

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 2493

PRINTER'S NO. 4093

AMOUNT
No Cost to the Commonwealth

FUND
General

DATE INTRODUCED
May 5, 2010

PRIME SPONSOR

HISTORY OF BILL

Referred to APPROPRIATIONS, May 5, 2010

Reported as committed, May 24, 2010

First consideration, May 24, 2010

Laid on the table, May 24, 2010

Removed from table, May 25, 2010

Second consideration, May 26, 2010

Third consideration and final passage, June 7, 2010 (103-85)

(Remarks see House Journal Page), June 7, 2010

In the Senate

Referred to FINANCE, June 8, 2010

Reported as amended, June 30, 2010

First consideration, June 30, 2010

Second consideration, July 1, 2010

Re-referred to APPROPRIATIONS, July 1, 2010

Re-reported as amended, July 2, 2010

DESCRIPTION AND PURPOSE OF BILL

House Bill 2493, as amended, amends The Pennsylvania Municipal Retirement Law (Act 15 of 1974) by making omnibus amendments with respect to technical changes necessary to maintain the tax-qualified status of the Pennsylvania Municipal Retirement System ("PMRS") and bring the law into compliance with the Internal Revenue Code ("IRC"). The changes address issues of omission, conflict with IRC requirements, and deficiencies due to insufficient specificity. The areas of current law being addressed include the following:

- Domestic relations orders
- Includable compensation limits
- Return to Service eligibility requirements

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- Definitions related to the Deferred Retirement Option Program, known as "DROP", that meet Internal Revenue Service ("IRS") requirements
- Authorization to establish a compliance program for the provisions of the Federal Pension Protection Act of 2006
- Definition of the provisions of the excess interest award so that the language conforms with the "Definitely Determinable Benefit" rule

Information provided by the Pennsylvania Municipal Retirement System indicates that on March 4, 2010 notification was received from the IRS specifying that PMRS' proposed corrective action plan necessary to maintain its tax qualified status was approved. By federal law, corrections must be completed within 150 days of approval (by August 2, 2010) or the approval may be revoked. Absent passage of this legislation, PMRS and the 14,000 plus municipal employees enrolled in the system could be found subject to additional federal taxes and penalties.

As amended in Printer's Number 4059, if a plan is less than 95% funded, House Bill 2493 would prohibit the award of cost-of-living increases from excess interest and would prohibit the use of excess interest as member contributions for active members.

House Bill 2493 is amended to add a new section addressing the solicitation of political contributions. This section applies to a person or an affiliated entity that does any of the following:

- Enters into a professional services contract with the system or any municipal pension system in the Commonwealth
- Submits an offer for or bids on a professional services contract with the system or any municipal pension system in the Commonwealth
- Responds to a request for proposal on a professional services contract with the system or any municipal pension system in this Commonwealth
- Otherwise solicits a professional services contract with the system or any municipal pension system in this Commonwealth

A person or affiliated entity subject to the above conditions may not solicit a contribution to a municipal official or candidate for municipal office where the municipal pension system is organized or to the political action committee of that official candidate. This prohibition applies to any agent, officer, director or employee of the person or affiliated entity.

This act shall take effect immediately.

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FISCAL IMPACT:

Enactment of this legislation will have no adverse fiscal impact to the Commonwealth. Under the Public Employee Retirement Commission Act (Act 66 of 1981), the Commission has a mandated responsibility to review any legislative changes that affect public employee retirement systems. The Commission has reviewed the provisions of House Bill 2493, Printer's Number 4059, and determined that the bill will have no actuarial cost impact upon PMRS. Therefore, the bill will not require an actuarial note prior to further consideration by the General Assembly.

Absent enactment of the tax-qualified language, PMRS can no longer make a good faith representation that its retirement plan offerings are tax qualified under the IRC. Repercussions of a pension plan losing its tax qualified status include the immediate taxability of vested employees' accrued retirement benefits and the accrued amounts being subjected to federal payroll taxes. PMRS has indicated that municipalities could seek recourse against the Commonwealth for the added costs attributable to payroll taxes as well as the potential claims from their own employees based on their election to join PMRS.