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## RETIREMENT SYSTEMS

- Requires that copies of certain financial reports and actuarial valuations of the five state retirement systems be submitted to the Director of Budget and Management in addition to the Ohio Retirement Study Council and the retirement committees of the General Assembly.
- Requires that the annual financial reports and actuarial valuations be submitted immediately upon their availability.
- Modifies procedures for, and establishes limits on, membership determinations in the Public Employees Retirement System for individuals who have provided personal services to a public employer.
- Requires the five state retirement systems, to pay the Ohio Retirement Study Council's expenses by electronic funds transfer or other electronic payment method or device.

### **Distribution of retirement system financial reports**

(R.C. 145.22, 742.14, 3307.51, 3309.21, and 5505.12)

Under the act, certain financial reports prepared annually or triennially for the five state retirement systems must be distributed by their respective boards to the Director of Budget and Management in addition to the Ohio Retirement Study Council and the retirement committees of the General Assembly as is required under ongoing law. One of the reports provides an actuarial valuation of the pension assets, liabilities, and funding requirements of each of the systems; the other, a full accounting of the revenues and costs relating to the provision of benefits.

The act also requires that the reports be distributed immediately upon their availability.

### **PERS membership determinations**

(R.C. 145.037 and 145.038)

The act makes a number of changes to the law governing membership determination requests in the Public Employees Retirement System (PERS) for individuals providing personal services to a public employer.



In the law governing PERS, the definition of "public employee" generally determines who is subject to compulsory PERS membership. "Public employee" includes almost all state and local government employees who are not members of one of Ohio's other four state retirement systems or the Cincinnati Retirement System. In all cases of doubt, the PERS Board is to determine who is a public employee. Its decision is final.

S.B. 343 of the 129th General Assembly created a procedure under which individuals who provided personal services to a public employer on or before January 7, 2013, but were not included in PERS may request a determination of whether they are public employees and should be in PERS. As part of this procedure, each employer was to send a notice of the right to seek a determination to each individual providing personal services who was not classified as a public employee. Individuals who provided services to a public employer beginning on or after January 7, 2013, could also request determinations but under different provisions.

H.B. 67 of the 130th General Assembly delayed the date of the employer notification requirement and employee membership determination requests authorized or required by S.B. 343.

The act eliminates the employer notification requirement for service on or before January 7, 2013, and modifies other provisions.

### **Service on or before January 7, 2013**

The act eliminates (1) the provision requiring the PERS Board to notify each public employer of the right of an individual who had provided personal services to a determination of whether the individual was a public employee and (2) the provision requiring the employer to send a notice of the right to seek a determination to each individual providing personal services who was not classified as a public employee. Instead, the act requires the Board, not later than November 28, 2013, to have published in at least eight newspapers of general circulation in Ohio notice of the right of individuals to seek determinations. The Board must also post the notice on the PERS web site.

Law unchanged by the act provides that regardless of whether an individual receives notice, a request for a determination must generally be made by August 7, 2014. The act specifies that the PERS Board is to deny a request received after September 29, 2013, if it determines that the individual has had at least ten years of PERS contributing service since last performing the services that are the subject of the request.



### **Service on or after January 7, 2013**

The act eliminates a provision that permitted an individual to request a determination later than five years after services began if the individual's employer did not obtain, or failed to retain, a written acknowledgement that the individual was not a public employee. It retains the provision that permits an individual to request a determination after the five-year deadline if the individual was incapacitated at that time.

Continuing law provides that not later than 30 days after services begin, an employer must require an individual it does not classify as a public employee to acknowledge, in writing on a form provided by PERS, that the individual has been informed that the employer does not consider the individual a public employee and no contributions will be made to PERS. Prior law required the employer to retain the acknowledgement, but did not specify a time period. The act requires the employer to retain the acknowledgement for five years after the date the services begin and to transmit it to the public entity responsible for submitting reports of required contributions to PERS (rather than to PERS). The public entity must transmit a copy of the acknowledgment to PERS.

#### **Business entity**

Under continuing law, the right to request a determination does not apply to an individual employed by a business entity under contract with a public employer to provide personal services to the employer. ("Business entity" is defined for this purpose as an entity engaged in business that has five or more employees.) The act requires a contract between a public employer and a business entity to state that all individuals employed by the business entity who provide personal services to the public employer are not public employees for purposes of PERS membership.

#### **Not a public employee**

Law unchanged by the act provides that on receipt of a request for a determination, the PERS Board must determine whether the individual is a public employee with regard to the services in question. The act specifies that if the Board determines that the individual is not a public employee, the employee being considered is not a public employee (rather than the employee being considered as an independent contractor) with regard to the services in question.



## Payment of Ohio Retirement Study Council expenses

(R.C. 171.05)

The act requires PERS and the State Teachers Retirement System, School Employees Retirement System, State Highway Patrol Retirement System, and Ohio Police and Fire Pension Fund to pay the expenses of the Ohio Retirement Study Council by electronic funds transfer or any other method or device of electronic payment. Prior law required the retirement systems to pay the Council's expenses, but did not specify the method of payment.

