COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0673H.07C
Bill No.: HCS for SS for SB 75
Subject: Retirement Systems and Benefits - General; Retirement - Local Government; Retirement - Schools; Education, Elementary and Secondary; Teachers; Law Enforcement Officers and Agencies
Type: Original
Date: April 12, 2023

Bill Summary: This proposal modifies provisions relating to retirement systems.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue*	$0	$0 or (Unknown)	$0 or (Unknown)
Total Estimated Net Effect on General Revenue	**$0**	**$0 or (Unknown)**	**$0 or (Unknown)**

*Oversight assumes the fiscal impact to the state would not reach the $250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>Other</u> State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

☐ Estimated Net Effect (savings or increased revenues) expected to exceed $250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	**$0**	**$0 to $10,400,000**	**$0 to $10,400,000**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Joint Committee on Public Employee Retirement (JCPER)** stated this proposal has no direct fiscal impact to the JCPER.

The JCPER's review of this proposal indicates that its provisions may constitute a "substantial proposed change" in future plan benefits as defined in section 105.660(10). It is impossible to accurately determine the fiscal impact of this legislation without an actuarial cost statement prepared in accordance with section 105.665.

Pursuant to section 105.670, an actuarial cost statement must be filed with the Chief Clerk of the House of Representatives, the Secretary of the Senate, and the Joint Committee on Public Employee Retirement as public information for at least five legislative days prior to final passage.

Section 104.160 – MPERS Board of Trustees

Officials from **MoDOT & Patrol Employees' Retirement System (MPERS)** state Section 104.160 of the proposed bill, if enacted, would stagger the terms for MPERS' elected trustees. MPERS has four trustees elected by representative bodies (two active employees, one each from MoDOT and the Highway Patrol and two retirees, one each from MoDOT and the Highway Patrol) for four-year terms. At present, all four of these positions become eligible for reelection at the same time. In the event all four trustees had opposition and then were all replaced with new trustees, MPERS' board would have a significant turnover of trustees (4 out of 11 total trustees) and loss of institutional knowledge because some of the elected trustees have been on the board for several years.

If enacted, MPERS would hold the scheduled election in March of 2026. The active trustees elected at that time would serve a two-year term rather than four years. MPERS would hold a new election for the active trustees in March of 2028 and those newly elected active trustees would then serve a four-year term going forward, thereby staggering the terms.

The outcome will require MPERS to hold elections more often (every two years rather than every four years), but it is not a significant enough change to overshadow the benefit of not losing four elected trustees simultaneously. The MPERS Board of Trustees is going through several process improvements intended to improve the organization and its oversight. This proposal is supported by the board as one of those improvements.

Sections 104.380 and 104.1039 - Benefit Eligible Position as a Legislator or Elected Official

Officials from the **Missouri State Employee's Retirement System (MOSERS)** state this proposal, if enacted, would allow a retired member of MOSERS or MPERS to serve as a member of the general assembly or hold an elected statewide office while continuing to receive a monthly retirement benefit from MOSERS or MPERS.

Currently, if a retired member of MOSERS or MPERS returns to employment in a MOSERS or MPERS-covered position that normally requires 1,040 or more hours annually, such retiree shall not receive a retirement annuity for any month in which such retiree is employed.

The fiscal impact to MOSERS for this proposal is an **unknown cost**. The proposed change would allow a retiree to continue to receive their retirement benefit if the retiree returns to a benefit eligible position as a legislator or elected official. Under current law, the retirement benefit would stop. The retiree would earn an additional benefit based on the service/salary credit earned while reemployed, if the member works for an additional year (which is the same as the current provision). Although MOSERS external actuarial professionals cannot directly value the impact of this proposed change in the actuarial valuation process, they have definitively indicated that this proposal increases the System's liability because it will increase benefits paid for certain MOSERS retirees, current and future, who are retired and return as legislators or elected officials.

This proposal exempts this provision change from the current law in Section 105.684, which requires a public pension plan in Missouri to be at least 80% funded prior to implementing a benefit change that increases plan liabilities. Without the exemption in the proposal, MOSERS would be prohibited from enacting such change as the plan was 58% funded as of June 30, 2022.

Current Status of MOSERS:

As of June 30, 2022 Funded Ratio 57.7%

Market Value of Assets:	$8,248,414,597
Actuarial Value of Assets:	$8,894,328,756
Liabilities:	$15,408,995,032
Unfunded Actuarial Accrued Liability	$6,514,666,276

Covered Payroll as of June 30, 2022: $2,004,688,456

Recommended Contribution Rate for FY 2022: 23.51% of payroll. Employees hired for the first time on or after January 1, 2011 contribute 4% of compensation to MOSERS. Estimated employer contribution is approximately $471.3 million.

Officials from **MPERS** state Section 104.380 applies to MOSERS but it does not apply to MPERS. For clarification, MPERS Closed Plan provisions allow MPERS retirees to be reemployed by a MOSERS-covered employer, including the General Assembly, and not suspend the benefit.

Section 104.1039 would have the effect of allowing an MPERS retiree to serve in the General Assembly without suspension of the MPERS retirement benefit. This would have the same effect as described in the paragraph above. Typically when an individual in the Year 2000 reemploys, the retirement benefit is suspended, in which case MPERS is not paying out a benefit that would otherwise be owed. That would imply a savings. If the proposed is enacted and an MPERS retiree under this section can continue being paid a retirement benefit and can "reemploy" as a legislator, it would not provide MPERS the cost savings it would otherwise have had. Due to the very small number of individuals who this might apply to, MPERS does not expect more than a minimal fiscal impact. This fiscal impact for the changes above are minimal but impossible to determine.

Current Status of MPERS:

As of June 30, 2022 Funded Ratio 66.33%

Market Value of Assets:	$3,067,193,086
Actuarial Value of Assets:	$2,925,561,398
Liabilities:	$4,410,685,047
Unfunded Actuarial Accrued Liabilities (UAAL)	$1,485,123,649

Active Employee Payroll as of June 30, 2022: $367,493,332

Recommended Contribution Rate for FY 2022: 58% of payroll. Estimated employer contribution is approximately $212.7 million. Employees hired for the first time on or after January 1, 2011 contribute 4% of compensation to MPERS.

Oversight notes MOSERS and MPERS indicated this proposal could result in increased costs. These costs assumed by the retirement system may or may not impact the employer contribution rate for state agencies. Oversight will show a range of impact of $0 (no change in employer contribution rates) to an unknown cost (increase in employer contribution rates) from this proposal. Oversight assumes this proposal would impact so few people that any potential cost would likely be less than the $250,000 threshold annually. For simplicity, Oversight will show a cost to the General Revenue fund but notes Federal Funds and various other state funds are also used to fund employee benefits.

<u>**Sections 169.070 - 169.715 – Teacher and School Employee Retirement Systems**</u>

JCPER notes Public Schools and Education Retirement System (PSRS) and Public Education Employee Retirement System (PEERS)

Current Status of the Public School Retirement System (PSRS) as of June 30, 2022:

Active members: 78,973
Inactive members: 87,096 (includes retired, surviving beneficiary, disabled and terminated vested)

		Funded Ratio
Market Value of Assets:	$47,671,054,492	
Actuarial Value of Assets:	$47,185,300,000	85.2%
Liabilities:	$55,405,259,756	

Covered Payroll: $5,271,368,324

Recommended Contribution for FY 2022: 29% - Employers and employees contribute in equal amounts of 14.5%.

Percent	Dollars (Estimated)	
Employer	14.5%	$764,348,407 (estimated)
Employee	14.5%	$764,348,407 (estimated)
Total	29.0%	$1,528,696,814 (estimated)

Current Status of the Public Education Employee Retirement System (PEERS) as of June 30, 2022:

Active Members: 50,179
Inactive Members: 81,318 (includes retired, surviving beneficiary, disabled and terminated vested)

		Funded Ratio
Market Value of Assets:	$6,153,590,531	
Actuarial Value of Assets:	$6,113,154,000	87.3%
Liabilities:	$6,998,708,341	

Covered Payroll: $1,864,704,185
Recommended contribution rate for FY2022: 13.72%. Employers and employees contribute in equal amounts of 6.86%.

	Percent	Dollars
Employer	6.86%	$127,918,707 (estimated)
Employee	6.86%	$127,918,707 (estimated)
Total		$255,831,414 (estimated)

Officials from the **Public Schools and Education Employee Retirement Systems (PSRS/PEERS)** state this legislation, as currently drafted, has multiple components impacting Public School Retirement System of Missouri (PSRS) and the Public Education Employee Retirement System (PEERS) that are each addressed below. PSRS and PEERS are separate trust funds and must be evaluated individually. This memo discusses the impacts on both plans but separate cost statements are provided by the Systems' actuaries.

The Systems have an actuary firm, PricewaterhouseCoopers (PwC), that prepares actuarial cost statements on any proposed legislation as well as the annual actuarial valuation reports for the Systems. PwC has reviewed each component of the proposed legislation for impacts to the System individually, as well as evaluated the fiscal impact of all components in aggregate. The impact of individual components and the aggregate fiscal impact of the legislation are discussed in more detail below. The fiscal impact of all provisions in aggregate are expected to be a fiscal savings to both PSRS and PEERS, if retirement behavior is similar to the assumptions utilized in the analysis. Please note individual components vary and are further discussed below.

Section 169.560 - Working After Retirement - PSRS Retiree in Non-Certificated Position

Currently, any retired teacher from PSRS can be employed in a non-certificated position covered under PEERS without impacting their retirement benefit up to certain limitations. Any certificated retiree may earn up to 60% of the minimum teacher's salary ($15,000) as established by Section 163.172, RSMo, and will not contribute to the retirement system or earn creditable service for that work. The employers would be required to contribute into the PEERS for such employment.

This legislation will allow a retired, certificated teacher, working in a non-certificated position covered under PEERS, to earn up to 133% the annual earnings limit applicable to a Social Security limitation as set forth in 20 CFR 404.430 through June 30, 2028. After June 30, 2028 the retired, certificated teacher, working in a non-certificated position covered under PEERS, would be able to earn up to the annual earnings limit applicable to a Social Security limitation as set forth in 20 CFR 404.430.

PwC reviewed this portion of the legislation and estimate the impact of the proposed change to increase the pay-based limit on working after retirement under RSMo 169.560 Paragraph 2, in particular the increase to 133% of the annual Social Security earnings exemption amount through June 30, 2028 and then to 100% of the annual Social Security earnings exemption amount thereafter, to be a fiscal loss to PSRS if there is a change in active member retirement behavior to retire earlier as a result. This analysis is based on this provision in isolation and not the aggregate impact of all components of the legislation.

PwC indicated the proposed change to Section 169.560 Paragraph 2 is expected to result in an insignificant fiscal gain to PEERS.

Section 169.596 - Critical Shortage

4 Years instead of 2 Years

The critical shortage employment exception found in Section 169.596, RSMo, is a statutory provision which allows covered employers who meet certain requirements (as set forth in statute) to employ a limited number of PSRS/PEERS retirees up to full-time without affecting the payment of their retirement benefits. Each retired member is limited to two years working under the critical shortage employment exception.

During the two years of critical shortage employment, employer contributions must be made on all salary earned, including employer-paid medical insurance premiums and pay for additional duties. The retired members employed under this provision continue to receive benefits, but do not contribute to PSRS/PEERS or earn service. By statute, districts cannot use the critical shortage employment exception to fill the position of superintendent.

This legislation allows retirees to return to work under the critical shortage exemption statute up to four years versus the current two-year restriction. PwC reviewed this portion of the proposed legislation and it is expected to have an insignificant fiscal gain for both PSRS and PEERS.

Number of Positions Allowed

The critical shortage employment exception found in Section 169.596, RSMo, indicates the total number of retired certificated teachers hired under the critical shortage declaration shall not exceed the littlest of ten percent of the total teacher staff for that school district, or five certificated teachers. The proposed legislative would change this provision to be the greater of one percent of the total certificated teachers and noncertificated staff for that school district or five certificated teachers.

PwC reviewed this portion of the proposed legislation and noted it is expected to have an insignificant fiscal gain for PSRS and PEERS.

Section 169.070 - 2.55% Formula Factor Provision

This legislation removes the expiration date of July 1, 2014, for the 2.55% Formula Factor Provision with 31 or more years of service for 169.070.1(8), RSMo for members of the Public School Retirement System of Missouri (PSRS). Additionally, this legislation amends the years of service requirement for the provision from 31 or more years of service to 32 or more years of service.

Currently, PSRS members who have 32 years or more of creditable service and retire have their retirement benefit calculated using a multiplier of 2.5%. The 2.55% Benefit Formula Factor

Provision would allow for eligible members with 32 or more years of service to retire with an additional 0.05% Formula Factor.

The analysis prepared by PwC indicating, the proposed legislation would reduce the Plan's Actuarial Accrued Liability (AAL) by $234.4 million and result in an increase to the Plan's pre-funded ratio of 0.37%.

There are two components that impact the Actuarially Determined Contribution Rate (ADC) for a public retirement plan; the Normal Cost Rate (NC) and the Unfunded Actuarial Accrued Liability Rate (UAAL). The reduction of the AAL, results in a decrease in the annual UAAL rate resulting in annual savings of approximately $14 million for the next 30 years (for PSRS). There are additional annual savings of $7.2 million per year due to the reduction of the normal cost as a result of these provisions being made a permanent part of the benefit structure. The annual normal costs savings will continue as long as the new provisions are in force (this could extend beyond 30 years).

<u>The annual savings of $21.2 million per year for the next 30 years is due to the reduction of the UAAL Rate and the NC Rate of the Plan as a result of the 2.55% provision being made a permanent part of the benefit structure (for PSRS).</u>

PwC modeled two scenarios based on current information that result in a fiscal gain for PSRS. PwC's further notes that it is also possible for PSRS to experience no fiscal gain or a fiscal cost related to these changes, depending on whether or not active members and employers change their behavior as expected. <u>This portion of the legislation has no impact on PEERS.</u>

Oversight assumes the reduction in the Normal Cost Rate and the Unfunded Actuarial Accrued Liability will result in a decrease to the Actuarially Determined Contribution (ADC) Rate. Below are the Employer Contribution estimates provided by PricewaterhouseCoopers' actuarial cost statement.

Employer Contributions	**FY 2024**	**FY 2025**	**FY 2026**
Baseline	$773 million	$776 million	$768 million
Proposed	$762 million	$765 million	$757 million
Savings	$11 million	$11 million	$11 million

Oversight assumes this proposal is effective August 28, 2023 (FY 2024). Oversight notes the estimated annual savings of $21.2 million is split between employer contributions and employee contributions.

<u>**Section 169.141 and 169.715 Divorce Pop-up for Same Sex Domestic Partners**</u>

Officials from **PSRS/PEERS** state, currently, Section 169.141 and 169.715 allows for any Public School Retirement System (PSRS) or Public Education Employee Retirement System

(PEERS) retiree that selects a joint-and-survivor plan and has a subsequent divorce be allowed to return to a single life option upon receipt of the application by the System.

- This provision will only occur if the divorce decree provides for sole retention of their retirement benefits.
- Retroactive benefits are not payable.
- The divorce must occur on or after September 1, 2017.

In addition, the current law also allows for any retiree that selects a joint-and-survivor plan and has a divorce after retirement but prior to September 1, 2017, to be allowed to return to a single life option upon receipt of the application by the System provided that they comply with the following criteria:

- The dissolution decree provides for sole retention by the retired person of all rights in the retirement allowance, and the nominated spouse consents in writing to his or her immediate removal as the nominated beneficiary and disclaims all rights to future benefits.
- The dissolution decree does not provide for sole retention by the retired person of all rights in the retirement allowance and the parties obtain an amended or modified dissolution decree which provides for sole retention by the retired person of all rights in the retirement allowance.

Retroactive benefits for divorce pop-up are not payable.

This proposal relates to members of PSRS and PEERS who retired before September 1, 2015, and choose a joint-and-survivor plan and elected to list their same-sex domestic partner as a nominated beneficiary.

The Missouri Marriage Definition Amendment, also known as Amendment 2, was on the August 3, 2004 ballot in Missouri as a legislatively referred constitutional amendment, where it was approved.

The measure amended the Constitution so that only marriages between a man and a woman would be valid and recognized in the state. On June 26, 2015, the U.S. Supreme Court held in a 5 to 4 decision that the Fourteenth Amendment requires all states to grant same-sex marriages and recognize samesex marriages granted in other states.

This proposal allows that a member who elected to receive reduced monthly payments on or before September 1, 2015, with his or her same-sex domestic partner as the nominated beneficiary may have the retirement allowance increased to the amount he or she would have received if he or she had not elected to receive reduced payments.

The member must do the following:

- The member must execute an affidavit, along with any supporting information and documentation required by the Board of Trustees, attesting to the existence of the

domestic partnership at the time of the nomination and that the partnership has since ended.
- The nominated beneficiary must consent to the removal and disclaim all rights to future benefits in writing, or the parties must obtain a court order or judgment after September 1, 2023, removing the nominated beneficiary.
- If the member and beneficiary were legally married at the time of retirement or thereafter, the marriage must be dissolved, and the dissolution decree must provide for the sole retention of the allowance by the member.

A member who elected to receive reduced monthly payments on or before September 1, 2015, with his or her same-sex domestic partner as the nominated beneficiary may nominate a successor beneficiary. If the former nominated partner precedes the member in death, the member must execute an affidavit attesting to the existence of the partnership at the time of the former nomination.

Otherwise, the member must execute an affidavit, along with any supporting information and documentation required by the Board of Trustees, attesting to the existence of the domestic partnership at the time of the nomination and that the partnership has since ended, and the nominated beneficiary must consent to the removal and disclaim all rights to future benefits in writing or the parties must obtain a court order or judgment after September 1, 2023, removing the nominated beneficiary.

If the member and beneficiary were legally married at the time of retirement or thereafter, the marriage must be dissolved, and the dissolution decree must provide for the sole retention of the allowance by the member. Any nomination of a successor beneficiary must occur within one year of September 1, 2023, or within one year of marriage, whichever is later.

PwC reviewed this portion of the proposed legislation and noted it is expected to have an <u>insignificant fiscal gain for PSRS and PEERS</u>.

<u>Aggregate Fiscal Impact to all Proposed Provisions for PSRS/PEERS</u>

There are only two provisions that are expected to have a significant impact on the Systems. Those provisions are the changes to the annual earnings limit for PSRS retirees working in non-certificated positions and the reinstatement of the 2.55% formula factor for PSRS members that work at least 32 years. As discussed, the 2.55% formula factor provisions are a significant fiscal savings to PSRS. If, the change in the annual earnings limit for PSRS retirees working in non-certificated positions through June 30, 2028, incentivizes PSRS members to retiree earlier than expected the savings from the 2.55% provision would be diminished. However, since the increased annual earnings limit is for a very limited time the savings are not substantially diminished, resulting in a cost savings in total.

The analysis prepared by PwC indicated, that the proposed legislation could reduce the Plan's Actuarial Accrued Liability (AAL) by $213.7 million and result in an increase to the Plan's pre-funded ratio of 0.33%, under this scenario. It is further estimated that the actuarially determined contribution would decrease resulting in annual savings of $20.8 million per year for the next 30 years

The aggregate impacts to PEERS are not anticipated to be fiscally significant.

Oversight assumes the reduction in the Normal Cost Rate and the Unfunded Actuarial Accrued Liability will result in a decrease to the Actuarially Determined Contribution (ADC) Rate.

Oversight notes the estimated annual savings of $20.8 million is split between employer contributions and employee contributions. The estimated employer contributions would decrease by $10.4 million per year. Oversight will reflect a potential savings to school districts for the employer contribution savings.

Oversight will show a range of impact of $0 (little or no change in the behavior of active members and employers) to a savings in employer contributions as provided by the actuarial cost estimate. Oversight assumes this proposal is effective August 28, 2023 (FY 2024). Given that actuarial-determined contribution rates will have already been determined for FY 2024 once this proposal is effective, Oversight will show a savings to local school districts beginning FY 2025.

FISCAL IMPACT – State Government	FY 2024	FY 2025	FY 2026
GENERAL REVENUE			
Costs - increase in employer contributions for members now receiving benefits that otherwise would not have - §104.380 & §104.1039	$0	$0 or (Unknown)	$0 or (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE	**$0**	**$0 or (Unknown)**	**$0 or (Unknown)**

FISCAL IMPACT – Local Government	FY 2024	FY 2025	FY 2026
SCHOOL DISTRICTS			
Cost Avoidance – School Districts - reduction in actuarially determined contributions for PSRS - §169.070 & §169.560	$0	$0 to $10,400,000	$0 to $10,400,000
ESTIMATED NET EFFECT ON SCHOOL DISTRICTS	**$0**	**$0 to $10,400,000**	**$0 to $10,400,000**

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act modifies provisions relating to retirement systems.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Joint Committee on Public Employee Retirement
Missouri State Employee's Retirement System
MoDOT & Patrol Employees' Retirement System
Public Schools and Education Employee Retirement Systems

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April 12, 2023

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