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BILL ANALYSIS

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Senate Bill 1226 (Substitute H-38 as passed by the House) *(as enrolled)*
Sponsor: Senator Mark C. Jansen
Senate Committee: Appropriations
House Committee: Oversight and Investigations

CONTENT

Senate Bill 1226 (H-38) would enact amendments to the State Employees' Retirement System (SERS), including:

-- Retirement incentive for eligible employees
-- Employee health care contributions.
-- Increased retiree health care cost sharing for employees hired after April 1, 2010.

Retirement Incentive for SERS Employees
Currently, SERS employees in the Defined Benefit plan (hired before March 31, 1997, and not switching to the Defined Contribution plan) have to be age 55 with 30 years of service, or age 60 with 10 years of service to be eligible to retire without a reduction in pension. Under current law, the pension multiplier is 1.5%. An employee's yearly pension is calculated by multiplying years of service times the multiplier times the employee's final average compensation (FAC). The FAC is based on the three consecutive years of the employee's highest compensation, and the FAC includes the value of the employee's leave payout for up to 240 hours of leave time only if the employee's final three years of employment are used in his or her FAC.

The House-passed bill would provide a 1.6% multiplier for employees currently eligible to retire; a 1.55% multiplier for employees who are not eligible to retire under current law but who have a combined age and years of service totaling 80; or a 1.55% multiplier for employees not eligible to retire under current law but who have 30 years of service (regardless of age), if they were to retire between November 1, 2010, and January 1, 2011. The final average compensation would be capped at $90,000 under the enhanced multipliers; any higher FAC would be part of the pension calculation, but at the 1.5% multiplier. Employees would have to apply before 5:00 p.m. EDT on October 22, 2010, and would have until that date to withdraw their application if retiring on November 1, 2010, or would have until November 5, 2010, to withdraw their application if retiring December 1, 2010, or January 1, 2011.

This incentive would apply to classified civil service employees, unclassified State employees, legislative branch employees, and judicial branch employees. The bill would allow members who are conservation officers or who are eligible for supplemental early retirement as a covered employee (positions in a State correctional facility or center for forensic psychiatry) to retire under the increased multiplier as described above or under the current provisions but not both.

The bill would allow extensions to be requested, which would allow an employee to remain working until July 1, 2011. The extensions would have to be requested by the director of a principal department for the Executive branch, and subsequently approved by the Director of the Office of the State Employer and the State Budget Director, or by the leaders of the Legislature or Judiciary for their respective employees. However, the time spent working during an extension would not accrue for the purpose of determining which multiplier a retiree would receive (the 1.6% vs. the 1.55%).

Under current law, an employee receives a lump-sum payment upon retirement equal to the monetary value of accumulated leave, sick leave, or other deferred leave hours. Under this bill, a member retiring during the window for the incentives would forfeit the lump-sum payment, but would then receive the value of these hours in equal monthly payments over five years. Banked leave time would not be forfeited.

Also, the bill would require the additional costs to the pension system created by the increased multiplier and early out to be amortized over a five-year period.

Employee Contributions to Retiree Health Care

Starting on the first pay date after November 1, 2010, and through September 30, 2013, the bill would require all employees in SERS (both Defined Benefit (DB) and Defined Contribution (DC) members) to contribute 3% of annual compensation to the appropriate funding account established under the Public Employee Retirement Health Care Funding Act, Public Act 77 of 2010. This contribution would sunset after September 30, 2013. As used here, "funding account" would mean the appropriate irrevocable trust created in the Public Employee Retirement Health Care Funding Act, for the deposit of funds and the payment of retirement health care benefits. The bill also includes language requiring the Department of Technology, Management, and Budget to ensure, to the maximum extent possible, that these contributions be applied for any Federal tax credits or Federal tax liability reduction under the Health Care and Education Reconciliation Act of 2010, Public Law 111-152.

Health Care for Retirees

The legislation would change retiree health care (including medical, vision, and dental) cost sharing to mirror the State health plan that took effect for employees hired on or after April 1, 2010. For vested DB members in the system (those hired before March 31, 1997, who did not switch to DC), the bill would require the State to continue to pay the share of retiree health premiums that the State pays for active employees. For DC members currently in the system, the bill would require the State to continue to pay an amount equal to 3% times years of service, capped at the lesser of 90% or the share that the State pays for active employees. However, for DC employees hired after April 1, 2010, the State share of their retiree health care would be capped at the lesser of 3% times years of service, or the State portion of health care for active employees hired after April 1 (which would mean a cap of 80% State coverage, and a 20% retiree cost at this time). Beginning January 1, 2011, retirees could choose a different plan than the one authorized under the SERS Act, but at their own cost. (Currently, the State subsidizes plans chosen by retirees other than those authorized by the SERS Act.)

"Double Dipping"

Under current law, anyone receiving a retirement allowance who is subsequently employed by the State on or after October 1, 2007, forfeits his or her pension payment. The term "employed by this state" means directly employed or indirectly employed through a contractual arrangement. In colloquial terms, this is called "double dipping". Currently, the prohibition does not apply to an employee who is employed by the State on September 30, 2007, and remains in the same position. The House-passed bill would extend the "grandfathering-in" date by one day, from September 30, 2007, to October 1, 2007, affecting a very limited number of people (two known, perhaps a very few more).

The House also added language expanding the definition of "employed by this state" to include engagement by the State as an independent contractor. However, that definition change would not apply to a retirant who is engaged as an independent contractor on October 1, 2010, so long as the retirant remains in the same contract without amendment or extension. The bill also includes language allowing a retirant who was an assistant attorney general and is subsequently appointed as a special assistant attorney general to be excluded from the prohibition on "double dipping". This would apply when the Attorney General determines that the retirant possesses specialized expertise and determines the appointment is the most cost-effective option for the State.

Other Changes
The bill would appropriate $1.6 million to the Office of Retirement Services for administration of the changes outlined in this legislation. The appropriation would be a work project, with an estimated completion date of September 30, 2011.

MCL 38.20d et al.

FISCAL IMPACT

The bill includes a proposed increase in the pension multiplier from 1.5% to 1.6% for people already eligible to retire, and would allow an "early out" for people with a combined age and years of service equal to 80, or total years of service at least 30, with a pension multiplier of 1.55%. At an assumed participation rate of 30%, the estimated cost of these provisions is $372.0 million, distributed over the next seven years, but would be offset by wage and replacement savings of an estimated $405.0 million, leaving net savings of the incentive estimated at $33.0 million over 10 years. This analysis assumes that roughly 30% of eligible employees would take the incentive and retire with the enhanced multipliers, that 68% of employees would be replaced, and that wage savings would accrue only during the years these people otherwise would have worked.

Requiring all employees to pay a percentage of salary toward retirement health care would create savings for the State, because these employee contributions would be used to help pay for current-year (and potentially future-year) retiree health care costs, and would reduce the employer contributions compared to what they otherwise will be. The estimated employee contributions total $82.0 million in the first year, and $246.0 million over the next three years until the contributions would cease.

When combining both the incentive and the health contribution savings, for FY 2010-11, the estimated savings are $209.0 million Gross, $81.0 million GF/GP. Over 10 years, the estimated savings are $279.0 million Gross, $108.0 million GF/GP.

The extension of the "grandfathering-in" date for a limited number of employees, which would result in the refunding of forfeited pensions for the past three years, should cost not more than $150,000 for the two known affected retirees, with an additional cost for the potential few additional retirees who may have been first working on October 1, 2007, after retiring before that date. These costs would be paid out of the retirement system, and made up from future contributions made by the State in funding the system.

Date Completed: 9-23-10 Fiscal Analyst: Kathryn Summers

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