Select Committee on Pension Policy

Dolan-Type Unfunded Liabilities

Issue

Should employers be required to pay interest when contributions are made late, or employees are retroactively added to the system, and the cost is over $100,000?

Background

A "*Dolan*-type unfunded liability" is a convenient term of art that refers to the case that brought this issue to the attention of the committee: *Dolan v. King County*. The term encompasses scenarios where:

- New members are added to the system retroactively, or contributions are made late;
- This results in a cost to the plan; and
- The fiscal impact is sizeable.

Under current law and funding policy, any *Dolan*-type costs not offset are spread out through the plan. However, the Department of Retirement Systems has discretionary authority to charge employers for missed contributions and interest.

Highlights

- Unfunded past liability could arise from litigation similar to the *Dolan* case. Or, it could also arise from things like:
    - Legislation providing retroactive service and/or membership.
    - Reclassification of employees.
    - Correcting employer mistakes or wrongdoing.
- The Select Committee on Pension Policy chose to consider House Bill (HB) 2127, which had been introduced in the 2019 Legislative Session.
    - Under this bill, costs over $100,000 that arise from late reporting or retroactively added members would be paid by the responsible employer rather than the other employers and Plans 2 members.
    - Alternatively, the bill allows the Pension Funding Council to enact a separate and temporary contribution rate for individual employers to pay the cost.

Committee Activity

The Committee held a work session at the July 2019 meeting, and a public hearing at the November meeting. At the November meeting, the Committee voted to endorse HB 2127.

Recommendation to the 2020 Legislature

Enact HB 2127 for the 2020 Legislative Session.

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