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SFA BILL ANALYSIS

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Senate Bill 587 (as enrolled)
Sponsor: Senator Bill Bullard, Jr.
Senate Committee: Local, Urban and State Affairs
House Committee: Local Government and Urban Policy

PUBLIC ACT 149 of 1999

Date Completed: 6-23-00

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The Public Employee Retirement System Investment Act, originally enacted in 1965, authorizes the State and local governments to invest the assets of their public employee retirement systems in stocks, bonds, and other obligations,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, that law does not authorize investments to pay for retiree health care benefits. Another statute that permits local units to invest funds, Public Act 20 of 1943, does not authorize investments in the stock market. To help meet the rising cost of retirees' health care benefits, it was suggested that local governments be permitted to establish a public employee health care fund and invest its assets in investment opportunities, including stocks, that are available for public pension system assets.

CONTENT

The bill created 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 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 does the following: specifies that money for the payment of health care benefits for retired employees of the public corporation may, at the public corporation's discretion, be provided from this fund or any other fund or trust; requires the resolution to designate an investment fiduciary; permits a public corporation to allow a trust to invest its assets in accordance with the Public Employee Retirement System Investment Act; requires an actuarial review of the fund or trust to be prepared at least every five years; and, requires the investment fiduciary to issue a summary annual report to the legislative body that established the fund or trust.

The bill specifies that the resolution must include all of the following:

-- The designation of a person or persons who will act as the fund's investment fiduciary. ("Investment fiduciary" means a person or persons who exercise any discretionary authority or control in the investment of the fund's or trust's assets, and/or render investment advice for a fee or other direct or indirect compensation.)
-- A restriction of withdrawals from the fund solely for the payment of health care benefits on behalf of qualified persons and the payment of the fund's administrative expenses.
-- The designation of who is a qualified person for payment of health care benefits from the fund.
-- A determination of whether the fund will be established on an actuarial basis.

An investment fiduciary must invest the assets of the fund in accordance with the investment policy adopted by the governing body of a public corporation and that complies with provisions in the Public Employee Retirement System Investment Act on the duties and permissible activities of an investment fiduciary (MCL 38.1133). The investment fiduciary, however, must discharge his or her duties solely in the interest of the public corporation. The public corporation may invest the fund's assets in the investment instruments and subject to the investment limitations governing the investment of assets of public employee retirement systems under the Public Employee Retirement System Investment Act.

In addition, the legislative body of a public corporation may, by resolution, allow a trust to invest the assets of the trust in accordance with the Public Employee Retirement System Investment Act. The resolution must include a statement of the authority under which the trust is established, and approval to invest the trust's assets in accordance with that Act. (The bill defines "trust" as a trust created under the authority of a state or Federal law for the purpose of funding retiree health care benefits.)

The investment fiduciary must 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 must 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 permits 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. In addition, in accordance with that Act, a local government may allow the investment of assets of a trust created for the purpose of funding retiree health care 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: J. Wortley