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# *Analysis*

## **Am. Sub. S.B. 267 – Sen. Faber** *(As Enacted by the General Assembly)*

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### **ORSC Position**

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Am. Sub. S.B. 267 makes the following changes to the special law enforcement division of the Public Employees Retirement System (PERS-LE):<sup>1</sup>

- Authorizes the PERS board to set the employee contribution rate for “law enforcement officers” who are eligible to retire at age 48.<sup>2</sup> Initially, this rate would be set at a rate that is not more than one percent (1%) of the rate set by the board for “public safety officers” who are eligible to retire at age 52 (currently, 10.1%) under existing law.<sup>3</sup> Thereafter, the rate could not be set at more than two percent (2%) of such rate. Currently, the employee contribution rate for law enforcement officers is fixed by statute at 10.1% of earnable salary; the rate for public safety officers is fixed by the board at 10.1% effective January 1, 2008. (R.C. §145.49)
- Authorizes the PERS board to adopt rules permitting law enforcement officers and public safety officers under the PERS-LE division to convert up to five years of service credit under the state or local government divisions of PERS to qualify for benefits under the PERS-LE division, provided the officer pays one hundred percent (100%) of the additional liability resulting from the service credit conversion. Currently, law enforcement officers and public safety officers with service credit under the state or local government divisions of PERS may do one of the following: (1) combine all service credit to qualify for benefits under the state and local government division of PERS; *or* (2) use service credit as a law enforcement officer or public safety officer to qualify for benefits under the appropriate PERS-LE division and use all other service credit to qualify for a benefit consisting of a single life annuity with a reserve equal to the member’s accumulated contributions for such state or local government service plus a matching amount from employer contributions. (R.C. §145.2914)
- Improves the language, structure and organization of the laws governing the PERS-LE division (R.C. §§145.01, 145.19, 145.191, 145.33, 145.35)

As amended in the House and concurred to by the Senate, the bill includes the following additional provisions:

- Excludes municipal public safety directors from participation in PERS-LE, except for those serving at any time during the period from September 29, 2005 to the effective

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<sup>1</sup> Under the PERS-LE division, normal age and service retirement (full benefits) for law enforcement officers is age 48 with 25 years of service. Normal age and service retirement for public safety officers is age 52 with 25 years of service; however, public safety officers may retire on reduced benefits as early as age 48 with 25 years of service.

<sup>2</sup> “Law enforcement officers” include sheriffs as well as deputy sheriffs, township police and other officers whose primary duties are to preserve the peace, protect life and property, and enforce the laws within their jurisdiction.

<sup>3</sup> “Public safety officers” include Hamilton County municipal court bailiffs as well as deputy sheriffs, township police and other officers whose primary duties are *other than* to preserve the peace, protect life and property, and enforce the laws within their jurisdiction.

date of the bill. Under the bill, they would return to participation in the regular PERS program for local government employees (R.C. §§145.01, 145.33);

- Authorizes the PERS and Ohio Police and Fire Pension Fund (OP&F) boards to determine the reimbursement amount for the monthly Medicare Part B premium, provided such reimbursement shall not be less than \$96.40 per month (current Medicare Part B premium in 2008 and 2009) nor exceed the amount actually paid by the recipient for Medicare Part B coverage. Currently, the law requires the PERS and OP&F board to reimburse eligible recipients the full amount of the Medicare Part B monthly premium which generally increases annually (R.C. §§145.58, 742.45);
- Makes drug agents and investigators of the bureau of criminal identification and investigation eligible for benefits under the Ohio public safety officers death benefit fund (R.C. §742.63).

**Staff Comments** - Since the creation of the PERS-LE division in 1975, the PERS board has been authorized to establish separate contribution rates for employees and employers covered under the PERS-LE division in light of the earlier retirement and higher benefit provisions under that division when compared to the regular PERS division for state and local government employees. When H.B. 416 (eff. 1-1-01) lowered the normal retirement age from 52 to 48 for sheriffs, deputy sheriffs and township police to create parity with their counterparts in OP&F and HPRS, the PERS actuary estimated that this change would require these officers to contribute an additional 1.1% on top of the then-existing 9% employee contribution rate to cover the additional liabilities of the bill for a total of 10.1%. This rate was fixed by statute which was then amended in H.B. 535 (eff. 4-1-01) to provide that the rate shall equal the sum of 1.1% and the rate established by the board for all other officers covered under the PERS-LE division who remained eligible for normal age and service retirement at 52. One year later, H.B. 158 (eff. 2-1-02) expanded the lower retirement age to include all officers covered under the PERS-LE division whose primary duties are to preserve the peace, protect life and property, and enforce the laws within their jurisdiction, and once again fixed the rate by statute at 10.1%. All other officers whose primary duties are other than those described immediately above remained eligible for normal age and service retirement at age 52 with 25 years of service, and continued to contribute at the lesser rate of 9% established by the PERS board.

Since 2006 the employee and employer contribution rates have been increased over time as part of the PERS health care preservation plan, except for the 10.1% rate fixed by statute for those eligible to retire at age 48 under the PERS-LE division. Contributions for state and local government employees have increased from 8.5% to 10.0%; contribution rates for public safety officers who are eligible to retire at age 52 under the PERS-LE division have also increased from 9.0% to 10.1% - the same rate contributed by those law enforcement officers who are eligible to retire at age 48 under the PERS-LE division. S.B. 267 would authorize the PERS board to make a commensurate increase in the employee contribution rate for law enforcement officers who are eligible to retire at age 48 under the PERS-LE division as part of the PERS health care preservation plan. Moreover, it would restore the original intent and agreement underlying the legislative enactment of the age 48 provisions under the PERS-LE division that such additional cost be borne by employees eligible to retire

at age 48 through higher contribution rates than those eligible to retire at age 52. Furthermore, it would restore equitable treatment in the amounts contributed by public safety officers who are eligible to retire at age 52 and law enforcement officers who are eligible to retire at age 48 under the PERS-LE division based upon the actuarial costs of benefits provided to these two distinct groups; that is, those eligible to retire at age 48 should contribute more than those eligible to retire at age 52 to reflect the higher cost of the age 48 provisions.

Allowing law enforcement officers and public safety officers under the PERS-LE division to convert up to five years of service credit under the state or local government divisions of PERS to qualify for benefits under the PERS-LE division, provided the officer pays one hundred percent (100%) of the additional liability resulting from the service credit conversion, is generally consistent with a recent recommendation adopted by the ORSC at its meeting of September 12, 2007 relative to service credit purchases:

Recommendation: 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 language in the bill should be amended to require the member to retire within 90 days of the service credit conversion pursuant to the above recommendation adopted by the ORSC. This 90-day provision is consistent with existing law governing early retirement incentive buy-outs and is necessary because the true actuarial cost can only be known at the time of actual retirement.*

**Fiscal Impact** – According to the PERS actuary, Gabriel Roeder Smith & Company, the latest actuarial valuation as of December 31, 2006 showed that the present contribution rate schedule for PERS in total, meaning the state, local and law enforcement divisions combined, is sufficient to amortize unfunded liabilities over a 26 year period. However, the same valuation also showed that the present contribution rate schedule for the PERS-LE division is insufficient to amortize the unfunded liabilities for law enforcement officers and public safety officers when viewed on a stand-alone basis. Assuming that employee contribution rates for public safety officers and law enforcement officers are increased to 11% and 12%, respectively, effective January 1, 2009, the funding period for the PERS-LE division is expected to be under 30 years in the actuarial valuation for the period ending December 31, 2009. This would occur provided that investment performance is reasonably in line with actuarial assumptions and that there are no other major sources of actuarial losses.

**ORSC Position** – The Ohio Retirement Study Council voted at its March 12, 2008 meeting to recommend that the 127th Ohio General Assembly approve S.B. 267 upon the adoption of an amendment that would require public safety officers or law enforcement officers to retire within 90 days of any service credit conversion which is consistent with the recommendations adopted by the ORSC relative to service credit purchases. (The amendment was adopted by the Ohio General Assembly.)

**Effective Date** – March 24, 2009