

H.B. 69 (As Introduced)
 Comparative Summary
 February 10, 2011

Topic	Current law	H.B. 69 (As Introduced)	Consistent with Board recommendation
Age & service retirement eligibility*	<p>General division:</p> <p>Eligible to retire with an <i>unreduced</i> benefit as follows:</p> <ul style="list-style-type: none"> • Any age with 30 years of service • Age 65 with 5 years <p>For a <i>reduced</i> benefit as follows:</p> <ul style="list-style-type: none"> • Age 55 with 25 years of service • Age 60 with 5 years <p>Law/Public Safety division:</p> <p>Eligible to retire with an <i>unreduced</i> benefit as follows:</p> <ul style="list-style-type: none"> • Age 48 with 25 years of law enforcement service • Age 52 with 25 years of public safety service or a combination of public safety and law service • Age 62 with 15 years of law enforcement or public safety service <p>For a <i>reduced</i> benefit as follows:</p> <ul style="list-style-type: none"> • Age 48 with 25 years of public safety service or a combination of public safety and law service • Age 52 with 15 years of law enforcement or public safety service 	<p>General division:</p> <p>Eligible to retire with an <i>unreduced</i> benefit as follows:</p> <ul style="list-style-type: none"> • Age 55 with 32 years of service • Age 67 with 5 years <p>Eligible to retire with a <i>reduced</i> benefit as follows:</p> <ul style="list-style-type: none"> • Age 57 with 25 years of service • Age 62 with 5 years <p>Law/Public Safety division:</p> <p>Adds two years to the required ages.</p>	<p>Yes</p>

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Benefit formula*	<p>General division:</p> <ul style="list-style-type: none"> 2.2% of Final average salary (FAS) for the first 30 years of service; 2.5% of FAS for each year in excess of 30 <p>Law division:</p> <p>2.5% of FAS for each of the first 25 years of service; 2.1% for each year in excess of 25</p> <p>For members who retire with a <i>reduced</i> benefit at age 52 with 15 years of service, 1.5% of FAS for each year of service</p> <p>Three highest calendar years of earnable salary.</p>	<p>General division:</p> <ul style="list-style-type: none"> 2.2% of Final average salary (FAS) for the first 35 years of service; 2.5% of FAS for each year in excess of 35 <p>Law division:</p> <p>No changes proposed.</p>	Yes
Final average salary*	<p>Three highest calendar years of earnable salary.</p>	<p>Five highest calendar years of earnable salary.</p>	Yes
Cost-of-living allowance*	<p>Beginning 12 months after effective date of retirement, a 3.0% simple cost of living allowance (COLA).</p>	<p>Beginning 12 months after effective date of retirement, a simple COLA determined by the average percentage change in the Consumer Price Index up to a maximum of 3.0%.</p>	Yes
Age & service reduction factors*	<p>For members who retire with a reduced benefit and who are under age 65 or have less than 30 years of service credit, a reduction factor, established in statute, is applied to the base benefit.</p>	<p>For members who retire with a reduced benefit and who are under age 67 or have less than 32 years of service credit, a reduction factor—that will be determined by the actuary—is applied to the base benefit.</p>	Yes
Transition plan		<p>Members who are eligible to retire or who will become eligible to retire in the 5-year period following the bill's effective date are grandfathered under current law with the exception of the COLA (referred to as "Group A").</p> <p>Members who will become eligible to retire in the 10-year period following the bill's effective date and those who have at least 20 years of service credit on that date are grandfathered under current law with the exception of the</p>	Yes

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		<p>COLA and the age & service reduction factors (referred to as "Group B").</p> <p>All other members and those hired after the bill's effective date will be subject to all of the changes regarding age & service eligibility, benefit formula, FAS, COLA, and the age & service reduction factors (referred to as "Group C").</p> <p>All other provisions of the proposed changes apply on or after the bill's effective date or as specified below.</p> <p>Maintains current law but adds a new criteria:</p> <ul style="list-style-type: none"> • A date that is 90 days prior to the date of application 	Yes
Effective date of benefits	<p>Effective benefit date is the later of the following:</p> <ul style="list-style-type: none"> • Attainment of age & service eligibility • Termination of public employment 	<p>The bill eliminates this alternative benefit formula.</p>	Yes
Minimum benefit calculation	<p>One of the alternative benefit formulas is \$86 multiplied by the member's years of service.</p>		No
Inter-system transfers	<p>For transfers between OPERS and SERS/STRS:</p> <p>For the purpose of determining eligibility for an age and service retirement or disability benefit at the time of retirement, allows the member to combine service credit and contributions earned as a member of SERS/STRS if the member's refundable account multiplied by 2 is transferred to the paying retirement system.</p> <p>For transfers between OPERS and OP&F/HPRS/CRS:</p> <p>For the purpose of determining eligibility for an age and service retirement or disability benefit allows the member to combine service credit and contributions earned as a member of OP&F/HPRS/CRS if the following are transferred to the paying retirement system:</p>	<p>For transfers to OPERS from SERS/STRS:</p> <ul style="list-style-type: none"> • Omits the proposed changes that require these transfers of service credit to OPERS be actuarially neutral to OPERS. • Includes the proposed changes that exclude the transferred service credit from determining eligibility and monthly allocation for OPERS health care coverage. <p>For transfers to OPERS from OP&F/HPRS/CRS:</p> <p>Maintains current law regarding the amounts transferred but provides that such transfers:</p> <ul style="list-style-type: none"> • Must occur at the time of retirement; • That the transferred service credit be excluded from 	

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<p>Service credit purchases</p>	<p>1. The member's contributions to the other retirement system; 2. The lesser of the employer contributions that were paid to OPERS or to the other retirement system; 3. Interest on the amounts specified above.</p> <p>Establishes in statute the cost of the following types of service credit purchases:</p> <ol style="list-style-type: none"> 1. Time the member received Bureau of Workers Compensation benefits; 2. Denied salary for elected officials; 3. Service as an elected official prior to establishing membership; 4. Additional 35% service credit for elected and appointed officials; 5. Exempted service; 6. Leave of absence; 7. Public service that predates membership; 8. Out-of-state/federal service; 9. School board service; 10. Leave of absence (less than 1 year). <p>Allows the member's accumulated contributions—which includes service purchases—to be used in determining one of the alternate benefit formulas (referred to as the "long interest" calculation).</p> <p>Allows surviving spouses and dependents to purchase service credit that the deceased member was eligible to purchase.</p>	<p>determining eligibility and monthly allocation for OPERS health care coverage.</p> <p>With certain exceptions described below, modifies the cost to the member of purchasing the specified types of service credit to an amount equal to 100% of the additional liability to OPERS resulting from the additional credit.</p> <ul style="list-style-type: none"> • Eliminates free service credit for periods during which a PERS member was out of service and receiving workers' compensation benefits, but permits the member to elect to purchase the credit and requires the employer to make the employer contribution if the member makes that election. • Requires a PERS member who is elected or appointed to office to pay both the employee and employer contribution to receive credit for a pay increase that was not paid because it was granted during the member's term in office (rather than paying only the employee contribution). <p>On and after the bill's effective date, excludes from the long interest calculation service credit purchases under which the member pays the entire cost of the credit.</p> <p>Provides that for the surviving spouse of a PERS member who dies on or after the bill's effective date to be eligible to purchase service credit the member would have been eligible to purchase, the member must have initiated the purchase before death.</p>	<p>Yes</p>

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Minimum earnable salary	Monthly contribution of \$250 to earn full-time credit	<p>Repeals certain service credit provisions that are obsolete.</p> <p>Applies the bill's changes to the cost of service purchases initiated six months after the bill's effective date.</p> <p>Monthly contribution of \$1,000 to earn full-time credit beginning on the January 1 following the bill's effective date and indexed annually thereafter based on the Average Wage Index used by Social Security.</p>	Yes
Disability program	<p>Members (other than those in the Member Directed Plan) who have five years of service credit have coverage for long-term disability. Regardless of length of service, disability coverage due to on-duty illness or injury is provided to members who are law enforcement or public safety officers. Depending on when the member first joined OPERS, the benefit is disability retirement or a disability allowance. Disability retirement continues until the member recovers or dies (the "original" plan). A disability allowance continues until the member recovers or dies, the benefit has been paid for a specified number of years, or the member has reached an age specified in statute (the "revised plan"). After a disability allowance terminates, the member is eligible for a retirement allowance. A "disability benefit" refers to a disability retirement or a disability allowance.</p>	<p>The bill makes several changes to OPERS disability program, including provisions concerning exclusions from coverage, standards for disability determinations, leave of absence, forfeiture, continued employment, and offset of Social Security disability insurance payments.</p> <p>More specifically, the bill:</p> <ul style="list-style-type: none"> • Excludes coverage for a disability that results from cosmetic surgery other than reconstructive surgery. • Provides that an application made in the two-year period after the member's contributing service ceases may only be considered if the disabling condition began while the member was contributing or is related to work performed while the member was contributing. • Modifies the leave of absence period to be the first three years following the effective date of the benefit but, if the member is receiving rehabilitative services acceptable to the Board, the Board may permit the member to retain membership status and be considered on leave of absence from employment for up to five years. • Retains the existing "own occupation" standard for an initial disability determination but expresses it more directly. The bill establishes a new disability standard for 	Yes

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		<p>a recipient to whom all of the following apply: (1) the benefit has been paid for three years or longer and (2) the recipient is not considered on leave of absence due to receiving rehabilitative services acceptable to the Board. Under the new "any occupation" standard, the disability benefit will be terminated if the recipient is <u>not</u> physically or mentally <u>incapable</u> of performing the duties of a position that meets all of the following criteria:</p> <ul style="list-style-type: none"> (1) Replaces not less than 75% of the member's final average salary, adjusted each year by the actual average increase in the Consumer Price Index; (2) Is reasonably to be found in the member's regional job market; (3) Is one that the member is qualified for by experience or education. <ul style="list-style-type: none"> • Expands the current forfeiture of a retirement allowance or disability benefit by an OPERS member who has been convicted of a felony by creating a new forfeiture provision applicable to a member convicted of a felony committed after the bill's effective date that caused the member's physical or mental disability. • Provides that a disability benefit that has been granted a member but has not commenced is not to be paid if the member continues in or returns to employment with the same employer in the same position or in a position with duties similar to those of the position the member held at the time the benefit was granted. • With regard to the offset for receipt of an Social Security Disability benefit: <ul style="list-style-type: none"> o With one exception discussed below, requires a disability benefit recipient whose benefit is granted on or after the bill's effective date to apply for SSDI payments if the recipient is eligible for them. The application must be made not 	

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		<p>later than 90 days after the recipient is granted a disability benefit unless the OPERS Board determines from the member's medical records that the member is physically or mentally unable to make the application.</p> <ul style="list-style-type: none"> o A disability benefit recipient who is required to apply for SSDI must file a copy of the completed application with OPERS and, if a recipient falls without just cause to apply for SSDI or to file a copy of the application with OPERS, the OPERS disability benefit is to be suspended until application is made and a copy of the application is filed with OPERS. o A recipient of an OPERS disability benefit who also receives SSDI is required by the bill to file an annual statement of earnings under current law and include the SSDI amount in the statement. o If in any year the total of a disability benefit recipient's OPERS benefit and SSDI payments exceeds the recipient's adjusted final average salary, the annual PERS benefit is to be reduced so that the annual total equals the recipient's adjusted final average salary, which is determined by annually increasing the recipient's final average salary by any increase in the Consumer Price Index, not exceeding 3%. If a disability benefit recipient receives retroactive SSDI payments, OPERS is authorized to reduce future OPERS disability benefits to recoup any overpayments. o The offsets required by the bill do not apply to an OPERS disability benefit recipient who has at least five years of service credit for periods during which the recipient had earnings from 	

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Determination of membership	Requires, in all cases of doubt, the OPERS Board to determine whether a person is a public employee and its decision is final.	<p>other employment that was subject to Social Security and Medicare taxes.</p> <p>Maintains current law but codifies in statute the process for requesting a determination of membership.</p> <p>Establishes a 5-year statute of limitations for membership determinations for services provided to a public employer after the bill's effective date. Establishes a 1-year window to seek a membership determination for services provided to a public employer prior to the bill's effective date.</p> <p>Requires that employers obtain acknowledgement from an independent contractor of the person's right to seek a membership determination and establishes certain annual reporting requirements for services provided by an independent contractor after the bill's effective date.</p> <p>Modifies the interest rate charged on delinquent contributions to be the actuarial assumed rate of interest.</p>	Yes
Mitigating rate for MD and CO Plans	Requires the OPERS Board to withhold a percentage of the employer contribution paid on behalf of Member-Directed (MD) and Combined (CO) Plan members to mitigate any negative financial impact on the Traditional Pension (TP) Plan, as determined by an actuary.	Authorizes, but does not require, the OPERS Board to withhold a percentage of the employer contribution paid on behalf of MD and CO Plan members to mitigate any negative financial impact on the TP Plan.	Yes
Corrective changes		<p>Includes in the bill the following corrective changes that have been approved by the OPERS Board:</p> <ul style="list-style-type: none"> • Recovery of benefit/health care overpayments – Provide that OPERS may adjust a benefit payable to a benefit recipient if an error occurred in the calculation of the benefit; authorize OPERS to collect health care 	No

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		<p>overpayments made directly by OPERS or by a third-party administrator on behalf of OPERS.</p> <ul style="list-style-type: none"> • Defined Contribution Plans – Authorize certain corrective changes to the statutes authorizing the Member-Directed (MD) and Combined (CO) Plans to establish consistency between the statutes and the plan documents that govern those plans. <p>Omits from the bill the following corrective changes the majority of which have been approved by the Board:</p> <ul style="list-style-type: none"> • Additional Annuity program - Authorize that monthly benefits be paid under any of the plans of payment offered in current law for retirement allowances. • Electronic Records – Authorize the retirement system to maintain records in printed or electronic format. In addition, add authority (not a requirement) to share data with the other Ohio retirement systems and with two federal entities: the Social Security Administration and the Centers for Medicare and Medicaid Services (CMS). • Notice of Death - Provide that, following the death of a designated beneficiary, a retiree may request that the benefit be paid as a single-life annuity and the change shall take effect the month following the date of death (rather than the month following notice of the death). • Defined Contribution Plans – Authorize various corrective changes to the statutes authorizing the Member-Directed (MD) and Combined (CO) Plans to establish consistency between the statutes and the plan documents that govern those plans. • Accounting changes – Delete the provision that contributors may be assessed a fee to pay the expenses of the system if the amount in the Income Fund is inadequate and authorize that expenses are to be paid 	

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		<p>from the Employers' Accumulation Fund (EAF); require interest to be paid from the Income Fund and, in the event of a deficiency, the deficiency will be paid from the EAF; add authority for the EAF to make disbursements (not just transfers).</p> <ul style="list-style-type: none"> • Accounting changes – Authorize, rather than require, OPERS to transfer certain accounts to the Income Fund. • Impact of submitting a false/fraudulent application for benefits/health care coverage – Enact a statute that specifically provides that knowingly making a false/fraudulent statement on any type of application for benefits or submitting any false/fraudulent information in support of an application may be subject to criminal penalties and/or, in the case of health care, denial of the coverage. • Venue – Require that all legal actions commenced against OPERS be filed in Franklin County. • Miscellaneous provisions relating to the OPERS Board – (Terms of office) Add language providing that the investment expert members and Treasurer of State designee shall continue to serve after the expiration of the term until a successor is appointed. (<i>Education program</i>) Require that all board members complete the orientation component of the board education program required under current law. (<i>Removal from office</i>) Apply the removal from office provisions to appointed members of the Board. (<i>Qualifications</i>) Specify that if, as a result of changed circumstances, an employee member of the board no longer qualifies for board membership, the office shall be considered vacant and a successor member shall be elected. (<i>Campaign finance</i>) Provide for a two year statute of limitations for violations of the campaign finance provisions. (<i>Board authority</i>) Add a provision to R.C. 145.09 authorizing the OPERS Board to offer health 	

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		<p>care coverage to employees of the Ohio Public Employees Deferred Compensation Program if the Board offers such coverage to the employees of the retirement system.</p> <ul style="list-style-type: none"> • Final Average Salary – Delete the word “full” to the description of the calendar year for purposes of determining FAS. • Conversion of non-LE service to LE service – Certain technical corrections to this provision are included in the bill but language that would allow OPERS to pro-rate the converted service credit based on the amount of contributions already on deposit for the non-LE service credit (this would be an alternative to requiring the member to pay the additional liability) is omitted. • Disability program/applying for benefits after termination of service – Providing that the disability changes proposed in the bill apply to applications filed after the bill’s effective date regardless of whether the condition existed prior to the bill’s effective date. 	

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