



JIM PETRO
AUDITOR OF STATE
STATE OF OHIO

Date: February 18, 1997
Bulletin 97-005

AUDITOR OF STATE BULLETIN

TO: ALL STATEWIDE ELECTED OFFICIALS
ALL MEMBERS OF THE GENERAL ASSEMBLY
ALL STATE AGENCY DIRECTORS
ALL COUNTY ELECTED OFFICIALS
ALL CITY ELECTED OFFICIALS
ALL VILLAGE ELECTED OFFICIALS
ALL TOWNSHIP ELECTED OFFICIALS
ALL COURTS OF LAW
ALL NON-COUNTY CLERK OF COURTS
ALL LIBRARY CLERKS/ TREASURERS
ALL ASSOCIATIONS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: PERS RETIREMENT ALLOWANCE

Under existing law, a public employer who employs a PERS retirant must notify the retirement system of the employment not later than the end of the month in which the employment commences. Any overpayment of benefits to a PERS retirant by the retirement system resulting from delay or failure of the employer to give the notice is required to be reimbursed to the retirement system by the employer (Ohio Rev. Code § 145.38 (B) (2)).

Am. Sub. S.B. 82 was enacted by the General Assembly to become effective December 6, 1996. The act retains these notification requirements and amends Ohio Rev. Code § 145.38 to prohibit elected public officeholders from receiving a salary and a retirement payment at the same time when they retire during a term of office and are reelected or appointed to that same office for the remainder of the term or the term immediately following. For example, if Judge Smith "retires" on 12/31/96 before his term ends on 1/5/97, then Judge Smith is prohibited from receiving both the retirement allowance and a new salary if he were elected to the same office for the remainder of his term or the term beginning 1/6/97. The change is intended to curb the abuse of "double dipping" by certain elected officials covered by PERS.

If a public official is reelected or appointed under these circumstances, then the pension portion of the PERS retirement allowance is forfeited and the annuity portion based on employee contributions is suspended. The official then becomes a new member of the retirement system with all the rights, privileges, and obligations of such membership except survivor coverage.

As a new member, the PERS retiree contributes to the system and accrues service credit. Upon termination of employment, the retiree receives either a refund of his or her accu-



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culated contributions made during the re-employed period, without interest, or a "2.1% formula benefit" based solely on the service accrued during the re-employed period. The retiree is not permitted to combine the service for the two periods of employment and have the original retirement allowance recalculated based upon the combined service. The retiree receives the suspended annuity portion of the original allowance in a lump sum payment and the original allowance resumes on the first day of the month following termination of employment.

The act also prohibits cost of living allowances for any officials who, at the time of retirement, held office in this state or in any municipal corporation, county, or subdivision of this state, and were reelected or appointed to the same office for the term immediately following.

Questions about these provisions of Am. Sub. S.B. 82 can be directed to the Ohio Retirement Study Commission at (614) 228-1346 or the Public Employees Retirement System at (614) 466 3604.