LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS

Bill Number: HB 269 **50th Legislature, 2nd Session, 2012**

Tracking Number: .189107.1

Short Title: Educational Retirement Contribution Increase

Sponsor(s): Representative Mimi Stewart

Analyst: Kathleen Forrer **Date: February 9, 2012**

Bill Summary:

HB 269 amends the *Educational Retirement Act* to provide that:

- for FY 14 and beyond, all members of the Educational Retirement Board (ERB) program will pay an annual employee contribution rate of 9.4 percent; but
- if for FY 14 the local administrative unit's contribution rate is reduced to less than 13.15 percent, the member contribution rate will be reduced to 7.9 percent for FY 14.

HB 269 also makes changes to retirement eligibility criteria for ERB members based on the amount of earned service credit that they will have accumulated on or before June 30, 2012, and not on the date on which they became members (current statute):

- an ERB member who has five or more years of service credit on or before June 30, 2012 is eligible to retire under the current eligibility requirements for employees who became ERB members prior to July 1, 2010; or
- an ERB member who does not have five or more years of service credit on or before June 30, 2012 is eligible to retire when:
  - the member is 55 years of age or older and has 30 or more years of earned service credit;
  - the member is at least 65 years of age (67 in current statute) and has five or more years of earned service credit; or
  - the member is at least 65 years of age and the sum of the member's age and years of earned service credit equals at least 80, subject to benefit reductions specified in the act.

Finally, HB 269 amends the section of the *Educational Retirement Act* governing deferred retirement to conform with the changes in retirement eligibility criteria specified above.

See Attachment 1 for a comparison of the employee and employer contribution rates in current statute with the proposed rates in HB 269, SB 115, SB 150a, and SB 305.

Fiscal Impact:

HB 269 does not contain an appropriation.

ERB, in its analysis of HB 269, notes that implementing the provisions in the bill would help the solvency of the Educational Retirement Fund, but that the actual impact to the fund for FY 14 would depend upon whether employee contribution rates for FY 14 fell below 13.15 percent of members' salaries.

Fiscal Issues:

In November 2011, ERB's actuaries presented a report regarding the June 30, 2011 actuarial valuation of the fund to the board. In that report, the actuaries noted that the unfunded actuarial accrued liability (UAAL)[1] increased from $4.9 billion at the end of FY 10 to $5.7 billion at the end of FY 11 and that the funding period as of the valuation date was infinite:

> This is a theoretical calculation of the period that will be required to amortize the UAAL, assuming that the current year's amortization payment increases at the payroll growth rate (3.75%) each year in the future. The infinite period compares with 62.5 years funding period calculated as of the prior actuarial valuation. An infinite period means that the principal on the UAAL will never be paid down.

The actuaries also noted that:

> The funded ratio (the ratio of the actuarial value of assets to the actuarial accrued liability) decreased from last year. The funded ratio at June 30, 2010 was 65.7%, while it is now 63.0%. Five years ago the ratio stood at 68.3%, and ten years ago the ratio was 91.9%.

Numerous sources, including the US Government Accountability Office, note that the Governmental Accounting Standards Board standard for the funding period is 30 years and that a funded ratio of about 80 percent is considered sound for state and local government pensions.

In its analysis of HB 269, ERB states that the provisions in HB 269 would increase revenue to the fund:

> HB 269 provides that all members who do not have five or more years of service credit on or before June 30, 2012, would be eligible for retirement under tier two. This would affect current tier one members who started on or after September 1, 2007 but before July 1, 2010 by shifting them into tier two. Moving these members (an amount unknown at this time) from tier one to tier two would be beneficial to fund as these members would have to wait longer to retire.

In the November 2011 actuarial valuation report, the following membership data are presented. These data illustrate that while the number of active members, i.e., those making contributions to the plan, is decreasing, the number of retirees receiving benefits is increasing.

[1] The unfunded actuarial accrued liability (UAAL) is the present value of benefits earned to date that are not covered by current plan assets.

CATEGORY	June 30, 2010	June 30, 2011	Increase/ Decrease
Active members	*63,295*	*61,673*	*(1,622)*
Vested inactive members	9,054	9,333	279
Nonvested inactive members (includes those awaiting refunds)	22,782	23,678	896
Service retirees	*30,377*	*31,974*	*1,597*
Disabled retirees	759	774	15
Beneficiaries	2,611	2,709	98

In this regard, the Legislative Finance Committee notes in Volume I that both the ERB and the Public Employees Retirement Association (PERA) funds are mature plans with net cash outflows:

> …which means employer and employee contributions are less than the pensions paid out. Thus, the funds depend on investment returns to keep the plans afloat. The growth in retirees who are healthier and living longer makes the dynamic even more critical going forward. An issue rarely addressed when speaking about pension fund solvency is the lack of hiring and no increase in pay to current employees. Benefits have continued to increase, however the contribution side of the pension funds has seen no growth outside of an increase in contribution rates.

Substantive Issues:

The employee and employer contribution rates proposed in HB 269 do not correspond with those proposed in either SB 150a, *Educational Retirement Changes*, which reflects the ERB's recommendations, or SB 115, *Public Employee Salary Tiers & Retirement*. (See Attachment 1)

Background:

- In 2005, the Legislature addressed the insolvency of the Educational Retirement Fund through legislation that increased both the employer's and the employee's contribution rates. The employer's contribution rate, which was 8.65 percent in FY 05, was increased by 0.75 percent each year for seven years, and was scheduled reach 13.9 percent in FY 12. The employee's contribution rate, which was 7.6 percent in FY 05, was increased by 0.075 percent per year for a period of four years, and reached 7.9 percent in FY 09.

- The 2009 Legislature increased the employee's contribution for individuals with an annual salary greater than $20,000 to 9.4 percent for FY 10 and FY 11; however, the contribution for all employees was scheduled to revert to 7.9 percent in FY 12.

- In 2010, the enactment of legislation again revised the schedule of employer contribution rates, maintaining the employer contribution rate at 10.9 percent for FY 11 and pushing back the implementation date for the 13.9 percent employer contribution to FY 13.

- In 2011, legislation was enacted that extended the 1.5 percent contribution shift from the employer to the employee for two more years (FY 12 and FY 13); implemented an additional 1.75 percent contribution shift for employees making over $20,000 for FY 12; and delayed the two remaining 0.75 percent employer increases set for FY 12 and FY 13 to FY 14 and FY 15. A temporary clause in the legislation would allow the additional

1.75 percent shift to be imposed in FY 13 if, based on the last consensus revenue forecast before the beginning of the 2012 legislative session:

- General Fund revenues in FY 12 will be less than $100 million more than the General Fund revenue forecast reflected in the FY 12 budget; and
- at the end of FY 12, the total amount in the state reserve funds will be less than 5.0 percent.

Related Bills:

HB 41 *Minimum Age for Legislative Retirement*
*HB 42 *Legislative Retirement Contribution Changes*
HB 72a *Judicial Retirement Changes*
HB 120 *Acequia & Ditch Employees in PERA*
HB 141 *Public Retirees Returning to Work*
HB 209 *Motor Transportation Officer Retirement*
HB 226 *Public Employee Retirement Contributions* (Identical to SB 228)
HB 270 *State Employee & Teacher Retirement Changes*
HJM 19 *Study Changes to Public Employees Retirement*
HM 5 *Public Employee Retirement Change Options*
SB 51 *Educational Retirees Returning to Work*
*SB 52 *No Precinct Worker Benefit Suspensions* (Identical to *SB 79)
*SB 79 *No Precinct Worker Benefit Suspensions* (Identical to *SB 52)
SB 115 *Public Employee Salary Tiers & Retirement*
SB 150a *Educational Retirement Changes*
SB 228 *Public Employee Retirement Contributions* (Identical to HB 226)
CS/SB 259 *Motor Vehicle Officer Retirement*
SB 274 *Public Employee Retirement Changes*
SB 305 *Educational Retirement Employee Contributions*
SM 18 *Evaluate Public Safety Members Retirement*

ATTACHMENT

COMPARISON OF EMPLOYEE AND EMPLOYER CONTRIBUTION RATES IN CURRENT STATUTE AND HB 269, SB 115, SB 150a, AND SB 305

		A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
		Employee					Employer					Total Contributions					
	Fiscal Year	Current Statute	HB 269*	SB 115	SB 150a	SB 305	Current Statute	HB 269	SB 115	SB 150a	SB 305	Current Statute	HB 269	SB 115	SB 150a	SB 305	
1	**FY 12**																1
2	*Salaries $20,000 or less*	7.900%	7.900%	7.900%	7.900%	7.900%	12.400%	12.400%	12.400%	12.400%	12.400%	20.300%	20.300%	20.300%	20.300%	20.300%	2
3	*Salaries greater than $20,000*	11.150%	11.150%	11.150%	11.150%	11.150%	9.150%	9.150%	9.150%	9.150%	9.150%	20.300%	20.300%	20.300%	20.300%	20.300%	3
4	**FY 13**																4
5	*Salaries $20,000 or less*	7.900%	7.900%	7.900%	7.900%	7.900%	12.400%	12.400%	12.400%	12.400%	12.400%	20.300%	20.300%	20.300%	20.300%	20.300%	5
6	*Salaries between $20,000 and $50,000*	9.400%	9.400%	9.400%	9.400%	9.400%	10.900%	10.900%	10.900%	10.900%	10.900%	20.300%	20.300%	20.300%	20.300%	20.300%	6
7	*Salaries greater than $50,000*			11.150%					9.150%					20.300%			7
8	**FY 14**																8
9	*Salaries $100,000 or less*	7.900%	9.400%	7.900%	9.525%	9.900%	13.150%	13.150%	13.150%	13.150%	13.150%	21.050%	22.550%	21.050%	22.675%	23.050%	9
10	*Salaries greater than $100,000*			9.400%					10.900%					20.300%			10
11	**FY 15**																11
12	*All Employees*	7.900%	9.400%	7.900%	9.650%	10.400%	13.900%	13.900%	13.900%	13.900%	13.900%	21.800%	23.300%	21.800%	23.550%	24.300%	12
13	**FY 16**																13
14	*All Employees*	7.900%	9.400%	7.900%	9.775%	10.900%	13.900%	13.900%	13.900%	14.600%	13.900%	21.800%	23.300%	21.800%	24.375%	24.800%	14
15	**FY 17**																15
16	*All Employees*	7.900%	9.400%	7.900%	9.900%	11.300%	13.900%	13.900%	13.900%	15.300%	13.900%	21.800%	23.300%	21.800%	25.200%	25.200%	16
17	**FY 18**																17
18	*All Employees*	7.900%	9.400%	7.900%	9.900%	11.300%	13.900%	13.900%	13.900%	15.350%	13.900%	21.800%	23.300%	21.800%	25.250%	25.200%	18
19	**FY 19**																19
20	*All Employees*	7.900%	9.400%	7.900%	9.900%	11.300%	13.900%	13.900%	13.900%	15.400%	13.900%	21.800%	23.300%	21.800%	25.300%	25.200%	20
21	**FY 20**																21
22	*All Employees*	7.900%	9.400%	7.900%	9.900%	11.300%	13.900%	13.900%	13.900%	15.440%	13.900%	21.800%	23.300%	21.800%	25.340%	25.200%	22

*HB 269 provides that if for FY 14 the local administrative unit's contribution rate is reduced to less than 13.15 percent, the member contribution rate will be reduced to 7.9 percent.