

February 25, 2007

The Public Employee Retirees, Inc. (PERI) Board of Trustees has asked that I write to express concerns with recent bills and enactments by the Ohio General Assembly that affect the Ohio Public Employees Retirement System (OPERS).

First, please let me state that the Public Employee Retirees, Inc. is an association of approximately 55 thousand individuals who are currently receiving retirement benefits from the Ohio Public Employees Retirement System.

More specifically, I have been asked to request your assistance in helping PERI to insure the fiscal and financial integrity of OPERS by not passing bills that give preferential treatment to a selected class of individuals, nor mandating that the resources of the system be used for projects unrelated to building assets for the pension and health care funds.

Section 145.11 imposes a fiduciary duty upon the OPERS Board of Trustees to discharge their duties solely in the interest, and on behalf of the members and retirees of the system. If the OPERS board had undertaken many of the recent legislative enactments, their actions would have resulted in a breach of this fiduciary duty.

Our concerns pertain to a number of categories, such as: allowing certain individuals to purchase additional service credit; allowing certain individuals to transfer from the regular division of OPERS to the Law Enforcement Division; requirements that the system use certain vendors, Ohio brokers, and financial planners as we saw in the so-called "Buy-Ohio" proposals; using the system's assets to affect social or political change; forcing the establishment of defined contributions plans so the financial industry can sell their products to public employees; and requiring the system to utilize the personal pension funds of its members to provide money for venture capital projects.

Below are some specific examples of these issues.

**PURCHASE OF SERVICE CREDIT:** Purchased service credits affect retirement eligibility, retirement allowance, disability allotments, and length of health care liability.

1. Last session, H. B. No. 71, as introduced, would have allowed public employees, who had served on inactive duty in the military reserves or the Ohio National Guard, to purchase additional service credit by paying 75% of the accrued liability. As passed, the bill requires the member to pay an amount equal to 100% of the additional liability. Even with the 100% requirement, there is still an unfunded liability created, because the individual will be able to retire sooner and force the system to be responsible for his or her health care for a longer period of time.

We realize that the legislature wanted to recognize these individuals, however, this is a gift to a certain class of individuals, given by the General Assembly, and paid for by the members of OPERS. This type of legislation is not only unfair to all the others who have served in the reserves and Guard, but also to those who have faithfully made their pension payments over the years. It appears to us that should the Ohio General Assembly wish to provide a benefit or recognition to individuals or a group of individuals, it should be done equally with General Revenue funds and not out of the pockets of our retired public employees.

2. Current law allows elected and appointed officials to purchase up to 35% of their service credit. (This is a benefit not given to anyone else.) H. B. No. 272, as passed, contains a provision that allows these same individuals to apply for a full or partial refund of the amount paid, if the payments do not result in an increase in their retirement benefits. Think about it! These individuals have been given the exclusive right to buy up to 35% of their service credit, and if it does not result in an increased benefit, they may get their money back.

The inequity with this legislation is that only a select few get the privilege to purchase additional credit in the first place, then an additional law is passed giving them the right to request a refund, if the purchase does not ultimately increase their benefit. It is like going to Las Vegas, placing a bet, if you win you keep the winnings, if you lose you get your money back. (See Section 145.201)

3. This past session, court magistrates had a bill that would allow them to purchase up to 35% of their service credit. (H. B. No. 62)

The Ohio Retirement Study Council is currently studying the various code provisions that allow for the purchase of service credit and the financial impact of each on its respective retirement system. OPERS has reviewed nine types of in-place service credit purchase laws. Members, at a cost, purchase these service credits less than the full liability for the credit. The results show that OPERS is subsidizing an average of 55% of the cost. However, the subsidization ranges from 13% to 91% of the current liability. OPERS is reviewing each of these provisions in order to determine if: fairness, good public policy, and sound funding dictates the necessity of a law change to require members to pay more, or all, of the true cost of such purchases.

PERI believes that in fairness and equity to all, there should not be provisions giving certain benefits to a select few that must be paid for by the other retirement system members.

4. **TRANSFERS FROM THE REGULAR DIVISION OF OPERS TO THE LAW ENFORCEMENT DIVISION:** The Law Enforcement Division was established for sheriffs, township police and others whose primary duty is to enforce the law. These individuals have peace officer training and must be certified as a peace officer. Those in the Law Enforcement Division can retire at age 48 with 25 years of service. Also, the contribution rates for the regular division of OPERS are lower than the contribution rates for the Law Enforcement Division. Many individuals desire to transfer their service credit into the Law Enforcement Division so they can retire earlier and many want to transfer without making up the difference in the contribution rates paid.

Case in point: The last budget bill (H. B. No. 66) contained a provision that allowed municipal safety directors to transfer from regular OPERS to OPERS-LE, the Law Enforcement Division. (See Sections 145.01 and 145.33) These individuals are not required to have peace officer training certification. There was nothing in the act to require these municipal safety directors to make up the difference in contribution rates, nor suffer a reduction in service credit.

It is important to note that this provision was in the House version of the budget bill and after the Ohio Retirement Study Council (ORSC) recommended that it be removed it was removed from the Senate bill, and then reinserted by the Conference Committee. One of the duties of ORSC is to review all proposed changes to the public retirement laws and to report to the legislature on their probable costs, actuarial implications, and desirability as a matter of sound public policy. The ORSC's advice was ignored, the benefit granted, and another un-funded liability was placed upon our pension and health care funds.

5. As to the PROPOSED transfers from regular OPERS to OPERS-LE there is a never ending line: Municipal park rangers, township cadets, prison correction officers, and metropolitan housing authority police to name a few. Since the contribution rates for OPERS are lower, some of the bills provide for a mechanism for equalizing the service credit. Under these proposals, credit for time in OPERS could be used only if the member does one of the following: (1) pay OPERS the difference between the total amount the member and employer has paid as contributions to OPERS and the amount that would have been paid under OPERS-LE, plus interest; or, (2) accept a reduced amount of service credit. (For example, 10 years of OPERS service credit would only be worth 8.2 in the Law Enforcement Division.)

The problem with these transfers, even with the proposed mechanisms, is that these individuals would be allowed to retire earlier and OPERS would be responsible for their health care for a longer period of time. The reduction in service credit or payment that they would be required to make in order to transfer only covers the pension portion of the retirement benefit and not health care.

6. USE SPECIFIED VENDORS: H. B. No. 227 of the 125th General Assembly is the classic example. The bill contained the so-called "Buy-Ohio" provisions. One provision requiring the use of Ohio brokers for 70% of equity and fixed income trades; another requiring an additional 10% of the trades being executed by minority business enterprises; another dealing with Ohio investment managers being given not less than 50% of the fund's assets, and another requiring an additional 10% being managed by minority businesses. In addition, there were individuals who wanted the five retirement systems to have an investment program similar to the Bureau of Workers' Compensation. In fact, one of the key witnesses in support of the bill was from the Bureau.

Approximately 75% of a retiree's retirement benefits come from the fund's investment earnings. The greater the return, the greater the benefits. As you know, the investments return is reduced by brokerage fees, execution costs, and any dollars expended for portfolio management services. To have required the systems to use Ohio brokers and managers, or any particular vendor, simply ties the hands of our retirement systems when they are seeking the lowest cost and most efficient services.

The Association understands the desire to support Ohio vendors because their employees work here and pay taxes and this is beneficial to our state's economy. However, every dollar that is unnecessarily spent in order to support certain vendors is one less dollar available for retirement benefits. These retirement benefits are distributed to Ohio retirees who pay taxes here and spend their retirement dollars here in Ohio. It should be noted that current law Section (145.11) requires OPERS to give consideration to Ohio investments and Ohio firms, and when all things are equal, the system does invest in Ohio investments and use Ohio brokers and managers.

Another case in point, the State Teachers Retirement System recently had a fiduciary performance audit in which it was recommended that the law be amended to remove the in-state bank requirement and to authorize STRS to select custody banks that are able to provide better services at lower prices. This recommendation has met resistance and received criticism from those who believe that we need to support Ohio banks.

Recently, Rev. Jesse Jackson was in Ohio asking that more retirement investment be made through minority owned businesses. We appreciate and support Governor Strickland's response to his suggestions.

7. AFFECT SOCIAL OR POLITICAL POLICY: There are individuals who want to use our retirement money to influence social or political policy. For example, some years ago, there was a move to require

the systems to divest investments in companies having a presence in countries such as South Africa, Ireland, and now Sudan. Although this may be a laudable position to take, our funds should not be singled out to suit an outside group's desire to make a social or political statement.

In closing, we believe that OPERS is one of the finest retirement systems in the country. It is effectively managed, almost fully funded, and provides a sound retirement package. Over the years, it has earned an asset base of some 77.6 billion dollars. In 2006 the pension fund had a 15% return on its investments and 12.8% on its Health Care Fund. Last year alone the retirement system pumped 3.75 billion dollars in pensions and benefits into the Ohio economy. Our longstanding concern is that the retirement system retains its ability to maintain financial stability and investment integrity. . Since 1948 our association has played a vital roll in supporting OPERS's administrative and financial health, working as "watch dogs" and partners. A history of our 59 years of involvement can be found on the History Page of our website [WWW.OPERL.ORG](http://WWW.OPERL.ORG).

We appreciate all that you do and understand your responsibility to keep our pension systems secure. We trust that this letter will aid you as you consider each of these legislative conditions and proposals. It is imperative that we all stay focused so that these, and other harmful legislative proposals, don't get a toehold and chip away at the integrity and financial independence of OPERS.

Sincerely,