



**OHIO SENATE FINANCE COMMITTEE**  
**May 28, 2025**  
**Interested Party Testimony**  
**Amended Substitute House Bill 96 – State Operating Budget**

Chairman Cirino, Vice Chairman Chavez, Ranking Member Hicks-Hudson, and members of the Senate Finance Committee, OPERS appreciates the opportunity to provide written testimony on Amended Substitute House Bill 96 (H.B. 96) regarding three policy provisions within H.B. 96 that would negatively impact Ohio's public retirement systems, two of which pertain to the on-going independence of the systems, while the third attempts to address the unintended consequences associated with exclusion of certain public employees from membership in OPERS.

The long-term success of the Ohio Retirement Systems (ORS or Systems) is due, in large part, to their independence and requirement to act in the best interests of their members. Maintaining that independence should be of the utmost importance, as it allows for distinct lines of governance and responsibility. The Systems' fiduciary duties extend to every aspect of their organizations, from the collection and investment of retirement contributions and the payment of pension benefits to the management of their workforces and efficient administration of their businesses. Any attempt to blur the line between the Systems and the executive branch would compromise their independence and decision-making authority regarding their needs as employers and as providers of retirement security for hundreds of thousands of Ohioans. At best, this diverts attention from the Systems' mission and purpose, and at worst, it would force the ORS to entertain considerations and goals which could be inconsistent with those of their members.

With that said, OPERS offers the following comments and concerns for your consideration.

**The Ohio Retirement Systems are not state agencies and treating them as such sets a troubling precedent.**

H.B. 96 defines "state agency" to include the ORS for purposes of reporting remote work policies to the Ohio Department of Administrative Services (DAS).<sup>1</sup>

The Systems are instrumentalities of the State, and like state institutions of higher education – which are exempted from reporting to DAS under the bill – they are overseen by independent boards of trustees who have a fiduciary duty to act in the best interests of their members, including, regarding the prudent administration of their staffs and benefit plans.

Attorneys General opinions<sup>2</sup> and corresponding case law have repeatedly affirmed that the ORS are not state agencies. The Systems were purposely established apart from Ohio's executive branch to insulate them from pressures and considerations that may be inconsistent with the performance of their fiduciary duties. This intentional separation has benefited *both* the ORS and

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<sup>1</sup> Am. Sub. No. H.B. 96, Sec. 124.184 (A)(1), lines 9622-9632, Page 344.

<sup>2</sup> OAG 96-032, "...the Public Employees Retirement System, R.C. Chapter 145...systems are not state agencies, as that term is defined at R.C. 121.41(D) and R.C. 1.60....", Syllabus.



the state government of Ohio. The Systems are free to focus solely on their obligations to their members, while the state government is spared the rigors and responsibilities of providing retirement security for Ohio's public servants. This partition of responsibilities has proven to be incredibly successful, with the best measure of that success being that the Systems have been providing secure, sustainable, and uninterrupted retirement benefits to their members for more than 100 years.

While seemingly a small thing, including the Systems within the definition of "state agency" for any purpose sets a terrible precedent and diminishes the independence of the Systems' boards by forcing them to accommodate requirements and restrictions that may be inconsistent with the prudent administration of their staffs and benefit plans. To that end, we are respectfully requesting that the Systems be removed from the definition of "state agency," and are seeking your support for such an amendment.

**The Systems should not be bound by the rulemaking authority of the Ohio Department of Taxation and if the General Assembly believes the Systems should, in fact, be required to withhold school district income taxes from their members' retirement benefits, the Systems should be given an appropriate amount of time to implement such requirements.**

H.B. 96 would also erode our boards' independence in another way – by granting rulemaking authority to the Tax Commissioner to implement provisions requiring the Systems, at the member's request, to collect school district income taxes from their retirement benefits.<sup>3</sup>

Under current law, the Systems already maintain authority to promulgate rules regarding the withholding of state and federal taxes from members' pension benefits. H.B. 96 would require the Systems to also offer their members the option to withhold local school district income taxes.

Setting aside whether these changes are necessary, OPERS engaged with the Department of Taxation to address deficiencies with the language passed by the Ohio House of Representatives. Following those conversations, it is our understanding that the Department of Taxation did not intend to override the Systems' rulemaking authority, and we agreed, in concept, on amended language that would address the Systems' concerns. That language would reassert the Systems' rulemaking authority over their administration of the tax withholding process and delete the language that currently authorizes the Tax Commissioner to promulgate rules that bind the Systems. We respectfully request that you support this change.

However, there is another issue that will require your attention. We remain concerned regarding the time and resources needed to implement the new withholding process, particularly as it involves a relatively small number of our retired members (e.g., in the case of OPERS, less than 20 percent of our current retirees would be impacted). OPERS staff have estimated that implementing programming changes necessary to accommodate these withholding requirements would take between seven and nine months. Therefore, we are also respectfully requesting that

<sup>3</sup> Am. Sub. H.B. No. 96, Sec. 5747.071, lines 124491-124548, Page 4307.





H.B. 96 be amended to extend the implementation date from January 1<sup>st</sup>, 2026, to January 1<sup>st</sup>, 2027. This would allow us to budget time and resources (Because OPERS had no advance notice of this change, its 2025 budget does not include funding for this project) to accurately comply with the new withholding requirements in the H.B. 96.

**Excluding certain precinct election officials (PEOs) from membership in OPERS will create more problems than it solves.**

H.B. 96 would exclude certain precinct election officials from OPERS membership. While we understand the intent of the language, the practical application of the language, as currently drafted, would create additional work for county boards of elections and OPERS.

Currently, PEOs who are paid less than \$600 (or less than \$1,000 in years in which more than one primary election and one general election are held) are excluded from membership in OPERS. H.B. 96 removes these thresholds, in favor of a blanket exclusion for all PEOs who have not been compensated for any public service during the calendar year of the election. The practical impact of the language in H.B. 96 would create administrative inefficiencies, including reporting to OPERS any compensation paid to these individuals.

While OPERS does not endorse the exclusion of any members, we have engaged with the Secretary of State's (SOS) office, as well as representatives of boards of elections to develop an alternative solution, one that will accomplish both of our underlying policy objectives.

If it is the will of the General Assembly to exclude these PEOs from OPERS membership, then we respectfully request that H.B. 96 be amended to tailor the exclusion so that those workers who are compensated less than the federal compensation threshold for election workers (i.e., Currently, \$2,300 and indexed annually for inflation). Doing so will satisfy the SOS's stated purpose in seeking an exclusion and should not necessitate future adjustments.

**Conclusion**

We appreciate the opportunity to share our policy concerns regarding the House-passed version of H.B. 96. As entities that are not normally subject to the biennial budget process, we do not make these requests lightly. But we believe it is imperative to protect the independence of the ORS. The Systems are well-administered, stable, and secure, and all of Ohio has benefited from permitting them to focus solely on their obligations to their members; we urge you to allow us to continue that good work.

Finally, it should be noted that the Ohio Retirement Study Council (Council) recently voted to disapprove each of the aforementioned provisions.<sup>4</sup> OPERS supports this outcome and appreciates the Council's consideration and deliberation as a subject matter expert on these

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<sup>4</sup> Am. Sub. H.B. 96 of the 136<sup>th</sup> General Assembly, Ohio Retirement Study Council Staff Recommendations, May 8, 20025.



matters. We ask once more that H.B. 96 be amended in line with the Council's recommendations.

Thank you again for the opportunity to share our concerns with the Committee and for your consideration of our requests.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gordon J. Gatien", written in a cursive style.

Gordon Gatien  
Director, External Relations