GSRA Newsletter

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THE 2009 GEORGIA GENERAL ASSEMBLY-------
WHAT DID THEY DO (FOR, TO) STATE RETIREES?

GSRA Legislative Committee members and others spent many hours at the Capitol during the 2009 session of the Georgia General Assembly. A summary and analysis of the final results of bills of particular interest to state retirees follow.

HB 452—No Pension COLAs for New Employees

HB 452 prohibits awarding pension COLAs to new ERS members employed after June 30, 2009, or new legislative members elected after June 30, 2009, or new members of the Judicial Retirement System appointed after June 30, 2009. The bill states the legislative desire to adjust retirement expectations of persons who are newly employed.

HB 452 awaits the Governor's signature.

HB 228—Reorganization of the Department of Human Resources

HB 228 abolishes the Department of Human Resources, creates the Department of Human Services and the Department of Behavioral Health and Developmental Disabilities, and transfers the functions of the Division of Public Health to the Department of Community Health effective July 1, 2009.

The bill moves the functions of the Division of Family & Children Services and the Division of Aging Services to the new Department of Human Services. It moves the functions of the Division of Mental Health, Developmental Disabilities and Addictive Diseases, along with the alignment with Community Service Boards, to the Department of Behavioral Health and Developmental Disabilities. Both new departments will have boards for approving policy.

Although the Department of Community Health (DCH) assumes the functions of the Division of Public Health, the Board of Human Resources is abolished and the Board of Community Health assumes the policy-making role for the re-constituted DCH.

Specific responsibilities enumerated by the bill for DCH are:

- Safeguard and promote the health of people of this State and [DCH] is empowered to employ all legal means appropriate to this end;
- Serve as lead planning agency for all health issues;
- Contract with County Board of Health to assist in service.

HB 228 creates a position of director of Public Health, which will report to the Office of the Governor and DCH Commissioner. The bill also creates a 9-member Advisory Council, appointed by the Governor, to advise on all matters related to the Division of Public Health.

In addition, the bill creates a Public Health Commission, composed of 2 members appointed by the House Speaker, 2 members appointed by the Lieutenant Governor, and 5 members appointed by the Governor. The purpose of the Commission is to examine whether the interests of the State are best served with the Division of Public Health being a part of DCH. The Commission is abolished on December 31, 2010.

HB 228 retains the State Health Benefit Plan as a function of DCH.

This bill awaits the Governor's signature.

HB 277—Transportation Funding

HB 277 involves the implementation of an additional 1 percent special transportation sales and use tax. The House and Senate had different versions for the 1 percent taxation. Specifically, the House version would have resulted in a <u>statewide</u> 1 percent special transportation sales and use tax. However, the Senate favored a <u>regional</u> approach, with the creation of special transportation districts, composed of consenting (voting) contiguous counties, for this purpose.

Both the House and Senate passed their respective versions by the required two-thirds majority for the inclusion of a referendum on the ballot for the November, 2010 statewide general election. In a "last-ditch" effort to agree, the House proposed an amendment to the effect that if the public failed to approve the referendum relative to the House's version, the Senate's version would be placed on a subsequent ballot to be voted on by the public.

However, the Senate rejected the House amendment. As a result, House and Senate Conference Committees were appointed, but no compromise or agreement was reached.

Chances are very good that this or similar legislation will be reintroduced during the 2010 session of the General Assembly.

SB 200—Transforming Transportation

SB 299 involves the reorganization of the Georgia Department of Transportation (GDOT). The Senate's initial version of this bill was very radical and far reaching. On the last Legislative day (April 3rd) of the session, at 10:15 PM, the Senate agreed to the House's substitute version for the reorganization of the GDOT by a 33 to 22 vote. Although the House's substitute version is less radical then the Senate's version, SB 200 is very significant and extensive, giving the Governor and General Assembly almost total control over identifying transportation projects and allocating and spending transportation funds.

The most significant aspect of SB 200, as passed, is the creation of a Special Planning Division and accompanying Director to be appointed by the Governor subject to approval by a majority vote of the House Transportation Committee. The Director of Planning is appointed by the Governor and shall serve at the pleasure of the Governor.

The State Transportation Board will still consist of one member per Congressional District, but the Board's power and authority have been curtailed. Additionally, although the position of Commissioner of GDOT has been retained, the GDOT Commissioner's authority has also been curtailed. Specifically, the GDOT Commissioner has no authority over the aforementioned Director of Planning, with this authority being vested solely in the Governor. To quote from the bill, "the GDOT Commissioner's principal responsibility shall be the faithful implementation of transportation plans produced by the Director of Planning and approved by the Governor and the State Transportation Board."

To further quote from the bill, "*the Director of Planning shall submit prioritized capital construction projects to the Governor for consideration in advance of the legislative session each year. The Governor shall submit all or a portion of such capital construction project requests as part of the Governor's budget recommendations to the General Assembly. The General Assembly may appropriate funds to any project on the prioritized project list.*"

This bill awaits the Governor's signature.

SB 122: Split the Georgia Retiree Health Benefit Fund

SB 122 was passed by General Assembly and awaits the Governor's signature. This bill splits the Georgia Retiree Health Benefit Fund into two separate retiree trust funds—one for state retirees and one of teachers and school system employees. See the March GSRA Newsletter for a more in-depth description of the provisions of the bill.

HB 371: Changes the Public Retirement Systems Investment Authority Law

Representative Earl Ehrhart's bill was written purportedly to help a retirement system in Cobb County. As the bill was tracked through the legislative process, amendments were added to the bill to change the pension funds to which the bill would apply. As a "last ditch" effort to expand allowed investments when the Senate was considering the bill, Senator Judson Hill proposed an amendment to include the essence of SB 80, "alternative investments", as an allowable type asset. Senator Hill's amendment was ruled to be "not germane", which means that it could not be attached to the bill.

The bill as passed reaches far beyond just Cobb County, however, because it changes current law governing the ERS and TRS in the following ways:

- Changes the asset size definition of a "large retirement system" from any system with $50 million in assets to any system with $200 million in assets.
- Increases from 15 percent to 100 percent the portion of a "large retirement system's" assets that can be invested in foreign corporations or in obligations of foreign corporations.
- Increases the percentage of the fund's assets that may be invested in equities (i.e., stocks) from the current 60% to 65% until July 1, 2010; to 70% between July 1, 2010 and July 1, 2011; and then to 75% after July 1, 2011.
- If a retirement fund should exceed the equities increased percentages, HB 371 increases the amount of time allowed to come into compliance with these percentage limits, from the current 12 months to 24 months. HB 371 says nothing, however, about what happens should a retirement system remain out of compliance with these maximum allowable percentages.

The apparent intent of these changes is to allow the retirement systems to increase their investment earnings as the economy recovers and the stock market continues to rebound. However, it should be remembered that the state's retirement systems are not the same as mutual funds that are set to make high yields on risky investments. Rather, these funds are obligated to make monthly payouts in the form of pension benefits to retirees who depend on them for their livelihood.

By extrapolation, one can estimate the loss to the Employees Retirement System (ERS) if 75% of assets had been invested in only stocks. In the eighteen months from June 2007 to January 2008, the ERS lost over $5 billion of the $15 billion in assets—about 33%. If 60% of the $15 billion ($9 billion) was invested in stocks, the $5 billion loss represents 56% of stock assets. If, however, 75% of those assets ($11 billion) had been invested in stock equities (as allowed by this new law) the loss to the ERS fund could have exceeded $6.3 billion—or $1.3 billion more than would have happened under current law. Why take the additional risk?

HB 371 awaits the Governor's signature.

HB 118 & HB 119: FY 2009 and FY 2010 Appropriations Acts

Much of the time for the 2009 General Assembly Session was devoted to budget issues because of the economic downturn. Although the Appropriations were reduced by billions, the State Health Benefit Plan and, therefore, the members were hit several times to lessen the impact on other state programs.

Over $663.6 million and $120.1 million for Other Post-Employment Benefits (OPEB) was reduced from the SHBP reserves during FY 2009; thereby reducing the cash reserves to pay claims to less than 3 weeks balance.

When Governor Perdue reviewed the revenue projections again in early March, he proposed reducing the State's contribution to the SHBP by another $113.7 million during FY 2010. This revenue reduction would have modified the 27-year policy of paying 75% to only 70% of the cost of the SHBP. Members' premiums would, therefore, be increased by approximately 30% to "pick-up" the $113.7 million. Thanks to many persons' hard work, the House restored the State's contribution amounts to fund 75% of the cost.

However, the Senate saw the budget issues differently and adopted a different plan for the members of the SHBP. The Senate approach was to increase the members' premiums by 10% on July 1, 2009 and 5% on January 1, 2010. In addition the benefits would be changed to reduce the amount to be paid by the PPO/HMO options when services were provided, from 90% to 85%.

All the various SHBP funding proposals included requiring age 65+ retirees to transfer to the MAP option on January 1, 2010. The Department of Community Health staff reported that this retiree change would save over $50 million in FY 2010.

Again, thanks to the hard work of many persons, the House & Senate Conference Committee replaced the funding to the 75% level. Members should expect that the funding for the SHBP will become an issue every year in the future. Once the Legislative members start making detail plans for something, it becomes "the thing to do."

SO---How did YOUR State Representative or State Senator vote on each of these and other bills? Go to http://www.legis.ga.gov/legis/2009_10/ and enter the bill number. The next screen has links to each vote.

See online coverage of defined contribution plan (401K) issues!
Watch CBS's "60 Minutes" of April 19, 2009. Click on the link below:
Retirement Dreams Disappear With 401(k)s - CBS News

BOARD OF COMMUNITY HEALTH MEETS: STATE HOLDS TO POLICY OF PAYING 75% OF HEALTH INSURANCE PREMIUMS FOR FY 2010

At its April 16th meeting, the Board of Community Health (Board) was briefed by the Department of Community Health (DCH) staff regarding the department's final FY 2010 budget. Of primary interest was funding for the cost of the State Health Benefit Plan (SHBP). The General Assembly appropriated sufficient funds in the FY 2010 appropriations act to enable DCH to hold to the current policy of the state paying 75% of the cost of the SHBP. This means that the members' premium payments will average 25% of the total SHBP cost during the year. DCH stated that in order to collect the 25% from members, the under age 65 members who choose to stay in the PPO or HMO options will see their premiums increase by 5% on January 1st. Retirees age 65+ who choose to stay in any option other than the Medicare Advantage Plan will see a significant increase in premiums.

Other items of interest for which the DCH staff briefed the Board are:

- About 1,000 of the 2,600-2,900 State Health Benefit Plan (SHBP) retirees who do not have Medicare Part B have not notified DCH that they have enrolled in Medicare Part B.
- DCH is working with Medicare to develop and add an improved option in the Medicare Advantage Plan (which DCH will soon require all retirees age 65+ to join). The additional option will reduce the member's out-of-pocket cost at the time of service for the MAP, but will be at a higher premium than the current MAP options.
- DCH reports that United Healthcare has found that 91% of the Georgia Providers being used by SHBP members are in the UHC provider network. However, any provider that accepts "Medicare assignment" will be allowed to join the UHC "deemed" provider network for the MAP.

ERS BOARD HOLDS APRIL MEETING

The ERS Board discussed various topics, including new legislation (HB 452) that prohibits any future COLAs for new state employees hired after June 30, 2009. Executive Director Pamela Pharris's interpretations of the legislative bills were consistent with those presented by GSRA in recent newsletters. Ms. Pharris also noted that the ERS assets had decreased to about $9.9 billion, down from over $15 billion in 2007. Discussions added that while the stock market is up in the past month, it is still down for CY 2009.

Representative Pat Gardner, chair of the House COLA Study Committee, also attended this meeting.

Actuary Ed MacDonald of Cavanaugh MacDonald Consulting presented basic actuarial principles. [To review a similar 2006 presentation on the Cavanaugh MacDonald website, click on the following link: http://www.cavmacconsulting.com/pdfs/NCTR_Presentation_5_21_06.pdf]

Mr. Macdonald began by stating what he considered to be the basic principle for describing the behavior of pension funds: C + I = B + E, where C = contributions, I = investments, B = benefits paid, and E = expenses. GSRA attendees found the presentation of this formula to be disturbing, because it makes the amount of benefits dependent on the level of contributions and investment return, rather than the historical reverse. That is, until this Administration, retiree benefits, including a minimum 3% COLA, were set and *contributions were adjusted to provide for the benefits.*

Mr. Macdonald's points included the following:

- Historically, 75% of the plan's income has been from investments. This obviously was not the case last year.
- Experience is studied every five years and assumptions are adjusted accordingly. Mr. Macdonald noted that the historically assumed 7.5% earnings on investments is conservative compared to that of other plans, which have recently been dropped from the assumed average of 8.1% to 7.9%. Mr. Macdonald did not venture a guess as to what impact either the recent market losses or the new investment flexibility authorized by HB 371 would have on the actuary's growth assumptions.

Mr. Macdonald then presented information to support decisions the board will be making at its next meeting—the employer contribution rate and the COLA percentage. This information included:

- Unfunded liabilities grew more that $1.6 billion through FY 2008, reducing the funding ratio to 89.4% at that time and decreasing it another 10% on December 31.
- Two sets of projections were presented for each of the next two fiscal years: one based on fund performance of the preceding fiscal year (the historical approach), and one based upon performance for that period plus last six months of CY 2008, when the market suffered its worst losses.
- The projections were based on continuing the current practice of awarding 2% annual COLAs.

Board member Celeste Osborn informed the board that the recent General Assembly made a special appropriation to the Teachers' Retirement System to fully fund its 3% COLAs.

Ms. Pharris reviewed the decisions (employer contribution rate and COLAs) to be made at the Board's next meeting. The Board reserved the possibility of meeting on May 21 pending the availability of additional financial information.

IMPORTANT ANNOUNCEMENT FROM ERS REGARDING YOUR INCOME TAX WITHHOLDING FOR APRIL 30, 2009

"As of April 1, 2009, the American Recovery and Reinvestment Act of 2009 (ARRA) requires the use of new tax withholding tables which reflect the Making Work Pay credit. This may reduce the amount of income tax withheld from your April pension benefit; however, please note that pension plan distributions do not qualify for the Making Work Pay credit. As a result, the new tables could result in under-withholding from your pension payment. If your payment is affected by the new tables, you may need to revise your federal income tax withholding and/or consult with a tax advisor to ensure sufficient withholding from your pension benefit. To update your tax withholding, you can log in to your account at www.ersga.org and make changes online, or you can download and complete a Federal Income Tax substitute form W-4P.

ARRA also provides for a one-time payment of $250 to individuals receiving Supplemental Security Income (SSI) or Social Security benefits. Social Security expects to complete disbursements by June 2009. ***No action is required on your part****.*

If you have questions about either of these changes, you can contact the IRS at 800-829-1080 or the Social Security Administration at 800-772-1213."

NOTE: ERS advises that the above announcement has been sent by postcard to ERS retirees. However, in response to further GSRA members' questions, ERS has further advised that ERS retirees will not receive an individualized notice showing the new withholding amount (and new net check amount) effective April 30.

SUMMARY RESULTS OF THE FIRST GSRA MEMBERSHIP POLL

Over 850 GSRA members responded to the Membership Poll #1 regarding concerns about retiree benefits and direction to the GSRA Board. A full report will be published in a future Newsletter; however, the summary initial results are:

- Over 95% of you were "Very Concerned" or "Concerned" about being treated differently than members of other state-supported retirement and benefit programs for COLAs and compensation;
- Over 98% of you were "Very Concerned" or "Concerned" about the depletion of the State Health Benefit Plan reserves and the split of the retiree trust funds;
- Over 96% of you were "Very Concerned" or "Concerned" about pension fund investment legislation;
- Over 91% of you were "Very Concerned" or "Concerned" about the requirement to join a Medicare Advantage Plan on January 1, 2010.
- Only a few of you were not interested in creating a fund for pursuing additional advice regarding these issues.

GSRA Board thanks you for responding and providing feedback about your concerns and direction. The Board will now determine "next steps."