26)
- Change the retirement eligibility for members who retire on or after 8-1-15 and give the board the authority to change retirement eligibility. (R.C. §3307.58)
- Change the benefit accrual rate for members with a retirement date on or after 8-1-15. (R.C. §3307.58)
- Include in the definition of “teacher” any person having a teaching license and performing services that are funded under R.C. §3317.06 without regard to whether the services are performed in a public school and whether the person is employed under a contract with a third party. (R.C. §3307.01)
- Increase from three to five the number of years used to determine final average salary (FAS) for benefits beginning on or after 8-1-15. (R.C. §3307.501)
- Make changes to the Cost of Living Allowance (COLA) for current and future retirees and give the board the authority to establish the COLA amount. (R.C. §3307.67, Section 7)
- Require members to pay the full actuarial liability created by purchasing service credit in most cases. (R.C. §§3307.54, 3307.70, 3307.701, 3307.73, 3307.74, 3307.741 3307.751, 3307.76, 3307.77, 3307.771, 3307.78)
- Eliminate the early retirement incentive program effective 7-31-14. (R.C. §3307.54)
- Change the amount transferred to the Ohio Public Employees Retirement System (OPERS) or the School Employees Retirement System (SERS) when STRS members retire from either of those systems. (R.C. §§3307.57, 3307.751)
- Provide for interest and matching funds on any contributions that were made to restore previously refunded service credit if the member terminates services and takes another refund and prohibit a member who returned to employment after receiving a disability benefit and then elects to take a refund of contributions from eligibility for enhanced refund. (R.C. §3307.562)
- Make changes to the disability provisions. (R.C. §§3307.48, 3307.57, 3307.58, 3307.59, 3307.62)

- Create a separate “health care fund;” make reimbursement of Medicare Part B monthly premium and access to long-term health care discretionary instead of mandatory; allow the board to set the Medicare Part B reimbursement rate within a specific range. (R.C. §§3307.14, 3307.143, 3307.39, 3307.391)
- Allow the system to suspend a benefit under specific circumstances. (R.C. §§3307.42)
- Make changes to the re-employment provisions for retirees. (R.C. §§3307.35, 3307.351, 3307.352)
- Make changes to eligibility provisions for survivor benefits for active members. (R.C. §3307.66)
- Require a member who designates two or more beneficiaries to specify the percentage each is to receive. (R.C. §§3307.562, 3307.60)
- Make changes to the Defined Contribution Plan. (R.C. §§3307.25, 3307.84)
- Make changes to requirement to serve on board; require board to take certain actions; allow board to appoint additional members to audit committee. (R.C. §§3307.04, 3307.044, 3307.061)
- Include a member’s email address in the definition of “personal history record” and prohibit releasing medical reports to the individual concerned. (R.C. §3307.20)
- Allow for the recovery of overpayments. (R.C. §3307.47)
- Exclude certain payments from compensation. (R.C. §3307.01)
- Require the ORSC to study and make recommendations, within 90 days of the effective date of the bill, regarding the board’s authority to reduce the employee contribution rate to less than 14%, adjust retirement eligibility requirements, and adjust the COLA. (Section 6)
- Delay the effective date for the bill until January 7, 2013, with the following exceptions: the provisions regarding the board’s authority to reduce the employee contribution rate to less than 14% for compensation earned on or after 7-1-13, adjust retirement eligibility requirements and adjust the COLA would be delayed an additional 180 days after the bill’s effective date and the provision repealing the retirement incentive plans would be delayed until July 31, 2014. (Sections 3, 4, 5)

**Background**

Pursuant to Senate Bill (S.B.) 82 (eff. 12-6-1996), each retirement system whose funding period exceeds 30 years in any given year is required to submit to the Ohio Retirement Study Council (ORSC) and the standing committees of the Ohio House of Representatives and Senate with primary responsibility for pension legislation a plan approved by the retirement board that reduces the funding period to no more than 30 years, along with any progress made by the board in meeting the 30-year funding period. This standard was modeled after the national standard adopted by the Governmental Accounting Standards Board for all governmental pension plans. The change was intended to maintain inter-generational equity among taxpayers and system members by limiting the ability to fund benefit costs by extending the funding period beyond 30 years.

In 2003, the ORSC voted to have its actuary, Milliman USA, review the adequacy of the contribution rates in all five retirement systems. That report, which was updated in 2004, generally concluded that in the case of the Ohio Police and Fire Pension fund (OP&F) and STRS one or more of the following actions would need to occur to achieve compliance with the 30-year funding requirement: contribution limits increased; mandated pension benefits reduced; state subsidies provided; and/or contributions reallocated from discretionary health care benefits to mandated pension benefits.

Given the severe decline in investment market values since the end of fiscal year 2008 and the need to begin evaluating options to address this situation proactively, the Council approved a motion to have staff work with OP&F on December 10, 2008, on March 11, 2009 with STRS, and on April 8, 2009 with PERS, SERS, and HPRS. All five systems, in consultation with the ORSC, developed legislative proposals that would reduce their unfunded actuarial accrued liability periods

STRS, SERS, OP&F, and HPRS presented their board-approved funding plans at the September 9, 2009 ORSC meeting. PERS presented its board-approved plan at the December 9, 2009 ORSC meeting. Both STRS and OP&F presented updated plans in early 2011. Sub. S.B. 342 contains the STRS board approved plan.

In 2011, the ORSC hired Pension Trustee Advisors and KMS Actuaries (PTA/KMS) to complete a review of the boards’ plans and make recommendations related to pension reform. PTA/KMS presented its review at the July 11, 2012 ORSC meeting. They found that the plans are a major positive step and generally meet the goals of funding the systems within the 30-year maximum period while providing reasonable health care benefits at no increased cost to taxpayers.

**Staff Comments**

**Contributions** – (R.C. §3307.26) Sub. S.B. 342 increases the employee contribution rate from the current range of 8-10% to a maximum of 14% based on the following schedule:

<b>Date Compensation Earned</b>	<b>Employee Contribution Rate</b>
Not later than 6-30-13	10%

7-1-13 to 6-30-14	11%
7-1-14 to 6-30-15	12%
7-1-15 to 6-30-16	13%
On or after 7-1-16	14%

The bill allows the board to reduce the employee contribution rate on or after 7-1-17 if the board’s actuary determines in its annual actuarial valuation or any evaluation required by statute that a reduction in the rate would not materially impair the fiscal integrity of the retirement system.

This change is generally consistent with the 2012 PTA/KMS report and the 2004 Milliman report.

**Retirement Eligibility** – (R.C. §3307.58) The bill changes the retirement eligibility for members who retire on or after 8-1-15.

<b>Current Law</b>	<b>SUB. S.B. 342</b>
<p><b>Normal age and service:</b> 30 Years of Service (YOS) at any age <u>or</u> Age 65 w/ 5 YOS.</p> <p><b>Early retirement (reduced benefit):</b> Age 55 w/ 25 YOS <u>or</u> Age 60 w/ 5 YOS.</p>	<p><b>Normal age and service:</b> Age 65 w/ 5 years of qualifying service*</p> <p style="text-align: center;">OR</p> <p>Before 8-1-15: 30 YOS at any age              8-1-15 to 7-31-17: 31 YOS at any age              8-1-17 to 7-31-19: 32 YOS at any age              8-1-19 to 7-31-21: 33 YOS at any age              8-1-21 to 7-31-23: 34 YOS at any age              8-1-23 to 7-31-26: 35 YOS at any age              8-1-26 and after: Age 60 w/ 35 YOS</p> <p><b>Early retirement (reduced benefit):</b> Age 60 w/ 5 years of qualifying service*</p> <p style="text-align: center;">OR</p> <p>Before 8-1-15: Age 55 w/ 25 YOS              8-1-15 to 7-31-17: Age 55 w/ 26 YOS or 30 YOS at any age              8-1-17 to 7-31-19: Age 55 w/ 27 YOS or 30 YOS at any age              8-1-19 to 7-31-21: Age 55 w/ 28 YOS or 30 YOS at any age              8-1-21 to 7-31-23: Age 55 w/ 29 YOS or 30 YOS at any age              8-1-23 and after: 30 YOS at any age</p>

\*Qualifying service is defined as service for which contributions were made to STRS, PERS, or SERS, credit restored under STRS, PERS, or SERS, and credit transferred to STRS from OP&F, HPRS, or the Cincinnati Retirement System (CRS).

The bill provides that the normal benefit for members who retire prior to normal age and service retirement eligibility on or after 8-1-15 would be reduced to the actuarial equivalent of the member's normal age and service retirement allowance, as determined by the board's actuary. Current law provides for the benefit to be reduced based on statutory schedule that has no correlation between the reduction factors and the actuarial impact of early retirement.

As part of the report of the Joint Legislative Committee to Study Ohio's Public Retirement Plans (JLC) dated December 11, 1996, three of the recommendations included therein, but not acted upon by the legislature, were: (1) that the normal retirement age of 65 should be increased in tandem with Social Security for PERS, STRS, and SERS, the 30-year service requirement should be increased at the same rate, and benefits prior to normal retirement age or service should be reduced; (2) the normal retirement age in the uniformed employee systems should be increased from 48 to 52 with a four-year phase-in and benefits prior to normal retirement age should be reduced; and (3) the statutory reduction rates for early retirement should be repealed and reduction rates for early retirement should be determined on an actuarial basis in all five systems.

These recommendations were made in response to the continual improvements in life expectancies experienced among the memberships of all five retirement systems in Ohio, which directly increase each retirement system's benefit costs, including post-retirement health care costs.

The provisions of Sub. S.B. 342 that increase retirement eligibility are generally consistent with the recommendations from the 1996 JLC report, the 2004 Milliman report, and the 2012 PTA/KMS report.

Further, the bill allows the board to adjust the retirement eligibility requirements if the board's actuary finds as part of the annual actuarial valuation or any other statutorily required evaluations, that an adjustment does not materially impair the fiscal integrity of the retirement system or is necessary to preserve the fiscal integrity of the system. The bill sets no limits nor provides for any legislative oversight of the changes, which is a cause for concern.

Current law provides the board with certain discretionary powers. For example, the board has the discretion to set the employee contribution rate within a limited range of 8–10%. Any increase above 10% requires legislative approval. The board also has the authority to increase the employer contribution rate up to a maximum of 14%. This gives the board the ability to make some changes within a set of legislatively-approved parameters. It also provides for transparency by ensuring public hearings and the opportunity for public input during the legislative process if the board wants to make changes outside of the established parameters. Without a statutory range, it would be difficult for a member to know what his or her eligibility for retirement could be. Not only is there decreased transparency caused by this provision, there is less of an opportunity for members to weigh in prior to changes as there is no requirement the board hold public hearings.

Another example in current law is the board authority to establish eligibility for health care coverage. However, health care coverage is different than a pension benefit because health care is a discretionary benefit as opposed to the mandatory nature of the pension obligation. The board needs the flexibility to manage its health care program due to the fact that pensions, by statute, must be funded first and the board is able to fund health care only with money not needed for pensions. Further, the system communicates to its members that they should not have the expectation they will receive health care coverage. There are, however, certain restraints on this such as the current requirement that the amount the board reimburses Medicare Part B recipients for the monthly premium must be within a range specified in statute.

While this board authority change gives the board increased authority in one area, it serves to limit their authority in other areas. This is because increasing the retirement eligibility requirements is only one way for the system to comply with the statutorily required 30-year funding period. Other options include decreasing the benefit formula, decreasing or eliminating the COLA, increasing employee and/or employer contribution rates. However, this provision would make increasing retirement eligibility requirements the only option available if the system’s actuary determines the funding period exceeds 30 years.

The expanded board authority must be considered in light of the authority given to the boards of the other four statewide retirement systems. The other pension reform bills pending in the legislature provide different board authority for each system. S.B. 340 gives the OP&F board the authority to increase employee contributions and retirement eligibility. S.B. 341 gives the SERS board the authority only to make changes to retirement eligibility. S.B. 343, on the other hand, gives the OPERS board no authority to make adjustments. Finally, S.B. 345 gives the HPRS board the authority to increase employee contributions within a range of 10-14% and they could increase the COLA up to a maximum of 3%.

The substitute version of the bill requires the ORSC to study and make recommendations, within 90 days of the effective date of the bill, regarding the board’s authority to adjust retirement eligibility requirements. This will allow the Council to determine the appropriate division of authority between the board and the Legislature and ensure consistency among all five statewide retirement systems. It also delays the effective date of this section until 180 days after the bill’s effective date, which would allow time to implement any ORSC recommended changes.

**Benefit Accrual Rate** – (R.C. §3307.58) The benefit accrual rate changes under this bill for members with a retirement date on or after 8-1-15.

<p align="center"><b>Current law and Member with retirement effective date 8-1-13 to 7-31-15*</b></p>	<p align="center"><b>Sub. S.B. 342 (Member with retirement date on or after 8-1-15)</b></p>
<p>Members w/ less than 35 YOS: 2.2 x FAS x first 30 YOS; plus <u>YOS</u> x <u>%</u></p>	<p>2.2% x FAS x YOS</p>

31	2.5	
32	2.6	
33	2.7	
34	2.8	
Member with 35 or more YOS: 2.5% x first 30 YOS; plus		
<u>YOS</u>	x	<u>%</u>
31		2.5
32		2.6
33		2.7
34		2.8
35		2.9
36		3.0
37		3.1
38		3.2
39		3.3

\*Members whose retirement effective date is prior to 8-1-13 would be able to include service credit that was given for time while they were on disability and for credit transferred from OP&F or HPRS in the YOS eligible for the enhanced benefits.

For example, a member who retires under current law with 35 YOS and FAS of \$40,000 would earn an annual benefit of \$35,400 [(2.5% x 30 YOS, + 2.5% +2.6% +2.7% + 2.8% +2.9%) x \$40,000). A member who retires with 35 YOS and FAS of \$40,000 under the new formula in Sub. S.B. 342 would earn a benefit of \$30,800 (2.2% x 30 x \$40,000).

This change is generally consistent with the 2012 PTA/KMS and 2004 Milliman reports.

The bill eliminates the \$86 minimum benefit calculation for each year of service and the alternative commuted service calculation effective 7-1-13. The commuted service calculation provides the retiree with a benefit of (1) an annuity with a reserve equal to the member’s accumulated contributions; (2) a pension of an equal amount; (3) an additional pension of \$40 multiplied by the number of years of prior and military service; and (4) an additional basic pension of \$180 if the member had at least 10 years of service as of 10-1-1956. Generally, the final average formula as detailed above provides the highest benefit.

The bill provides that a member who is age 60 with 5 or more years of Ohio service credit or is age 55 with 25 or more years of Ohio service credit or has 30 or more years of Ohio service credit will have their benefit calculated pursuant to current law. The member’s benefit would be the greater of the amount the member would have received if the member had retired effective 7-1-15 or the amount calculated under the new formula as of the date the member retires.

**Membership** – (R.C. §3307.01) Sub. S.B. 342 includes in the definition of “teacher” any person having a teaching license and performing services that are funded under R.C. §3317.06 (provides textbooks, services, and educational equipment to students at nonpublic schools) without regard to whether the services are performed in a public school and whether the person is employed under a contract with a third party.

The bill excludes from the definitions of “membership” and “contributor” the surviving spouse of a member or retiree if the surviving spouse’s only connection to the system is a STRS Defined Contribution (DC) account.

**Final Average Salary (FAS)** – (R.C. §3307.501) Current law defines FAS as the sum of 3 full calendar years of contributing service in which the member’s earnable salary was highest divided by 3. The bill increases from 3 to 5 the number of years used to determine final average salary for benefits beginning on or after 8-1-15. Current law would apply for all benefits that begin before 8-1-15. This change is generally consistent with the 2012 PTA/KMS and 2004 Milliman reports.

**Cost of Living Allowance (COLA)** - (R.C. §3307.67, Section 7) The bill eliminates the current annual 3% COLA retirees receive after receiving benefits for one year. Instead, the COLA would be reduced to 2% on or after 8-1-13. Further, the bill requires all retirees whose benefit begins on or after 8-1-13 to receive a benefit for 60 months before becoming eligible for a COLA. The exception to this is for a retiree whose benefit was immediately preceded by a disability benefit granted prior to that date that had been terminated. It also suspends the COLA during the period 7-1-13 through 6-30-14 to persons granted an allowance or benefit before 7-1-13. The bill provides no COLA increase on any allowance or benefit granted on 7-1-13 until 7-1-15. The COLA was last changed in 2002 from the lesser of the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) or 3% to a flat 3% annual COLA (H.B. 157; eff. 2-1-02)

This change is generally consistent with the 2012 PTA/KMS and 2004 Milliman reports.

The bill gives the board the authority to adjust the COLA if the board’s actuary, in the annual actuarial valuation or any other statutorily required evaluations, determines that an adjustment does not materially impair the fiscal integrity of the retirement system or is necessary to preserve the fiscal integrity of the system. The bill gives the board the authority to adjust the COLA if the board’s actuary, in the annual actuarial valuation or any other statutorily required evaluations, determines that an adjustment does not materially impair the fiscal integrity of the retirement system or is necessary to preserve the fiscal integrity of the system. The bill does not limit the amount of the increase. Although the ORSC would be required to study this authority pursuant to Section 6 of the bill, *we recommend that the board authority to adjust the COLA be limited up to a maximum of 3%.*

Additionally, the bill states the intent of the General Assembly and its findings regarding the need to change the COLA for all members and retirees. Those findings include the fact that current funding for the Defined Benefit (DB) plan is inadequate to pay benefits in the future and will eventually be unable to pay benefits if changes are not made. It would make clear that the intent of the General Assembly is to recognize, among other things, that no member has a legitimate expectation of any particular future COLA or payment of future COLAs at any particular time under Ohio law and that COLAs were

never meant to undermine the solvency of the DB plan or put at risk the benefit payments to current and future retirees.

**Purchase of Service Credit** - (R.C. §§3307.54, 3307.70, 3307.701, 3307.73, 3307.74, 3307.741 3307.751, 3307.76, 3307.77, 3307.771, 3307.78) Sub. S.B. 342 changes the purchase price for a number of types of service credit for purchases that will not be completed until on or after 1-1-14. The current purchase price would be used for all purchases completed not later than 12-31-13 or if the member is purchasing the credit through payroll deduction on the effective date of the bill, if at least one deduction has been made. If the member certified the service to be purchased with STRS by 12-31-13, the member has until 6-30-14 to complete the purchase at the current price.

<b>Type of Service</b>	<b>Current Purchase Price</b>	<b>Purchase Price Under Sub. S.B. 342</b>
Exempted service in PERS, STRS, or SERS (R.C. §3307.73)	Member salary for 12 months preceding purchase application x rate established by board	100% of the additional liability
Out-of-state (federal, state, or local) public or private teaching service and in-state private teaching service; out-of-state and federal service that would otherwise be covered by one of the Ohio pension funds; service covered under a municipal retirement system in this state [up to 5 years] (R.C. §3307.74)	<p>Member contribution for first year of full-time Ohio service following termination of service to be purchased, plus interest</p> <p>For members who establish membership on or after 7/1/89 or for members who have purchasable service that began on or after 7/1/89, cost is determined by the board at not less than 50% of the additional liability</p>	100% of the additional liability
Military service that does not interrupt employment (R.C. §3307.751)	<p>Member rate in effect when military service began multiplied by (x) salary for first year of full-time Ohio service following termination of military service, plus interest</p> <p>For members who establish membership on or after 7/1/89 or for members who have purchasable service that began on or after</p>	100% of the additional liability

Type of Service	Current Purchase Price	Purchase Price Under Sub. S.B. 342
	7/1/89, cost is determined by the board at not less than 50% of the additional liability	
Purchase of service from PERS or SERS (R.C. §3307.76)	Determined by the board at not less than 50% of the additional liability	100% of the additional liability
Leave of absence [when paid within the year of the leave, up to 2 years] (R.C. §3307.77)	Contributions member would have paid at rate in effect at time of leave	Contributions member would have paid at rate in effect at time of leave, plus compound interest at rate determined by board, unless paid during leave. (eff. 1-7-13)
Resignation due to pregnancy prior to 7/1/82 [up to 2 years] (R.C. §3307.771)	Member rate in effect at time absence began x salary for first year of full-time Ohio service following termination of absence, plus interest.	100% of the additional liability

The bill requires the board to adopt procedures to be followed when a member who is using payroll deduction to purchase service credit terminates service with that employer. The procedure would need to allow for the member to pay the balance of the cost in a single payment.

Sub. S.B. 342 also prohibits the purchase of out-of-state/Ohio municipal retirement covered service if that service was used for a benefit that was already paid and for 5 or more years in a DC plan if the contributions made to that DC plan were paid to the member or the member is not entitled to be paid those contributions. This is consistent with current law, which prohibits the purchase of this credit if it is used toward the calculation of another benefit, except Social Security.

The bill allows a member to purchase a total of up to five years of credit for military service that interrupted teaching rather than five years of credit for each period of interrupted service. It also allows a member participating in the STRS combined plan to purchase credit while on leave of absence.

Under the bill, survivors of active members able to obtain only credit in CRS, OP&F, or HPRS if the deceased member had service credit in any of those systems. Current law allows survivors to purchase any service credit the member would have been eligible to purchase had the member not died. Additionally, it ends the presumption that a member who dies with more than 29 years of service but less than 30 years of service has 30 years of service, effective 7-1-15.

Additionally, the bill eliminates the provision that allows employers to establish an early retirement incentive (ERI) program for employees, effective 7-31-14. Current law allows employers to establish an ERI and purchase a maximum of five years of service for a participating employee by paying the full actuarial liability that results from the purchase of service. Furthermore, under the bill, members would no longer be able to purchase out-of-state similar service as a teacher, out-of-state similar service as a public employee, and in-state or out-of-state private teaching service.

In 2007, the ORSC asked its actuary, Milliman, Inc., to complete a report on the cost of purchasing service credit. The report, entitled *Report Regarding Service Purchases Experience of the Five Ohio Retirement Systems During FY Ending 2005*, was presented at the March 14, 2007, ORSC meeting. The report revealed that the retirement systems subsidized the purchase of credit in nearly every case in 2005. This was true even for service credit for which the member was required to pay the full actuarial cost. The actuarial cost of service is dependent upon the member's final average salary, years of service, and age at retirement. None of these factors are known until a member retires. Therefore, the true actuarial cost of purchasing service can be known only at retirement. This raised the public policy issue of whether a member's purchase of service credit should be subsidized by the retirement system. When a member pays less than the full cost of the additional liability created by the purchase, an unfunded liability is created. This unfunded liability must be paid for out of employer contributions.

The purchase of credit creates two types of additional liabilities: pension and health care. Although pension benefits are set by statute and become vested once a member retires, health care is discretionary and, therefore, the additional health care liability will fluctuate as changes are made to the health care plan. As Milliman noted in the report, health care liabilities created by the purchase of service credit could be eliminated if the purchased service credit did not count toward eligibility for or the amount of health care benefits.

In response to that report, staff recommended and the Council approved at the 9-12-2007 ORSC meeting that:

1. The purchase price for all types of service should be the full actuarial liability resulting from the purchase of service credit, except as prohibited by federal law, and members should be required to retire within 90 days of purchasing service.
  - The rationale behind this change would end the current practice whereby all members of the system subsidize an individual member's purchase of service credit. It is also consistent with recent legislative changes that have required members to pay more of the additional actuarial liability resulting from the purchase of service credit.
2. Purchased credit should be prohibited from being counted for purposes of health care eligibility or subsidy.
  - As noted in the Milliman report, this would eliminate the additional health care liabilities created by the purchase of credit. This could be done via legislation or administrative rule.

This bill is consistent with those recommendations because it would require the member to pay the full additional liability resulting from the purchase. However, it does not require the member to retire within 90 days of purchasing the service nor does it address whether purchased credit may be used toward health care eligibility or subsidy. *Therefore, we recommend that the bill be amended to require the member to retire within 90 days of purchasing the credit and prohibit the credit from being counted for purposes of health care eligibility or subsidy.*

**Coordination of Benefits with PERS and SERS** - (R.C. §§3307.57, 3307.751)

Historically, public employees with service credit in any of the non-uniform systems (OPERS, STRS, SERS) have been able to coordinate their service credit and receive a benefit from the system in which they have earned the most service credit. The coordination occurs at retirement and the system from which the member retires receives twice the member's accumulated contributions from the other non-uniform system(s) in which the member has earned service credit. This allows for complete portability of service among the non-uniform system.

Sub. S.B. 342 changes the amount of money transferred to the non-uniform system paying the benefit from a non-uniform system in which the member has earned service credit. Under the bill, the system paying the benefit receives from the system in which service credit was earned the following amount: (1) the amount contributed by the member, or in the case of service credit purchased, the amount paid by the member that is attributable to the year of service; (2) an amount equal to the lesser of the employer's contributions made on behalf of the member or the amount that would have been contributed by the employer for the service had the member been a member of the system paying the benefit at the time the credit was earned; (3) if applicable, an amount equal to the amount paid on behalf of the member by an employer under R.C. §145.483 (delinquent contributions); and (4) interest compounded annually at the lesser of the actuarial assumption rate of STRS or the other system(s) transferring amounts,

The bill allows military service credit purchased under OP&F, HPRS, or CRS to be used upon retirement if the coordination of benefits provision is used. It also defines "actuarial assumption rate" as the investment rate of return assumed for projecting assets in the STRS DB plan.

**Refund of Contributions** – (R.C. §3307.562) The bill provides for interest and matching funds on any contributions that were made to restore previously refunded service credit if the member terminates services and takes another refund. The bill also provides that a member who returned to employment after receiving a disability benefit and then elects to take a refund of contributions is not eligible for interest or matching funds on the contributions being withdrawn. Current law limits the ineligibility to receive interest and matching funds to the beneficiaries, survivors, or estate of a deceased disability benefit recipient.

**Disability** – (R.C. §§3307.48, 3307.57, 3307.58, 3307.59, 3307.62) The bill provides that only “qualifying service credit” can be used to determine whether a member is eligible for a disability benefit. Qualifying service is defined as service for which contributions were made to STRS, PERS, or SERS, credit restored under STRS, PERS, or SERS, and credit transferred to STRS from OP&F, HPRS, or the CRS. It also provide the same disability coverage provision for members of the STRS combined plan as received by members of the STRS DB plan.

Members who first earn service credit on or after 7-1-13 will need to have 10 years of qualifying service to be eligible for a disability benefit. All other members would remain under the current provision requiring five years of qualifying service. Furthermore, members who first earn service credit on or after 7-1-13 will have one year rather than the current two years from the date contributing service terminated to apply for a disability benefit.

Additionally, the bill states that a disability benefit recipient whose benefit terminates because of age is not eligible to receive any further disability benefit. It also clarifies the benefit amount for a disability recipient who applies for an age and service benefit after their disability terminates because of age by stating that the benefit is adjusted based on the plan of payment the member selects (e.g., joint and survivor annuity).

Sub. S.B. 342 gives the board the authority to require additional examinations of a disability benefit recipient as part of the annual medical examination if the board’s physician determines additional information is needed. It also requires the board to give notice to any disability benefit recipient whose benefit will be terminated and, at the request of the recipient, provide a hearing on the matter.

The bill requires the termination of a disability benefit if the recipient performs any teaching service in Ohio or elsewhere. Currently, a disability benefit recipient may not become employed as a teacher in any public or private school. The board would need to notify the recipient of the termination and the recipient may, within 30 days after notice is sent, submit information specifying he or she did not perform teaching services. If the board determines the benefit was incorrectly terminated, the benefit would be reinstated, along with any missed payments. The board’s decision is final. If the recipient becomes employed as a teacher while receiving a disability benefit, the recipient must repay the benefit received from the beginning of employment. Current law requires the employer to repay the amount.

Current law allows a member who returns to work after receiving a disability benefit to receive service credit for the period of time they were on disability. Effective 7-1-13, Sub. S.B. 342 will limit the credit that a disability recipient who returns to work may receive. Credit would be limited to the lesser of the years of contributing service following termination of the disability benefit or five years. For example, if a member received disability benefits for three years then returned to work for two additional years, the member would get credit for only two years. Current law contains no limit.

The bill provides for an increase in the retirement benefit of a disability benefit recipient whose disability benefit is terminated and the member then begins receiving an age and service retirement benefit. The retirement benefit would be increased by any COLAs granted while the member was receiving the disability benefit.

The bill also provides that a minimum of three physicians rather than only three will review the examiner’s report of a disability applicant whose application is rejected.

Additionally, in the case of a member who has service credit in STRS and SERS and/or OPERS, the bill provides that the retirement system that will pay the benefit (i.e., the system in which the member had the most YOS) is the system that will determine whether the member qualifies for a disability benefit.

**Health Care** (R.C. §§3307.14, 3307.143, 3307.39, 3307.391) The bill creates a separate “health care fund” into which the employer contributions allocated to health care would be accumulated and from which health care coverage would be paid. If the board discontinues providing health care coverage, the bill would require the board to transfer all surplus funds in the health care fund to the employers that have contributed to the fund, in a fair and appropriate manner.

Sub. S.B. 342 permits rather than require the board to reimburse retirees for the monthly Medicare Part B premium. It also allows the board to set the reimbursement rate for the monthly Medicare Part B premium at not less than \$29.90 but not more than 90% of the basic premium and not more than the amount paid by the recipient. Further, it allows the board to require the recipient to certify the amount the recipient pays for the monthly premium. Current law requires the board to use a formula for determining the reimbursement by multiplying YOS by a percentage to be determined by the board, not to exceed 90%.

The bill changes from mandatory to discretionary the provision allowing the board to provide access to a long-term health care program.

**Suspension/Termination of Benefit** – (R.C. §§3307.42) The bill allows the system to suspend a benefit under two specific circumstances: (1) the system has good cause to believe that the person receiving benefits is incapacitated and no other person has authority to act or receive benefits on the person’s behalf or (2) the system learns that the person receiving benefits is missing and there is no satisfactory evidence that the person is alive and entitled to receive benefits. The benefits would resume on presentation of evidence that the person is no longer incapacitated or is alive and entitled to receive benefits. The suspended benefit of a missing person would be terminated upon presentation of a decree of presumed death.

**Re-employed Retirees** – (R.C. §§3307.35, 3307.351, 3307.352) Sub. S.B. 342 includes DC benefit recipients and alternative retirement plan benefit recipients under R.C. Chapter 3305. as “other system retirants” for purposes of public re-employment of a

public retiree; therefore, they would be subject to the two-month waiting period for re-employment.

The bill clarifies that the benefit forfeited when a retiree returns to work within the two-month waiting period is equal to the retiree's single life annuity. For example, if a member selects a joint and survivor annuity upon retirement (which provides a reduced benefit for the member's life and for the life of the survivor) and then is reemployed within two months, the amount the re-employed retiree forfeits would be equal to the amount the member would have received if he or she had selected a single life annuity.

Additionally, Sub. S.B. 342 allows an STRS member who also is employed in one or more positions covered by the other statewide retirement systems to retire from the position covered by the other retirement system and remain working under STRS if the annual compensation for the position from which the member is retiring is greater than the annual compensation for any of the positions at which the member is still employed. This provision also includes retirants under the STRS DC plan. Current law allows a member of STRS who holds more than one position covered by STRS or another system to retire under STRS and remain employed in their other job. This provision is consistent with current law.

The bill adds the requirement that in order to retire from one position and continue working in another position covered by STRS as of 7-1-14, the member must have continuously held those positions for at least 12 consecutive months immediately prior to retirement. Currently, a member could get a lower paying job just prior to retirement and then retire from STRS, thereby bypassing the requirement that a retiree wait two months before returning to work or else forfeit two months of their benefit.

For re-employed retirees who request a refund prior to age 65, the bill allows the board to set the date the refund will be paid, but it cannot be earlier than the later of the first day of the month following termination of employment or 12 months since the last refund of contributions (if applicable).

**Survivor Benefits** - (R.C. §3307.66) The bill requires that for a surviving spouse to receive survivor benefits because he or she is physically or mentally incompetent, the spouse must have been adjudged physically or mentally incompetent at the time of the member's death and has remained continuously incompetent. There is no requirement under current law regarding when the determination is made.

Additionally, the bill changes the qualifications for a surviving child to receive a survivor's benefit. Under the bill, the child must be never married, as opposed to the current requirement of being unmarried. The child must also be either (1) under age 18 (as opposed to age 18 in current law), (2) under age 22 (as opposed to age 22 in current law) and is in school and completing at least two-thirds of the full time requirements, or (3) any age if adjudged physically or mentally incompetent, if the person became incompetent prior to age 18 or prior to age 22 if in school and completing at least two-

thirds of the full time requirements and has remained continuously incompetent (current law has no requirement regarding when the determination is made).

Sub. S.B. 342 allows only qualifying service credit to be used when determining whether survivor benefits may be granted, regardless of when membership began. It also requires all new members as of 7-1-13 to have at least five years of qualifying service and to have died not later than one year after the date contributing service ended in order for the member's spouse to be eligible for survivor benefits. Current law requires members to have at least one and one-half years of Ohio service credit with at least one-quarter of Ohio contributing service within the two and one-half years before death. The bill allows a survivor to be eligible if the member was receiving, within one year prior to the date of death, a disability benefit from STRS and was contributing under STRS, PERS, or SERS at the time of death. The survivor also would be eligible if the member was receiving a disability benefit at the time of death.

The bill provides for an increase in the survivor benefit if, at the time of death, the member was receiving a disability benefit from STRS. The increase would be the percentage equal to the total of any COLA increases the member received, plus any additional amounts the member received while on disability. If eligibility for a benefit is established more than one year after the member's death, the increase is limited to the percentage equal to the total of any COLA increases the member received, plus any additional amounts the member received while on disability that would have been paid had the benefit begun in the year in which the member died.

Additionally, the bill changes the effective date of the benefit based on when the application is received. If the application is received within one year after the date of the member's death, the benefits would begin on the first day of the month following the date of death. If the application is received later than one year after the date of the member's death, the benefits would begin on the first day of the month immediately following receipt of the application. Termination of benefits would be effective on the first day of the month following the day the person ceases to be a qualified survivor. Currently, all survivor benefits begin the first day of the month following the day the person becomes a qualified survivor.

Under Sub. S.B. 342 a survivor benefit no longer terminates during a survivor's active military service.

**Beneficiaries** – (R.C. §§3307.562, 3307.60) The bill specifies that a member may designate two or more beneficiaries. The bill further requires that a member who designates two or more beneficiaries on or after 7-1-13 must specify the percentage of the benefit each beneficiary is to receive. However, if the member does not specify the percentage, the benefit will be divided equally among the beneficiaries. If a beneficiary dies, his or her amount will be divided among the remaining beneficiaries based on their initial percentage.

Sub. S.B. 342 requires the beneficiary designation form of an annuitant to be received by the board prior to the annuitant's death in order for a beneficiary to receive any unpaid amounts due the annuitant. Current law requires the form to be filed with the board and does not specify when it must be filed. If the annuitant has no beneficiary, the system may pay an amount not exceeding the cost of the annuitant's burial expenses to the person responsible for the burial expenses upon the death of the annuitant.

The bill allows a retirant who selected a plan of payment that allowed him or her to name between two and four beneficiaries to cancel the portion of the payment going to a specific beneficiary if that beneficiary dies or if their marriage ends and the beneficiary consents or the court orders the cancellation.

Additionally, the bill provides that when a retirant changes the plan of payment due to marriage or remarriage, they may add only the new spouse as a beneficiary and it requires the application to be received by the board before the retirant's death. However, if there are already four beneficiaries that must be retained because of a court order or the payment to any beneficiary under the court order would be reduced, the new spouse may not be added.

Under the bill, a member who is receiving a benefit under a plan that includes payments to a former spouse pursuant to a court order may elect a new plan of payment without consent of the former spouse if the new plan will not affect payments to the former spouse. Current law requires the former spouse to consent regardless of the effect of the change.

**Defined Contribution Plan** – (R.C. §§3307.25, 3307.84) The bill eliminates the automatic reversion of a DC plan member to the DB plan if the participant does not make an election. Current law requires a member who elected to contribute to the DC plan to make another election upon five years of service if they want to continue contributing to the DC plan. A member who fails to make an election automatically reverts to the DB plan. Instead, the bill would allow the member to elect the DB upon five years of service, but if the member makes no election, the original DC election remains.

It also makes an STRS member who had previously made an election to cease participation in the DC plan ineligible to make another election. Currently, all new employees have 180 days to make an election to participate in the DC plan except employees who are already members of the STRS DB plan or an alternative retirement plan under R.C. Chapter §3305., or a reemployed public retiree.

Additionally, Sub. S.B. 342 permits rather than require the board to transfer a portion of the employer contributions made on behalf of DC plan participants to the account used to fund the DB plan. This amount is known as the mitigating rate. It also allows the board to decide when to have the actuarial study done to determine whether a transfer is necessary and to determine when the change in the mitigating rate takes effect. Current law requires the report to be done annually and the actuary determines what the rate should be. That

rate then becomes effective on the first day of the month following the actuarial study that was reported to the board.

**Board** – (R.C. §§3307.04, 3307.044, 3307.061) Sub. S.B. 342 specifically gives the board the authority to take all appropriate action to avoid payment by the system or its members of federal or state income taxes on contributions to the system and to comply with any plan qualification requirements. Additionally, the bill allows the board to appoint additional members to the board’s audit committee along with the current statutorily required retiree, contributing, and ex officio members.

The bill includes appointed board members in the current prohibition against serving on the board if the member has plead guilty to or been convicted of a violation of R.C. §§102.02 (duty to file ethics disclosure statement), 102.03 (revolving door), 102.04 (compensation or services received other than from employer), 2921.02 (briber), 2921.11 (perjury), 2921.13 (falsification), 2921.31 (obstructing official business), 2921.41 (theft in office), 2921.42, (having unlawful interest in public contract), 2921.43 (soliciting or receiving improper compensation), or 2921.44 (dereliction of duty).

**Records** – (R.C. §3307.20) The bill includes a member’s email address in the definition of “personal history record.” It also includes a former member who is receiving a benefit from the STRS DC plan as a “retirant” for purposes of R.C. §3307.20 (records section). Sub. S.B. 342 would maintain current law that allows for copies of medical reports or recommendations to be made available to the personal physician, attorney, or authorized agent of the individual concerned; however, it adds a prohibition against releasing those reports or recommendations to the individual concerned and they would not be considered a medical record generated and maintained by a health care provider in the process of establishing a therapeutic relationship.

**Overpayments** – (R.C. §3307.47) The bill allows for the recovery of overpayments made by STRS to a former spouse or child support enforcement agency, a survivor, a beneficiary, or to any person including a third party on the person’s behalf for health care overpayments or any other payments.

**Ohio Retirement Study Council** - (Section 6) The bill requires the ORSC to study and make recommendations regarding the board’s authority to reduce the employee contribution rate to less than 14% for compensation earned on or after 7-1-17, adjust retirement eligibility requirements and adjust the COLA. The ORSC is required to submit its findings and recommendations to the Senate President and Speaker of the House within 90 days of the bill’s effective date.

**Miscellaneous** – (R.C. §3307.01) The bill excludea from compensation payments made for vacation pay that covers the same time period for which other salary, compensation or benefits that were paid under OPERS or SERS law. Current law excludes those items only if they were paid under STRS law.

Additionally, the bill excludea from compensation any amount paid by the employer as a retroactive payment of earnings, damages, or back pay pursuant to a court order, court-adopted settlement agreement, or other settlement agreement unless the system receives the following: (1) employee and employer contributions, plus compounded interest at a rate determined by the board, on amounts paid under the order or agreement and (2) [if applicable] employee and employer contributions, plus compound interest at a rate determined by the board, on amounts the board determines the teacher was improperly paid.

**Effective Date** - (Sections 3, 4, 5) The effective date for the bill is delayed until January 7, 2013, with the following exceptions: the provisions regarding the board’s authority to reduce the employee contribution rate to less than 14% for compensation earned on or after 7-1-13, adjust retirement eligibility requirements and adjust the COLA are delayed an additional 180 days after the bill’s effective date and the provision repealing the retirement incentive plans is delayed until July 31, 2014.

**Fiscal Impact**

According to the STRS actuary, PricewaterhouseCoopers, the board approved plan included in Sub. S.B. 342 would reduce the funding period from infinity to 36 years. The actuary stated that the funding period based on the plan will decrease to 21 years by July 1, 2014, *if* STRS earns a compounded 7.75% annual rate of return and all other assumptions are met.

**Staff Recommendations**

The staff recommendation is that the Ohio Retirement Study Council vote to recommend that the 129<sup>th</sup> General Assembly vote to approve Sub. S.B. 342 with the following amendment:

1. *That the board authority to adjust the COLA be limited up to a maximum of 3% and*
2. *That for purchases of service credit, the member be required to retire within 90 days of purchasing the credit and prohibit the credit from being counted for purposes of health care eligibility or subsidy.*

The Ohio Retirement Study Council voted at its meeting of September 10, 2012 to accept staff’s recommendations.

**Effective Date** – January 7, 2013; certain provisions effective later.