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LOCAL GOVT. PENSION CHANGES

House Bill 5727 (Substitute H-2)
Sponsor: Rep. Joanne Voorhees

House Bill 5730 as introduced
Sponsor: Rep. Carl M. Williams

Committee: Senior Health, Security and Retirement

First Analysis (4-10-02)

THE APPARENT PROBLEM:

In Executive Order 1999-13, Governor Engler established the Michigan Commission on Public Pension and Retiree Health Benefits to conduct a comprehensive review of relevant practices and issues regarding the funding, management, oversight, and fiscal integrity of public pension and retirement systems in Michigan. The commission was charged with reviewing state laws that govern or affect public pension systems, reviewing the adequacy of funding of pension systems and the extent of unfunded accrued liabilities, and recommending appropriate changes.

On February 1, 2001, the commission issued its report and recommendations. The commission reported that most state and local pension systems appear to be adequately funded at this time, and that most are well managed. However, there appear to be at least some instances of local governments borrowing from pension funds to pay operating expenses, and a few governmental units that have failed to adequately fund the employer share of pension benefits. There may be disagreement over how much is needed to fund the employer share, or budgetary restraints or other factors may result in underfunding. And, local units may adopt benefit increases without sufficient consideration of how to pay the future costs that will be incurred. Apparently, however, the state has very little authority to require that local governments meet their pension obligations, despite a constitutional requirement that pension benefits be fully funded each year to meet future obligations (benefits must be "prefunded"). Among the commission's recommendations, then, are the addition of several means of enforcing fiscal responsibility of local governments toward their pension systems. Legislation has been introduced to implement some of these recommendations (other bills are yet to be reported from committee).

THE CONTENT OF THE BILLS:

House Bill 5727. Under the Glenn Steill State Revenue Sharing Act (MCL 141.917a), the state treasurer is required to withhold all or part of payments due to local governments for revenue sharing to satisfy payments owed to the state or a state agency. The bill would amend this provision to, in addition, allow the state treasurer to withhold all or part of a payment that a city, village, township, or county is eligible to receive under the act to satisfy a payment due to a local public pension and retirement system, or to the Municipal Employees Retirement System, unless:

• the payment were required to satisfy an obligation under an agreement made to assign revenue sharing payments to the Michigan Municipal Bond Authority or pledging that amount for payment of an obligation to that authority, or,

• the bond rating on any obligation issued by the Michigan Municipal Bond Authority that pledges revenue sharing payments would be reduced or withdrawn because of the withholding of revenue sharing, or,

• revenue sharing payments had been pledged for the payment of an obligation issued by the local unit that that been approved by the state treasurer.

House Bill 5730. Public Act 156 of 1851 (MCL 46.112a) authorizes counties to create pension plans for their employees, and requires that county pension plans be approved by a committee consisting of the attorney general, the state treasurer, and the executive secretary of the State Employees' Retirement System. The act also requires that each county plan be approved by the committee as complying with the act biennially, and requires each county plan to submit an annual financial statement to the committee.

Further, the state treasurer is required to audit the funds and accounts of county retirement plans established under the act. The bill would amend the act to eliminate the county pension plan committee provisions.

BACKGROUND INFORMATION:

Commission recommendations. The governor's commission made a number of recommendations, including:

- The state should develop a comprehensive report card on governmental retirement plans.

- The legislature should clarify what is an appropriate required employer contribution and how the contribution should be determined. (This recommendation is addressed by House Bill 5728.)

- The state treasurer should be authorized to withhold revenue sharing or other funds to governmental units that fail to adequately fund retirement programs, and those payments should be applied to retirement plan shortfalls. (The recommendation is addressed in House Bill 5727.)

- The state should have increased power to address mismanaged retirement systems. (This is addressed in House Bill 5731.)

- There should be mandatory evaluation of the long-term impact of increased benefit costs, and the public should be informed about increased benefit costs before benefits are adopted. (This is addressed in House Bill 5728.)

- Penalties for improper use of retirement funds should be increased.

- The state should support ongoing education for trustees of public retirement systems.

- The state should encourage plan sponsors to educate employees enrolled in defined contribution programs, and plan sponsors should be required to offer a minimum number of "model" portfolios for participants' investment choices.

- The county pension plan committee should be eliminated. (This is addressed by House Bill 5730.)

- Retirement system trustees and participants should understand liabilities for retiree health benefits, and more study should be done on the issue of retiree health benefits.

State administered retirement systems. The state administers retirement sytems for state employees, public school employees, judges, legislators, and state troopers. Benefits are funded by a combination of employer contributions, investment earnings, and, in some cases, employee contributions. Statutes govern the structure of these plans, benefit levels, funding requirements, and so on.

Local government retirement systems. Local governments have broad powers to establish retirement systems for their employees under their general statutory and charter operating authority. Some municipalities and courts offer retirement plans for their employees under the auspicies of the Municipal Employee Retirement System (MERS) Act. Formerly a state-administered retirement system, MERS now operates as an independent public corporation. Counties are authorized to establish retirement systems for county employees under Public Act 156 of 1851. While the statutory framework outlines benefit plans and employer contribution requirements, many local governments operate their own plans outside of this framework, and even within the statutes there are several optional benefit plans that may or may not be offered by a local unit. According the the commission's report, "a vast array of local governmental units – counties, cities, villages, townships, county road commissions, library boards and others – provide some sort of retirement benefits to their employees. The benefits offered include pension, health care and savings packages."

There appears to be no comprehensive listing of local government pension plans; no person or government agency collects information about the existence of plans, and their financial health. One of the commission's recommendations is for the state to develop a comprehensive "report card" on governmental retirement plans.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, House Bill 5727 would have no fiscal impact, and House Bill 5730 would have minimal fiscal impact. (4-10-02)

ARGUMENTS:

For:

Despite constitutional mandates requiring governmental units to fund retirement plans, the public pension commission heard testimony about several local governments that had failed to make appropriate pension payments to their retirement systems, endangering the fiscal health of those systems and the financial future of workers counting on those benefits. The Municipal Employees Retirement System has no authority to compel local governments to make payments needed to fund retirement benefits without resorting to court orders. Such a court order can result in an extraordinary temporary millage imposed on local property taxpayers. Non-MERS retirement systems may also be subject to such court orders, or the state may be placed in the position of bailing out a mismanaged local pension system. House Bill 5727 would give the state treasurer the authority to withhold revenue sharing or other payments if pension plans are not adequately funded. This should provide a serious incentive for local governments to properly fund their pension systems. A parallel provision allows the superintendent of public instruction and the state treasurer to withhold payments due to school districts that fail to pay employer contributions to the Public School Employees Retirement System.

Against:

Withholding revenue sharing payments to a financially distressed community will likely only exacerbate the conditions that are the cause of a failure to make payments to a retirement plan. Local governmental budget decisions should be made at the local level, and should not be micromanaged by the state.

For:

House Bill 5730 would eliminate the requirement in statute for the County Pension Plan Committee. This committee consists of the attorney general, the state treasurer, and the executive secretary of the State Employees' Retirement System, and is charged with reviewing plans established by counties to see if they conform to the requirements of state law (which requires that an actuarial summary and a cost estimate be prepared for each estimate or revision submitted to the committee). According to the commission's report and recommendations, this committee is an unneeded layer of government, as local units of government are increasingly sophisticated in seeing that pension plans conform to state law and in managing those plans.

Response:

If the purpose of the commission's recommendations (and the package of legislation) is to improve the performance of local pension systems and increase state oversight and enforcement, perhaps the committee could be used as a mechanism to provide better enforcement. It is puzzling to eliminate the only existing state oversight mechanism as part of a package designed to strengthen state oversight and enforcement.

POSITIONS:

The Department of Treasury supports both bills. (4-9-02)

The Michigan Association of Public Employee Retirement Systems supports both bills. (4-9-02)

The Michigan Municipal League supports House Bill 5727. (4-9-02)

The Michigan Townships Association supports both bills. (4-9-02)

The Michigan Association of Counties supports House Bill 5730 and opposes House Bill 5727. (4-9-02)

Analyst: D. Martens

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.