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SFA BILL ANALYSIS

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Senate Bill 587 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Bill Bullard, Jr.
Committee: Local, Urban and State Affairs

Date Completed: 8-4-99

RATIONALE

The Public Employee Retirement System Investment Act, originally enacted in 1965, authorizes the State and local governments to invest the assets of their public employee retirement systems in stocks, bonds, and other obligations, as specified in the Act. Amendments to the Act have brought it up to date with current investment practices. Most recently, Public Act 485 of 1996 amended the Act to establish guidelines for investing public pension system assets, allow greater percentages of retirement system assets to be invested in stocks, and expand the types of investments that may be made with retirement system assets. While the Act permits the investment of funds of a public employee retirement system in order to provide retirement benefits, State law does not authorize the investment of funds in the stock market to pay for retiree health care benefits. To help meet the rising cost of these benefits, it has been suggested that local governments be permitted to establish a public employee health care fund and invest the fund's assets in investment opportunities, including stocks, that currently are available for public pension system assets.

CONTENT

The bill would create the "Public Employee Health Care Fund Investment Act" to permit the legislative body of a public corporation (a county, city, village, township, authority, district, board, or commission) to adopt a resolution establishing a public employee health care fund or trust for the purpose of accumulating funds to provide for the funding of health care benefits to retirants and beneficiaries of the retirants of the public corporation. The bill also would: require the resolution to include specific information, such as the designation of an investment fiduciary; require an actuarial review of the fund to be prepared at least every five years; and, require the investment fiduciary to issue a summary annual report to the legislative body that adopted the resolution.

The bill specifies that the resolution would have to include all of the following:

- -- The designation of a person or persons who would act as the fund's or trust's investment fiduciary. ("Investment fiduciary" would mean a person or persons who exercised any discretionary authority or control in the investment of the fund's assets, and/or rendered investment advice for a fee or other direct or indirect compensation.)
- -- A restriction of withdrawals from the fund or trust solely for the payment of health care benefits on behalf of qualified persons and the payment of the fund's or trust's administrative expenses.
- -- The designation of who was a qualified person for payment of health care benefits from the fund or trust.
- -- A determination of whether the fund or trust would be established on an actuarial basis. If the fund were established on an actuarial basis, and were subsequently determined to be overfunded by at least 110%, the amount of overfunding in excess of 110% could be withdrawn from the fund at the option of the legislative body of the public corporation that established the fund.

The investment fiduciary would have to invest the assets of the fund or trust in accordance with the investment provisions of the Public Employee Retirement System Investment Act.

The investment fiduciary also would have to have an actuarial review of the fund or trust prepared at least every five years with assets valued on a market related basis. The investment fiduciary would have to prepare and issue a summary annual report to the legislative body of the public corporation that established the fund or trust.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

As the cost of providing retiree health care benefits increases, communities are looking for ways to generate more funds to pay for future costs of these benefits. Public Act 20 of 1943 permits a local government to invest its funds in U.S. government bonds and securities, certificates of deposit, savings accounts, and certain other investment instruments that tend to produce short-term returns. Public Act 20, however, does not permit local governments to invest funds in the stock market, which is the type of long-term investing that would best offset the inflationary costs of health care benefits. Furthermore, Article 9, Section 19 of the State Constitution prohibits the State (and, by extension, local units of government) from investing in stock, "...except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law...". Consistent with the Constitution, the Public Employee Retirement System Investment Act provides statutory authority for the State and local units to invest retirement funds in the stock market (and other investment options) in order to fund pension benefits. Similarly, the bill would permit a local government to create a separate fund for retiree health care and to invest this money in accordance with the investment provisions of Retirement System Investment Act.

Opposing Argument

Some people are concerned that, as the result of the bill, a local government could reduce or change the benefits offered under a retiree health care plan and invest any resulting cost saving to finance the plan. Thus, fewer general fund operating dollars would be needed to fund a retiree health care plan. While this shift in funding would lower a community's operating expenses, retirees could lose some of their health care benefits.

Response: The bill would not affect the level of health care benefits being provided to retirees. Rather, the bill would allow a community to set money aside in a separate fund to be invested and used to pay for retiree health care benefits, which could help defray the taxpayer cost of providing these benefits.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no fiscal impact on State government. Data are not available to determine accurately the local fiscal impact.

Fiscal Analyst: R. Ross

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.