

OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM
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MEMORANDUM

DATE: February 4, 2005
TO: OPERS Board of Trustees
FROM: Thomas Sherman, Government Relations Officer
Deborah McCarthy, Assistant Government Relations Officer
RE: Summary of proposed legislation

The Ohio Public Employees Retirement System (OPERS) administers three retirement plans: a defined benefit plan (referred to as the "Traditional Pension Plan"), a combined defined benefit/defined contribution plan (referred to as the "Combined Plan"), and a defined contribution plan (referred to as the "Member-Directed Plan"). The proposed legislation makes changes to each of the OPERS retirement plans as listed below.

- *Remittance of employer contributions to OPERS*
- *The OPERS health care program*
- *The additional annuity program in the OPERS Traditional Pension Plan*
- *Minimum earnable salary to earn full-time service credit*
- *Refund of contributions under the OPERS Traditional Pension Plan*
- *Accounting requirements*
- *Changes to the law enforcement division in the OPERS Traditional Pension Plan*
- *Corrective changes to the OPERS Combined and Member-Directed Plans*

Remittance of employer contributions to OPERS (R.C. 145.483, 145.51, 145.52, and 145.53)

Current law requires public employers to remit employer contributions to OPERS each quarter and, if the employer contributions are received 90 days after the due date, a 5% penalty and interest (at a rate set by the OPERS Board) is assessed on the late payment. The bill changes to monthly (from quarterly) the reporting period for employer contributions to be remitted to OPERS and allows late penalties to be assessed if the contributions are received 30 days after the due date. In addition, the bill modifies the interest and penalty as follows:

- Interest, compounded annually and charged monthly, for each day after the due date in an amount equal to 6% per annum (rather than a rate set by the Board).
- The penalty assessed will depend on the number of days past the due date that the past due amount is paid, as follows:
 - At least 11 but not more than 30 days past due, 1% of the past due amount.
 - At least 31 but not more than 60 days past due, an additional 1.5% of the past due amount.
 - At 61 or more days past due, an additional 2.5% of the past due amount.

The bill authorizes the OPERS Board to adopt rules establishing penalties in amounts that do not exceed those specified above and permitting the Board to lengthen the periods of time or enter into repayment agreements for employers to comply with the new reporting period.

To mitigate the financial impact of this change on employers, the bill also provides for a delay in the payment of employer contributions due for October, November, and December 2005 (referred to in the bill as the “transitional liability”). The employer contributions for this period are due as follows:

- The amount that represents the employer contributions for October 2005 is due not later than December 31, 2006.
- The amount that represents the employer contributions for November 2005 is due not later than December 31, 2007.
- The amount that represents the employer contributions for December 2005 is due not later than December 31, 2008.

The bill authorizes OPERS to credit to the OPERS defined contribution plan an amount equal to the portion of the “transitional liability” that represents employer contributions to the OPERS defined contribution plan. This amount is paid from the employer contribution for February 2006.

The OPERS health care program

The bill makes the following changes to the health care program currently offered under the OPERS Traditional Pension and Combined Plans:

- **(R.C. 145.325)** The bill modifies the requirement that one-half of the cost of Medicare Part A equivalent coverage provided to a benefit recipient’s spouse, widow, or widower be paid by OPERS to instead require that the OPERS Board of Trustees to establish the percentage of the premium that will be paid by OPERS.
- **(R.C. 145.38 (relocated language) and 145.58)** The bill applies to benefit recipients eligible to participate in the OPERS health care program (and their sponsored dependents) who are employed by a public or private employer the requirement (currently applicable to re-employed OPERS retirants) that the OPERS health care program be secondary to the health care coverage provided by a public or private employer, which is required to be the primary coverage. The bill establishes a reporting requirement on these individuals. The reporting requirement is similar to current law governing disability benefit recipients who are required to report their annual earnings to OPERS.
- **(R.C. 145.58)** The bill establishes requirements for the coordination of health care benefits provided to eligible benefit recipients (and their sponsored dependents) under the OPERS health care program.
- **(R.C. 145.294, 145.83; new section 145.583)** Under current law, OPERS is

authorized to establish, under an OPERS defined contribution plan, a program that requires members to participate in a retiree medical savings account (or similar program), which allows participating members to accumulate funds for the payment of qualified health care expenses. Members participating in the OPERS Member-Directed Plan are required to participate in the program. The bill maintains this provision and establishes a new provision that authorizes OPERS to establish in all three OPERS retirement plans a similar program under which members can voluntarily contribute additional amounts to a retiree medical account and to do so by payroll deduction.

The additional annuity program in the OPERS Traditional Pension Plan

The bill makes the following changes to the additional annuity program under the Traditional Pension Plan:

- **(R.C. 145.23 and 145.294)** The bill relocates the additional annuity language out of R.C. 145.23 to a new R.C. section and allows contributors (rather than members) participating in the Traditional Pension Plan to make additional annuity deposits by payroll deduction. The bill also authorizes OPERS to credit ‘earnings’ to the deposits (rather than “interest” as currently requires) and correspondingly deletes the requirement that “interest” be credited at the end of the year following the year in which it was earned. The intent is to allow earnings to be credited more frequently than at year’s end.
- **(R.C. 145.62 and 145.63)** The bill modifies current law, which allows contributors who make additional annuity deposits to select a joint and survivor annuity, to instead select one of the optional plans of payment listed in R.C. 145.46 for payment of their additional annuity deposits. In addition, the bill requires spousal consent to the plan of payment for married contributors (similar to other spousal consent provisions in current law). The bill adds language requiring a lump sum payment if the monthly annuity is less than \$25 (similar to the money purchase annuity under R.C. 145.384). Under the bill, the effective date of payment of the additional annuity is the same as the effective date of the contributor’s age and service retirement benefit or, if the contributor is a re-employed retirant, same as the effective date of the money purchase annuity under R.C. 145.384. The bill provides that, if a contributor fails to select plan of payment, the contributor shall receive a monthly annuity under the plan of payment specified in rules adopted by the Board.
- **(R.C. 145.43 and 145.64)** The bill allows contributors who make additional annuity deposits to select a separate beneficiary for those deposits and, in doing so, deletes the reference to those deposits in R.C. 145.43.

Minimum earnable salary to earn full-time service credit (R.C. 145.01)

Under current law, for each month in which an OPERS member’s earnable salary exceeds \$250, the member receives one (1) month of service credit. For each month that a member’s earnable salary is less than \$250, the member receives a prorated amount of service credit. The \$250 threshold was enacted into law in 1985 and does not

include an indexing feature to reflect wage inflation or increases in the cost-of-living. The bill changes, beginning in January 2007, the minimum threshold to \$450 and establishes an automatic index of this amount for subsequent years. The index used would be the Average Wage Index developed by the Social Security Administration for the purpose of calculating Social Security benefits.

Refund of contributions under the OPERS Traditional Pension Plan (R.C. 145.40 1)

Under current law, members participating in the OPERS Traditional Pension Plan may, in addition to the member's accumulated contributions, be eligible to receive on a refund an additional amount based on the member's years of "service credit" in the plan (33% of eligible contributions for members with more than five years of service credit; 67% for members with more than ten years). In determining the additional amount, "service credit" includes only contributing service in the plan and certain types of purchased service credit. The bill amends the definition of "service credit" to include service credit transferred to OPERS from the Cincinnati Retirement System under R.C. 145.2911.

Accounting requirements (R.C. 145.23, 145.384, 145.43, and 145.54)

The bill deletes the requirement that contributors be assessed a fee to pay the expenses of the retirement system (not exceeding \$3) if the amount in the Income Fund is inadequate to pay the expenses. Instead, the bill provides that, in the event of a deficiency in the Income Fund, the expenses are paid from the Employers Accumulation Fund.

In addition, current law requires that OPERS transfer to the Income Fund (established under R.C. 145.23) certain amounts payable to a member (and the member's beneficiaries) who cannot be located and have not claimed the amounts payable for a specified number of years. OPERS staff is currently reexamining the continued need for these transfers and would like to change from "shall" to "may" the requirement that the amounts be transferred to the Income Fund. This will allow OPERS to maintain these amounts in the Employees' Savings Fund rather than automatic transfer to the Income Fund.

Changes to the law enforcement division in the OPERS Traditional Pension Plan

The bill makes certain corrections to the law enforcement division in the Traditional Pension Plan, including:

- **(R.C. 145.01 and 145.33)** The bill relocates to the definition of a OPERS law enforcement officer the requirement that, to be eligible to retire at age 48 with 25 years of service as a law enforcement officer, a OPERS law enforcement officer must have primary duties consisting of preserving the peace, protecting life and property, and enforcing Ohio laws.
- **(R.C. 145.01 and 145.33)** The bill establishes an OPERS public safety division for those law enforcement officers whose primary duties are other than

preserving the peace, protecting life and property, and enforcing Ohio laws. Members who are OPERS public safety officers are eligible to retire at age 52 with 25 years of service as a law enforcement officer or public safety officer.

- **(R.C. 145.49)** The bill establishes the contribution rate for law enforcement officers (those eligible to retire at age 48 with 25 years of service credit as a law enforcement officer) at 1.1% of earnable salary in addition to the current contribution rate for public safety officers (9.0% of earnable salary). The rate is currently fixed in statute at 10.1%.

Corrective changes to the OPERS Combined and Member-Directed Plans

The bill makes the following changes to the Combined and Member-Directed Plans, all of which were drafted as amendments to Substitute S.B. 247 of the 1^{24th} General Assembly but were not included in the final version of the Act:

- **(R.C. 145.19)** Modifies the provision regarding who is eligible to select one of the new retirement plans after January 1, 2003. With the creation of the authority to “change your retirement plan selection” under R.C. 145.814 (enacted in S.B. 247), this provision is amended to apply to only “brand new” members. Each eligible OPERS member will have a total of four opportunities to change their retirement plan selection (initial enrollment period and three subsequent plan changes).
- **(R.C. 145.191)** For eligible members with less than five years of total service credit as of December 31, 2002 (those who were eligible to select one of the new retirement plans), the bill permits (rather than requires) those members who select a new retirement plan to also elect to transfer their accumulated contributions in the OPERS Traditional Pension Plan to the member’s new retirement plan. R.C. 145.191(C), which specifies the amounts an eligible member who selects one of the new retirement plans is required to transfer to the member’s new plan, was modified in S B 247 The bill returns this provision to the original language that was enacted in H B 628 of the 123rd General Assembly (the Act that required OPERS to establish one or more defined contribution plans). The amendments are intended to be non-substantive.
- **(R.C. 145.193)** Under current law, law enforcement officers are not eligible to select one of the new retirement plans. The bill requires a member who initially selects one of the new retirement plans, and later becomes employed in a law enforcement position, to begin participating in the OPERS Traditional Pension Plan. The plan documents for the new plans contain this language and the bill establishes these provisions in statute.
- **(R.C. 145.35)** The bill provides that eligibility for disability benefits under the OPERS Traditional Pension Plan continues for two years after the member terminates participation in that plan. The amendment is intended to be non-substantive.
- **(R.C. 145.38 and 145.384)** The amendments to these sections change to “retirement benefit” from ‘retirement allowance” the terminology used to refer to

age and service retirement. Because these sections already apply to retirants under all three OPERS retirement plans (see R.C. 145.82), the amendments are intended to be non-substantive.

- **(R.C. 145.23 and 145.8 13)** The amendments are intended to codify in statute the resulting accounting structure for the new retirement plans and how it is currently being administered.
- **(R.C. 145.814)** These amendments clarify, for members eligible to change their retirement plan selection, the amounts available to purchase service credit in the member's new retirement plan for contributing service to the member's prior retirement plan. The plan documents for the Combined and Member-Directed Plans include the requirements regarding changing your retirement plan selection and the bill amends the statutes to be consistent with the plan documents. The amendments are intended to be non-substantive.
- **(R.C. 145.82)** Current law specifies the provisions of the Traditional Pension Plan that apply to the Combined and Member-Directed Plans, including the provisions regarding re-employment of an OPERS or other system retirant. The bill deletes two of the "re-employment" provisions due to their inapplicability to the Combined and Member-Directed Plans as follows: (1) R.C. 145.382, which applies to retirement allowances recalculated under the Traditional Pension Plan; and (2) R.C. 145.383, which applies to "continuing employment" and is based on joint retirement with STRS and SERS (R.C. 145.37, which is also inapplicable to the new retirement plans).
- **(R.C. 145.97)** Under the Combined Plan, restoration of service previously refunded from the Combined Plan is addressed in rule (rather than R.C. 145.31, which applies to the Traditional Pension Plan). The amendment is intended to be non-substantive.
- **(R.C. 145.20 and 145.92)** With regard to R.C. 145.20, the amendment clarifies when elective officials who become OPERS members on or after January 1, 2003, are eligible to select one of the new retirement plans and includes a technical amendment to make the statute consistent with a similar change that was made to R.C. 145.19 and 145.191 in S.B. 247. With regard to R.C. 145.92, the spouse (not the member) is required to consent to the form of the benefit. The amendments are intended to be non-substantive.