



Amy J. Rinehart

Final Analysis
Legislative Service Commission

Am. Sub. S.B. 267
127th General Assembly
(As Passed by the General Assembly)

Sens. Faber, Seitz, Cates, Coughlin, Fedor, Harris, Kearney, D. Miller, Niehaus, Wilson, Spada, R. Miller, Wagoner, Stivers, Schuler, Mumper, Mason, Smith, Amstutz, Padgett, Patton

Reps. D. Stewart, Hite, Zehringer, Bacon, Batchelder, Bolon, Boyd, Chandler, Ciafardini, Coley, DeBose, Domenick, Dyer, Evans, Fende, Gibbs, Goyal, Grady, J. Hagan, Heard, Hughes, Letson, Luckie, Nero, Oelslager, Schlichter, Schneider, Sears, Slesnick, Wachtmann, Widener, Yuko

Effective date: *

ACT SUMMARY

- Distinguishes the two existing sub-groups in the Public Employees Retirement System (PERS) law enforcement division by creating a public safety officer division.
- Includes in the PERS public safety officer division officers whose primary duties are other than to preserve the peace, protect life and property, and enforce Ohio laws and all Hamilton County Municipal Court bailiffs.
- Permits the PERS Board to establish a program under which a PERS member may convert up to five years of credit for non-law enforcement service to credit for service as a law enforcement officer by paying not less than 100% of the additional liability resulting from the conversion.
- Provides that the member contribution rate for PERS law enforcement officers is the rate established for PERS public safety officers plus an

* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

additional percentage, which is initially 1% of members' earnable salaries but may be increased by the Board to not more than 2%.

- Removes municipal public safety directors from the PERS law enforcement division and includes those members in regular PERS.
- Makes survivors of drug agents and Bureau of Criminal Identification and Investigation (BCII) investigators and special agents eligible for benefits from the Ohio Public Safety Officers Death Benefit Fund.
- Limits monthly reimbursement by PERS and the Ohio Police and Fire Pension Fund (OP&F) for Medicare Part B premiums to an amount determined by the appropriate board that is not less than \$96.40, except that the reimbursement cannot exceed the amount paid for coverage.

CONTENT AND OPERATION

LAW ENFORCEMENT AND PUBLIC SAFETY OFFICERS

Background

The Public Employees Retirement System (PERS) has special retirement and benefit provisions for members who are law enforcement officers. Under continuing law, the PERS law enforcement division is comprised of two groups. The groups include the same state, county, and township officers,¹ but are divided by the primary duties of the officer. Officers whose primary duties are the preservation of the peace, protection of life and property, and enforcement of Ohio laws qualify for a normal retirement benefit at age 48 with 25 years of service. Officers whose primary duties are *other* than to preserve the peace, protect life and property, and enforce Ohio laws are eligible for a normal retirement benefit at age

¹ Both groups include the following officers: a deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the mentally retarded and developmentally disabled, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer, and an individual who served as a municipal public safety director at any time from September 29, 2005, to the act's effective date.

52 with 25 years of service.² Under prior law, a law enforcement officer's group, and, therefore, retirement eligibility, was determined at retirement, rather than during actual service.

Public safety officer division

(R.C. 145.01(YY) and 145.33(B))

The act creates the PERS public safety officer division to distinguish between the two law enforcement officer groups. Under the act, officers will be determined to be in the law enforcement or public safety officer division at the time of service rather than at retirement. Officers eligible to retire at age 48 will continue to be in the law enforcement division. Those who are not eligible until age 52 will be in the new public safety officer division.³

Combining credit or receiving a separate annuity

(R.C. 145.33)

Under prior law, no statutory provisions existed to determine retirement eligibility at age 52 for a PERS member who had service both as an officer whose primary duties were to preserve the peace, protect life and property, and enforce Ohio laws (law enforcement officer) and service as an officer whose primary duties were *other* than those (public safety officer). The act permits a member to combine service as a public safety officer and service as a law enforcement officer to meet the 25 years of service necessary to retire at age 52.⁴

The act makes technical changes to continue a preexisting requirement that a PERS member must have 25 years in the law enforcement division to be eligible to retire at age 48. Under the act, a member may not combine public safety officer service with law enforcement service to meet the requirements necessary to retire at age 48. The act also includes technical changes to continue an existing provision that allows a member to receive an annuity for non-law service that is in

² Hamilton County Municipal Court bailiffs are included in this group.

³ Neither prior law nor the act specifies how this distinction is made. It appears, however, that the employer determines which officers have as their primary duties preserving the peace, protecting life and property, and enforcing Ohio laws.

⁴ According to Deborah McCarthy, PERS Assistant Government Relations Officer, allowing a public safety officer to retire at age 52 by combining public safety officer service and law enforcement service is current PERS practice (telephone conversation with Deborah McCarthy, January 7, 2008).

addition to the 25 years of service necessary to retire at age 48 under the law enforcement division or age 52 in the public safety officer division.⁵

Conversion of non-law enforcement service

(R.C. 145.2914)

The act permits the PERS Board to establish a program under which non-law enforcement service is treated as law enforcement service for purposes of determining retirement benefits and eligibility. For each year of service credit converted, the member is to pay an amount determined by the PERS Board that is not less than 100% of the additional liability resulting from the purchase of the credit. The member must agree to retire within 90 days of the conversion.⁶ The number of years a member may purchase is limited to five.

Contribution rates

(R.C. 145.49)

Prior law required all PERS law enforcement members to contribute 10.1% of their salaries to PERS.⁷ Under prior law, the PERS Board was authorized to calculate employee contribution rates separately for officers whose primary duties were other than to preserve the peace, protect life and property, and enforce Ohio laws.

The act authorizes the Board to calculate contribution rates separately for PERS public safety officers. Under the act, the contribution rate for PERS law enforcement officers is the rate established by the Board for public safety officers plus an additional percentage that is to be initially 1% and may be increased to no more than 2% of the officers' salaries.⁸

⁵ For instance, if a member has 25 years of law enforcement service and 5 years of non-law enforcement service, the member may retire and receive a law enforcement benefit based on 25 years of law enforcement service and an additional annuity based on the 5 years of non-law enforcement service.

⁶ If the member fails to retire, PERS is to cancel the conversion and refund the payment to the member.

⁷ PERS, "OPERS Employer Notice," June 19, 2007 (available online at: <https://www.opers.org/pubs-archive/employers/notices/2007/EN-Certification-Local-Rates-2008.pdf>).

⁸ Continuing law authorizes the Board to establish employer contribution rates on behalf of all officers in an amount that cannot exceed 18.1% of the officers' salaries.

Municipal public safety director

(R.C. 145.01; Section 3)

Municipal public safety directors are members of PERS.⁹ Under prior law, they were in the law enforcement division.

The act removes municipal public safety directors from eligibility for participation in the PERS law enforcement division. The result is that after the act's effective date they will participate in regular PERS.

Service credit previously earned as a municipal public safety director may continue to be used to determine enhanced benefits under PERS law enforcement provisions.¹⁰ Any credit earned on or after the act's effective date will be regular PERS credit.

DEATH BENEFIT FUND

Background

The Ohio Public Safety Officers Death Benefit Fund provides benefits to eligible survivors of public safety officers who are killed in the line of duty or die of diseases or injuries incurred in the performance of official duties.¹¹ The Death Benefit Fund is administered by the Ohio Police and Fire Pension Fund (OP&F) and financed through legislative appropriations.¹²

Under continuing law, survivors of public safety officers who serve in the following positions are eligible for Death Fund benefits:

⁹ "Municipal public safety director" means a person who serves full time as the public safety director of a municipal corporation with the duty of directing the activities of the municipal corporation's police and fire department. (R.C. 145.01(VV)).

¹⁰ Eligible municipal public safety director credit is service credit earned from September 29, 2005, to the act's effective date. (R.C. 145.01(WW) and (YY).)

¹¹ Survivors may be eligible to receive death benefits if the officer died of heart disease while off-duty, if the fatal attack can be attributed to an incident while in the performance of official duties. (Ohio Police & Fire Pension Fund, *Members' Guide to: Death Benefit Fund* (last visited November 17, 2008), available at <http://www.op-f.org/downloads/booklets/Members_Guide_to_Ohio_Public_Safety_Officers_Death_Fund_Benefit.pdf>.)

¹² Ohio Police & Fire Pension Fund, *Members' Guide to: Death Benefit Fund* (last visited November 17, 2008), available at <http://www.op-f.org/downloads/booklets/Members_Guide_to_Ohio_Public_Safety_Officers_Death_Fund_Benefit.pdf>.

(1) OP&F members and members of local police and fire funds established prior to the creation of OP&F;

(2) State Highway Patrol Retirement System (SHPRS) members;

(3) Members of the Cincinnati Retirement System (CRS) employed as full-time law enforcement officers of parks, waterway lands, or reservoir lands under the management of the city of Cincinnati;

(4) The following PERS members: (a) county sheriffs and deputy sheriffs, (b) full-time municipal and township firefighters and police officers, (c) state university law enforcement officers, (d) full-time park district rangers or patrol troopers, (e) full-time law enforcement officers employed by the Department of Natural Resources, (f) full-time law enforcement officers of a conservancy district,¹³ (g) full-time Department of Public Safety enforcement agents, including liquor control investigators employed by the Department of Liquor Control and food stamp trafficking agents, (h) full-time law enforcement officers of parks, waterway lands, or reservoir lands under the management of a municipal corporation, (i) correction officers at institutions under the management of a county, group of counties, or a municipal corporation, and (j) correction officers employed in the security forces of institutions under the management of the Department of Rehabilitation and Correction.¹⁴

Drug agents and BCII investigators and special agents

(R.C. 742.63)

The act expands eligibility for Death Fund benefits to survivors of the following PERS members: (1) Bureau of Criminal Identification and Investigation (BCII) investigators, (2) BCII investigators commissioned as special agents, and (3) drug agents.

An "investigator" is an officer or employee of BCII who aids and assists a law enforcement officer in the investigation and solution of any crime or the control of any criminal activity occurring within the officer's jurisdiction.¹⁵ An

¹³ A "conservancy district" is an area of land declared as such for purposes of water management, such as preventing floods, providing for irrigation, reclaiming or refilling wet and overflowed lands, or arresting erosion along the Lake Erie shoreline (R.C. § 6101.04).

¹⁴ R.C. § 742.63(A)(1).

¹⁵ R.C. § 109.541(A).

investigator commissioned by BCII as a "special agent" assists law enforcement officers or provides emergency assistance to peace officers.¹⁶ A "drug agent" is any person who is either of the following: (1) employed full time as a narcotics agent by a county narcotics agency and has received a certificate attesting to satisfactory completion of an approved basic peace officer training program or (2) employed full time as an undercover drug agent and has received a certificate attesting to satisfactory completion of an approved basic peace officer training program.¹⁷

MEDICARE PART B

Background

(R.C. 145.58 and 742.45)

PERS and OP&F provide health insurance coverage to recipients of service, disability, and survivor benefits, but those eligible for Medicare¹⁸ must enroll in Medicare. PERS and OP&F reimburse recipients the premium they pay for Medicare Part B. The premium has risen over time based on federal law. For 2009 it is \$96.40 a month for most Social Security beneficiaries.¹⁹

PERS

The act provides that monthly Medicare Part B reimbursement is an amount determined by the PERS Board that is not less than \$96.40, except that the Board is prohibited from paying an amount that exceeds the amount the recipient paid for the coverage. On request, the recipient must certify to PERS the amount paid for coverage.

OP&F

Under the act, monthly Medicare Part B reimbursement is an amount specified by the OP&F Board or determined by a formula established by the Board

¹⁶ R.C. § 109.71(A)(22).

¹⁷ R.C. § 145.01(CC).

¹⁸ Medicare Part A covers hospitalization; Medicare Part B covers physician charges and other outpatient care.

¹⁹ This is the standard Medicare Part B premium. In some cases the premium may be less because a premium increase in any year cannot exceed the amount the beneficiary receives as a Social Security cost-of-living adjustment. In other cases, the premium may be higher. Beneficiaries with yearly income in excess of \$85,000 pay higher premiums.

that is not less than \$96.40, except that the Board is prohibited from paying an amount that exceeds the amount the recipient paid for the coverage. The act also prohibits the Board from paying more than one monthly premium to a recipient, even if the recipient is receiving more than one benefit from OP&F, or paying a monthly Medicare Part B premium to a recipient who is receiving reimbursement from any other source.

HISTORY

ACTION	DATE
Introduced	12-18-07
Reported, S. Health, Human Services & Aging	04-03-08
Passed Senate (32-0)	04-08-08
Reported, H. Financial Institutions, Real Estate, & Securities	11-19-08
Passed House (85-0)	12-03-08
Senate concurred in House amendments (30-0)	12-09-08

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