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BILL ANALYSIS

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House Bill 6378 (Substitute H-5 as passed by the House)
Sponsor: Representative Scott VanSingel
House Committee: Financial Liability Reform
Senate Committee: Education

Date Completed: 12-11-18

CONTENT

The bill would amend the Public School Employees Retirement Act to do the following:

- **Eliminate a provision that would have taken effect with the 2019-20 fiscal year (FY) that would have adjusted payroll growth assumptions to be the growth rate of payroll *plus purchased services* (rather than payroll alone);**
- **Allow the Office of Retirement Services (ORS) and the Michigan Public School Employees' Retirement System (MPSERS) Retirement Board to reduce the payroll growth assumption by more than 50 basis points, beginning FY 2021-22.**
- **Prescribe penalties for intentional error or omissions, both in cases where an employer did and did not also fail to submit contributions.**
- **Remove penalties to community colleges related to the under- or non-reporting of service rendered by part-time student employees before the 2018-19 fiscal year.**
- **Define an "intentional" error or omission.**
- **Prescribe how part-time, community college student employees who rendered service before July 1, 2014, may be credited that service, including contributions to be paid by those employees and by the employer.**
- **Determine and assess supplemental employer contributions for part-time students employed between July 1, 2014, and September 30, 2018.**
- **Appropriate $650,000 to the Office of Retirement Services for administration of the changes prescribed under the bill.**

Payroll Growth

Under current law, a change will take effect in FY 2019-20 whereby retirement contribution rates (which are expressed as a percentage of payroll) will be applied to payroll adjusted by the change in purchased services. This methodology was intended to capture future changes in contracting for services (which currently avoid paying any MPSERS costs), but, because of the use of lagged data and iterative consequences, the bill would revert the application of retirement contribution rates to payroll, unadjusted for any change in contracted services.

Current law requires a rolling-back of the currently-assumed 3.5% annual growth in payroll, by reducing that growth 50 basis points each year beginning in FY 2021-22, until the assumed growth is 0%. The bill would allow for the ORS and the MPSERS Retirement Board to reduce the annual growth in payroll by more than 50 basis points.

Community College Part-Time Employees

Before Public Act (PA) 328 of 2018, community college student employees working part-time were required to be enrolled in MPSERS. Beginning July 1, 2018, PA 328 exempted those employees from MPSERS if, in general terms, the student employee's primary purpose for being at the college was educational in nature. Public Act 328 also required the ORS to undertake a study to determine the extent to which community colleges had counted, enrolled, and reported such part-time employee students as related to MPSERS, for the past four fiscal years (2015-2018).

The study that arose from PA 328 determined that all colleges underreported to at least some degree, and the Office of Auditor General (OAG) concluded that one college intentionally misreported part-time student employees. The study determined roughly $7.5 million was owed to MPSERS from employee/employer contributions, and the OAG calculated a penalty to Southwestern Michigan College (SMC), if held to the full extent of existing statutory provisions, of roughly $10.4 million. The bill would require all colleges to be assessed a supplemental employer contribution to cover costs related to student workers underreported from FY 2014-15 through FY 2017-18 (i.e., to cover the roughly $7.5 million calculated for underreported employees). The bill also would eliminate any penalties for intentional misreporting of part-time student workers before FY 2018-19 (i.e., SMC would not be assessed the intentional misreporting penalty that could have reached $10.4 million).

In addition, under Section 43h, the bill would require the ORS to allow part-time student workers at community colleges who were first employed prior to July 1, 2014, and who were not enrolled in MPSERS, to enroll in MPSERS. These individuals would be given one year (from January 1, 2019, to January 1, 2020) to enroll in MPSERS, and individuals who chose to enroll would have to remit required contributions plus applicable interest. This provision would cover part-time student workers who were employed prior to the four-year window that was part of the PA 328 study. For this population, too, ORS would assess a supplemental employer contribution for those individuals who were first employed prior to July 1, 2014, who were not enrolled in MPSERS, and who chose to enroll during the one-year enrollment timeframe.

The bill states that once employer contributions are paid, both for the population covered by the four-year window and also for the population choosing to enroll during the opt-in period, that a college's financial obligation would be considered satisfied in full.

MCL 38.1341 et al.

FISCAL IMPACT

Change in Payroll Growth Assumptions

The elimination of the provision that would have adjusted payroll growth assumptions to account for purchased services means that the status quo will continue: namely, that unadjusted employer payroll will be used as the basis on which to levy required contributions. To the extent current payroll was contracted out in the future, keeping unadjusted payroll as the basis for employer contributions will mean less employer contributions and higher State contributions into MPSERS. However, the extent to which current payroll will be contracted out in the future is unknown and, therefore, the fiscal impact is unknown.

If ORS and the Retirement Board used the provision in the bill to reduce the payroll growth assumption by more than 50 basis points, this would lead to higher costs in the near term, with reduced costs in the long term. Reducing the payroll growth assumption would mean higher payments now, with those higher payments (likely) generating investment returns over a longer period of time, which would mean a reduction in long-term costs to pay off the unfunded accrued liabilities.

Provisions Related to Community College Part-Time Student Employees

The bill would remove any penalties that would have been assessed to community colleges that had committed intentional misreporting related to part-time student employees prior to fiscal year (FY) 2018-19. As mentioned above, an Office of Auditor General report calculated penalties for Southwestern Michigan College of $10.4 million (as of April 2017). The ORS has indicated that it is likely that no other colleges would have been assessed a penalty for intentional misreporting, therefore, the bill's provision to remove such penalties would affect only SMC.

The bill's provision to allow part-time student workers at community colleges (who were first employed prior to July 1, 2014, and who were not enrolled in MPSERS) to enroll in MPSERS would increase costs borne by the colleges to the extent those previous student workers do enroll in MPSERS, and depending on how much service was credited to those workers, and the benefit plans chosen. Under the bill, the ORS would calculate how much each person would owe for their credited service, and also how much each college would have to pay. Adding this group of employees to MPSERS would increase liabilities and corresponding contributions, but again, the amount would depend on how many individuals chose to enroll and how much service was credited, along with what type of retirement plan was chosen. The addition of these employees and liabilities is not really a function of the legislation; rather, the legislation is acknowledging and setting up a framework to enroll individuals who should have been enrolled at the outset of their employment.

At a minimum, community colleges would need to pay the supplemental employer contributions initially determined as a result of PA 328 of 2018 (and reinforced with Section 43i of the bill), although those amounts would be adjusted based on better payroll data (instead of a single point in time). The PA 328 report estimated a grand total amount owed for employee/employer contributions of $7.5 million, although, again, this will be refined with a more precise tracking of student-level pay-cycle data. These are contributions already owed by the colleges and their employees from the past four years, and are not a result of the bill; the bill simply reiterates and reinforces that colleges would be charged a supplemental assessment to pay for part-time student employees that should have been included in MPSERS during the past four years but who were not enrolled. The colleges could assess the employee contribution share included as part of the $7.5 million on the employees being credited with service between July 1, 2014, and June 30, 2018, or the colleges could pay the employee share as well as the employer share.

The bill also would appropriate $650,000 to the ORS for implementation of the legislation; the funding would come from the MPSERS trust.

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