


**2013 REGULAR SESSION
ACTUARIAL NOTE HB 50**

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| <p>House Bill 50 HLS 13RS-180 Engrossed</p> <p>Author: Representative J. Kevin Pearson Date: May 7, 2013</p> <p>LLA Note HB 50.02</p> <p>Organizations Affected: Firefighters' Pension and Relief Fund in the city of New Orleans</p> <p>OR +1,605,000 FC SG RV</p> | <p>This Note has been prepared by the Actuarial Services Department of the Office of the Legislative Auditor. The attachment of this Note to HB 50 provides compliance with the requirements of R.S. 24:521.</p> <div style="text-align: center;">  Paul T. Richmond, ASA, MAAA, EA Manager Actuarial Services </div> |
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Bill Header: RETIREMENT/LOCAL: Provides relative to employee contributions in 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 | Increase |
| Total Five Year Fiscal Cost | |
| Expenditures | Increase |
| Revenues | \$ 6,885,000 |

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: | <u>Change in the Actuarial Present Value</u> |
|---|---|
| All Louisiana Public Retirement Systems | Increase |
| Other Post Retirement Benefits | \$0 |
| Total | Increase |

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 | Increase | Increase | Increase | Increase | Increase | Increase |
| 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 | Increase | Increase | Increase | Increase | Increase | Increase |

| 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 | 690,000 | 1,380,000 | 1,605,000 | 1,605,000 | 1,605,000 | 6,885,000 |
| 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 | \$ 690,000 | \$ 1,380,000 | \$ 1,605,000 | \$ 1,605,000 | \$ 1,605,000 | \$ 6,885,000 |

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Bill Information:

Current Law

Current law sets the employee contribution rate for Firefighters' Pension and Relief Fund in New Orleans (NOFF) at 6% of pay. However, members with 20 or more years of service do not make employee contributions.

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

HB 50 increases the employee contribution rate for NOFF from 6% to 10% gradually beginning January 1, 2014, and removes the exemption from employee contributions for members with 20 or more years of service. The increases will phase in as follows.

| Members | Contribution Rate Increase | | |
|------------------------------------|----------------------------|----------|--------------------|
| | FYE 2014 | FYE 2015 | FYE 2016 and Later |
| With less than 20 years of service | 2.00% | 4.00% | 4.00% |
| With 20 or more years of service | 3.33% | 6.66% | 10.00% |

Implications of the Proposed Changes

HB 50 increases the employee contribution rate for members of NOFF with less than 20 years of service from 6% to 10% with a 2 year phase-in, and increases the employee rate for members with more than 20 years from 0% to 10% with a 3 year phase-in.

Cost Analysis:

Analysis of Actuarial Costs

Retirement Systems

Employee contributions will increase if HB 50 is enacted. The annual dollar amount of increase is shown below.

Additional Employee Contributions

| Members | Annual Payroll | FYE 2014 | | FYE 2015 | | FYE 2016 and Later | |
|------------------------------------|----------------|----------|------------|----------|--------------|--------------------|--------------|
| | | Rate | Dollars | Rate | Dollars | Rate | Dollars |
| With less than 20 years of service | \$ 23,240,000 | 2.00% | \$ 465,000 | 4.00% | \$ 930,000 | 4.00% | \$ 930,000 |
| With 20 or more years of service | 6,750,000 | 3.33% | 225,000 | 6.66% | 450,000 | 10.00% | 675,000 |
| Total | \$ 29,990,000 | | \$ 690,000 | | \$ 1,380,000 | | \$ 1,605,000 |

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A member who terminates employment prior to becoming eligible to receive an immediate or deferred retirement benefit is entitled to a refund of his employee contribution plus interest. Therefore, an increase in employee contribution requirements will lead to an increase in the present value of future benefit payments.

According to the January 1, 2012, actuarial valuation report, NOFF needs about \$31 million from city allocations, fines and rebates to be actuarially funded. It receives only about \$13.5 million from these sources. If employee contributions increase \$1.6 million, then the amount needed from other sources will decrease \$1.6 million to about \$29.4 million. However, the need (\$29.4 million) will still exceed the amount paid from other sources (\$13.5 million). The financial status of the plan will still continue to deteriorate.

Realization of these savings may be delayed or may never occur. It is possible that the constitutionality of HB 50 will be challenged in state or federal courts. According to a memorandum issued by Strasburg, Attorneys at Law to the Office of the Louisiana Legislative Auditor on March 26, 2012, entitled Legal Analysis of 2012 Pension Bills (see www.lila.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 is no actuarial cost associated with HB 50 for post-employment benefits other than pensions.

Analysis of Fiscal Costs

HB 50 will have the following effects on fiscal costs during the five year measurement period.

Expenditures:

1. Expenditures from NOFF (Agy Self-Generated) will increase beginning in FYE 2014 because additional employee contributions will lead to an increase in refunds upon termination of employment. This increase should be less than \$100,000 during the first three years of the measurement period.
2. Expenditures from Local Funds will not change because the system is not actuarially funded. There is no requirement for anyone to make up the shortfall in actuarially calculated contribution requirements.

Revenues:

- NOFF revenues (Agy Self-Generated) will increase beginning FYE 2014 because employee contributions will increase about \$690,000 in FYE 2014; \$1,380,000 in FYE 2015 and \$1,605,000 in FYE 2016 and later years.

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

- 13.5.1 \geq \$100,000 Annual Fiscal Cost
- 13.5.2 \geq \$500,000 Annual Tax or Fee Change

House

- 6.8(F) \geq \$500,000 Annual Fiscal Cost
- 6.8(G) \geq \$500,000 Annual Tax or Fee Change