COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0673S.05P
Bill No.: Perfected SS for SB 75
Subject: Education, Elementary and Secondary; Teachers; Retirement - Schools; Retirement Systems and Benefits - General
Type: Original
Date: February 15, 2023

Bill Summary: This proposal modifies provisions relating to public school retirement systems, including retirement allowance multiplier and working after retirement.

FISCAL SUMMARY

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

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on Other 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**	**More or less than $11,000,000**	**More or less than $11,000,000**

FISCAL ANALYSIS

ASSUMPTION

Due to time constraints, **Oversight** was unable to receive some agency responses in a timely manner and performed limited analysis. An actuarial cost estimate was **not** available at the time this fiscal note was completed. Oversight has presented this fiscal note on the best current information or on information regarding a similar bill(s). Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

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.

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)

In response to the previous version, officials from the **Public Schools and Education Employee Retirement Systems (PSRS/PEERS)** stated 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 provided a cost statement for this legislation. The overall results and impacts of this legislation is discussed below.

This legislation, as currently drafted, has three specific components impacting Public School Retirement System of Missouri (PSRS) and the Public Education Employee Retirement System (PEERS) that are each addressed 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 the annual earnings limit applicable to a Social Security limitation as set forth in 20 CFR 404.430, which will be $21,240 for the 2023-2024 school year.

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

<u>Section 169.596 - Critical Shortage</u>

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 <u>expected to have an insignificant fiscal gain for both PSRS and PEERS</u>.

<u>Section 169.070 - 2.55% Formula Factor Provision</u>

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).

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).

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. This portion of the legislation has no impact on PEERS.

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 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. Oversight notes the estimated annual savings of $21.2 million is split between employer contributions and employee contributions. Oversight will reflect a potential savings to school districts for the employer contribution savings.

Senate Substitute

Officials from the **Public Schools and Education Employee Retirement Systems** 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), which are each addressed below.

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. This legislation in aggregate will be submitted to them for an actuarial statement. As soon as the actuarial statement is available, we will be amending our fiscal response to include their analysis. PwC has provided actuarial statements on some of the components of this legislation. The Systems have included such information in the analysis below. The actuarial cost statement could vary when reviewing ALL components of this legislation in aggregate.

Working After Retirement – PSRS Retiree in Non-Certificated Position

Officials from **Public Schools and Education Employee Retirement Systems** state, 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, which will be $21,240 for the 2023-2024 school year, 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.

This provision has not yet been reviewed by the Systems actuary but is being submitted for a cost analysis.

Oversight will show an unknown impact (positive or negative) to local political subdivisions for this provision.

Senate Amendment 1

In response to a similar provision in SB 339 (2023), officials from **Public Schools and Education Employee Retirement Systems** stated, 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.

This legislation would impact a very limited group of retired members. PSRS/PEERS retirees must be in a same-sex domestic relationship, retired prior to September 1, 2015 and elected one of the joint and survivor payment options at retirement in order to be eligible to qualify for this statute.

The Systems have an actuary firm, PricewaterhouseCoopers (PWC), that prepares actuarial statements on any proposed legislation as well as the annual actuarial valuation reports for the Systems. PWC estimate the impact of the proposed provisions to be an <u>**insignificant fiscal gain**</u> to both PSRS and PEERS.

<u>**Senate Amendment 2**</u>

Critical Shortage – Number of Positions Allowed

Officials from the **Public Schools and Education Employee Retirement Systems** state 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 lesser 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 non-certificated staff for that school district or five certificated teachers.

<u>This provision has not yet been reviewed by the Systems actuary but is being submitted for a cost analysis.</u>

Oversight will show an unknown impact (positive or negative) to local political subdivisions for this provision.

FISCAL IMPACT – State Government	FY 2024	FY 2025	FY 2026
	$0	**$0**	**$0**

FISCAL IMPACT – Local Government	FY 2024	FY 2025	FY 2026
SCHOOL DISTRICTS			
Cost Avoidance - reduction in actuarially determined contributions - §169.070	$0	$0 to $11,000,000	$0 to $11,000,000
Loss/Gain - increase in earnings exemption - §169.560		Unknown to (Unknown)	Unknown to (Unknown)
Loss/Gain - modified limit on number of teachers hired under the critical shortage declaration - §169.596 (SA2)		Unknown to (Unknown)	Unknown to (Unknown)
ESTIMATED NET EFFECT ON SCHOOL DISTRICTS	**$0**	**More or less than $11,000,000**	**More or less than $11,000,000**

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 public school 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
Public Schools and Education Employee Retirement Systems

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February 15, 2023

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February 15, 2023

JLH:LR:OD