LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2559** by Truitt (Relating to the powers and duties of and benefits available under the Employees Retirement System of Texas.), **As Passed 2nd House**

The provisions of the bill would have a significant impact on improving the actuarial soundness of the ERS and LECOS retirement funds.

The bill would amend various sections of the Government Code and Insurance Code to clarify various definitions and modify other administrative processes of the Employees Retirement System (ERS). The bill would take effect September 1, 2009. Some of the major provisions of the bill include the following:

(1) allow surviving spouses and dependents to enroll in group health plans on the death of a member;
(2) establish a 90-day waiting period for members who retire on or after May 31, 2009 and seek re-employment in the employee class, as well as a surcharge payable by the state agency that rehires a retiree equal to the amount the agency would remit for a normal active member;
(3) allow sick leave and annual leave to be used only in determining the member's or beneficiary's annuity for those members that are hired on or after September 1, 2009;
(4) require that members of the employee class hired on or after September 1, 2009 to be at least 65 years old and have at least10 years of service or have at least five years of service and the sum of age and service exceed 80 to be eligible to retire and receive a service retirement annuity;
(5) calculate the service retirement annuity using an average compensation based on the 48 highest months of compensation for members hired on or after September 1, 2009;
(6) reduce the standard service retirement annuity by five percent for each year the member retires before age 60, with a maximum possible reduction of 25 percent, for members hired on or after September 1, 2009;
(7) calculate the standard service retirement annuity payable for at least 20 years of service credit as a law enforcement or custodial officer using an average compensation based on the 48 highest months of compensation for members hired on or after September 1, 2009;
(8) reduce the standard service retirement annuity for law enforcement or custodial officers by five percent for each year the member retires before age 55, with a maximum possible reduction of 25 percent; and
(9) increase the required employee contribution to ERS from 6.0 percent to 6.45 percent of payroll, with an additional 0.5 percent of payroll for law enforcement or custodial officers.

The bill would make changes to the Judicial Retirement System Plan II (JRS II) which would increase the costs of the plan. It would repeal Government Code 838.1035(c), which effectively limits the maximum retirement benefit to 80 percent of salary, and would thereby allow the maximum benefit to be 90 percent of salary. The ERS actuary certifies JRS II is actuarially sound, however this is based on a smoothed actuarial value of assets (AVA) which is 50 percent greater than the market value of assets (MVA). JRS II is arguably actuarially unsound; even using an AVA only 40 percent greater than MVA would leave it actuarially unsound with an infinite funding period.

Government Code 840.106 limits increases in allowable creditable service if JRS II is actuarially unsound. However, in this case the increase will not lead to a material increase in long-term JRS costs, and the actuarial valuation already assumes members can acquire the additional service. Hence the increase is not limited by Government Code 840.106.

The provisions of the bill would reduce the normal cost of the ERS retirement plan from 13.37 percent to 12.28 percent, and the annually required contribution rate from 19.28 percent to 18.69 percent. This reduction, along with the 0.45 percent increase in member contributions, would have a significant impact in moving the fund toward actuarial soundness. Additionally, ERS reports that the normal cost of the Law Enforcement and Custodial Officers Supplemental (LECOS) retirement plan would be reduced from 2.18 percent to 2.08 percent, and the annually required contribution rate from 3.12 percent to 3.09 percent as a result of the bill's provisions. Again, this reduction, coupled with a member contribution of 0.5 percent, will also have a significant impact in moving the LECOS fund toward actuarial soundness. Finally, it is assumed that there would be some costs associated with the return-to-work surcharge contribution requirements, but it is expected that they would not have a significant fiscal impact to the state.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 327 Employees Retirement System

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