2013 REGULAR SESSION
ACTUARIAL NOTE HB 51

House Bill 51 HLS 13RS-181
Reengrossed with House Floor Amendment #3077

Author: Representative J. Kevin Pearson
Date: May 17, 2013

LLA Note HB 51.03

Organizations Affected:
Firefighters' Pension and Relief Fund in the City of New Orleans

RE DECREASE APV

This Note has been prepared by the Actuarial Services Department of the Office of the Legislative Auditor. The attachment of this Note to HB 51 provides compliance with the requirements of R.S. 24:521.

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Bill Header: RETIREMENT/LOCAL: Provides for a final average compensation for members of the Firefighters' Pension and Relief Fund in the city of New Orleans.

Cost Summary:

The estimated actuarial and fiscal impact of the proposed legislation is summarized below. Actuarial costs pertain to changes in the ***actuarial present value of future benefit payments***. A cost is denoted by "Increase" or a positive number. Savings are denoted by "Decrease" or a negative number.

Actuarial Cost/(Savings) to Retirement Systems and OGB	Decrease
Total Five Year Fiscal Cost	
Expenditures	Decrease
Revenues	$0

Estimated Actuarial Impact:

The chart below shows the estimated change in the ***actuarial present value of future benefit payments***, if any, attributable to the proposed legislation. A cost is denoted by "Increase" or a positive number. Savings are denoted by "Decrease" or a negative number. Present value costs associated with administration or other fiscal concerns are not included in these values.

Actuarial Cost/(Savings to:	**Change in the Actuarial Present Value**
All Louisiana Public Retirement Systems	Decrease
Other Post Retirement Benefits	$0
Total	Decrease

Estimated Fiscal Impact:

The chart below shows the estimated fiscal impact of the proposed legislation. This represents the effect on cash flows for government entities including the retirement systems and the Office of Group Benefits. Fiscal costs include estimated administrative costs and costs associated with other fiscal concerns. A fiscal cost is denoted by "Increase" or a positive number. Fiscal savings are denoted by "Decrease" or a negative number.

EXPENDITURES	**2013-14**	**2014-15**	**2015-16**	**2016-17**	**2017-2018**	**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	0	0	0	0	0
Annual Total	Decrease	Decrease	Decrease	Decrease	Decrease	Decrease

REVENUES	**2013-14**	**2014-15**	**2015-16**	**2016-17**	**2017-2018**	**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

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<u>Bill Information:</u>

Current Law

Current law provides for a final average compensation period of 48 months for members of the Firefighters' Pension and Relief Fund in the city of New Orleans (NOFF).

The Firefighters' Pension and Relief Fund in the City of New Orleans (NOFF) is not an actuarially funded retirement system. An actuarial valuation is prepared annually, but it is not the basis for employer contributions to the retirement system. Instead, NOFF is funded through the following:

1. 1% of all the revenues derived from all licenses issued by the city, except drivers and chauffeurs licenses.
2. An annual amount appropriated by the city that is at least equal to 5% of the money appropriated by city for the operation and maintenance of the fire department.
3. Employee contributions equal to 6% of pay until an employee has 20 years of service. Members with 20 or more years of service do not contribute.
4. All forfeitures and fines imposed by the superintendent of the fire department upon any member of the fire department by way of discipline.
5. All fines imposed by the courts for infractions of city ordinances, relative to fire escapes, fire wells, hydrants, open hatches, oils, gun powder, right-of-way of the fire apparatus through the streets, and all other laws relative to the fire department.
6. All sales of condemned apparatus and other personal property in use by the fire department.
7. All rewards in money, fees, gifts, and emoluments that may be paid or given on the account of extraordinary services by the fire department, except when allowed to be retained by a firefighter.
8. If applicable, an amount appropriated by the council of the city of New Orleans that is sufficient to pay the benefits to which members of the system are entitled.

Proposed Law

Under HB 51, the number of months of earnings included in the calculation of final average compensation for members will be 60 months effective for retirements occurring on or after July 1, 2013.

HB 51 provides that, for the members of NOFF retiring or entering DROP or back-DROP on or after July 1, 2013, and on or before July 1, 2014, the period used to calculate the monthly final average compensation will be 48 months plus the number of whole months since July 1, 2013.

Implications of the Proposed Changes

HB 51 changes the final average compensation period for members of NOFF from 48 months to 60 months.

<u>Cost Analysis:</u>

Analysis of Actuarial Costs

Retirement Systems

Members of NOFF will receive a smaller benefit under HB 51 than they otherwise would have under current law. As a result, the actuarial present value of future benefit payments from the system will decrease.

Although NOFF is not an actuarially funded retirement system, Conefry and Company, L.L.C. has calculated the rate of pay that the city of New Orleans would otherwise have to contribute, if required by law, to be 103.228%. Conefry has estimated that if HB 51 is enacted, the contribution rate will decrease 1.103% of pay and the annual contribution needed to be actuarially funded will decrease $330,894 a year.

This estimate is based on the January 1, 2012, actuarial valuation for NOFF which covers 614 active members with a total annual payroll of $29,993,149. According to this report, NOFF needs about $31 million from funding sources other than employee contributions to be actuarially funded. The reduction in contributions attributable to HB 51 is not sufficient to bring the contribution requirement below the $11 million amount actually being paid. Therefore, HB 51 will not have any effect on NOFF revenues.

Realization of these savings may be delayed or may never occur. It is possible that the constitutionality of HB 51 will be challenged in state or federal courts. According to a memorandum issued by Strasburger, Attorneys at Law to the Office of the Louisiana Legislative Auditor on March 26, 2012, entitled Legal Analysis of 2012 Pension Bills (see www.lla.la.gov/reports_data/actuaryreports) challenges would likely allege violations under:

1. Article X, §29 of the Louisiana Constitution which protects public pension benefits,

2. The Contract Clause within both the Louisiana and U.S. Constitutions claiming contract impairment due to diminished benefits,

3. The Takings Clause of both the Louisiana and U.S. Constitutions for divesting public employee benefits without just compensation,

4. The Due Process Clauses of both the Louisiana and U.S. Constitution and the Fifth Amendment to the U.S. Constitution for depriving employees of property rights without due process, and

5. 42 U.S.C. §1983 against public officials for enforcing unconstitutional laws.

Other Post Retirement Benefits

There are no actuarial costs associated with HB 51 for post-employment benefits other than pensions.

Analysis of Fiscal Costs

HB 51 will have the following effect on fiscal costs during the five year measurement period.

Expenditures:

1. Expenditures from NOFF (Agy Self-Generated) will decrease because calculations of final average compensation will be smaller than they would have been without HB 51.

2. Expenditures from Local Funds will not change. The retirement system is not actuarially funded; retirement system revenues are derived from employee contributions and various other revenue sources that do not depend on the actuarial solvency of the system.

Revenues:

- Revenues for NOFF (Agy Self-Generated) will not change. Retirement system revenues are based on sources that are not related to the level of benefit payments and investment earnings.

Actuarial Credentials:

Paul T. Richmond is the Manager of Actuarial Services for the Louisiana Legislative Auditor. He is an Enrolled Actuary, a member of the American Academy of Actuaries, a member of the Society of Actuaries and has met the Qualification Standards of the American Academy of Actuaries necessary to render the actuarial opinion contained herein.

Dual Referral:

Senate	**House**
☐ 13.5.1 ≥ \$100,000 Annual Fiscal Cost	☐ 6.8(F) ≥ \$500,000 Annual Fiscal Cost
☐ 13.5.2 ≥ \$500,000 Annual Tax or Fee Change	☐ 6.8(G) ≥ \$500,000 Annual Tax or Fee Change