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In This Edition

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AGENDAS

INFORMATION REGARDING SCHEDULED MEETINGS

Administrative Rules Review Committee
Chairperson: Representative Dawn Pettengill
Vice Chairperson: Senator Mark Chelgren
Location: Room 116, Statehouse
Date & Time: Friday, February 9, 2018, 9:00 a.m.
LSA Contacts: Jack Ewing, Legal Counsel, 515.281.6048; Amber Shanahan-Fricke, Legal Counsel, 515.725.7354
Agenda: To be announced.
Internet Site: www.legis.iowa.gov/committees/committee?groupID=705&ga=87&session=1

PUBLIC RETIREMENT SYSTEMS COMMITTEE

December 18, 2017

Chairperson: Representative Dawn Pettengill
Vice Chairperson: Senator Charles Schneider

OVERVIEW

The Public Retirement Systems Committee received testimony from individuals involved with the Judicial Retirement System, the Iowa Public Employees Retirement System, the State of Iowa deferred compensation program for certain state and school employees, the Peace Officers' Retirement System, and the Municipal Fire and Police Retirement System. Additional materials presented for consideration by the committee are included on the committee's Internet site.

JUDICIAL RETIREMENT SYSTEM

Mr. Todd Nuccio, State Court Administrator, and Ms. Patrice Beckham, Consulting Actuary, Cavanaugh Macdonald Consulting, LLC, provided background on the retirement system which covers all full-time judges and other judicial officers. Mr. Nuccio noted that the Judicial Retirement System is referenced in the Iowa State Constitution and is administered by the State Court Administrator. The Treasurer of State is responsible for investing the assets of the retirement fund. Ms. Beckham provided the committee a primer on actuarial concepts and then discussed the July 1, 2017, actuarial valuation of the system. The funded status of the system based upon the actuarial value of assets has made considerable improvement, improving to 91 percent on July 1, 2017, from 87 percent in the prior fiscal year. As a result, the fixed statutory contribution rate exceeds the actuarially required rate which should assist in further improving the funded status of the system. Ms. Beckham noted that an experience study relative to the assumptions used in conducting an actuarial valuation will be conducted in 2018 and will be used for the July 1, 2018, valuation. Assuming all current assumptions are met, the system should be fully funded by July 1, 2021, dependent largely on future investment returns and maintenance of the existing statutory contribution rates. Committee members asked questions about the asset allocation of the existing portfolio as well as about current investment return and mortality assumptions.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

IPERS Staff. Ms. Donna Mueller, Chief Executive Officer, and Ms. Beckham provided an overview of the retirement system, focusing primarily on the June 30, 2017, actuarial valuation of the system. Ms. Mueller noted that the historical goals for IPERS are to attract and retain a quality workforce and to provide a secure retirement with lifetime pension payments. Ms. Mueller noted that IPERS' funding shortfall of $5.6 billion prior to 2017 was largely due to over a decade of insufficient contributions, two recessions, updated mortality tables, and unfunded benefit enhancements. Ms. Beckham then discussed the July 1, 2017, actuarial valuation of the system. Since the 2016 valuation, an experience study relative to the economic assumptions applicable to the system was conducted and several economic assumptions were changed for purposes of the 2017 valuation, most notably a reduction in the assumed investment rate return from 7.5 percent to 7 percent. As a result, the unfunded actuarial liability for the entire system increased from $5.6 billion in the 2016 valuation to $6.9 billion for the 2017 valuation, of which $1.4 billion of the total liability being attributable to the assumption changes. This increased liability resulted in the funded status of the system based on the actuarial value of assets decreasing to 81.4 percent with the funded ratio for the regular IPERS membership at 80.4 percent. The funded ratios for the two public safety subgroups of IPERS are 93 percent for the sheriffs and deputies classification and 97.8 percent for the protection occupation classification. The total contribution rate for the regular membership classification will increase to 15.73 percent of pay, payable on a 60-40 employer and employee basis, beginning July 1, 2018. For members of the sheriffs and deputies classification, the total contribution rate will increase from 18.76 percent of pay to 19.52 percent, payable on a 50-50 employer and employee basis. For members of the protection occupation classification, the total contribution rate will increase to 17.02 percent of pay, payable on a 60-40 employer and employee basis. Ms. Beckham noted that if all assumptions are met, the protection occupation classification would reach full funding in about 20 years while both the regular membership and sheriffs and deputies classification will reach full funding in around 27 years.

IPERS Investment Board. Mr. Karl Koch, Chief Investment Officer, addressed the committee relative to the role of the investment board and IPERS investments. Mr. Koch noted the fiduciary responsibility of the board as a trustee of the IPERS fund and its role in setting and reviewing investment policy and actuarial assumptions. He also noted that IPERS remains a well-diversified portfolio with an increasing effort in managing risk. Mr. Koch discussed the asset allocation of the IPERS portfolio, noting that the determination of this allocation is critical in determining the rate of return. He noted that the rate of return for fiscal year 2017 was 11.7 percent. In response to committee questions, Mr. Koch stated that the investment consultants utilized by IPERS estimate that the rate of return on the IPERS portfolio for the next 10 years will be about 6.25 percent with an estimated 30-year return of 7.3 percent. Mr. Koch then noted that the investment board has approved exploring the possibility of using internal investment managers for some of IPERS' portfolio. Currently, IPERS relies entirely on external managers to invest the IPERS portfolio. Mr. Koch stated that South Dakota has gone to internal managers for some of their portfolio and commented that internal management could save millions of dollars by reducing investment management expenses while providing better oversight. He did note the significant start-up costs that would be incurred if a move to internal investment management is made, including increased compensation for internal investment managers. More discussion is needed and Mr. Koch stated that any change in approach would need legislative action, to include increasing the authority of the IPERS investment board.

IPERS Benefit Advisory Committee (BAC). Mr. Len Cockman, Chair, addressed the committee. The goal of membership groups represented on the BAC is the long-term viability of the IPERS trust fund. In 2010, members responded to financial challenges facing the system by supporting legislation reducing benefits for all members and increasing contribution rates. Mr. Cockham noted that BAC supported initiatives in maintaining the soundness of the system have included support of anti-wage spiking legislation, excluding bonuses and allowances in calculating IPERS benefits, and supporting the use of actuarial cost studies in examining possible changes to IPERS. Ms. Mueller further noted that Iowa is one of only three states with public defined contribution plans in which the contribution rate for employees is not fixed but is a stated percentage of the actuarial required contribution rate.

PEACE OFFICERS' RETIREMENT SYSTEM (PORS)

Ms. Roxann Ryan, Commissioner of the Iowa Department of Public Safety, and Ms. Beckham provided background on the system. Ms. Ryan noted that the system is governed by a board of trustees, covers sworn peace officers of the Iowa Department of Public Safety, and members of the system are not covered by Social Security. Ms. Beckham then discussed the July 1, 2017, actuarial valuation of the system. Since the 2016 valuation which included changes to the economic assumptions for the system, an experience study relative to the demographic assumptions applicable to the system was completed and several demographic assumptions were changed for purposes of the 2017 valuation, most notably using the newest mortality table published by the Society of Actuaries. As a result of these assumption changes, the unfunded actuarial liability for the entire system increased from $152 million to $182.9 million, of which $33.5 million of the total unfunded liability being attributable to the assumption changes. This increase resulted in the funded status of the system based on the actuarial value of assets decreasing to 71 percent. In addition, Ms. Beckham noted that the downward trend of active members of the system compared to retirees is a concern in that reduced payroll growth impacts the ability to pay off the unfunded liability of the system. However, 2010 legislative changes increasing contribution rates for employers and employees, changing the calculation of postretirement adjustments to benefits, and providing for a supplemental state contribution have improved the funding status of the system. Long-term, the financial health of the system is dependent on future investment returns and scheduled contributions, including continued payment of the state supplemental payments of $5 million until the system is 85 percent funded. If all assumptions are met, the system will achieve fully funded status in 2039. In response to committee questions, the presenters noted that overtime is not included in calculating a benefit under the system.

DEFERRED COMPENSATION PROGRAMS

Department of Administrative Services (DAS). Ms. Janet Phipps, Director, DAS, discussed the supplemental deferred compensation programs operated by DAS collectively called the Retirement Investors' Club (RIC). The programs are differentiated by the three applicable Internal Revenue Code sections describing public employee deferred compensation programs, sections 457, 401a, and 403b. The 457 program is available to primarily state employees, includes an employer match component(401a), and is utilized by about 55 percent of eligible state employees. The state's 403b program, which covers primarily educational employees, was established in 2009, is available to educational employers and their employees who participate in the program, and is utilized by about 13,000 participants. All programs offer core providers of investment products which providers were selected pursuant to certain requirements relating to fees and other service and performance metrics. In addition, the 403b program offers optional providers and is made available for school districts at an annual management cost to DAS of $400. Pursuant to legislation enacted during the 2017 Session, DAS is utilizing an invitation to qualify (ITQ) process to allow vendors eligible under the new legislation to become additional optional providers. An initial ITQ for these vendors was unsuccessful but a new ITQ is being issued. Committee members expressed the hope that participation rates would increase and some committee members commented that the intent of the new legislation was to increase the number of optional providers and to make all optional providers available to all 403b participants in the state program.

MUNICIPAL FIRE AND POLICE RETIREMENT SYSTEM OF IOWA (MFPRSI)

Mr. Terry Slattery, Executive Director, MFPRSI, and Mr. Glen Gahan, Actuary, Silverstone Group, provided background information concerning the retirement system. Mr. Slattery noted that the mission of the system is to provide a comprehensive set of retirement and disability benefits to eligible local police officers and fire fighters in a sound, sustainable, and efficient manner, in accordance with the requirements of the program's governing statute. The vision statement for the system provides additional background on the mission goals of providing a comprehensive, efficient, sound, and sustainable retirement system. Mr. Slattery reviewed the current investment allocation policy and noted that the plan performance since the inception of the statewide system in 1992 is 7.7 percent. Mr. Slattery then discussed the responsibilities and major activities of the system and continuing challenges for the system. Mr. Slattery noted that the board of trustees report on the system supports having the state resume its contribution to the retirement system at 3.79 percent of earnable compensation in order to reinstate the funding agreement between the state and the participating cites from 1976. Mr. Gahan then discussed the July 1, 2017, actuarial valuation of the system. Mr. Gahan noted that the system changed its future mortality improvement assumption for purposes of the 2017 valuation. As a result of this change, coupled with strong investment performance for the last fiscal year, the funded ratio of the system based on the actuarial value of assets is 81.4 percent as of July 1, 2017, and the city contribution rate beginning July 1, 2018, will increase to 26.02 percent. Mr. Gahan discussed future trends in the actuarial contribution rate to be paid by cities and the system's funded ratio over the next 25 years using current assumptions. By the end of the 25-year period, the system would be over 99 percent funded and the city contribution rate would decrease to the required minimum city contribution rate of 17 percent.

COMMITTEE DISCUSSION

The committee did not adopt any formal recommendations.

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Internet Site: www.legis.iowa.gov/committees/committee?endYear=2018&groupID=655

ADMINISTRATIVE RULES REVIEW COMMITTEE

January 5, 2017
Chairperson: Representative Dawn Pettengill
Vice Chairperson: Senator Mark Chelgren

PUBLIC HEALTH DEPARTMENT, State Medical Examiner-Autopsy Fee, 12/6/17 IAB, ARC 3499C, ADOPTED.

Background. This rulemaking increases the fee, beginning July 1, 2018, for an autopsy conducted by the State Medical Examiner, from $1,400 to $1,900.

Commentary. Ms. Susan Dixon, Department of Public Health, reviewed the rulemaking. Mr. Dennis Klein, State Medical Examiner, presented the reasoning for the rulemaking, explaining that the increased fee was needed in part in order to sustain services by hiring and maintaining a new pathologist to fill a vacancy that has existed since April 2016.

Committee members expressed concern about raising the fee for autopsies as a means to meet expenses. Committee members encouraged the State Medical Examiner to avoid raising fees in the future for that purpose. In lieu of raising fees, committee members encouraged the State Medical Examiner to increase efficiencies or seek an appropriation from the General Assembly.

Upon inquiry, Mr. Klein stated that the total cost to perform an autopsy is $2,800. He further stated that the Office of the State Medical Examiner is only allowed to conduct state-authorized autopsies. He indicated that in order to conduct private autopsies, the Office of the State Medical Examiner would need statutory authority. Mr. Klein stated that last year the Office of the State Medical Examiner conducted 860 autopsies. He indicated that the operating budget for the office is approximately $3 million with the funding coming from an appropriation by the General Assembly ($822,000); $3 for each death certificate ($400,000); and fee for service, i.e. conducting autopsies at the request of county medical examiners (remaining funds).

Action Taken. No action taken.

DEPARTMENT OF WORKFORCE DEVELOPMENT, *Employer Records, Reports, Contribution and Charges—Fees, Collection of Covered Unemployment Compensation,* 12/20/17 IAB, ARC 3529C, ADOPTED.

Background. This rulemaking establishes a new $500 penalty for employers who fail to timely register with the Department of Workforce Development upon beginning business in the state of Iowa for purposes of determining liability for unemployment insurance. The rulemaking also imposes a $200 fee for failing to register electronically, provides that the department shall utilize the federal Treasury Offset Program in order to collect covered unemployment compensation, and makes other technical changes. When this rulemaking was reviewed under notice at the committee's October 10, 2017, meeting, committee members questioned whether the department has statutory authority to adopt such fees by rule and whether it is appropriate for such fees to be established by rule rather than through legislation. In communication with the committee subsequent to the meeting, the department indicated that it would not move forward with the penalty and fee by rule and might pursue legislation on the matter.

Commentary. Mr. David Steen, appearing on behalf of the department, stated that the department had adopted Item 1 of this rulemaking in error. He explained that after the discussion that occurred when this rulemaking as reviewed under notice at the October 10, 2017, meeting, the department determined that this matter could be more effectively pursued through the legislative process. He further explained that Items 2 and 3 of noticed rulemaking ARC 3522C, which contain additional proposed employer penalties relating to unemployment insurance, were proposed in error and would not be adopted by the department. Committee members noted that the department will need to carry out rulemaking to rescind Item 1 of ARC 3529C prior to the adjournment of the 2018 Legislative Session.

Action. A motion for a session delay on Item 1 passed on a short-form vote with nine members present (seven votes required to pass).

COLLEGE STUDENT AID COMMISSION, *Student Loan Debt Collection,* 12/20/17 IAB, ARC 3517C, NOTICE.

Background. This rulemaking permits the College Student Aid Commission to enter into an agreement with the Department of Revenue or another state agency to assist in collecting defaulted student loans through claims against a defaulted borrower's state income tax refund or rebate.

Commentary. Committee members asked for more information about the nature of the debt at issue, how the commission came to be responsible for collecting it, and how the collection process would be carried out. Commission representatives Ms. Julie Leeper and Mr. Todd Brown explained that the debt at issue is based on private student loans, the commission purchased the debt for 30 cents on the dollar from Iowa Student Loan over previous decades, and about $15 million of the debt remains to be collected. They explained that the commission has already collected more than it paid for the debt, and therefore any further collections are a profit to the commission. They explained that the commission entered into this arrangement with the Department of Revenue after its previous contract with a third-party debt collector expired, and the commission received no bids on a request for proposals for a new contract. They explained that the commission does not have the statutory authority to write off this debt as uncollectible and thus must continue to attempt to collect it in perpetuity. They explained that the department will deduct its expenses from any funds collected.

Committee members questioned whether it is appropriate for the state to continue to attempt to collect student loan debts for so long a period of time or for the Department of Revenue to collect debt on private student loans. Committee members suggested that this matter may deserve consideration by the General Assembly.

Action. No action taken.

PROFESSIONAL LICENSURE DIVISION, PUBLIC HEALTH DEPARTMENT, Massage Therapy-Licensure, and Education, Curriculum, 1/3/18 IAB, ARC 3541C, NOTICE.

Background. This rulemaking updates the education requirements for massage therapy education, increasing the minimum number of required hours of education from 500 hours to 600 hours. In its preamble to the rule, the Board of Massage Therapy stated that all Iowa massage therapy schools that have submitted a curriculum for approval with the board currently meet or exceed the 600-hour program requirement. The board stated that the current 500-hour requirement is not in line with Iowa Code section 152C.3(1)"a," which requires a 600-hour standard for massage therapy education.

Commentary. Mr. Tony Alden, Board Executive, Professional Licensure Bureau, presented the rule and received questions from the committee.

Mr. Alden indicated that provisions governing education requirements changed in 2011. Mr. Alden stated that it was his understanding that the board started the rulemaking process to change the Iowa Administrative Code to require 600 hours for massage therapy education, but that the rulemaking ceased due to "pushback." No subsequent rulemaking on this issue occurred until the present rule.

Committee members expressed concern that the possible increased cost to massage therapy students for increasing the required number of education hours may be unduly burdensome. Committee members also expressed concern that massage therapy schools are requiring too many hours for completion of education. Mr. Alden indicated that most massage therapy schools in Iowa require 1,000 or 1,100 hours for completion as a business means and in order to prepare students for admission to practice massage therapy in Nebraska, which, Mr. Alden stated, requires 1,100 hours to obtain a license.

Action Taken. No action taken.

Next Meeting. The next committee meeting will be held in Room 116, Statehouse, on Friday, February 9, 2017, beginning at 9:00 a.m.

LSA Staff: Jack Ewing, Legal Counsel, 515.281.6048; Amber Shanahan-Fricke, Legal Counsel, 515.725.7354

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