
OLR Bill Analysis

sHB 5515

AN ACT ESTABLISHING THE MUNICIPAL EMPLOYEES RETIREMENT COMMISSION AND CONCERNING THE MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM.

SUMMARY

This bill creates the Municipal Employees Retirement Commission and, starting January 1, 2025, transfers responsibility for the municipal employees retirement system (MERS) and the Policemen and Firemen Survivors' Benefit Fund ("benefit fund") from the State Employees Retirement Commission (SERC) to the new commission. It also makes the new commission, rather than SERC, the state's agent for all matters related to the federal Social Security Old Age and Survivors Insurance System (i.e., "Social Security") and the municipalities covered by it.

Under the bill, the commission consists of 13 members: 11 appointed trustees and two ex-officio, nonvoting members (the state treasurer and comptroller). Eight of the appointed trustees represent either employer or employee interests. The governor must make most appointments, with advice and consent from different organizations, depending on the appointment.

Broadly, the bill gives the new commission powers and responsibilities over MERS and the benefit fund and imposes related requirements similar to those that currently apply to SERC. The bill also requires the comptroller and treasurer to provide support to the commission, MERS, and the benefit fund in ways similar to those required under current law.

It also allows a MERS retiree who returns to work for a municipality that does not participate in MERS to participate in and receive credit in that municipality's retirement system (§ 2). (Under current law, MERS retirees who return to work may participate in and receive credit in the

state employee retirement system, but not in that of a nonparticipating municipality.)

Separately, the bill requires the comptroller to create and administer a municipal defined contribution retirement plan (e.g., 401(k)), which any municipality may join.

Lastly, the bill makes technical and conforming changes, including repealing an obsolete study requirement (§§ 4-6 & 8).

EFFECTIVE DATE: July 1, 2024, except that the provisions on (1) MERS retirees participating in a nonparticipating municipality's retirement plan, the defined contribution plan, and the study repeal are effective upon passage and (2) conforming changes and Social Security are effective January 1, 2025.

MUNICIPAL EMPLOYEES RETIREMENT COMMISSION

Under the bill, the Municipal Employees Retirement Commission constitutes a successor commission to SERC for administering MERS and the benefit fund.

Relationship to Comptroller. The bill places the commission within the Retirement Services Division of the comptroller's office for administrative purposes only. It requires the comptroller's office to include in its budget, as a separate part, any budgetary request from the commission exactly as the commission submitted it.

The comptroller must serve as the commission's secretary and provide secretarial support to the commission. The Retirement Services Division must (1) perform record keeping, reporting, and related administrative and clerical functions for the commission, as the comptroller deems necessary; (2) distribute, for the commission, any required notices, rules, or orders that the commission adopts, amends, or repeals; and (3) provide staff in accordance with existing law (which generally allows the new commission to hire its own staff if the legislature provides or authorizes funds for it).

Membership

Under the bill, the commission consists of 13 members. The state comptroller and treasurer (or their designees) are non-voting, ex-officio members and the comptroller must preside at the commission's meetings. Of the remaining 11 appointed trustees, four must represent municipal employees, four must represent municipal employers, two must be experts with relevant experience, and one must be a neutral party. The neutral trustee serves as the commission's chairperson and votes only if there is a tie.

The bill establishes qualifications and names the appointing authority for each appointed trustee. Most trustees must be appointed by the governor, but he must get the advice and consent of different parties, depending on the trustee (the bill does not further specify how these parties, which are not governmental entities, must be selected or how they must provide advice and consent for an appointee). The table below shows detailed information for each appointed trustee.

Table: Appointed Trustees

<i>Trustee Type</i>	<i>Qualification</i>	<i>Appointing Authority</i>	<i>Advice and Consent</i>
Employee representatives	Municipal public safety employee who is a MERS member or an elected leader of a labor organization representing public safety employees	Governor	In-state federation of in-state labor organizations that represent private and public employees and workers in the building trades
	Municipal employee (non- public safety) who is a MERS member or an elected leader of a labor organization representing municipal employees	Governor	In-state federation of in-state labor organizations that represent private and public employees and workers in the building trades
	Municipal employee (non- public safety) who is a MERS member or an elected leader of a labor organization representing municipal employees	Governor	In-state federation of in-state labor organizations that represent private and public employees and workers in the building trades
	Retired MERS member	Governor	In-state federation of in-state labor organizations that

<i>Trustee Type</i>	<i>Qualification</i>	<i>Appointing Authority</i>	<i>Advice and Consent</i>
			represent private and public employees and workers in the building trades
Government employer representatives	Municipal employer representative	Governor	In-state organization representing small towns
	Municipal employer representative	Governor	In-state organization representing municipalities
	Municipal employer representative	Governor	In-state organization representing municipalities
	Housing authority representative	Governor	In-state organization representing housing and redevelopment officials
Experts	Two trustees with expertise and experience in financial management, actuarial science, or pension management	Comptroller	None
Neutral trustee/ chairperson	None specified	Governor	Trustees appointed to represent employees and government employers

Initial Appointment, Terms, and Vacancies. Initial appointments to the commission must be made by October 1, 2024. The bill sets the trustees' initial terms so that their expiration is staggered. The terms of two employer representatives, two employee representatives, and one expert end on September 30, 2026, and the remaining terms end on September 30, 2028. The appointing authority selects which trustees' terms expire on the earlier date.

After the initial terms expire, subsequent terms are four years. Appointing authorities must fill any vacancies, with those occurring within the term filled for the remainder of the term.

Fiduciary Responsibilities. The bill requires each trustee to act as a fiduciary for MERS and the benefit fund and the members of each. They must perform their duties exclusively (1) in the interest of members, beneficiaries, and contingent annuitants of MERS and the benefit fund and (2) to provide benefits to these individuals and defray reasonable administrative expenses.

Within 10 days after appointment, each trustee must take an oath of office that he or she will diligently and honestly administer MERS and the benefit fund and will not knowingly violate any applicable laws or allow them to be violated.

The bill requires the comptroller to establish an orientation program and fiduciary training for new trustees. Each trustee must complete the program and training within 30 days after their appointment and must annually complete continuing education hours, as the comptroller requires, in financial management, actuarial science, or pension management. The comptroller must publish the activities and courses he deems acceptable for meeting this requirement.

Compensation. Trustees are not paid for their service, but the bill requires them to be reimbursed for necessary expenses they incur when performing their duties within the limits of available funds.

Conducting Business. Under the bill, a majority of commission members constitutes a quorum to conduct business, exercise powers, or perform any duties the law authorizes or imposes. The commission must meet at least monthly, and report annually on its activities as the law requires for all budgeted agencies.

The bill allows the commission to hold hearings when it deems them necessary. Any hearings must be governed by rules and regulations the commission adopts, and the commission is not bound by technical rules of evidence.

Legal Counsel. The bill also allows the commission to hire a general counsel who serves at the commission's pleasure, has offices in the Retirement Services Division, and performs duties at the commission's direction. The commission may also get additional legal advice and assistance as it deems advisable.

ADMINISTRATION OF MERS AND THE BENEFIT FUND

Commission Responsibilities

The bill applies to the new commission various responsibilities and requirements that currently apply to SERC when administering MERS

and the benefit fund.

The bill gives the commission general supervision of MERS and the benefit fund and requires that it conduct its business according to existing laws on MERS and the benefit fund. The bill requires the commission to act (1) with the care, skill, prudence, and diligence that a prudent person would exercise under similar circumstances and (2) according to strict fiduciary standards and responsibilities, the general statutes, and applicable collective bargaining agreements.

The commission may, by resolution or regulation, allocate fiduciary responsibilities and administrative duties to commission committees or subcommittees. It may also delegate these responsibilities to the Retirement Services Division or to other individuals the commission deems appropriate and necessary, as long as the delegation is consistent with the bill's provisions.

The bill also allows the commission to adopt any regulations and rules it needs to administer MERS and the benefit fund and carry out related laws. The regulations and rules are binding on all parties dealing with the commission and anyone claiming benefits from MERS or the fund.

Information for Members

Under the bill, all municipal retirement plans, descriptions, and reports as well as all legal, financial, and actuarial documents dealing with the general operation of MERS and the benefit fund must be available for inspection and copying by members and their representatives. The members or representatives must pay for any copies, but the cost may not exceed 25 cents per page.

The commission must notify members about any substantial statutory amendment to MERS or the benefit fund within 210 days after it takes effect.

State Treasurer Asset Management

The bill specifies that MERS and benefit fund assets must be held in trust by the state treasurer, who must act as a fiduciary for both. The

treasurer must manage and control the assets unless the commission or a municipal retirement plan expressly requires otherwise. The treasurer must perform his duties exclusively in the interest of, and to provide benefits to, members, beneficiaries, and contingent annuitants of MERS and the benefit fund. He must diversify the investments of MERS and the benefit fund to minimize the risk of large losses unless it is clearly not prudent to do so under the circumstances.

Under existing law, unchanged by the bill, the MERS pension funds and the Policemen and Firemen Survivors' Benefit Fund are designated as state trust funds and the treasurer must invest their assets under the law's requirements for state trust funds regardless of any other provision in state statutes (CGS § 3-13c).

Annual Fiscal Transaction Report. The bill establishes an annual reporting requirement for the treasurer similar to the report he must currently provide for SERC. Starting by December 31, 2025, the treasurer must annually publish and forward to the new commission a consolidated report on the fiscal transactions of MERS and the benefit fund for the prior fiscal year. It must include (1) gain or loss by security category, (2) a reconciliation of assets showing the progression of funds in MERS and the fund from one year to the next, (3) the amount of securities and accumulated cash in MERS and the benefit fund, and (4) the last balance sheet showing the financial condition of MERS and the benefit fund through an actuarial valuation of their assets and liabilities. Assets must be shown at book and market value by type or term of investment. The treasurer may satisfy this reporting requirement by completing IRS forms on investment income and expenses (i.e., IRS Form 5500) and submitting them to the commission, as long as the information is sufficient to calculate MERS and benefit fund investment yields on an annual basis.

SOCIAL SECURITY

By law, municipal employees are only covered by Social Security if their employing municipality has chosen to participate in the system, and state law explicitly excludes some types of municipal employees (e.g., teachers) from participating (see BACKGROUND).

The bill makes the new commission, rather than SERC, the state's agent authorized to act in all matters related to Social Security and the municipal employees covered by it. In doing so, it makes the new commission, rather than SERC, responsible for doing the following, among other things:

1. approving a municipality's application for membership in the Social Security system,
2. making regulations on the procedure for municipalities to enter and maintain membership in the system, and
3. supervising certain municipal referendums to determine which municipal positions will participate in the system.

DEFINED CONTRIBUTION PLAN

On or after July 1, 2025, the bill requires the state comptroller to create a municipal defined contribution retirement plan and set how municipalities may adopt the plan. The new plan must allow municipalities that previously adopted a defined contribution plan to transfer their accounts and assets to the new plan.

The comptroller must serve as the new plan's administrator and may (1) enter into contracts, on the state's behalf, with plan members to defer any portion of their compensation from the adopting municipality; (2) make deposits or payments to the plan, subject to its terms; and (3) contract with a private corporation or institution to provide billing and other administrative services to the plan. Municipal employers must deduct the required contributions for their employees who are members of the new plan.

BACKGROUND

Social Security and Municipal Employees

When Congress passed the Social Security Act in 1935, it excluded federal, state, and local government employees from mandatory coverage (42 U.S.C. Ch. 7). The exclusion for state and local public employees was based on constitutional concerns about whether the federal government could impose taxes on state governments. In the

early 1950s, Congress amended the law to allow state and local government employees to receive coverage if they voluntarily chose it in a referendum, and state law correspondingly lays out a process for this to occur (CGS §§ 7-452 to 7-459).

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 51 Nay 0 (04/03/2024)