



COUNTY ADVISORY BULLETIN

CAB

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PERS CONTRIBUTION OPTION FOR IN-TERM COUNTY COMMISSIONERS

As most individuals are aware, Substitute House Bill 712, enacted on December 8, 2000, provided compensation adjustments for county elected officials along with statewide office holders, judges, lawmakers, township elected officials, and board of elections members. (County Advisory Bulletin 00-7 provides further information about HB 712.)

However, county commissioners who were in-term when the bill became effective and will not be up for re-election until 2002 have been closed out of the raises provided by HB 712 during 2001 and 2002. While this result is very unfortunate and unfair, there is one provision in the law that such individuals should be aware of relative to their retirement benefits.

Ohio Revised Code Section 145.01 (Y) enables those individuals to increase their "member contribution rate" with PERS to reflect the higher salary provided by HB 712, even though such individuals are not receiving the higher salary in their take home pay. Section 145.01 (Y) states the following:

When a member has been elected or appointed to an office, the term of which is two or more years, for which an annual salary is established, and in the event that the salary of the office is increased and the member is denied the additional salary by reason of any constitutional provision prohibiting an increase in salary during a term of office, the member may elect to have the amount of the member's contributions calculated upon the basis of the increased salary for the office.

At the member's request, the (PERS) board shall compute the total additional amount the member would have contributed, or the amount by which each of the member's contributions would have increased, had the member received the increased salary for the office the member holds.

If the member elects to have the amount by which the member's contribution would have increased withheld from the member's salary, the member shall notify the employer, and the employer shall make the withholding and transmit it to the retirement system.

A member who has not elected to have that amount withheld may elect at any time to make a payment to the retirement system equal to the additional amount the member's contribution would have increased, plus interest on that contribution, compounded annually at a rate established by the (PERS) board and computed from the date on which the last contribution would have been withheld from the member's salary to the date of payment.

A member may make a payment for part of the period for which the increased contribution was not withheld, in which case the interest shall be computed from the date the last contribution would have been withheld for the period for which the payment is made.

Upon the payment of the increased contributions as provided in this division, the increased annual salary as provided by law for the office for the period for which the member paid increased contributions thereon shall be used in determining the member's earnable salary for the purpose of computing the member's final average salary.

According to PERS, such commissioners who exercise this higher contribution option are responsible for paying the regular PERS employee contribution rate (currently 8.5%) on the portion of the salary that can not be accepted because of the Article II, Section 20 prohibition. The employer (the county) is not required to contribute the employer share on this higher amount. This is a very unique circumstance in which no party is responsible for making up the difference on the employer's higher share.

Individuals wishing to increase their member contribution rate should do the following:

- contact PERS at 1-800-828-4457 requesting PERS compute the additional amount you would have contributed had you received the increased salary.
- notify the county auditor and submit the enclosed form entitled *certification of denied salary increase* to PERS.
- have the auditor make the withholdings and forward the funds along with the enclosed form marked *report of retirement contributions of denied-in-term-salary increase* to PERS on a regular basis.

This option of contributing at a higher rate may be very important to those individuals who will not be continuing in public service after their current term of office expires and are looking to bolster their three highest years of salary to PERS.

Commissioners choosing not to have the additional amount withheld at this time, may elect at any time to make a payment to PERS. Such payment must be equal to the additional amount by which their contribution would have increased, plus interest on such

contribution, compounded annually at a rate established by PERS and computed from the date on which the last contribution would have been withheld from their salary to the date of payment.

In addition, commissioners may make a payment for part of the period of which the increased contribution was not withheld. In such case, the interest must be computed from the date that the last contribution would have been withheld, for the period for which the payment is made.

Some individuals have asked whether existing contributions to deferred compensation may be transferred to PERS to pay for this higher contribution option. At this time, federal law does not permit such transfers; however, this issue was seriously considered by Congress last year and could come up again by the new Congress. Individuals should not necessarily plan for this type of transfer to be allowed but should simply be aware that discussions have been occurring. Furthermore, individuals today can choose to contribute less to deferred compensation in calendar years 2001 and 2002 to help off-set the higher contributions they may choose to pay to PERS.

Attached to this bulletin are two forms provided by PERS for individuals seeking the higher contribution option. Any questions about these forms or contributions to PERS should be directed to Jeff Cranston with PERS at 1-800-828-4457.

Questions about this bulletin may be directed to CCAO Senior Policy Analyst Cheryl Subler at csubler@ccao.org or at CCAO's toll-free number 1-888-757-1904.

CERTIFICATION OF DENIED SALARY INCREASE

1. **GOVERNMENTAL UNIT:** _____
EMPLOYER CODE: _____

2. **NAME OF EMPLOYER:** _____ **SSN:** _____

3. **OFFICE:** _____ **TERM OF OFFICE:** _____

4. **AUTHORITY ESTABLISHING PROHIBITED SALARY INCREASE (E.G. statute, ordinance, resolution; please give bill number if a statute, attach copy of ordinance or resolution):** _____

5. **EFFECTIVE DATE OF PROHIBITING SALARY INCREASE:** _____

6. **CURRENT SALARY FOR EACH YEAR OF TERM (List each year separately):**
(Mark one: _____ Per diem _____ Annual salary)
Salary **Year**

_____	_____
_____	_____
_____	_____
_____	_____

7. **PROJECTED SALARY FOR EACH YEAR OF TERM (List each year separately)**
Salary **Year**

_____	_____
_____	_____
_____	_____
_____	_____

8. **SALARY INCREASE PROHIBITED BY OHIO CONSTITUTION ARTICLE II SECTION 20 FOR EACH YEAR OF TERM STARTING WITH THE EFFECTIVE DATE OF DENIED SALARY:**
Salary **Year**

_____	_____
_____	_____
_____	_____

***** **QUESTIONS # 9, 10, AND 11 APPLY TO TOWNSHIPS ONLY** *****

9. **IS THE SALARY INCREASE ABOVE DUE TO AN INCREASE IN TOWNSHIP BUDGET?**
_____ **YES** _____ **NO**

10. **IF ANSWER TO #9 IS YES, PLEASE LIST THE AMOUNT OF SALARY INCREASE:**
Increase **Year**

_____	_____
_____	_____
_____	_____
_____	_____

11. **PROJECTED TOWNSHIP BUDGET FOR EACH YEAR OF TERM:**
Budget **Year**

_____	_____	_____
_____	_____	_____

SIGNED: _____

Fiscal Officer Date
REPORT OF RETIREMENT CONTRIBUTIONS OF DENIED-IN-TERM SALARY INCREASE

Employer: _____

Employer Code: _____

Member's Name:

Member's Social Security Number: _____

Frequency Code: _____

Pay Period Begin Date: _____ **Pay Period End Date:**

Amount of Desired Salary: _____

Retirement Contributions: _____

I, hereby, certify that the statements as set forth above are true and accurate.

Fiscal Officer's Signature

Title

Department

(Area Code) Telephone Number