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FISCAL IMPACT REPORT

SPONSOR Swisstack **DATE TYPED** 1/30/04 **HB** HJM 28

SHORT TITLE District Attorney & Defender Retirement Plan **SB** _____

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			See Narrative		

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Public Employees Retirement Association (PERA)
- Administrative Office of the Courts (AOC)
- Public Defender Department (PDD)
- Administrative Office of the District Attorneys (ADA)

SUMMARY

Synopsis of Bill

House Joint Memorial 28 requests the PDD and the ADA to conduct a feasibility study of a 20-year retirement plan for the attorneys these agencies employ, with its associated actuarial expense, to be reported to the interim Corrections Oversight and Justice Committee no later than November 1, 2004.

Significant Issues

The PDD and the District Attorneys' offices have difficulty attracting and retaining qualified attorneys because of their non-competitive salaries. The PDD believes a twenty-year retirement plan would be an incentive to pursue long-term careers as public defenders or district attorneys.

PERA questions whether assistant public defenders and assistant district attorneys should be afforded the benefits of a 20-year retirement plan. The recitals in the memorial that support the need for a study are based on factors relating to the difficulty of recruitment and retention of public law practice attorneys by the Public Defender Department and the judicial districts represented by the Court of Appeals.

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Currently, under State General Plan 3, public defenders and assistant district attorneys are eligible to retire at any age with 25 or more years of service credit, have a 3% pension factor and their retirement benefit is capped at 80% of their final average salary. Under State General Plan 3, members contribute 7.42% of their salary and their employer pays 16.59 % of salary in contributions.

In November 2002, the ADA received an actuarial study performed by PERA's actuaries that determined the costs associated with providing a 20-year retirement plan and a 3.5% pension factor for assistant district attorneys only. That study determined that the additional contribution required to fund such a change, over the current State General Plan 3 contribution level, was estimated to be 5.7% to 9.6% of covered payroll. The Court of Appeals presented its proposed legislation to the PERA Board to garner support for its position. The PERA Board rejected the contemplated benefit enhancement of a 20-year retirement plan for assistant district attorneys.

The PERA Board has adopted a position not to endorse any further benefit enhancement legislation until sufficient experience is gained to determine the actuarial impact of benefit enhancements passed during recent legislative sessions. Public retirement plan design is a function of the PERA Board as trustees of the retirement fund and should not be altered to address recruitment or retention obstacles. It is inappropriate to use the PERA retirement plan to address the personnel shortages and obstacles experienced by specific state agencies or local public bodies. PERA's defined benefit plan, and the legislature's plan enhancements over time, already provides powerful employment incentives.

FISCAL IMPLICATIONS

There is no appropriation to fund this study. The ADA estimates the actuarial study will cost approximately \$6,000.

ADMINISTRATIVE IMPLICATIONS

PERA will be required to coordinate an actuarial study between the PDD and the ADA and PERA's actuaries to determine the actuarial cost of the benefit enhancement contemplated by HJM 28.

POSSIBLE QUESTIONS

Where will the funds to pay for the actuarial study come from?

DW/yr