2021 REGULAR SESSION
ACTUARIAL NOTE HB 25

House Bill 25 HLS 21RS-339 **Enrolled** **Author: Representative Villio** **Date: May 27, 2021** **LLA Note HB 25.04** **Organizations Affected:** **District Attorneys' Retirement System** **EN DECREASE APV**	**This Note has been prepared by the Actuary for the Louisiana Legislative Auditor (LLA) with assistance from either the Fiscal Notes staff of the Legislative Auditor or staff of the Legislative Fiscal Office (LFO). The attachment of this Note provides compliance with the requirements of R.S. 24:521 as amended by Act 353 of the 2016 Regular Session.**	
	James J. Rizzo, ASA, EA, MAAA **Senior Consultant & Actuary** **Gabriel, Roeder, Smith & Company**	**Piotr Krekora, ASA, EA, MAAA, PhD** **Senior Consultant & Actuary** **Gabriel, Roeder, Smith & Company**

Bill Header: RETIREMENT/DISTRICT ATTY: Provides relative to compensation considered in the calculation of contributions and benefits for the District Attorneys' Retirement System.

Cost Summary:

The estimated net actuarial and fiscal impact of this proposed legislation on the retirement systems and their plan sponsors is summarized below. Net Actuarial Present Values pertain to estimated changes in the ***net actuarial present value of future benefit payments and administrative expenses incurred by the retirement system***[1]. Net fiscal costs or savings pertain to changes to all cash flows over the next five-year period including retirement system cash flows, OPEB cash flows, or cash flows related to local and state government entities.

An increase in actuarial costs is denoted throughout the actuarial note by "Increase" or a positive number. Actuarial savings are denoted by "Decrease" or a negative number. An increase in expenditures or revenues (fiscal impact) is denoted by "Increase" or a positive number. A decrease in expenditures or revenues is denoted by "Decrease" or a negative number.

Estimated Actuarial Impact:

The top part of the following chart shows the estimated change in the ***net actuarial present value of future benefit payments and expenses***, if any, attributable to the proposed legislation. The bottom part shows the effect on cash flows (i.e., contributions, benefit payments, and administrative expenses).

Net Actuarial Present Values Pertaining to:		**Net Actuarial Present Values**
The Retirement Systems		Decrease
Other Post-employment Benefits (OPEB)		0
Total		Decrease
Five Year Net Fiscal Cost Pertaining to:	**Expenditures**	**Revenues**
The Retirement Systems	Decrease	Decrease
Other Post-employment Benefits (OPEB)	0	0
Local Government Entities	Decrease	0
State Government Entities	0	0
Total	Decrease	Decrease

Bill Information

Current Law

Current law defines "earnable compensation" as the full rate of compensation that would be payable to the member (employee) if he worked the full working time, including the expense allowance paid to the district attorney by the state of Louisiana.

Current law provides that in calculating the average final compensation for a member of the District Attorneys' Retirement System (DARS), the compensation **not paid by the state** is subject to year over year increase limits.

Current law provides that when DARS makes a benefit overpayment to a member, the board of trustees will adjust the amount payable to the correct amount. The board is then authorized to recover any overpayment by reducing the corrected benefit such that the overpayment will be repaid within a reasonable number of months. The board is required to notify the member of the amount of overpayment and the amount of the adjustment in benefits at least 30 days prior to any reduction.

[1] **Note:** This is a different assessment from the actuarial cost relating the 2/3 vote (refer to the section near the end of this Actuarial Note "Information Pertaining to Article (10)(29)(F) of the Louisiana Constitution").

Proposed Law

HB 25 specifies that "earnable compensation" will not include the following:

a. Overtime unless it is required to be worked in the employee's regular tour of duty.
b. Operating expenses.
c. Use of automobile or motor vehicles.
d. The cost of any insurance paid by the employer.
e. Any allowance for expenses incurred as an incident of employment.
f. Payments made in lieu of unused annual or sick leave.
g. Bonuses, terminal pay, severance pay, deferred salary, or any other type of irregular or nonrecurring payment.

HB 25 retains the definition of average final compensation which limits year over year increases in **nonstate** compensation, for members eligible to receive a regular (unreduced) retirement benefit before July 1, 2021. For all other members, the year over year increase limits in the calculation of the average final compensation will be applicable to **all compensation**.

HB 25 specifies that an overpayment will be repaid within 12 months and that the director or the board of trustees will notify the member of any reduction at least 30 days prior to such reduction.

HB 25 authorizes the director of DARS to correct administrative errors in benefit payments and to make the adjustments relative to such corrections. The documentation of such corrections is required to be submitted to the board of trustees for approval at the next board meeting after receipt of such documentation, whether such administrative error was committed by DARS or otherwise. If an underpayment of benefits is due to an administrative error committed by system staff, the correction of the error may include the payment of interest at a rate not to exceed the DARS' valuation interest rate or the judicial interest rate, whichever is lower.

For any benefit paid to a retiree, beneficiary, or survivor which is not due him, as a result of an administrative error by DARS, HB 25 limits the benefits that DARS may recover to those paid during the 36-month period immediately preceding the date on which the notice of such error is sent to the member. If the member received a payment because of a fraud against DARS, the right to collect such fraudulent payment will extend to the entire amount of overpayment obtained through fraud. There is a 10-year prescription period, from the date DARS has knowledge of the error, on any such recovery.

Implications of the Proposed Changes

HB 25 removes unscheduled overtime and certain expense allowances as well as certain irregular and non-recurring pay components from the definition of the earnable compensation. Except for members eligible to receive unreduced retirement benefits before July 1, 2021, HB 25 applies the year over year increase limits in the calculation of the average final compensation to all compensation rather than only nonstate compensation.

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HB 25 reduces the recovery period for an overpayment to 12 months or less and requires the director or the board of trustees of DARS to notify the member.

HB 25 authorizes the director of DARS to correct administrative errors in benefit payments and to make the adjustments relative to such corrections. In addition, the correction for an underpayment of benefits due to an administrative error committed by system staff may include the payment of interest.

For benefits paid due to administrative errors by DARS, HB 25 limits the overpayments that DARS may recover to those paid during the 36-month period immediately preceding the date on which the notice of such error is sent to the member, except in the case of fraud. The prescription period is 10 years.

I. <u>ACTUARIAL IMPACT ON RETIREMENT SYSTEMS AND OPEB [Completed by LLA]</u>

A. <u>Analysis of Net Actuarial Costs</u>
(Prepared by LLA)

This section of the actuarial note pertains to net actuarial present value costs or savings associated with the retirement systems and with OPEB.

1. Retirement Systems

The net actuarial cost or savings of the proposed legislation associated with the retirement systems is estimated to be a decrease in cost. The actuary's analysis is summarized below.

HB 25 makes several changes to the current law. However, the only changes expected to have a material impact are (a) removal of certain pay components from the definition of earnable compensation, and (b) applying the year over year increase limits to total compensation (not just compensation paid by local entities) for members eligible for unreduced retirement on or after July 1, 2021. As a result of these two changes, average final compensation may be lower for some members, which will result in lower benefits being paid to these members. Therefore, there will likely be a decrease in benefits and the actuarial present values thereof.

The limit on collecting overpayments to those amounts paid in the 36-month period preceding the date on which notice of such error is sent to the member, is not expected to increase costs, because it is expected that such overpayments would generally be discovered within 36 months of when benefits become payable. However, current law permits recovery of more than 36 months of benefit overpayments; whereas HB 25 limits recovery to 36 months. That would prevent the system from recovering benefit overpayments that would have been recoverable in the absence of HB 25. Therefore, some plan members who receive more than 36 monthly benefit overpayments could keep the payments in excess of 36 months under HB 25. While this may result in certain members receiving greater benefits under HB 25, that increase is not expected to be sufficient to offset the decrease expected from the change in the definition of compensation. Furthermore, this administrative rule-change in benefit recovery procedures does not qualify as a benefit provision for the purpose of the 2/3 vote.

2. Other Post-employment Benefits (OPEB)

The net actuarial cost or savings of the proposed legislation associated with OPEB, including retiree health insurance premiums, is estimated to be $0. The actuary's analysis is summarized below.

The actuarial cost of the proposed bill on OPEB, including eligibility conditions and retiree health insurance subsidies, is being treated as no cost for the purpose of this Actuarial Note. Post-employment health benefit programs for the covered employees of an entity depend on the provisions for such benefits within the entity, not on their participation or benefits in the retirement system. Any OPEB program sponsored by an entity would have its own eligibility conditions and benefit subsidies. While this proposed bill affects the terms of participation or benefits of the retirement system, it does not affect the entity's eligibility conditions for commencing OPEB benefits or the level of OPEB subsidies provided. Any change in OPEB benefit eligibility or subsidy would be the decision and action of the entity itself. Therefore, the actuarial cost of the proposed bill relative to post-employment benefits is considered $0.

B. Actuarial Data, Methods and Assumptions
(Prepared by LLA)

Unless indicated otherwise, the actuarial note for the proposed legislation was prepared using actuarial data, methods, and assumptions as disclosed in the most recent actuarial valuation report adopted by the Public Retirement Systems' Actuarial Committee (PRSAC). The data, methods and assumptions are being used to provide consistency with the actuary for the retirement system who may also be providing testimony to the Senate and House retirement committees. With certain exceptions, the actuary for the LLA finds the assumptions used by the retirement systems and PRSAC to be reasonable.

C. Actuarial Caveat
(Prepared by LLA)

There is nothing in the proposed legislation that will compromise the signing actuary's ability to present an unbiased statement of actuarial opinion.

II. FISCAL IMPACT ON RETIREMENT SYSTEMS AND OPEB [Completed by LLA]

This section of the actuarial note pertains to fiscal (annual) costs or savings associated with the retirement systems (Table A) and with OPEB (Table B). Fiscal costs or savings in Table A include benefit-related actuarial costs and administrative costs incurred by the retirement systems.

A. Estimated Fiscal Impact – Retirement Systems
(Prepared by LLA)

1. Narrative

Table A shows the estimated fiscal impact of the proposed legislation on the retirement systems and the government entities that sponsor them. A fiscal cost is denoted by "Increase" or a positive number. Fiscal savings are denoted by "Decrease" or a negative number. A revenue increase is denoted by "Increase" or a positive number. A revenue decrease is denoted by "Decrease" or a negative number.

Retirement System Fiscal Cost: Table A

EXPENDITURES	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**2025-26**	**5 Year Total**
State General Fund	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0
Agy Self Generated	Decrease	Decrease	Decrease	Decrease	Decrease	Decrease
Stat Deds/Other	0	0	0	0	0	0
Federal Funds	0	0	0	0	0	0
Local Funds	0	Decrease	Decrease	Decrease	Decrease	Decrease
Annual Total	Decrease	Decrease	Decrease	Decrease	Decrease	Decrease

REVENUES	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**2025-26**	**5 Year Total**
State General Fund	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0
Agy Self Generated	0	Decrease	Decrease	Decrease	Decrease	Decrease
Stat Deds/Other	0	0	0	0	0	0
Federal Funds	0	0	0	0	0	0
Local Funds	0	0	0	0	0	0
Annual Total	$ 0	Decrease	Decrease	Decrease	Decrease	Decrease

All expenditures for employer contributions are reflected on a single line in the table above. The actual sources of funding (e.g., Federal Funds, State General Fund) may vary by employer and are not differentiated in the table.

The proposed legislation will have the following effects on retirement related fiscal costs and revenues during the five year measurement period.

2. Expenditures:

   a. Expenditures by DARS (Agy Self Generated) are expected to decrease since lower pension benefits will be paid for some members.

   b. Expenditures from the Local Funds are expected to decrease to the extent that employer contribution requirements decrease as result of lower pension benefits being paid.

3. Revenues:

   DARS revenues (Agy Self Generated) will decrease to the extent that employer contributions decrease.

B. <u>Estimated Fiscal Impact – OPEB</u>
(Prepared by LLA)

1. Narrative

   Table B shows the estimated fiscal impact of the proposed legislation on actuarial benefit and administrative costs or savings associated with OPEB and the government entities that sponsor these benefit programs. A fiscal cost is denoted by "Increase" or a positive number. Fiscal savings are denoted by "Decrease" or a negative number. A revenue increase is denoted by "Increase" or a positive number. A revenue decrease is denoted by "Decrease" or a negative number.

OPEB Fiscal Cost: Table B

EXPENDITURES	2021-22	2022-23	2023-24	2024-25	2025-26	5 Year Total
State General Fund	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0
Agy Self Generated	0	0	0	0	0	0
Stat Deds/Other	0	0	0	0	0	0
Federal Funds	0	0	0	0	0	0
Local Funds	0	0	0	0	0	0
Annual Total	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0

REVENUES	2021-22	2022-23	2023-24	2024-25	2025-26	5 Year Total
State General Fund	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0
Agy Self Generated	0	0	0	0	0	0
Stat Deds/Other	0	0	0	0	0	0
Federal Funds	0	0	0	0	0	0
Local Funds	0	0	0	0	0	0
Annual Total	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0

All expenditures for employer contributions are reflected on a single line in the table above. The actual sources of funding (e.g., Federal Funds, State General Fund) may vary by employer and are not differentiated on the table.

The proposed legislation will have the following effects on OPEB related fiscal costs and revenues during the five year measurement period.

2. Expenditures:

   No measurable effects.

3. Revenues:

   No measurable effects.

III. <u>FISCAL IMPACT ON LOCAL GOVERNMENT ENTITIES [Completed by LLA]</u>

This section of the actuarial note pertains to annual fiscal costs (savings) relating to administrative expenditures and revenue impacts incurred by local government entities other than those included in Tables A and B. See Table C.

<u>Estimated Fiscal Impact - Local Government Entities (other than the impact included in Tables A and B)</u>
(Prepared by Local Government Services)

1. Narrative

   From time to time, legislation is proposed that has an indirect effect on administrative expenditures and revenues associated with local government entities (other than the impact included in Tables A and B). Table C shows the estimated fiscal administrative cost impact of the proposed legislation on such local government entities. A fiscal cost is denoted by "Increase" or a positive number. Fiscal savings are denoted by "Decrease" or a negative number. A revenue increase is denoted by "Increase" or a positive number. A revenue decrease is denoted by "Decrease" or a negative number.

Fiscal Costs for Local Government Entities: Table C

EXPENDITURES	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**2025-26**	**5 Year Total**
State General Fund	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0
Agy Self Generated	0	0	0	0	0	0
Stat Deds/Other	0	0	0	0	0	0
Federal Funds	0	0	0	0	0	0
Local Funds	0	0	0	0	0	0
Annual Total	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0

REVENUES	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**2025-26**	**5 Year Total**
State General Fund	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0
Agy Self Generated	0	0	0	0	0	0
Stat Deds/Other	0	0	0	0	0	0
Federal Funds	0	0	0	0	0	0
Local Funds	0	0	0	0	0	0
Annual Total	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0

The proposed legislation will have the following effects on fiscal administrative costs and revenues related to local government entities during the five year measurement period.

2. Expenditures:

   a. No measurable effects.

3. Revenues:

   a. No measurable effects.

IV. FISCAL IMPACT ON STATE GOVERNMENT ENTITIES [Completed by LFO]

This section of the actuarial note pertains to annual fiscal cost (savings) relating to administrative expenditures and revenue impacts incurred by state government entities other than those included in Tables A and B. See Table D.

Estimated Fiscal Impact − State Government Entities (other than the impact included in Tables A and B)
(Prepared by Chris Keaton, Legislative Fiscal Officer)

1. Narrative

   From time to time, legislation is proposed that has an indirect effect on administrative expenditures and revenues associated with state government entities (other than the impact included in Tables A and B). Table D shows the estimated fiscal administrative cost impact of the proposed legislation on such state government entities. A fiscal cost is denoted by "Increase" or a positive number. Fiscal savings are denoted by "Decrease" or a negative number. A revenue increase is denoted by "Increase" or a positive number. A revenue decrease is denoted by "Decrease" or a negative number.

Fiscal Costs for State Government Entities: Table D

EXPENDITURES	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**2025-26**	**5 Year Total**
State General Fund	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0
Agy Self Generated	0	0	0	0	0	0
Stat Deds/Other	0	0	0	0	0	0
Federal Funds	0	0	0	0	0	0
Local Funds	0	0	0	0	0	0
Annual Total	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0

REVENUES	**2021-22**	**2022-23**	**2023-24**	**2024-25**	**2025-26**	**5 Year Total**
State General Fund	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0
Agy Self Generated	0	0	0	0	0	0
Stat Deds/Other	0	0	0	0	0	0
Federal Funds	0	0	0	0	0	0
Local Funds	0	0	0	0	0	0
Annual Total	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0

The proposed legislation will have the following effects on fiscal costs and revenues related to state government entities during the five year measurement period.

2. Expenditures:

   N/A - This bill only impacts local government, and therefore, has no state impact. The LFO does not review local government bills.

3. Revenues:

   N/A - This bill only impacts local government, and therefore, has no state impact. The LFO does not review local government bills.

Credentials of the Signatory Staff:

James J. Rizzo and Piotr Krekora, on behalf of Gabriel, Roeder, Smith & Company, serve as the Actuary for the Louisiana Legislative Auditor. They are Enrolled Actuaries, members of the American Academy of Actuaries, Associates of the Society of Actuaries and have met the Qualification Standards of the American Academy of Actuaries necessary to render the actuarial opinion contained herein.

Actuarial Disclosure: Risks Associated with Measuring Costs

This Actuarial Note is an actuarial communication, and is required to include certain disclosures in compliance with Actuarial Standards of Practice (ASOP) No. 51.

A full actuarial determination of the retirement system's costs, actuarially determined contributions and accrued liability require the use of assumptions regarding future economic and demographic events. The assumptions used to determine the retirement system's contribution requirement and accrued liability are summarized in the system's most recent Actuarial Valuation Report accepted by the respective retirement board and by the Public Retirement Systems' Actuarial Committee (PRSAC).

The actual emerging future experience, such as a retirement fund's future investment returns, may differ from the assumptions. To the extent that emerging future experience differs from the assumptions, the resulting shortfalls (or gains) must be recognized in future years by future taxpayers. Future actuarial measurements may also differ significantly from the current measurements due to other factors: changes in economic or demographic assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period; or additional cost or contribution requirements based on the system's funded status); and changes in plan provisions or applicable law.

Examples of risk that may reasonably be anticipated to significantly affect the plan's future financial condition include:

1. Investment risk – actual investment returns may differ from the expected returns (assumptions);
2. Contribution risk – actual contributions may differ from expected future contributions. For example, actual contributions may not be made in accordance with the plan's funding policy or material changes may occur in the anticipated number of covered employees, covered payroll, or other relevant contribution base;
3. Salary and Payroll risk – actual salaries and total payroll may differ from expected, resulting in actual future accrued liability and contributions differing from expected;
4. Longevity and life expectancy risk – members may live longer or shorter than expected and receive pensions for a period of time other than assumed;
5. Other demographic risks – members may terminate, retire or become disabled at times or with benefits other than assumed, resulting in actual future accrued liability and contributions differing from expected.

The scope of an Actuarial Note prepared for the Louisiana Legislature does not include an analysis of the potential range of such future measurements or a quantitative measurement of the future risks of not achieving the assumptions. In certain circumstances, detailed or quantitative assessments of one or more of these risks as well as various plan maturity measures and historical actuarial measurements may be requested from the actuary. Additional risk assessments are generally outside the scope of an Actuarial Note. Additional assessments may include stress tests, scenario tests, sensitivity tests, stochastic modeling, and a comparison of the present value of accrued benefits at low-risk discount rates with the actuarial accrued liability.

However, the general cost-effects of emerging experience deviating from assumptions can be known. For example, the investment return since the most recent actuarial valuation may be less (or more) than the assumed rate, or a cost-of-living adjustment may be more (or less) than the assumed rate, or life expectancy may be improving (or worsening) compared to what is assumed. In each of these situations, the cost of the plan can be expected to increase (or decrease).

The use of reasonable assumptions and the timely receipt of the actuarially determined contributions are critical to support the financial health of the plan. However, employer contributions made at the actuarially determined rate do not necessarily guarantee benefit security.

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Information Pertaining to Article (10)(29)(F) of the Louisiana Constitution

☐ HB 25 contains a retirement system benefit provision having an actuarial cost.

HB 25 does not include a benefit provision that could result in any current or future member of the District Attorneys' Retirement System receiving a larger benefit than what would be received without HB 25.

Dual Referral Relative to Total Fiscal Costs or Total Cash Flows:

The information presented below is based on information contained in Tables A, B, C, and D for the first three years following the 2021 regular session.

Senate

☐ 13.5.1 Applies to Senate or House Instruments.

If an annual fiscal cost ≥ $100,000, then bill is dual referred to:
Dual Referral: Senate Finance

☐ 13.5.2 Applies to Senate or House Instruments.

If an annual tax or fee change ≥ $500,000, then the bill is dual referred to:

Dual Referral: Revenue and Fiscal Affairs

House

☐ 6.8F Applies to Senate or House Instruments.

If an annual General Fund fiscal cost ≥ $100,000, then the bill is dual referred to:
Dual Referral to Appropriations

☐ 6.8G Applies to Senate Instruments only.

If a net fee decrease occurs or if an increase in annual fees and taxes ≥ $500,000, then the bill is dual referred to:
Dual Referral: Ways and Means