Senate

General Assembly

File No. 395

February Session, 2010

Substitute Senate Bill No. 337

Senate, April 8, 2010

The Committee on Planning and Development reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT ESTABLISHING A MUNICIPAL POSTEMPLOYMENT BENEFIT PLAN DEFICIT FUNDING BONDS PILOT PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (*Effective from passage*) (a) The Secretary of the Office of Policy and Management shall establish a pilot program in a single municipality whereby the municipality selected shall be authorized, for one time only, to issue postemployment benefit plan deficit funding bonds pursuant to section 2 of this act.

(b) To be eligible for the program a municipality shall (1) have a population of not less than one hundred fifteen thousand; (2) have been incorporated by special act; and (3) have a mayor and city council form of government. The secretary shall establish an application procedure and any other criteria for the program. The secretary shall not select a municipality for the pilot program unless the legislative body of the municipality has approved the application. The secretary shall send a notice of selection for the pilot program to the chief executive officer of the municipality.

(c) The secretary shall submit a report on the status of the program, in accordance with section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to local government and finance, revenue and bonding not later than December 1, 2011.

Sec. 2. (*Effective from passage*) (a) For purposes of this section:

(1) "Actuarial valuation" means a determination certified by an actuary, in a method and using assumptions meeting the parameters established by generally accepted accounting principles, of the normal cost, actuarial accrued liability, actuarial value of assets and related actuarial present values for a postemployment health and life benefit plan of a municipality as of a valuation date not more than thirty months preceding the date of issue of the postemployment benefit plan deficit funding bonds, together with an actuarial update of such valuation as of a date not more than three months preceding the date of notification of the secretary by the municipality, in accordance with subdivision (1) of subsection (c) of this section, of its intent to issue the postemployment benefit plan deficit funding bonds.

(2) "Actuarially recommended contribution" means the annual required contribution of the municipal employer to the postemployment health and life benefit plan of the municipality, as established by the actuarial valuation and determined by an actuary in a method and using assumptions meeting the parameters established by generally accepted accounting principles, provided the amortization schedule used to determine such contribution shall be fixed and shall have a term not longer than the longest of (A) ten years, or (B) thirty years from the date of issuance of the postemployment benefit plan deficit funding bonds.

(3) "Chief executive officer" means (A) for a municipality as described in section 7-188 of the general statutes, such officer as described in section 7-193 of the general statutes, (B) for a metropolitan

district, such officer as described in the special act, charter, local ordinance or other local law applicable to such metropolitan district, (C) for a district, as defined in section 7-324 of the general statutes, the president of its board of directors, (D) for a regional school district, the chairperson of its regional board of education, and (E) for any other municipal corporation having the power to levy taxes and to issue bonds, notes or other obligations, such officer as prescribed by the general statutes or any special act, charter, special act charter, home-rule ordinance, local ordinance or local law applicable to such municipal corporation.

(4) "Actuary" means a person who is a member in good standing of the American Academy of Actuaries.

(5) "General obligation" means an obligation issued by a municipality and secured by the full faith and credit and taxing power of such municipality.

(6) "Legislative body" means (A) for a regional school district, the regional board of education, and (B) for any other municipality not having the authority to make ordinances, the body, board, committee or similar body charged under the general statutes, special acts or its charter with the power to authorize the issue of bonds by the municipality.

(7) "Municipal Finance Advisory Commission" means the Municipal Finance Advisory Commission established pursuant to section 7-394b of the general statutes.

(8) "Municipality" means a municipality, as defined in section 7-369 of the general statutes, or a regional school district.

(9) "Obligation" means any bond or any other transaction which constitutes debt in accordance with both municipal reporting standards in section 7-394a of the general statutes and the regulations prescribing municipal financial reporting adopted by the secretary pursuant to said section 7-394a.

(10) "Postemployment benefit plan deficit funding bond" means any obligation issued by a municipality to fund, in whole or in part, an unfunded past benefit obligation. "Postemployment benefit plan deficit funding bond" shall not include any bond issued by a municipality pursuant to and in accordance with the provisions of subsection (g) of this section to pay, fund or refund prior to maturity any of its postemployment benefit plan deficit funding bonds previously issued.

(11) "Secretary" means the Secretary of the Office of Policy and Management or the secretary's designee.

(12) "Treasurer" means the Treasurer of the state of Connecticut or the Treasurer's designee.

(13) "Unfunded past benefit obligation" means the unfunded actuarial accrued liability of the postemployment health and life benefit plan determined in a method and using assumptions meeting the parameters established by generally accepted accounting principles.

(14) "Weighted average maturity" means (A) the sum of the products, determined separately for each maturity or sinking fund payment date and taking into account any mandatory redemptions of the obligation, of (i) with respect to a serial obligation, the principal amount of each serial maturity of such obligation and the number of years to such maturity, or (ii) with respect to a term obligation, the dollar amount of each mandatory sinking fund payment with respect to such obligation and the number of years to such payment, divided by (B) the aggregate principal amount of such obligation.

(b) Except as expressly provided in this section, no municipality shall issue any postemployment benefit plan deficit funding bond.

(c) Any municipality which has been selected by the Secretary of the Office of Policy and Management pursuant to section 1 of this act and has no outstanding postemployment benefit plan deficit funding bonds, other than an earlier series of such obligations issued under subsection (b) of section 7-374b of the general statutes or this section to partially fund an unfunded past benefit obligation, may authorize and issue postemployment benefit plan deficit funding bonds to fund all or a portion of an unfunded past benefit obligation, as determined by an actuarial valuation, and the payment of costs related to the issuance of such bonds in accordance with the following requirements:

(1) The municipality shall, within the time and in the manner prescribed by regulations adopted by the secretary or as otherwise required by the secretary, notify the secretary of its intent to issue such postemployment benefit plan deficit funding bonds and shall include with such notice (A) the actuarial valuation, (B) an actuarial analysis of the method by which the municipality proposes to fund any unfunded past benefit obligation not to be defrayed by the postemployment benefit plan deficit funding bonds, which method may include a plan of issuance of a series of postemployment benefit plan deficit funding bonds, (C) an explanation of the municipality's investment strategic plan for the postemployment health and life benefit plan with respect to which the postemployment benefit plan deficit funding bonds are to be issued, including, but not limited to, an asset allocation plan, (D) a three-year financial plan, including the major assumptions and plan of finance for such postemployment benefit plan deficit funding bonds, (E) a comparison of the anticipated effects of funding the unfunded past benefit obligation through the issuance of postemployment benefit plan deficit funding bonds with the funding of the obligation through the annual actuarially recommended contribution, prepared in the manner prescribed by the secretary, (F) documentation of the municipality's authorization of the issuance of such postemployment benefit plan deficit funding bonds including a certified copy of the resolution or ordinance of the municipality authorizing the issuance of the postemployment benefit plan deficit funding bonds and an opinion of nationally recognized bond counsel as to the due authorization of the issuance of the bonds, (G) documentation that the municipality has adopted an ordinance, or with respect to a municipality not having the authority to make ordinances, has adopted a resolution by a two-thirds vote of the members of its legislative body, requiring the municipality

to appropriate funds in an amount sufficient to meet the actuarially required contribution and contribute such amounts to the plan as required in subdivision (3) of subsection (c) of this section, (H) the methodology used and actuarial assumptions that will be utilized to calculate the actuarially recommended contribution, (I) a draft official statement with respect to the issuance of the postemployment benefit plan deficit funding bonds, and (J) such other information and documentation as reasonably required by the secretary or the Treasurer to carry out the provisions of this section.

(2) Within ten days following the sale of the postemployment benefit plan deficit funding bonds, the municipality shall provide the secretary and the Treasurer with a final financing summary comparing the anticipated effects of funding the unfunded past benefit obligation through the issuance of the postemployment benefit plan deficit funding bonds with the funding of the obligation through the annual actuarially recommended contribution, prepared in the manner prescribed by the secretary.

(3) So long as the postemployment benefit plan deficit funding bonds or any bond refunding such bonds are outstanding, the municipality shall (A) for each fiscal year of the municipality, commencing with the fiscal year in which the bonds are issued, appropriate funds in an amount sufficient to meet the actuarially required contribution and contribute such amount to the plan, and (B) notify the secretary annually, who shall in turn notify the Treasurer, of the amount or the rate of any such actuarially recommended contribution and the amount or the rate, if any, of the actual annual contribution by the municipality to the postemployment health and life benefit plan to meet such actuarially recommended contribution. Notwithstanding the provisions of any other general statute or of any special act, charter, special act charter, home-rule ordinance, local ordinance or local law, in any fiscal year for which the municipality fails to appropriate sufficient funds to meet the actuarially required contribution in accordance with the provisions of this subsection, there shall be deemed appropriated an amount sufficient to meet such

requirement. On an annual basis, the municipality shall provide the secretary and the Treasurer with: (i) the actuarial valuation of the postemployment health and life benefit plan, (ii) a specific identification, in a format to be determined by the secretary, of any changes that have been made in the actuarial assumptions or methods compared to the previous actuarial valuation of the plan, (iii) the footnote disclosure and required supplementary information disclosure required by GASB Statement Number 45 with respect to the plan, and (iv) a review of the investments of the plan including a statement of the current asset allocation and an analysis of performance by asset class.

(4) The municipality shall not issue postemployment benefit plan deficit funding bonds prior to, nor more than six months subsequent to, receipt of the written final review required under subsection (d) of this section. A municipality may renotify the secretary of its intention to issue postemployment benefit plan deficit funding bonds and provide the secretary with updated information and documentation in the manner and as described in subdivision (1) of this subsection, and request an updated final review from the secretary if more than six months will elapse between the receipt of the prior final review of the secretary and the proposed date of issue of the postemployment benefit plan deficit funding bonds.

(d) Upon receipt of notification from a municipality that it intends to issue postemployment benefit plan deficit funding bonds, the secretary shall inform the Treasurer and the Municipal Finance Advisory Commission of such notification. The secretary and the Treasurer shall review the information and documentation required in subsection (c) of this section and within fifteen days shall notify the municipality as to the adequacy of the materials provided and whether any additional information is required. The secretary and the Treasurer shall issue a written final review to the municipality verifying that the municipality has complied with the provisions of subdivision (1) of subsection (c) of this section and including any recommendations to the municipality concerning the issuance of postemployment benefit plan deficit funding bonds not later than thirty days following the receipt of such information and documentation. The secretary shall file a copy of such final review with the chief executive officer of the municipality and the Municipal Finance Advisory Commission. If the secretary and the Treasurer fail to provide a written final review to the municipality by the forty-fifth day following the receipt of such information and documentation, such final review shall be deemed to have been received by the municipality.

(e) Except as otherwise provided by this section, the provisions and limitations of this chapter shall apply to any postemployment benefit plan deficit funding bonds issued pursuant to the provisions of this section. Such postemployment benefit plan deficit funding bonds shall be general obligations of the municipality and shall be serial bonds maturing in annual or semiannual installments of principal or shall be term bonds with mandatory annual or semiannual deposits of sinking fund payments into a sinking fund. Notwithstanding the provisions of any other general statute or of any special act, charter, special act charter, home-rule ordinance, local ordinance or local law, (1) the first installment of any series of postemployment benefit plan deficit funding bonds shall mature or the first sinking fund payment of any series of postemployment benefit plan deficit funding bonds shall be due not later than eighteen months from the date of the issue of such series, provided such first installment shall mature or such first sinking fund payment shall be due not later than the fiscal year of the municipality next following the fiscal year in which such series is issued, and the last installment of such series shall mature or the last sinking fund payment of such series shall be due not later than thirty years from such date of issue, (2) any such postemployment benefit plan deficit funding bonds may be sold at public sale on sealed proposal, by negotiation or by private placement in such manner, at such price or prices, at such time or times and on such terms or conditions as the municipality, or the officers or board of the municipality delegated the authority to issue such bonds, determines to be in the best interest of the municipality, and (3) no municipality shall issue temporary notes in anticipation of the receipt of the proceeds from the sale of its postemployment benefit plan deficit funding bonds.

(f) Proceeds of the postemployment benefit plan deficit funding bonds, to the extent not applied to the payment of costs related to the issuance thereof, shall be deposited in the postemployment health and life benefit plan of the municipality to fund the unfunded past benefit obligation for which the bonds were issued, and, notwithstanding any limitations on the investment of proceeds received from the sale of bonds, notes or other obligations set forth in section 7-400 of the general statutes, may be invested in accordance with the terms of said postemployment health and life benefit plan, as such terms may be amended from time to time.

(g) A municipality may authorize and issue refunding bonds to pay, fund or refund prior to maturity any of its postemployment benefit plan deficit funding bonds in accordance with the provisions of section 7-370c of the general statutes or, with respect to a regional school district, the provisions of section 10-60a of the general statutes, provided, notwithstanding the provisions of said sections 7-370c and 10-60a, the weighted average maturity of such refunding bonds shall not exceed the weighted average maturity of the outstanding postemployment benefit plan deficit funding bonds being paid, funded or refunded by such refunding bonds. The municipality shall notify the secretary, who shall in turn notify the Treasurer, of its intention to issue refunding bonds pursuant to this subsection, not less than fifteen days prior to the issuance thereof, and shall provide the secretary with a copy of the final official statement, if any, prepared for the refunding bonds, not more than fifteen days after the date of issue of such bonds.

(h) The secretary, in consultation with the Treasurer, is authorized to adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, as necessary to establish guidelines concerning compliance with the provisions of subsections (c), (d) and (g) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	New section
Sec. 2	*from passage*	New section

Statement of Legislative Commissioners:

In section 1(a), "postemployment benefit obligation deficit funding bonds" was changed to "postemployment benefit plan deficit funding bonds" for consistency; and in the first sentence of section 2(c), "Any municipality which has no outstanding postemployment benefit plan deficit funding bonds" was amended to read "Any municipality which has been selected by the Secretary of the Office of Policy and Management pursuant to section 1 of this act and has no outstanding postemployment deficit funding bonds" for clarity.

PD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect
One municipality	See Below

Explanation

The bill requires the Office of Policy and Management (OPM) to establish a postemployment benefit [1] deficit funding pilot program that selects one municipality to issue postemployment benefit plan deficit funding bonds one time. The one-time issuance of the bonds will help the municipality to manage its liability for these benefits, thereby having a potentially positive impact on its credit rating and municipal debt costs.

It is assumed that a financial analysis will be conducted by the municipality to determine the fiscal impact of issuing the bonds based on the interest rate at which they will be issued and the assumed rate of return on the investments made with the bond proceeds[2]. If the interest paid on the bonds is less than the rate of return on the investments, the transaction will result in a savings to the municipality. The potential risk to the municipality is that the interest paid on the bonds is more than the rate of return on the investments, which will result in an increased cost to the municipality.

[1] Postemployment benefits include retirement benefits other than pension plans, with the major obligations and liabilities being retiree health insurance benefits.

[2] The municipality will issue the postemployment benefit bonds and invest the bond proceeds in the financial markets to generate earnings needed to pay benefits to former employees.

There is no fiscal impact to the Office of Policy and Management to establish a pilot program for a single municipality and report findings.

Background

Currently, most governmental entities pay expenses for other postemployment benefits (OPEBs) on a "pay-as-you-go" basis. Under the new GASB regulations[3], the liabilities attributable to OPEB plans must be actuarially determined and reported on the financial statement of all public sector employers. It is anticipated that the unfunded OPEB plan liability will be sizable – with the actuarially recommended contribution (ARC) potentially being two to six times the annual "pay as-you-go" amount now being spent by municipalities on OPEB expenses.

Although GASB regulations do not require municipalities to fund the OPEB liabilities, the unfunded OPEB liability can be reduced or eliminated over time if the municipality makes the ARC. This payment represents the "normal" cost of the benefits provided and a past service payment that gradually funds the unfunded liability.

The credit rating agencies have indicated that the new GASB reporting requirements are unlikely to have an immediate impact on municipal credit ratings. However, the way towns manage OPEB liabilities may influence future ratings because it is likely that OPEB obligations will be evaluated in the same way that pension obligations are currently evaluated. Just as unfunded pension fund liabilities are considered in the rating process as equivalent to bonded debt of the town, unfunded OPEB liabilities are expected be viewed in a similar way. Historically, poorly funded pension plans have had a negative impact on the town's credit rating. The ratings agencies will likely consider the implications of not only the total OPEB unfunded liability,

[3] The Government Accounting Standards Board (GASB) is responsible for setting standards for those governments (including Connecticut municipalities) that follow generally accepted accounting principles. GASB's Statement 45 requires governmental entities to account for their OPEB plan liability within their financial

but also how the OPEB ARC is managed. For example, an increasing net OPEB obligation would be a negative rating factor, just as an increasing net pension obligation would be negative.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

statements in the manner similar to that currently required for pension plan liability. This requirement is being phased in between 2008 and 2010.

OLR Bill Analysis

sSB 337

AN ACT ESTABLISHING A MUNICIPAL POSTEMPLOYMENT BENEFIT PLAN DEFICIT FUNDING BONDS PILOT PROGRAM.

SUMMARY:

The Office of Legislative Research does not analyze Special Acts.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute
Yea 14 Nay 6 (03/22/2010)