

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: *CS/CS/HB 573a¹

49th Legislature, 1st Session, 2009

Short Title: Adjustment of Retirement Plans

Sponsor(s): Representative John A. Heaton and Others

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Date: March 21, 2009

**HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR
HOUSE BILL 573**

AS AMENDED

The Senate Finance Committee amendment strikes the Senate Education Committee amendment, thereby restoring the extended sunset date of January 1, 2022 for the Return to Work program for retired Educational Retirement Board members.

The Senate Education Committee amendment eliminates the extended sunset date for the Return to Work program for retired Educational Retirement Board members.

House Floor Amendment 1 deletes the provision that salary increases above 35 percent cannot be counted in determining the final average salary for members of the Educational Retirement Board defined benefits plan.

House Floor Amendment 2 deletes the provision that salary increases above 35 percent cannot be counted in determining the final average salary for members of the Public Employees Retirement Association.

Original Bill Summary:

CS/HB 573 amends and adds new sections to three statutes governing various aspects of retirement for public employees. The substantive (as opposed to technical) changes by act are:

Educational Retirement Act (Sections 21-26, pp. 45-63)

- Eligibility requirements for current members remain unchanged; however, eligibility requirements for employees who become members on or after July 1, 2010, include higher age limits for retirement and increased years of service. In order to retire:
 - the member is any age and has 30 or more years of earned service credit;
 - the member is at least 67 years of age and has five or more years of earned service credit; or
 - the sum of the member's age and years of earned service credit equals at least 80.

¹ Version .178586.3

- Benefits are reduced for members who retire under the “rule of 80” and are below the age of 65.
- The provisions of the return to work (RTW) program are changed to:
 - extend the “sunset” date for RTW from January 1, 2012 to January 1, 2022;
 - require the retiree to complete an application and receive approval from the Educational Retirement Board (ERB) prior to returning to work for a local administrative unit (ERB employer);
 - require the ERB employer to pay to the Educational Retirement Fund the total contributions that a regular employee and an employer would pay if the employer were hiring a non-retiree to fill the position;
 - require both the retiree and the ERB employer to make contributions to the Retiree Health Care Fund;
 - clarify what types of services “rendered” to an ERB employer during the 12-month layout period would disqualify the individual from participating in the RTW program; and
 - define the term “local administrative unit” to include not only the local administrative unit itself but also any for-profit or nonprofit “entity incorporated, formed or otherwise organized by, or subject to the control of a local administrative unit.”
- The manner in which ERB members with military service or service in the US Public Health Service Commissioned Corps (PHSCC) can purchase service credit is changed:
 - the member must have five years or more of ERB employment to be eligible to purchase military service credit;
 - the member must pay both the employee’s and the employer’s share of the contribution (for each year of service purchased, the cost is determined by multiplying the combined rates by the member’s average annual salary for the preceding five years);
 - payment is due in full in a single lump sum payment within 60 days of the date when the member is informed of the required amount; and
 - should the member later request a refund, the amount of the purchase cost that is equivalent to the employer’s contribution will remain credited to the Educational Retirement Fund.
- Members who purchase service credits, whether for military or other types of allowable service, and who enroll with the Retiree Health Care Authority (RHCA), must make a contribution to the Retiree Health Care Fund that is equal to the full actuarial present value of the amount of the increase in the person’s health care benefit as determined by RHCA.
- If any of the five consecutive salaries used in determining retirement benefits exceeds the previous year’s salary by more than 35 percent, the excess salary is discounted in the calculation of the final average salary (FAS). Also excluded from the calculation are lump sum payments for accrued sick or annual leave.
- The ERB is required to provide for its members no less than eight hours of training annually in pension fund investing, fiduciary obligations, or ethics. A member who fails to attend this training for two consecutive years is deemed to have resigned from the board.

Public Employees Retirement Act (Sections 4-20, pp. 17-44)

- Eligibility requirements for current members remain unchanged; however, eligibility requirements for employees, who become members on or after July 1, 2010, include a higher age limit for retirement and increased years of service. For members of the state

general plan, who are not peace officers,² and for members of the municipal general plan to retire:

- the member must be 67 years old or older and have five or more years of service credit;
- the member may be any age if the sum of the member's age and years of service credit equals at least 80; or
- the member may be any age and have 30 or more years of service credit.
- Although most of the eligibility requirements for members participating in Public Employees Retirement Association (PERA) plans for municipal police and firefighters remain the same, beginning July 1, 2010, the minimum number of years before an individual of any age can retire is increased from 20 to 25.
- For state police, adult correctional officers, and municipal detention officers, the automatic 20 percent increase in actual service credit will not apply to new members of their respective retirement plans after June 30, 2010.
- If any of the three consecutive salaries used in determining retirement benefits exceeds the previous year's salary by more than 35 percent, the excess salary is discounted in the calculation of the final average salary (FAS).
- The PERA board is required to provide for its members no less than eight hours of training annually in pension fund investing, fiduciary obligations, or ethics. A member who fails to attend this training for two consecutive years is deemed to have resigned from the board.

Retiree Health Care Act (Sections 2-3, pp. 2-17)

- The definition of an "eligible participating retiree" is amended to specify that, on or after July 1, 2009, in order to qualify as a participant, an individual who retires less than five years after his or her employer becomes a participating employer, must make a contribution to the fund in an amount equal to the full actuarial present value of the accrued benefits, as determined by RHCA, and so must the employer.
- For members who are not in an enhanced retirement plan, both the employer's and the employee's contributions will be increased over a three-year period:
 - the employer's contribution will be increased from 1.3 percent of the employee's salary to 1.666 percent beginning July 1, 2010; to 1.834 percent beginning July 1, 2011; and to 2.0 percent beginning July 1, 2012; and
 - the employee's contribution will be increased from 0.65 percent of salary to 0.833 percent beginning July 1, 2010; to 0.917 percent beginning July 1, 2011; and to 1.0 percent beginning July 1, 2012.
- For members who are in an enhanced retirement plan (state police, adult correctional officers, municipal police, municipal firefighters, municipal detention officers, and members as defined by the *Judicial Retirement Act*), both the employer's and the employee's contributions will be increased over a three-year period:
 - the employer's contribution will be increased from 1.3 percent of the employee's salary to 2.084 percent beginning July 1, 2010; to 2.292 percent beginning July 1, 2011; and to 2.5 percent beginning July 1, 2012; and

² A peace officer is defined as "any employee of the state with a duty to maintain public order or to make arrests for crime, whether the duty extends to all crimes or is limited to specific crimes, and who is not specifically covered by another coverage plan." Peace officers, as newly defined in this amendment to the *Public Employees Retirement Act*, are eligible for retirement in accordance with current statutory provisions.

- the employee's contribution will be increased from 0.65 percent of salary to 1.042 percent beginning July 1, 2010; to 1.146 percent beginning July 1, 2011; and to 1.25 percent beginning July 1, 2012.
- Beginning July 1, 2009, all members of PERA and ERB who purchase allowed service credit (e.g., for military service or service in an out-of-state public school or postsecondary institution), and who wish to enroll with RHCA, must make a contribution to the Retiree Health Care Fund that is equal to the full actuarial present value of the amount of the increase in the person's health care benefit as determined by RHCA.

Other

- Section 1 (p. 2) amends the *Tax Administration Act* to remove the expiration date (June 30, 2010) for an annual distribution of \$250,000 to the Retiree Health Care Fund from the Tax Administration Suspense Fund.
- Section 27 (pp. 63-65) creates a 25-member Retirement Systems Solvency Task Force to study the actuarial soundness and solvency of the PERA, ERB, and RHCA retirement plans and to prepare a solvency plan for each entity. The solvency plans and task force recommendations are to be submitted no later than October 1, 2009 to the Investments and Pensions Oversight Committee or other appropriate interim committee; to the Legislative Finance Committee; and to the Governor.
- Section 28 (p. 66) repeals various sections of the *Public Employees Retirement Act*.

The effective date for Sections 1-5, 19, 21, 24, and 26 of the bill is July 1, 2009; the effective date for Sections 6-18, 20, 22, 23, 25, and 28 is July 1, 2010.

* The bill contains an emergency clause.

Fiscal Impact:

CS/CS/HB 573a appropriates funds in the sense that it removes the sunset provision from the *Tax Administration Act* regarding the \$250,000 annual distribution to the Retiree Health Care Fund.

No funds are appropriated for the operations of the Retirement Systems Solvency Task Force.

Fiscal Issues:

The Legislative Finance Committee's (LFC) Fiscal Impact Report (FIR) on CS/CS/HB 573, House Education Committee Substitute for HB 573, indicates that there has been a decline in asset values of both the Educational Retirement Fund and the PERA fund:

Both PERA and ERB are mature plans, meaning that contributions made into the plan are less than the benefits being paid out. In order to maintain solvency, actuaries estimate that the earnings on fund investments must average 8 percent over the long term....

... As of December 31, 2008, the ERB fund (including contributions and distributions) reported a fund value of \$6.6 billion, down \$2.8 billion from a year earlier. Over the same period, the PERA fund has lost about one-third of its value, reporting a fund value down to \$8.9 billion from over \$13 billion. Results

from January 2009 have continued this downward trend. Looking forward, new market conditions increase the uncertainty of achieving the 8 percent actuarial return on investments for the pension plans.

In addition, the LFC's FIR on the previous substitute bill, House Education Committee Substitute for HB 573, notes that the solvency of the Retiree Health Care Fund has been extended from 2014 to 2019 as a result of recent actions by the RHCA, based on the recommendations of a work group established by legislation in 2007 to study long-term financing options and to make recommendations to the Governor and the Legislature:

As a result ... RHCA increased retiree premiums by an average of 9 percent across all plans on January 1, 2008. Then on July 1, 2008, RHCA increased the contributions paid by retirees on average of 15.5 percent across all medical plans. However, medical premiums are scheduled to remain flat until January 2010, despite medical trend increasing on an annual basis. Some retirees, particularly those in the richer, more heavily subsidized plans, saw their contributions increase by as much as 70 percent. [These] actions increased RHCA's solvency period, reduced the UAAL [Unfunded Actuarial Accrued Liability], and narrowed the gap in the annual required contribution.

Both the LFC and the ERB indicate that the changes in retirement eligibility requirements will help to ensure the solvency of the Educational Retirement Fund. With regard to the combined impact of the proposed changes to all three retirement programs, the LFC states the following:

The actuarial fiscal impacts of the proposed legislation need to be determined. However, it is reasonable to conclude that the proposed reforms will improve the solvency of the pension funds and the RHCA program by extending the contribution period and reducing the timeframe that benefits are paid. Because the retirement eligibility requirements are effective only for new employees hired after July 1, 2010, the impact will not appear in the immediate years but will show up in the "out years" on actuarial reports and accrue over time.

In 2005, the Legislature addressed the insolvency of the Educational Retirement Fund through legislation that increased both the employer's and the employee's contribution rates. The employer's contribution rate, which was 8.65 percent in FY 05, was increased by 0.75 percent each year for seven years, and will reach 13.9 percent in FY 12. The employee's contribution rate, which was 7.6 percent in FY 05, was increased by 0.075 percent per year for a period of four years, and reached 7.9 percent in FY 09.

Issues:

Educational Retirement Board

- ERB administers a defined benefit retirement plan for employees of public schools, public institutions of higher learning and selected state agencies.
- ERB reports that, as of June 30, 2008, there were 63,698 active members; 31,192 retirees and beneficiaries; 8,408 inactive members who were vested in the system; and another 21,574 inactive members who were not vested.

Public Employees Retirement Association

- In contrast to ERB, PERA administers not one but 31 different pension plans, covering municipal employees, county employees, state employees, municipal police, municipal firefighters, judges, magistrates, legislators, volunteer firefighters, and special districts and authorities created by the Legislature.
- As of June 30, 2008, the PERA retirement plan membership consisted of 24,763 retirees and beneficiaries, 52,401 active members and 3,138 terminated vested members. PERA also states that, because of the “Baby Boomers,” the retiree number is increasing at a rate of 10 percent per year.

Retiree Health Care Authority

- According to the LFC’s January 2009 report to the Legislature, RHCA provides group and optional healthcare benefits and life insurance to eligible retirees and their dependents.
- RHCA has 466 participating employers, including all state agencies, public school districts, 59 charter schools, 22 counties, 23 cities, and 10 institutions of higher education. Total enrollment as of June 30, 2008, is 42,000.

Related Bills:

If enacted, the following bills could impact the eligibility requirements of and/or the benefits provided by various public retirement plans:

Educational Retirement Act (Chapter 22, Article 11)

HB 453 *Educational Retirement Service Credits* (As introduced, HB 453 and SB 623 are duplicates.)

*HB 525a *Alternative Educational Retirement Plans*

HB 631a *Educational Retirement Eligibility*

HB 721a *Educational Retirees Returning to Work*

SB 145 *Eliminate End Date for Return to Work*

SB 476a *Educational Retirees Returning to Work*

*SB 572a *Alternative Educational Retirement Plans* (Passed both the Senate and the House)

SB 623 *Educational Retirement Service Credits*

Public Employees Retirement Act (Chapter 10, Article 11)

HB 65 *Legislative Retirement Contributions*

HB 246 *PERA Return to Work for Certain Employees*

HB 271a *Reopen Municipal Employee Retirement Plan 4*

HB 355 *Reopen Some Municipal Retirement Coverage*

CS/HB 616a *Public Retirees Returning to Work*

SB 499a *Motor Transportation Officer Retirement*

CS/SB 675 *Legislator Retirement Age & Coverage*

Other Retirement Acts

HB 353 *Volunteer Firefighter Retirement Procedures* (Chapter 10, Article 11A)

HB 648 *Judicial retirement from General Fund* (Chapter 10, Article 12B)

Multiple Retirement Acts

*CS/CS/HB 573a *Adjustment of Retirement Plans* (ERA, PERA, Retiree Health Care)

HB 854a *PERA Member & State Contribution Changes* (PERA, ERA, *Judicial Retirement Act*,
Magistrate Retirement Act)

HJM 45 *Public Employee & Education Solvency Plans* (ERA and PERA)