Managing Future *Dolan*-Type Unfunded Liabilities

Issue

The Executive Committee asked staff to craft a proposal to help manage future *Dolan*-type liabilities (i.e., when a group of members are retroactively added to the retirement system and contributions are not sufficient to pay the expected cost of benefits). At the highest level, the request was for a proposal that insulates existing plan members and employers from any new *Dolan*-type unfunded liability.

Background

In 2011, the Supreme Court of Washington made its first ruling in the *Dolan* case. Some aspects of the litigation are still ongoing, and some details are still subject to change. Its full history is also far too complicated for the scope of this paper.

For the purposes of this paper it should suffice to note that:

- Public defenders in King County were made members of the state retirement system retroactively.
- The cost of retroactive service is at least partly paid by socializing that cost across existing members and employers in the retirement system.

In 2012, the Legislature enacted EHB 2771. That bill clarified that contractors were not intended to be part of the state retirement systems, and that this action was effective "curative and remedial" to all but the *Dolan* class.

In the 2015-16 Biennium, the Legislature considered, but did not enact HB 2083. An identical bill was sponsored in the 2017-18 Biennium as HB 1288, but again was not enacted. In brief, this bill would have required the Pension Funding Council (PFC) to adopt a separate contribution rate to fund the cost of benefits that is applied only to the employer in question.

At the October Executive Committee meeting, staff was asked to prepare a bill draft that requires the individual employer in a *Dolan*-type situation to pay the missed contributions and interest.

Highlights

- A "*Dolan*-Type Unfunded Liability" arises any time a group of members are retroactively added to the retirement system and contributions are not sufficient to pay the expected cost of benefits (including lost investment returns).

- Under current law, any future *Dolan*-type scenario would create a cost to the plan which would be paid by all Plan 2 members and Plan 2/3 employers.
  - If the cost is high enough to create a rate impact, the proposal would insulate the plan from that cost
- Under the proposal as drafted:
  - The individual employer is billed whenever a new *Dolan*-type situation would result in a rate impact. This billing is in addition to normal contributions.
  - DRS is authorized to bill employers accordingly; subject to review by the PFC or LEOFF 2 Board.

Committee Activity

The Executive Committee discussed this issue at the September, October, and November meetings. A work session was held before the Full Committee in November, and a public hearing in December. No recommendation was made.

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