A BILL FOR AN ACT ELIMINATING THE AUTOMATIC TRIGGER THAT DECREASES THE EMPLOYER CONTRIBUTION FOR THE PUBLIC EMPLOYEE AND SHERIFF'S RETIREMENT SYSTEMS

19-3-316. Employer contribution rates. (1) Each employer shall contribute to the system. Except as provided in subsection (2), the employer shall pay as employer contributions 6.9% of the compensation paid to all of the employer's employees plus any additional contribution under subsection (3), except for those employees properly excluded from membership. Of employer contributions made under this subsection for both defined benefit plan and defined contribution plan members, a portion must be allocated for educational programs as provided in 19-3-112. Employer contributions for members under the defined contribution plan must be allocated as provided in 19-3-2117.

(2) Local government and school district employer contributions must be the total employer contribution rate provided in subsection (1) minus the state contribution rates under 19-3-319.

(3) ~~Subject to subsection (4), e~~ Each employer shall contribute to the system an additional employer contribution equal to the following percentage of the compensation paid to all of the employer's employees, except for those employees properly excluded from membership:

(a) beginning July 1, 2007, 0.135%; and

(b) beginning July 1, 2009, 0.27%.

(4) ~~(a)~~ The board shall periodically review the additional employer contribution provided for under subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.

~~(b) The employer contribution required under subsection (3) terminates on July 1 immediately following the system's actuarial valuation if:~~

~~(i) the actuarial valuation determines that the period required to amortize the system's unfunded liabilities, including adjustments made for any benefit enhancements enacted by the legislature after the valuation, is less than 25 years; and~~

~~(ii) terminating the additional employer contribution would not cause the amortization period as of the most recent actuarial valuation to exceed 25 years.~~

19-3-319. State contributions for local government and school district employers. (1) The state shall contribute monthly from the general fund to the pension trust fund a sum equal to 0.1% of the compensation paid to all employees of local government entities and school districts on and after July 1, 1997, except those employees properly excluded from membership.

(2) ~~(a) Subject to subsection (2)(b), in~~ In addition to the contribution required under subsection (1), the state shall contribute monthly from the general fund to the pension trust fund a sum equal to the following percentage of the compensation paid to all employees of school districts on and after July 1, 2007, except for those employees properly excluded from membership:

~~(i)~~ (a) beginning July 1, 2007, 0.135%; and

~~(ii)~~ (b) beginning July 1, 2009, 0.27%.

~~(b) The additional contribution under subsection (2)(a) terminates when the additional contribution under 19-3-316(3) terminates.~~

(3) The board shall certify amounts due under this section on a monthly basis, and the state treasurer shall transfer those amounts to the pension trust fund within 1 week. The payments in this section are statutorily appropriated as provided in 17-7-502.

19-3-2117. Allocation of contributions and forfeitures. (1) The member contributions made under 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the plan member's retirement account.

(2) Subject to adjustment by the board as provided in 19-3-2121, of the employer contributions under 19-3-316 received:

(a) an amount equal to:

(i) 4.19% of compensation must be allocated to the member's retirement account;

(ii) 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate;

(iii) 0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(b); and

(iv) 0.3% of compensation must be allocated to the long-term disability plan trust fund established pursuant to 19-3-2141; and

(b) on July 1, 2007, through June 30, 2009, 0.135% of compensation and on July 1, 2009, ~~continuing until the additional employer contributions terminate pursuant to 19-3-316,~~ 0.27% of compensation must be allocated in the following order:

(i) to the administrative account used by the board to meet the expenses of the plan's startup loan, until paid in full;

(ii) to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability; and

(iii) to the long-term disability plan trust fund to provide disability benefits to eligible members.

(3) Forfeitures of employer contributions and investment income on the employer contributions may not be used to increase a member's retirement account. The board shall allocate the forfeitures under 19-3-2116 to meet the plan's administrative expenses, including startup expenses.

19-7-404. Employer contributions. (1) Each employer shall pay 9.535% of the compensation paid to all of the employer's employees plus any additional contribution under subsection (3), except for those employees properly excluded from membership.

(2) If the required contribution to the retirement system exceeds the funds available to a county from general revenue sources, a county may, subject to 15-10-420, budget, levy, and collect annually a tax on the taxable value of all taxable property within the county that is sufficient to raise the amount of revenue needed to meet the county's obligation.

(3) ~~Subject to subsection (4), e~~ Each employer shall contribute to the system an additional employer contribution equal to the following percentage of the compensation paid to all of the employer's employees, except for those employees properly excluded from membership:

(a) beginning July 1, 2007, 0.29%; and

(b) beginning July 1, 2009, 0.58%.

(4) ~~(a)~~ The board shall periodically review the additional employer contribution provided for under subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule set by the board for payment of the system's unfunded liabilities.

~~(b) The employer contribution required under subsection (3) terminates on July 1 immediately following the system's actuarial valuation if:~~

~~(i) the actuarial valuation determines that the period required to amortize the system's unfunded liabilities, including adjustments made for any benefit enhancements enacted by the legislature after the valuation, is less than 25 years; and~~

~~(ii) terminating the additional employer contribution would not cause the amortization period as of the most recent actuarial valuation to exceed 25 years.~~

19-21-214. Contributions and allocations for employees in positions covered under the public employees' retirement system. (1) The contribution rates for employees in positions covered under the public employees' retirement system who elect to become program members pursuant to 19-3-2112 are as follows:

(a) the member's contribution rate must be the rate provided in 19-3-315; and

(b) the employer's contribution rate must be the rate provided in 19-3-316.

(2) Subject to subsection (3), of the employer's contribution:

(a) an amount equal to:

(i) 4.49% of compensation must be allocated to the participant's program account;

(ii) 2.37% of compensation must be allocated to the defined benefit plan under the public employees' retirement system as the plan choice rate; and

(iii) 0.04% of compensation must be allocated to the education fund pursuant to 19-3-112(1)(b); and

(b) on July 1, 2007, through June 30, 2009, 0.135% of compensation and on July 1, 2009, ~~continuing until the additional employer contributions terminate pursuant to 19-3-316,~~ 0.27% of compensation must be allocated in the following order:

(i) to the administrative account used by the public employees' retirement board to meet the expenses of the defined contribution plan's startup loan, until paid in full; and

(ii) to the defined benefit plan to eliminate the plan choice rate unfunded actuarial liability.

(3) The allocations under subsection (2) are subject to adjustment by the public employees' retirement board, but only as described in and in a manner consistent with the express provisions of 19-3-2121.

RATIONALE

This language proposed to be deleted was inserted by the 2007 Legislature when it increased employer contribution rates to make the Public Employees and Sheriff Retirement Systems actuarially sound. This provision could have unintended consequences because it makes the long-term level of employer contributions for these systems completely dependent upon forces beyond the control of the legislature and the Public Employee Retirement Board.

An exceptionally good year in the financial markets could reduce the amortization of the unfunded liability to less than 25 years, which would eliminate the additional employer contributions enacted by the 2007 Legislature. However, the financial markets in the next year could result in negative returns, which would once again drive the amortization of the unfunded liability beyond 30 years and require the legislature at the next session to raise employer contribution rates again.

The potential problem with this provision is being played out in real time during this biennium. The pension fund investment return for the first year of the biennium was nearly 18.0 percent. The Fiscal 2007 actuarial study calculated that the unfunded liability could be paid off in 25.3 years. Had investment return been much greater in 2007, the calculation could have resulted in the unfunded liability being paid off in less than 25 years. If the amortization period were to drop significantly below 25 years, the increased employer contribution could have been automatically eliminated, just when the financial markets began their precipitous decline. As of March 14, 2008, the pension fund investment performance is down over 5.0 percent (negative investment performance).

This language is not advisable or necessary. The legislature meets biennially and can address the employer contribution level based on the pension fund conditions at the time. This places total control of the employer contribution level in the jurisdiction of the legislature where it belongs, rather than subject to financial market performance beyond the legislature’s control.

It is important to note that the 2007 Legislature also increased contributions for the Teachers’ Retirement System but did not include this type of language.