



## OHIO SENATE FINANCE COMMITTEE

June 4, 2025

### Interested Party Testimony Amended Substitute House Bill 96

Chairman Cirino, Vice Chairman Chavez, Ranking Member Hicks-Hudson, and members of the Senate Finance Committee, OPERS appreciates the opportunity to provide additional written testimony on the Senate version of 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 these provisions pertain to the independence of our plans, while the third attempts to address the unintended consequences associated with the removal 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 discretion to act in the best interests of their members. Maintaining that independence is critical and 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, these incursions divert attention from the Systems' mission and purpose, and at worst, they force the ORS to entertain considerations and goals which could be inconsistent with those of their members.

With that said, OPERS appreciates your consideration of the following comments, and respectfully requests your support for the amendments described below.

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

H.B. 96 continues to define "state agency" to include the ORS.<sup>1</sup> This recharacterization of the Systems is perilous and remains a primary concern for the Systems and their members.

Like state institutions of higher education – which are exempted under the bill – the Systems are overseen by independent boards of trustees who have a singular purpose and are subject to a strict 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 the state government of Ohio. The Systems are free to focus solely on their obligations to their

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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.

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members, while the state 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 be given an appropriate amount of time to implement the requirement to withhold school district income taxes from their members' retirement benefits.**

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.<sup>3</sup>

We continue to be concerned regarding the time and resources needed to implement this new withholding process, particularly, given the relatively small number of members involved (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 again respectfully requesting that 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 precinct election officials (PEOs) from membership in OPERS will create more problems than it solves.**

Additionally, H.B. 96 excludes certain precinct election workers from OPERS membership. We remain concerned that the practical application of this exclusion would create additional work and cost for both boards of elections and OPERS.

Under current law, 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 exempted 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.

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

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Although this change seems like a reasonable solution, the practical impact of the language in H.B. 96 would create administrative inefficiencies, leading to additional work and difficulty for both boards of elections and OPERS.

While OPERS does not endorse the exclusion of any members, we engaged extensively 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.

As a result, we believe we have reached an agreement that will tailor the exclusion so that it will impact only those PEOs who are compensated less than the federal compensation threshold for election workers (i.e., Currently, \$2,300 and indexed annually for inflation). This change will address OPERS' concerns, satisfy the SOS's stated purpose in seeking an exclusion, and importantly, it should not necessitate future adjustments. We respectfully request that H.B. 96 be amended to reflect this agreement.

**Conclusion**

We appreciate the opportunity to once again 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 ORSC 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 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,

Gordon Gatien  
Director, External Relations

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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, 2025.