

COMMISSION ON GOVERNMENT FORECASTING AND ACCOUNTABILITY

PENSION IMPACT NOTE

95TH GENERAL ASSEMBLY

BILL NO: **SB 2090, as amended by SA #002** May 22, 2008

SPONSOR (S): Garrett – Althoff, et al.

SYSTEM(S): General Provisions Article, Downstate Police and Fire Articles,
Pension Impact Note Act

FISCAL IMPACT: The commission will incur additional actuarial expenses due to the expanded impact note requirements and the bi-annual report that is mandated by this bill. The amount of these additional expenses has yet to be determined.

SUBJECT MATTER: SB 2090, as amended by SA #002, 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:

FISCAL IMPACT: The commission will incur additional actuarial expenses due to the expanded impact note requirements and the bi-annual report that is mandated by this bill. The amount of these additional expenses has yet to be determined.

COMMENTS:

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. SB 2090, as amended, prohibits transfers from the Public Pension Regulation Fund to the Professions Indirect Cost Fund.

Pension Impact Notes for Downstate Police and Fire Funds

SB 2090, as amended, amends the Pension Impact Note Act to stipulate that a pension impact note (PIN) for any legislation or amendment that the Commission on Government Forecasting and Accountability determines would result in an increase in benefits or increased costs to a Downstate Police or Downstate Fire pension fund may

demonstrate the fiscal impact of the legislation on selected individual municipalities with such pension funds.

Penalties for Fiduciaries

SB 2090, as amended, 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. SB 2090, as amended, would make violations of the foregoing prohibition a Class 4 felony.

Limitations for Consulting Contracts

SB 2090, as amended, 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

SB 2090, as amended, 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

SB 2090, as amended, 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. The bill 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

SB 2090, as amended, 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. SB 2090, as amended, 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 must make a determination as to the accuracy of annuity payments made by Downstate Police and Fire pension funds.

Review of Award of Benefits by Municipal Treasurer

SB 2090, as amended, stipulates that the municipal treasurer shall have the ability to review the total amount of an annuity paid by the pension fund and all information used by the fund in the calculation of the benefit. The board shall review the Treasurer's findings with respect to the accuracy of the benefit calculation, and if the board discovers that an error exists it shall re-calculate the annuity so that it conforms with the Pension Code.

Report by Pension Boards

Currently, police and fire pension funds submit reports to the corporate authorities of their respective municipalities in order to facilitate the levying of taxes for the purpose of making employer contributions to the pension fund. SB 2090, as amended, requires police and fire pension funds to provide additional information in their reports, such as assumed investment return and actual investment return, total net assets of the fund, the number of total active employees participating in the fund, among other things. The bill allows municipalities to publish the report in a newspaper of general circulation in the municipality or on the municipality's website.

Anti-Fraud Provisions

SB 2090, as amended, provides that any member, trustee, or employee of a Downstate Police or Fire pension fund board who knowingly makes a false statement or falsifies any record of a pension fund in an attempt to defraud the fund shall be guilty of a Class A misdemeanor.

Report on Downstate Police and Fire Pension Funds

SB 2090, as amended, 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 selected individual Downstate Police and Fire pension funds.