



OEA Legislative Watch

May 10, 2012

Pension Legislation Expected to Move in Ohio Senate

On Tuesday, May 8, 2012, a number of pension bills were introduced in the Ohio Senate and began hearings in the Senate Insurance, Commerce and Labor Committee. The bills were jointly sponsored by Senate President Tom Niehaus (R-New Richmond) and Senate Minority Leader Eric Kearney (D-Cincinnati). The legislation is drafted based on the most recent plans passed by the STRS, SERS and OPERS Boards. These plans were designed in order to improve the long-term solvency of the pension systems.

The plans were designed to secure the defined benefit pension system that our members rely on for economic security in retirement as well as maintain access to meaningful health care benefits for current and future retirees. They each present difficult changes that impact our members, particularly with STRS. However, the funding situation with STRS is critical. The funding period (the amount of time needed to pay off the unfunded liabilities of the plan) is infinite. Simply put, without changes of this magnitude, STRS will eventually run out of money to provide benefits. The proposed changes are likely to only get more costly with the passage of time. For these reasons, OEA supports the bills as introduced. On Wednesday, May 9, 2012, OEA Vice President William Leibensperger testified as a proponent for Senate Bill 341, 342, and 343.

Due to the bipartisan and stakeholder support, bills are expected to move quickly through the Ohio Senate. However, the Ohio House has indicated they will not act on pension legislation until after a study commissioned by the Ohio Retirement Study Council. That study is not anticipated to be completed until July which may move final action on this legislation until after the November election.

Below is a brief synopsis of the major provisions of the plans adopted by each retirement system:

STRS (Senate Bill 342)

Retirement Eligibility: Retirement with full benefits at age 65 with at least 5 years of service is maintained. Otherwise, beginning in 2015, the years of service needed to retire with full benefits gradually increases from 30 years to 35 years. After 2026, a member would need to have 35 years of service and be at least 60 years old for full benefits.

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For early retirements, members could retire at age 60 with 5 years of service or with 30 years of service at any age. However, members who choose to retire early would have their benefits actuarially reduced.

Contributions: The Board-adopted plan calls for gradually increasing employee contributions from 10% to 14% of pay.

Cost-of-Living Allowance (COLA): The bill would lower the COLA rate for current retirees from 3% to 2% and have a freeze on increases for FY 2014. For future retirees (beginning August 2013), the COLA rate would also be 2%, but the first increase would come after 60 months of retirement.

Benefit Formula and Final Average Salary: Beginning in 2015, the formula would be 2.2% for each year of service and final average salary would be calculated on five years of salary rather than three. Those who are eligible to retire by July 1, 2015 but elect to continue working could receive no less of a base benefit than current law allows.

SERS (Senate Bill 341)

The SERS plan does not call for changes in contribution rates, COLA, formula or final average salary. The current fiscal condition of SERS does not warrant such changes. This is important due to the low wages of many educational support personnel and the low monthly pensions of the average SERS retiree.

Retirement Eligibility: Beginning August 1 2017, retirement eligibility with full benefits would be 10 years of service at age 67 or 30 years of service at age 57. A member could retire early with 10 years of service at age 62 or 25 years of service at age 60. Early retirements would be subject to an actuarial reduction of benefits. Members who would have at least 25 years of service by 2017 are grandfathered from these changes.

OPERS (Senate Bill 343)

The changes proposed are designed in order to continue contributions toward a meaningful health care benefit for current and future OPERS retirees. The OPERS plan divides employees into three groups. Those who are within five years of retirement (Group A) or between five and ten years from retirement (Group B) are grandfathered from some of the proposed changes.

Retirement Eligibility: For Group B, eligibility for full benefits increases to 31 years of service and age 52, 32 years of service at any age, or five years of service at age 66. For Group C, eligibility for full benefits increases to 32 years of service at age 55 or five years of service at age 67. For both groups, early retirements result in actuarially reduced benefits. Group A is grandfathered into current eligibility requirements.

Formula and FAS: For Group C only, the formula would be 2.2% for the first 35 years and 2.5% for each year thereafter with FAS calculated on the five highest years of salary (up from 3).

Cost-of-Living Allowance (COLA): The COLA would remain 3% for current retirees. For those retiring after the bill's effective date (Groups A, B and C) the COLA would be the increase in the Consumer Price Index (CPI) capped at 3%.

Senate Bill 316 Clears Ohio Senate

On Tuesday, May 8, 2012, the Senate Education Committee amended and unanimously voted out Senate Bill 316. The bill contains many education-related issues for mid-biennium review. The following day, the bill passed the Ohio Senate by a vote of 30-2.

OEA stand-alone amendments removing the more restrictive collective bargaining limitation for teacher evaluation, eliminating third-party evaluators, providing for additional flexibility under the teacher evaluation framework for teachers labeled "proficient," establishing a separate teacher evaluation framework for teachers who work for County Boards of Developmental Disabilities and applying the teacher evaluation framework to all charter school teachers were tabled mostly on party lines. Below is a summary of the major changes to the as-introduced version of Senate Bill 316.

Teacher Evaluation

- Adds language explicitly allowing teacher evaluations to be conducted by persons designated in a peer review agreement (PAR) entered into by a school district and its teachers.
- Specifies that substitute teachers are not subject to the requirement to undergo annual teacher evaluations.
- Excludes the following students when calculating student academic growth for the purpose of teacher evaluations: (1) Students with 60 or more excused or unexcused absences for the school year; and (2) Students who are "habitual truants." (Under current law, a habitual truant has unexcused absences of 5 or more consecutive days, 7 or more days in a month, or 12 or more days in a school year.)

Teacher Re-testing and Professional Development

- Repeals current law requiring each teacher of a core subject area in a building that is ranked in the lowest 10% of all public schools to take and pass a content knowledge exam.
- Requires the employer to develop a professional improvement plan for a teacher rated "ineffective" on an evaluation for the first time. Requires a teacher that is rated "ineffective" on the next evaluation after the development of a plan to complete at least 12 hours of in-service professional development at the teacher's expense.

- Permits an employer, at its own expense, to require a teacher to take one or more exams of content knowledge selected by the Ohio Department of Education (ODE) in addition to completing the professional development.
- Permits an employer to terminate a teacher if the teacher does not complete the professional development or content knowledge exam, received an “ineffective “ rating on the teacher’s next evaluation after professional development or fails the exam.

Nonrenewal of Teacher and Administrator Contracts

- Extends the deadlines for a school district or Educational Service Center (ESC) to notify a teacher or administrator that the person’s contract will not be renewed for the following school year, as follows: (1) from April 30 to June 1 in the case of teachers; and (2) from March 31 to June 1 in the case of assistant superintendents, principals, assistant principals, business managers, supervisors and other administrators.
- Extends the deadline from June 1 to June 15 for a teacher or administrator to notify a school district or ESC that the person is declining reemployment, in cases where the person is automatically reemployed due to the district's or ESC's failure to comply with the statutory nonrenewal procedures.

Report Cards

- Delays for one year the new letter grade report card until the 2012-2013 school year.
- Establishes a task force of legislators, the Superintendent of Public Instruction and president of the State Board of Education to make legislative recommendations by October 1, 2012 for a new rating and report card system.
- Requires ODE by January 31, 2012 to estimate the rating each district or school would have been assigned for the 2011-2012 school year under the task force’s recommended letter grade rating system if that system were in effect.
- Adds career-technical planning districts (CTPD) to the bill's requirement for a separate academic performance report card for joint vocational school districts (JVSD) to be first issued by September 1, 2013.

Data on Graduates of Teacher Preparation Programs

- Replaces the bill's requirement that school districts annually report to the Department of Education the names and evaluation ratings of their teachers with a requirement that districts and schools report the number of teachers receiving each evaluation rating aggregated by the teacher preparation programs from which the teachers graduated and graduation year.
- Prohibits the guidelines for reporting from permitting or requiring the reporting of teachers' names or other personally identifiable information.

- Extends the date, from December 31, 2012 to December 31, 2014, by which the Board of Regents must commence annually reporting the number and percentage of all graduates of teacher preparation programs who were rated at each of the performance levels.

Third Grade Reading Guarantee

- Replaces the bill's provisions to the third grade reading guarantee with a requirement beginning in the 2013-2014 school year (when this year's first-graders will be entering third grade), that prohibits promotion to fourth grade of a student scoring in the "limited" range on the third-grade reading achievement assessment with the following exceptions:
 - Limited English proficient students who have been enrolled in U.S. schools for less than two full school years and have had less than two years of instruction in an English as a second language program;
 - Special education students whose IEPs exempt them from retention under the third-grade guarantee, or whose IEPs or 504 Plans show that they have received intensive remediation in reading for more than two years but still demonstrate a deficiency in reading;
 - Students who, as determined by their principals, either (1) demonstrate an acceptable level of performance on an alternative reading assessment, or (2) demonstrate through a student portfolio mastery of the state English language arts standards for third grade; and
 - Students who have received intensive remediation in reading for at least two years but still demonstrate a deficiency in reading and were previously retained in any of grades K to 3, as long as the student continues to receive intensive reading instruction in fourth grade.
- Beginning in the 2012-2013 school year, requires each school district, community or STEM school to administer the state-developed diagnostic assessments in English language arts, or a comparable tool approved by the Department of Education, to all students in grades K-3 by September 30 of each school year to identify students reading below grade level.
- Requires a district, community or STEM school to do the following for each student identified as reading below grade level: Notify the parent or guardian of the identification, the current services being provided to the student, proposed supplemental instructional services, potential retention if the student attains a "limited" score on the reading achievement assessment in the third grade and provision for intensive reading instruction immediately following identification of a reading deficiency.
- Beginning in the 2012-2013 school year, requires a district, community or STEM school to (1) provide intensive remediation services until the student is able to read at grade level that address the student's areas of deficiencies, including at least 90 minutes of uninterrupted reading instruction and other strategies that may include small group instruction, reduced teacher-student ratios, more frequent progress monitoring, tutoring or mentoring, transition classes, extended school day, week or year, and summer reading camps; (2) establish a policy for mid-year promotion of a student who demonstrates that

the student is reading at or above grade level; (3) provide each student with a high-performing teacher.

- Makes permissive instead of requiring a school district to provide alternative providers for remediation.
- Requires a district, community or STEM school to develop a reading improvement and monitoring plan for each student in grades K-3 who is reading below grade level.
- Beginning in the 2013-2014 school year, requires that students who have a reading improvement and monitoring plan and are entering third grade be assigned to a teacher who either has passed a "rigorous test of principles of scientifically-based reading instruction" approved by the State Board of Education or has a reading endorsement on the teacher's license.
- Requires each district, community or STEM school to report annually to the Department of Education about its implementation and compliance with the requirements of the third grade guarantee.
- Eliminates the requirement that the remediation provided to students who are reading below grade level include instruction in phonetics and specifies instead that the instruction must be targeted at the student's reading deficiencies.
- Eliminates the requirement that summer remediation be provided in a school or community center and not on an at-home basis.

Third Grade Reading Guarantee Funding

- Establishes Fund 7018 in the Lottery Profits Education Reserve Fund for the Third Grade Reading Guarantee with a FY 2013 appropriation of \$13 million. Requires this appropriation to be used to make competitive grants to school districts and community schools to support reading intervention efforts that assist students in meeting the third grade reading guarantee.
- Requires the Superintendent of Public Instruction and the Governor's Director of 21st Century Education to report to the Governor and the General Assembly, by December 31, 2012, on the ability of the Department of Education to reprioritize state and federal funds appropriated or allocated to the Department in order to identify additional funds that may be used to support the assessments and interventions associated with the third grade reading guarantee.

Other

- Requires the Ohio Department of Education (ODE), in consultation with the State Board of Education and other entities, to develop and submit to the Governor and Ohio General Assembly legislative recommendations by March 31, 2013 regarding reading readiness for individuals from birth through the third grade.
- Amends law to make schools' implementation of the body mass index (BMI) screenings optional.

- Specifies that the study of history and government (other than American history and American government) may count toward the two units of social studies required in grades 9 through 12 for graduation from high school.

OEA Analysis: Mayor Jackson’s Cleveland Plan Legislation (HB 525/SB 335)

Only applies to a “municipal school district”: Under continuing law, the Cleveland Municipal School District is the only “municipal school district” in Ohio (RC 3311.71).

Performance-based salary schedules: The board of education of a municipal school district must annually adopt separate, differentiated salary schedules for teachers and principals based upon performance. Performance is **measured** by considering all of the following: 1) level of license held; 2) whether the teacher or principal is a “highly qualified” teacher; 3) ratings received by the teacher or principal on performance evaluations (includes 50% student growth measure); 4) additional compensation for teachers or principals who **agree** to perform duties not contracted for under a supplemental contract that the board determines warrant additional compensation, including, but not limited to: a) assignment to a building eligible for Title I funding; b) assignment to a building in "school improvement" status; c) teaching a grade level or subject where the board has identified a shortage; or teaching in a “hard to staff” school as determined by the board (RC 3311.78).

- **Salary adjustments:** The board shall annually review the salary of each teacher and principal and may **increase** salary based on: 1) performance (based on level of licensure, highly qualified status or ratings on evaluations); 2) additional duties a teacher or principal agrees to perform (not contracted for under a supplemental contract). The board may **decrease** a teacher's or principal's salary based on: performance of fewer or different additional duties (on which additional compensation was based but not contracted for under a supplemental contract) in the school year for which the salary is decreased.

Evaluations: Not later than July 1, 2013, the board of education, in consultation with teachers employed by the board, shall adopt a standards-based teacher evaluation policy that conforms to the framework for evaluation of teachers developed by the State Board of Education under ORC 3319.112 (50% student growth measures). The board, in consultation with teachers employed by the board, shall adopt procedures under which a teacher may request a review and revision of the results (RC 3311.80).

Teacher assignment: A candidate for an open teaching position at a school shall be interviewed by a building level team comprised of the building principal, a representative of the district teachers’ labor organization, a parent, a staff member in the same job classification as the posted position, and any other members mutually agreed upon by the principal and the labor organization representative. A recommendation shall be made to the district CEO after considering specified credentials (e.g. evaluations, experience teaching subject area and specialized training) and shall not use seniority or continuing contract status as the primary

factor in determining any teacher's assignment. If it becomes necessary to voluntarily or involuntarily assign, reassign, or transfer a teacher to promote the best interests of the district, the CEO shall first meet with the teacher, the principals of the affected buildings, and a representative of the teachers' labor organization. The board and the teacher's labor organization shall negotiate regarding the implementation of the teacher assignment statute (RC 3311.79).

Reduction in teachers: In addition to the existing statutory reasons for a reduction in teachers, a municipal school district is authorized to make a reduction in teachers for "academic reasons resulting in consolidation of teaching positions, duties, or functions or resulting in changes in educational programs." The **order of reductions** will start with teachers with a composite evaluation rating of "ineffective," then proceed to teachers rated "developing," followed by "proficient," and finally those rated "accomplished." Within each evaluation category, teachers with limited contracts are reduced first, followed by teachers with continuing contracts. After applying specialized training and experience and any other negotiated factors to the statutory framework, teachers within the same evaluation and contract category shall be given preference based on seniority (RC 3311.83).

Termination and suspension: The board may place a teacher on disciplinary suspension for a definite period of time for good and just cause. For purposes of contract terminations, good and just cause shall include receiving an evaluation rating of "ineffective" for two consecutive years. A teacher may appeal pursuant to grievance procedures in any applicable collective bargaining agreement (RC 3311.82).

School calendar: The board of education of a municipal school district has final authority to establish a school calendar, including year round instruction and length of the school day, for one or more of the district's school buildings (consistent with state minimums). The district board and teacher's labor organization shall negotiate regarding any additional compensation for an extended school year/day consistent with the performance-based salary schedule (RC 3311.85).

Collective bargaining: The requirements listed above for performance-based salary schedules, teacher assignment, evaluations, reductions in teachers, seniority and tenure, termination and suspension, and school calendar prevail over any conflicting provisions of a collective bargaining agreement entered into on or after the effective date of the bill.

Local school levies may include "qualifying" charter schools: The board of education of a municipal school district may declare that it is necessary to levy a tax for the purpose of paying the current expenses of the district and of "**qualifying" charter schools**. The board resolution and voter ballot shall state the purpose of the levy, the rate of the tax in mills per dollar of taxable value, the number of such mills to be levied for the current expenses of the qualifying charter schools and the number of such mills to be levied for the current expenses of the school district (RC 5705.21).

- **“Qualifying” charter school:** A charter school established under state law located within the territory of the municipal school district that is either sponsored by the district or a party to an agreement with the district identifying goals and standards.

Transformation Alliance: If one or more “partnering” charter schools (charters in district territory that are sponsored by the district, have an agreement with the district, receive services from the district or lease a building from the district) are located in a municipal school district, the mayor may establish a school district Transformation Alliance. The mayor shall appoint the initial directors, which shall include representatives of all of the following: the school district; partnering community schools; the community at large, including parents and educators and; the business and foundation community. The mayor shall be an ex officio director and the chairperson of the board of directors (RC 3311.86).

- **Transformation alliance approval of charter school openings:** The Transformation Alliance is authorized to approve charter school openings in the school district, based on objective criteria, developed in consultation with Ohio Department of Education (ODE). The decision by the Alliance may be appealed to ODE.
- **Other responsibilities:** The Alliance shall do all of the following: 1) confirm and monitor implementation of the Transformation Alliance education plan (develop a system of district and partnering charter schools); 2) suggest national education models and collect input from the community in the development of new schools; 3) work with the school district and partnering charter schools to adopt a framework to annually assess district and charter schools; 4) communicate school choices within the school district and; 5) assess charter school growth and quality in the district by applying national quality standards.