



Ohio Retirement Study Council

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To: State Teachers Retirement System
From: Representative Kirk Schuring
Director Bethany Rhodes
Subject: STRS Membership and Am. Sub. H.B. 483

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Section 733.30 requires the Ohio Retirement Study Council, in cooperation with the State Teachers Retirement Board, to develop a procedure to determine if an individual holding a teaching license and who is receiving funding to provide materials to 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, is a teacher under STRS.

Background

Under pension reform in S.B. 342 of the 129th General Assembly, the law governing STRS membership was amended to include the following as a member of STRS:

Any person having a license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code and performing services that are funded under section 3317.06 of the Revised Code and provided to students attending 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

As described by the Legislative Service Commission analysis, the change would include:

[I]n the membership of STRS any licensed teacher who is performing state-funded auxiliary services for nonpublic school students, regardless of whether the services are rendered in a public school or whether the teacher is employed under a contract with a third party. The result is that these individuals and their employers will be required to contribute to STRS and the individuals will earn service credit in STRS.¹

¹ Ohio Legislative Service Commission, Final Analysis: Am. Sub. S.B. 342 of the 129th General Assembly, 24-25.

Am. Sub. H.B. 483 of the 130th General Assembly removed this language from STRS law, meaning that current law is once again silent on these specific individuals. Accordingly, the General Assembly directed STRS and ORSC to develop a procedure to determine if these specific individuals are STRS members. ORSC is then required to make a recommendation to the STRS Board no later than December 31, 2014.

STRS Treatment of Individuals Performing Services Under R.C. 3317.06

Subsequent to the enactment of H.B. 483, STRS sent the attached letter dated August 21, 2014, to Representative Kirk Schuring outlining the treatment of licensed teachers who are performing state-funded auxiliary services for nonpublic school students. Based on the letter, the following determines STRS membership in these instances:

- 1) STRS will not consider individuals employed by a private contractor working in a private school setting and performing state-funded auxiliary services to be members of STRS. Those individuals providing these services that are already members of STRS may continue to be STRS members while employed in the same position. Any employment providing these services in a private school setting through a private contractor, therefore, would not be eligible for STRS covered employment.
- 2) STRS membership will continue to be required for individuals employed directly by a public school in Ohio, even if they are working in a private school setting and performing state-funded auxiliary services.

For those individuals employed by a private contractor who contributed to STRS pursuant to S.B. 342, STRS proposes that those individuals may request a return of employee and employer contributions as unauthorized contributions. As under continuing law, an STRS member may request a membership determination from STRS.

As with all membership determinations, this is a position specific procedure. This is particularly important in an instance where an individual is a contract employee working under multiple contracts. If the individual works through a private contractor for contracts "A" and "B" located in a private school setting, and is directly employed by a school for contract "C", positions "A" and "B" would not be covered by STRS; position "C" would. Membership requirements are positions specific; in the above scenario, position "A" and "B" are not STRS covered employment by reason of the person also being in position "C." The reverse is also true.

ORSC staff is generally cautious of members in the same employment position being moved between a state retirement system and Social Security coverage. It appears that the intent is to grandfather as much as possible individuals who were inadvertently misclassified in the past. Note that, due to Ohio's Section 218 Agreement, Ohio is not permitted to provide Social Security coverage for positions covered by a state retirement system. Therefore, it is not possible for an individual to contribute to both STRS *and* Social Security for the same employment position.

ORSC is required by Section 733.30 of Am. Sub. H.B. 483 to make their recommendation to the STRS Board on this issue no later than December 31, 2014.