

COMMISSION ON GOVERNMENT FORECASTING AND ACCOUNTABILITY

PENSION IMPACT NOTE

95TH GENERAL ASSEMBLY

BILL NO: **HB 4905** February 25, 2008
SPONSOR (S): Beaubien – Jefferies, et al.
SYSTEM(S): General Provisions Article, Downstate Police and Fire Articles,
Pension Impact Note Act

FISCAL IMPACT: HB 4905 would have a significant fiscal impact upon the Commission on Government Forecasting and Accountability. The expanded level of actuarial analysis would require the Commission to enter into a supplemental contract with the Commission's actuary. The actuary's hourly rate is \$210 per hour, and the actuary generally requires 15-20 hours to perform a comprehensive cost study on a typical piece of police and fire legislation. Hence, the cost per bill would range from \$3,150 - \$4,200. If the actuary analyzes 20 pieces of legislation per legislative session, the annual cost would range from \$63,000 - \$84,000.

SUBJECT MATTER: HB 4905 amends the Pension Impact Note Act, the Downstate Police and Fire Articles of the Pension Code, and the General Provisions Article of the Pension Code. The bill makes several changes as outlined in the Comments Section below:

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COMMENTS:

Pension Impact Notes for Downstate Police and Fire Funds

HB 4905 amends the Pension Impact Note Act to stipulate that a pension impact note (PIN) for any legislation or amendment that would result in an increase in benefits, a

modification of how benefits are disbursed, or increase costs to a Downstate Police or Downstate Fire pension fund must demonstrate the fiscal impact of the legislation on at least 25 municipalities. HB 4905 provides that the Illinois Municipal League shall submit a list of 25 pension funds to the Commission on Government Forecasting and Accountability to be analyzed in accordance with this expanded impact note requirement.

Penalties for Fiduciaries

HB 4905 stipulates that a fiduciary of a Downstate Police or Fire pension fund shall not knowingly cause or advise the pension fund to engage in an investment transaction when the fiduciary has any direct interest in the income, gains, or profits of the investment advisor through which the investment transaction is made or has a business relationship with that investment advisor that would result in a pecuniary benefit to the fiduciary as a result of the investment transaction. HB 4905 would make violation of the foregoing prohibition a Class 4 felony.

Investment Advisors and Investment Services

HB 4905 provides that a person or entity that provides consulting services to a pension fund with respect to the selection of fiduciaries may not be awarded a contract to provide those consulting services for more than 5 years in duration. The bill provides that no such contract to provide consulting services may be renewed or extended. At the end of the term of a contract, the contractor shall be eligible to compete for a new contract.

Requirements for Consultants

HB 4905 requires a consultant who is neither a pension fund board member or employee to be one of the following on or after July 1, 2008: a registered investment advisor under the federal Investment Advisers Act of 1940; a registered investment advisor under the Illinois Securities Law of 1953; a bank; or, an insurance company.

Disclosure of Fees by Investment Advisors and Consultants

HB 4905 requires all contracts for investment services to fully disclose all direct and indirect fees, commissions, penalties, and other forms of compensation, including reimbursement for expenses that may be paid by or on behalf of the investment advisor or consultant in connection with the provision of investment services. HB 4905 also requires that all investment advisors and consultants who currently provide investment services on a contractual basis must, within 30 days of the effective date, disclose to the board of trustees of the pension fund all direct and indirect fees, commissions, penalties, and other compensation paid by or on behalf of the investment advisor or consultant in connection with the provision of investment services.

Prohibition on Gifts

HB 4905 prohibits board members of Downstate Police and Fire pension funds from accepting or soliciting gifts from “prohibited sources.” The bill defines a “prohibited source” as a person who is seeking official action by the board of trustees of the pension fund or has interests that may be substantially affected by the performance or non-performance of the official duties of the board member or employee. Violators of the aforementioned provisions will be guilty of a Class A misdemeanor.

Examinations and Investigations

The Public Pension Division of the Department of Financial and Professional Regulation is currently authorized to conduct periodic investigations and examinations of all pension funds established under the Pension Code. These examinations consist of audits of financial transactions, investment policies, examinations of books, records, documents, and files, among other things. HB 4905 provides for examinations of Downstate Police and Fire pension funds every three years. Additionally, the bill adds a requirement that, in the course of such investigations, the department make a determination as to the accuracy of annuity payments made by Downstate Police and Fire pension funds

Prohibition on Transfers from Public Pension Regulation Fund

The Public Pension Regulation Fund is an appropriated fund that was established to receive and record all monies collected by the Public Pension Division of the Department of Financial and Professional Regulation in accordance with the Department's regulatory activities under the Pension Code. HB 4905 prohibits transfers from the Public Pension Regulation Fund that would reduce the available resources in the fund.

Anti-Fraud Provisions

HB 4905 contains a number of anti-fraud provisions in the Downstate Police and Fire articles of the Pension Code. The bill makes all the following actions a Class 4 felony:

- Presenting a fraudulent claim for a disability pension;
- Making a false statement for the purpose of obtaining a disability pension;
- Making a false statement in the course of a fraud investigation;
- Assisting or abetting in the commission of a fraudulent act.

The bill provides that any police officer or firefighter who is convicted of any of the foregoing actions will be ordered to pay complete restitution to any entity so defrauded in addition to any fine or sentence imposed as a result of the conviction.

Various Administrative Provisions

HB 4905 contains certain administrative provisions in the Downstate Police and Fire articles of the Pension Code. The bill allows municipalities to appear before pension boards as a matter of right, even in cases where the municipality is not a party to a hearing involving the pension fund member. The bill also stipulates that no pension benefit shall be awarded until the municipality reviews and verifies all benefit calculations. HB 4905 also requires Downstate Police and Fire pension funds to annually publish the fiscal status of their respective pension funds in a local newspaper of general circulation.

Report on Downstate Police and Fire Pension Funds

HB 4905 requires the Commission on Government Forecasting and Accountability to analyze data submitted by the Public Pension Division of the Illinois Department of Financial and Professional Regulation pertaining to Downstate Police and Fire pension

funds. The Commission is required to issue a formal report during odd numbered years analyzing the fiscal status of Downstate Police and Fire pension funds. The report shall also contain forecasts for fifteen Downstate Police and fifteen Downstate Fire pension funds. The bill stipulates that the Illinois Municipal League shall submit to CGFA the list of pension funds to be analyzed.

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