Legislative Analysis

HOUSE FISCAL AGENCY
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STATE EMPLOYEE RETIREMENT REVISIONS

House Bill 4701 (H-6)
Sponsor: Rep. Bill Rogers

House Bill 4702 as introduced
Sponsor: Rep. Chuck Moss
Committee: Appropriations

Complete to 10-27-11

A SUMMARY OF HOUSE BILLS 4701 (H-6) AND 4702 AS INTRODUCED 5-31-11

The bills would amend the State Employees' Retirement Act and the Public Employee Retirement Health Care Funding Act to make the following changes to State Employees' Retirement System (SERS) benefits:

- Eliminate the 3% employee contribution for retiree health care required of all employees since 2010 and refund contributions to employees.

- Require employees in the SERS pension, or defined benefit (DB), plan to choose between remaining in the plan and contributing 4% of their compensation toward the plan or freezing their pension benefit and continuing their future service under the SERS 401(k), or defined contribution (DC), plan.

- Eliminate retiree health insurance for employees hired on or after January 1, 2012, and replace it with a 401(k) or 457 plan employer match option of up to 2% of compensation plus a lump sum deposit of either $1,000 or $2,000 into a Health Reimbursement Account (HRA) upon termination of employment.

- Provide existing DC plan employees (hired between March 31, 1997 and December 31, 2011) the option of retaining the current retirement graded premium health insurance plan or switching to the 401(k) or 457 plan employer match option of up to 2% of compensation. Employees who chose to switch plans would receive a lump sum contribution into either their 401(k) or 457 plan upon separation from the State in lieu of the retiree health insurance benefits they had already earned based on current service. The lump sum amount would be calculated as described in detail below.

- Exclude overtime pay from the definition of compensation, thus excluding overtime pay received after January 1, 2012 from compensation for the purposes of calculating an employee's pension allowance or employee contributions into the pension plan.

- Revise current DC matching provisions to create an automatic enrollment for employee contributions up to the state matching provisions and allow the state to match employee contributions into a 457 plan as well as the current 401(k) plans.

- Establish HRAs for employees within the irrevocable health care trusts established in 2010 to receive and hold employer and employee contributions for retiree health benefits or reimbursement of medical expenses.

The bills are tie-barred to each other so that neither could go into effect unless the other were also enacted into law. A detailed description of each bill follows, and a fiscal analysis of the bills begins on page 6.

House Bill 4701

House Bill 4701 would amend the State Employees' Retirement Act (MCL 38.1 et al.) to make the following changes to SERS benefits:

Eliminate Mandatory 3% Employee Contribution for Retiree Health Care
PA 185 of 2010 required that beginning in November 2010, all employees in SERS contribute 3% of their compensation into an irrevocable trust for retiree health care costs. The employee contributions are currently being held in an escrow account pursuant to *AFSCME, et al. vs Michigan State Employees' Retirement System, et al.* while the legality of the mandatory contributions is litigated. House Bill 4701 would stop these contributions no later than the second pay period following the enacting date of the bill, and would refund the contributions to employees with any actual interest earned on those contributions on or before May 13, 2012. Employees would be allowed to choose whether they receive their refund in a lump sum payment in their paycheck or as a tax-deferred contribution into either their 401(k) or 457 plan.

Require 4% Employee Contribution to Remain in Defined Benefit (DB) Pension Plan
House Bill 4701 would require that employees currently in the DB pension plan choose between contributing 4% of compensation toward pension costs beginning April 1, 2012, and remaining in that plan or freezing the service they have earned in the pension plan and converting to the DC 401(k) plan for future service.

Employees could elect to contribute 4% and remain in the DB pension plan until retirement or could designate that the 4% contribution would continue only until their attainment date, which the bill would define as the final day of the pay period in which they reach 30 years of service, at which point their pension benefit would be frozen and they would transition into the DC 401(k) plan for any additional service. Employees who are employed as of December 31, 2011, would have to make the election during the specified period of January 3, 2012, through March 2, 2012, including the designation of the 4% percent contribution as permanent or continuing only until their attainment date. Elections and designations could be rescinded until March 2, 2012. Contributions would be made through pre-tax payroll deductions.

Employees who elect to make the contribution, but designate that it would end on their attainment date, would have their service and compensation, for the purposes of calculating their pension, frozen as of their attainment date and would become a qualified participant in the DC 401(k) plan as of the day after their attainment date. Credited service would include service accrued as of their attainment date, applicable military service credit, service credit purchased as of their attainment date, and service credit purchased under a payment plan that is in effect as of their attainment date.

Compensation for the purposes of calculating the pension for an employee who elects to make the contribution and makes this designation would include compensation received as of their attainment date as well as 240 hours of accrued annual leave paid at separation multiplied by the hourly rate of pay for the member on their attainment date, which for the purposes of calculating a final average compensation, would be treated as having been paid on their attainment date.

Employees who do NOT elect to make the contribution would have their service and compensation, for the purposes of calculating their pension, frozen as of March 31, 2012, and would become a qualified participant in the DC 401(k) plan as of April 1, 2012. Credited service would include service accrued prior to April 1, 2012, applicable military service credit, service credit purchased prior to April 1, 2012, and service credit purchased under a payment plan that is in effect as of March 31, 2012. Compensation for the purposes of calculating the pension for an employee who elects not to make the contribution would include compensation received prior to April 1, 2012, as well as 240 hours of accrued annual leave paid at separation multiplied by the hourly rate of pay for the member on March 31, 2012, which for the purposes of calculating a final average compensation, would be treated as having been paid on March 31, 2012.

For both groups of employees who transfer into the DC 401(k) plan, either as of April 1, 2012, or as of their attainment date, their years of service would be used toward the 401(k) vesting schedule. They would be vested immediately in their own contributions and would be 100% vested in employer contributions as long as they had accrued more than 4 years of service, which is likely to include all employees in the DB pension plan.

For certain employees who are not currently employed by the State, the impact would be as follows:

- *A former employee, who is vested in the DB pension plan*, and returns to State employment on or after January 1, 2012, would be treated like an employee who did not elect to make the contribution and would have their former service and compensation frozen and would become a DC 401(k) participant for future service.

- *A former non-vested employee* who returns to State employment on or after January 1, 2012, would not be a member of the DB pension plan and would be treated as having been first employed as of his or her date of reemployment and would therefore be in the DC 401(k) plan.

- *A former employee in the Michigan Public School Employees Retirement System* (MPSERS) who begins employment with the State on or after January 1, 2012, would be in the DC 401(k) plan.

Defined Contribution (DC) Health Care Revisions

Currently employees in the DC 401(k) who were hired on or after March 31, 1997, vest into a graded premium health insurance benefit after completing 10 years of service. They earn an employer contribution of 3% of the insurance premium for the health care insurance provided by SERS for each year of service completed, up to a maximum of 90% after 30 years. Employees become eligible to elect health insurance coverage after they reach age 55 if they have 30 years of service or age 60 if they have 10 years of service. Employees are not currently required to be working for the State immediately prior to retiring in order to receive an earned benefit.

For employees hired on or after January 1, 2012, House Bill 4701 would eliminate retiree health insurance coverage and would replace it with an employer matching contribution of up to 2% of compensation into either a 401(k) or 457 plan. Employees would be immediately vested in their personal contributions and would be vested in the employer contributions based on the same vesting schedule for the current DC 401(k) plan: 50% upon 2 years of service, 75% upon 3 years of service and 100% upon 4 years of service.

In addition, these employees would receive a lump sum deposited into a Health Reimbursement Account (HRA) upon termination of employment. The lump sum would equal $1,000 for an employee who terminates employment prior to reaching age 60 and ten years of service or $2,000 for an employee who terminates employment after reaching age 60 with ten years of service. By January 1, 2017, the bill would require ORS to report to the Legislature on the impact of the lump sum payments in regard to the calculation of the state's annual required contributions for retiree health care as used by the Governmental Accounting Standards Board.

Employees hired on or after March 31, 1997, but before January 1, 2012, would have the option of either retaining their current retirement health care insurance benefit upon retirement or switching to the new employer matching contribution of up to 2% of compensation into a 401(k) or 457 plan. Current employees who choose the 2% employer matching contribution would have their currently earned retiree health insurance graded premium benefit converted into a monetized lump sum, which would be deposited into a 401(k), 457, or other eligible tax-deferred plan upon separation from the State as follows:

- An employee would receive 100% of the monetized amount if they terminate employment after the date they would have otherwise been eligible to receive health benefits under the current benefit structure.

- If an employee terminates employment prior to that date, but has at least 10 years of service, the employee would receive 50% of the monetized amount.

- If an employee terminates employment before earning 10 years of service, the employee forfeits the monetized amount.

House Bill 4701 would calculate the monetized lump sum based on the following formula to approximate the actuarial present value as of March 31, 2012, of the projected retiree health benefit based on the current benefit structure and the employee's years of service as of March 31, 2012. The amount would be equal to the product of an average monthly premium of $1,000 payable for the life of the employee times the frozen employer premium share percentage (equal to 3% times the number of years of service) times a deferred life annuity factor (equal to the present value as of March 31, 2012, of $1.00 per month payable for the life of the employee). The deferred life annuity factor is based on the following actuarial assumptions:

- An interest discount rate of 4% annually, which approximates the use of an assumed investment rate of return of 8% combined with an assumed annual growth rate for average premium costs of 4%.

- Mortality rates based on 50% Male - 50% Female blend of the 1994 group mortality table.

- Commencement of the deferred life annuity based on an employee terminating employment at age 60 and otherwise would have begun receiving health benefits immediately upon termination of employment.

The monetized amount calculated above would be increased annually at a rate equal to the change in the medical care component of the consumer price index (CPI) from each year to the next, but the rate would not be less than 0% nor would it exceed 4%.

See the Appendix for examples of what the monetized amount would equate to for various employees.

<u>*Former employees who return to employment after January 1, 2012*</u> would be treated as follows for the purposes of retiree health care:

- DB with more than 10 years of service prior to first separation -- No change.
- DB with less than 10 years of service prior to first separation -- Treated like new employees hired after January 1, 2012.
- DC with more than 10 years of service prior to first separation -- Treated like an existing DC employee who opted out of retiree health insurance and into the 2% matching contribution.
- DC with less than 10 years of service prior to first separation -- Treated like new employees hired after January 1, 2012.

<u>Exclude Overtime Pay from Compensation</u>

House Bill 4701 would change the definition of compensation for the purposes of calculating a pension allowance and the purposes of employee contributions toward the pension to exclude overtime pay (including overtime premiums and payment for hours in excess of 80 in a single pay period) rendered beginning January 1, 2012. This would reduce future pension allowances for employees who perform significant overtime service but

would also reduce the compensation on which the 4% employee contribution for pensions would be applied.

Additional Matching Contribution Plan Revisions

The bill would require that the Office of Retirement Services create an automatic enrollment system to automatically deduct the full amount of the match provision in both the current DC 401(k) plan provision as well as the new 2% matching contribution in lieu of retiree health care. The system would begin on April 1, 2012, but employees would be allowed to opt out or revise their contribution amounts at any time.

The bill would also allow the State to use an employee's elective contributions into a 457 plan as a basis for making employer matching contributions for the current DC 401(k) plan or other matching contributions into a tax-deferred account. Currently only employee contributions into a 401(k) plan are eligible for the employer matching contribution. It would also clarify that the employer matching contributions do not have to be made into the same account as the employee contributions that were used as the basis for the match.

House Bill 4702

House Bill 4702 would amend the Public Employee Retirement Health Care Funding Act (MCL 38.2731 et al.) to create individual health reimbursement accounts (HRAs) within the irrevocable health care trusts created under PA 77 of 2010. The HRAs would hold the $1,000 to $2,000 lump sum payments toward retiree health care costs as calculated and provided upon termination of employment for new employees after January 1, 2012 under House Bill 4701.

Additional employer contributions and any future mandatory employee contributions as required by each applicable retirement act could also be deposited in the HRAs. Currently, voluntary employee contributions are not permitted for deposit into an HRA due to its tax-exempt status; however, House Bill 4702 would allow voluntary employee contributions to be deposited into an HRA if they are determined to be permitted by both state and federal laws in the future.

Funds deposited into an HRA for the benefit of a former employee could be used for the reimbursement of medical expenses after retirement for the former employee or their dependents. House Bill 4702 defines an eligible medical expense as an expense that otherwise would qualify under Section 213(d) of the Internal Revenue Code and is not reimbursed by any other source.

FISCAL IMPACT:

House Bill 4701 would create both quantifiable short-term savings as well as long-term savings, which cannot be precisely quantified, for the state due to various provisions of the bill, which are described in more detail below.

Eliminate Mandatory 3% Employee Contribution for Retiree Health Care

The requirement of an employee contribution of 3% of compensation toward retiree health care costs under PA 185 of 2010 was intended to reduce the current state costs for providing these benefits. At the time, the 3% employee contribution was expected to generate approximately $75 million Gross ($30 million GF/GP) in savings in FY 2010-11 and nearly $82 million Gross ($33 million GF/GP) annually for FYs 2011-12 and 2012-13. The elimination of the 3% contribution would eliminate these savings; however, the state is not currently realizing those savings because of the injunction in *AFSCME, et al. vs Michigan State Employees Retirement System, et al.*

Require 4% Employee Contribution to Remain in DB Pension Plan

If 100% of the current employees in the DB pension plan choose to remain in the DB pension plan and contribute 4% of their compensation toward pension costs, it would save the state approximately $56 million Gross ($28 million GF/GP) for the first full year. However, since the implementation date for this proposal would now be April 1, 2012, with just half the fiscal year remaining, the savings for FY 2011-12 would be about half of that figure or $28 million Gross ($14 million GF/GP).

The annual savings would diminish each year as the proportion of state employees in the DB pension plan decreases. The Office of Retirement Service (ORS) estimates that it would save the state between $300 million and $350 million cumulatively over the next 15-20 years until the point at which there are no longer any active employees in the DB pension plan.

To the extent that some employees choose not to pay the 4% and instead freeze their pension benefits and move into the DC 401(k) plan for future service, the state may not realize the full potential savings from the 4% employee contribution in the near term but would experience long-term savings as future pension obligations would decrease.

Defined Contribution (DC) Plan Health Care Revisions

House Bill 4701 would create an indeterminate amount of future savings for the state related to future retiree health care obligations by doing the following:

- Eliminating the retiree health insurance premium coverage currently provided to employees in the DC 401(k) plan, who are hired on or after January 1, 2012, and replacing the benefit with a 2% employer matching contribution into a 401(k) or 457 plan.

- Allowing employees in the DC 401(k) plan, who were hired between March 31, 1997, and December 31, 2011, to opt out of retiree health insurance and into the new 2% employer matching contribution being provided to new employees. The graded premium insurance benefit already earned by each employee would be converted into a monetized lump sum payment to be deposited into a 401(k) or 457 plan upon separation from the state. The growth of the present value of that payment would be capped at the medical care component of the Consumer Price Index (CPI) or 4%, whichever is less.

For the most part the state would not begin to realize these savings for at least 15 years until a substantial number of employees in the graded premium health insurance, who currently have a maximum of 14 years of service, begin to reach retirement age, and savings would depend on the number of existing employees who chose to forego retiree health insurance in exchange for the monetized lump sum plus 2% employer matching contribution. The plan would save the state significantly in the long term by avoiding increasing unfunded liabilities by eliminating retiree health insurance for all new employees hired after January 1, 2012.

However, the changes above would have an immediate fiscal impact for the state related to a recent change in the anticipated funding method for retiree health care:

> As background, until FY 2011-12 the state had been funding retiree health care on a pay-as-you-go basis rather than prefunding future retiree health obligations. The Governor and Legislature have agreed, as part of the budget agreement for FY 2011-12, to begin prefunding the future retiree health care liabilities in FY 2011-12 in order to reduce future unfunded liabilities. At the time the budget was adopted, the State Budget Office had estimated this would require an increased payment of $280 million, in addition to the $420 million appropriated in FY 2010-11 for retiree health care, or a total of $700 million, based on the September 30, 2009, SERS valuation. However, since the budget adoption, the September 30, 2010, SERS valuation has been published, and instead, it requires a total annual payment for FY 2011-12 of $743 million. This is the minimum amount necessary to meet the Annual Required Contribution (ARC) that will trigger the change in the accounting method used to determine future unfunded liabilities. The change in accounting method allowed by the budget agreement to begin prefunding will reduce the future unfunded liabilities from $14.7 billion to $9.1 billion.

The changes proposed for retiree health care in House Bill 4701 may slightly reduce the amount required for the pre-funding payment, pegged at $743 million for FY 2011-12 to somewhere between $713 million and $743 million depending on the number of current employees who choose to forgo retiree health insurance benefits. Over the next 40 years, initial ORS estimates suggest that the plan would save nearly $5.8 billion cumulatively. However, the ORS does not yet have a final actuarial estimate of the changes as proposed in House Bill 4701 (H-2). The estimates above include both Federal and State fund sources; the impact related to the General Fund is likely to be half of any total savings.

Unfunded Accrued Liability Employer Contribution Rate

House Bill 4701 would revise the payment schedule for the unfunded accrued liability (UAL) associated with SERS retirement benefits, which is currently based on and applied to just the DB portion of payroll for each state department, in order to spread the UAL over both DB and DC portions of payroll. This would solve the issue of how to charge departments for retirement contributions created by the bill once some employees are in both the DB plan at a frozen level for past service and the DC plan for current service. Now that the DB proportion of all employees is less than half of the total, this would also serve to lower the UAL contribution rate by applying it to the entire state payroll and applying it

across all departments equally. Currently departments that have a disproportionately higher share of high seniority staff in the DB plan experience higher retirement costs than departments with more employees in the DC plan. This would not have an overall fiscal impact on the state but would change the distribution of retirement costs among state departments.

Overtime Compensation

Eliminating overtime compensation from the calculation for pension allowances will reduce future pension allowances and will decrease state pension costs long term. However, the ORS does not have a current estimate of state savings related to this provision.

Other Matching Contribution Revisions

Currently, of the employer 3% matching contribution in the DC 401(k) plan, state employees, on average, contribute just 2.2% of compensation, thus foregoing the remaining 0.8 percentage points of employer matching contributions. Creating an automatic enrollment system could encourage state employees to take advantage of a larger share of the 3% employer match.

Additionally, some employees forgo some of the state match by opting to contribute into to a 457 plan instead of a 401(k) plan. Thus, also allowing the state to use employee contributions into a 457 plan as a basis for the 3% matching contribution would increase the state's required matching contribution. If these two provisions increase the state's actual match to the full allowable 3%, the increased annual cost, holding all else constant, would be approximately $11 million.

Office of Retirement Services Appropriation

House Bill 4701 would also appropriate $1.9 million for FY 2011-12 for the Office of Retirement Services in the Department of Technology, Management and Budget to administer the changes proposed in the bill. The appropriation would be considered a work project and ORS could carry the funding into FY 2012-13 to complete related work.

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■ 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

APPENDIX

House Bill 4701 (H-6)
State Employees' Retirement System - DC Retiree Health Benefit Monetization

Examples for Illustration Purposes

Case	Current Age	Current Service	Frozen Accrual Percent	Normal Retirement Age (NRA)[1]	Lump Sum Present Value In 2011[2]	Lump Sum at NRA If Still Employed [2]
						4% Interest Credit [3]
A	25	5	15%	55	$8,506	$27,588
B	35	5	15%	60	$9,089	$24,230
C	35	13	39%	55	$32,928	$72,149
D	45	5	15%	60	$13,582	$24,460
E	45	13	39%	60	$35,312	$63,595
F	55	5	15%	60	$20,556	$25,010
G	55	13	39%	60	$53,445	$65,024
H	60	5	15%	65	$17,619	$21,436
I	60	13	39%	60	$66,642	$66,642

[1]Future service is used to determine the normal retirement age. Normal retirement age for all members is the earlier of age 55 with 30 years of service, or age 60 with 10 years of service. Special retirement conditions for Corrections Officers and Conservation Officers are not considered.

[2]Lump sum is available upon separation from the State at 50% if separating prior to normal retirement age or 100% at normal retirement age, but the table assumes employment with the State until normal retirement age.

[3]Lump sum at normal retirement age depends on actual annual interest credits, which will equal the annual increases in the medical care component of the Consumer Price Index, with a minimum annual credit of 0% and a maximum annual credit of 4%. The maximum annual 4% interest credit is shown in the examples above.

Notes:

1. The monthly single life premium at normal retirement age is assumed to be $1,000. The interest discount for all future years is 4% per year (designed to reflect an assumed 8% investment rate of return and a 4% health insurance premium increase assumption).
2. The mortality table used is a 50% - 50% Male/Female blend of the 1994 Group Annuity Mortality Table set forward 1 year for both males and females.