



**Testimony on HB 499**  
**Before the House Insurance Committee**  
**By**  
**Gordon Gatien, Director, External Relations**  
**Ohio Public Employees Retirement System**  
**June 1, 2022**

Chairman Brinkman, Ranking Member Miranda, members of the House Insurance Committee, my name is Gordon Gatien and I am the Director of External Relations for the Ohio Public Employees Retirement System (OPERS). Thank you for the opportunity to express our concerns with HB 499.

Understanding the concerns that led to the introduction of the bill, OPERS does not support an exception to the return-to-work requirements that govern the receipt of disability benefits of our members. While we appreciate individuals' desires to serve their communities, there is a broader policy concern with carving out exceptions to the return-to-work requirements, particularly when the issue appears to be confined to a very small number of disability benefit recipients. In fact, only one person submitted written testimony in support of the bill when given the opportunity. It should be noted that this is not an OPERS policy decision, but one that was adopted by the General Assembly many years ago. Due to the current "own occupation" standard for initial disability determinations, disability benefit recipients are permitted to engage in employment unrelated to their disabling condition but **not** in employment covered by the retirement system that is paying the disability benefit. While we respect that the past does not dictate future actions of the General Assembly, we firmly believe the current policy that has been in place for many years, and which applies to OPERS and all of the other Ohio retirement systems, is appropriate.

One glaring weakness in HB 499's proposal is the question of whether these elected officials, as both disability benefit recipients and active contributors to OPERS, would accrue service credit during the time they are collecting a monthly disability benefit and, if so, to what benefit the service would accrue. Not only does HB 499 fail to address how service credit would accrue during the time of the disabling condition; but the bill also fails to contemplate the benefit formula calculations, minimum earnable salary, etc. that could potentially lead to the creation of additional unfunded liabilities on the retirement system.

Secondarily, as you may know, many (even some of your colleagues) have been critical of Ohio's retirement systems allowing retired members to return to work while collecting monthly pension benefits (commonly referred to as "double dipping"). Though the retirement systems consider this issue to be driven by public employers and not the



systems themselves, it is an issue that periodically draws public scrutiny. If the media and the general public consider the “double dipping” practice to be egregious, imagine what they will think of the practice of “triple dipping.” By way of example, if a member is receiving a disability benefit while serving as an elected official, that member would be paid by OPERS for a disabling condition that is expected to last at least one year; that member would also receive compensation for the elected official position; **and** ultimately, the member could be eligible for a lifetime annuity at retirement.

That last point is one I mention because, during sponsor testimony, there were references to the conflation of disability benefits and “receiving a pension.” They are not one in the same. The main objective of our disability program is to bridge the gap between when a member becomes unable to perform the functions of their public service job and, through a vigorous rehabilitative services program, getting a disability benefit recipient back to work. Though members receive a monthly benefit during the time of disability, it is not considered a pension. The pension benefit commences at the time of age and service eligibility.

OPERS generally does not favor the types of exceptions created by HB 499. Exceptions create disparate treatment of some members over others – not to mention the risks that are created in administering different rules for subsets of members.

Even if OPERS were inclined to support HB 499, we would be remiss not to alert the committee about another issue the bill creates, most likely unbeknownst to the drafters. Allowing disabled members to return to public service covered by OPERS would disqualify them from being able to use their health reimbursement arrangement (HRA) allowance for qualifying health care expenses during the time of their public service. As some of you know, this issue has been raised on multiple occasions, generally in the context of re-employed retirees. Since the OPERS HRA is a retiree-only plan, the very members who would be exempt from the return-to-work rules under the provisions of this bill could continue to receive an HRA allowance, but would not be able to use the HRA funds during the time when they would arguably need it most – to assist them in recovering from their disabling condition.

It is worth noting that the Ohio Retirement Study Council (ORSC), the legislative body responsible for advising and informing the General Assembly on all matters relating to the five statewide retirement systems, recommended disapproval of HB 499 for many of the reasons to which I have spoken today. The ORSC also raised concerns about the bill



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violating the “principles governing pensions regarding equal treatment of members and unresolved implementation issues.”<sup>1</sup>

Thank you for the opportunity to testify before you. I would be pleased to respond to any questions you may have.

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<sup>1</sup> *H.B. 499 of the 134<sup>th</sup> General Assembly, Rep. Adam Miller, ORSC Recommendation*, Jeff Bernard, April 14, 2022