

Local Mandate Fiscal Impact Estimate
Kentucky Legislative Research Commission
2017 Regular Session

Part I: Measure Information

Bill Request #: 264

Bill #: SB 104 SCS 1

Bill Subject/Title: An ACT relating to prospective retirement benefits and declaring an emergency.

Sponsor: Sen. Christian McDaniel

Unit of Government: City County Urban-County
Unified Local
 Charter County Consolidated Local Government

Office(s) Impacted: All offices and personnel of local governments

Requirement: Mandatory Optional

Effect on

Powers & Duties: Modifies Existing Adds New Eliminates Existing

Part II: Purpose and Mechanics

SB 104 SCS 1 retains the original provisions of the bill except that the review of creditable compensation growth is to be for the last five years of employment rather than the last three in a Legislators Retirement Plan, and to not exempt the year of retirement from the creditable compensation limits for KERS, CERS, or SPRS.

SB 104 SCS 1 addresses pension “spiking” within the Legislators’ Retirement Plan, Judicial Retirement Plan, Kentucky Employees Retirement Plan, County Employees Retirement System, and State Police Retirement System. It is similar to SB 157 of the 2015 Session of the General Assembly, which did not pass.

While the bill relates to other state-administered retirement systems, in regards to a local government impact, SB 104 SCS 1 amends KRS 61.598 to provide that members of the County Employees Retirement System who retire on or after January 1, 2018 will be limited to a 10% growth in the creditable compensation earned during their last five years of employment if that compensation is used to calculate their retirement benefits, and provides that only creditable compensation earned on or after July 1, 2017 will be subject to the creditable compensation growth limitations. It exempts bona fide promotions or salary advancements, alternative sick

leave payments, and lump-sum payments for compensatory time from the compensation growth limitation, and exempts from the compensation growth limitation those years of compensation where, in the immediately preceding fiscal year: The member earned less than 12 months of service credit during the fiscal year; was paid worker's compensation benefits; was on leave without pay for any reason; earned increases directly attributable to overtime hours worked under a federal grant, grant pass-through, or similar program; or earned increases directly attributable to overtime performed during a state of emergency.

SB 104 SCS 1 provides that the Kentucky Retirement Systems will refund employee contributions and interest on contributions for any reductions in creditable compensation provided by this section. The bill provides that the Kentucky Retirement Systems shall determine what constitutes a bona fide promotion or salary advancement and allows the member to appeal a decision of the system to the board. **The bill removes provisions charging employers for creditable compensation growth greater than 10% during the employee's last five years of employment.**

SB 104 SCS 1 creates a new section of KRS 61.510 to 61.705 to permit a member of the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System to opt out of the traditional defined benefit plan and elect to participate in the hybrid cash balance plan. The bill provides that, on the member's effective election date, the value of the member's accumulated contributions, less any interest, shall be deposited into the member's hybrid cash balance account and be considered part of the member's accumulated account balance. It provides that on the member's effective election date, an employer pay credit shall be applied to the member's accumulated account balance for each contributing month prior to the effective election date. SB 104 SCS 1 requires the Kentucky Retirement Systems to provide the electing member with information detailing the consequences of the member's election and provides that a member shall not be eligible to make an election until a private letter ruling by the IRS is received. Benefit election is irrevocable. SB 104 declares an emergency.

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

SB 104 SCS 1 makes no change to the fiscal impact of SB 104 and the fiscal impact on local governments is indeterminate and minimal.

SB 104 SCS 1 will result in a minimal positive fiscal impact due to the elimination of “pension spiking payments” to retirement systems. That is, the bill removes KRS provisions charging employers for creditable compensation growth greater than 10% during the employee's last 5 years of employment. As identified in Part II, the bill also provides for, and clarifies, exemptions to the 10% restriction (e.g., for “bona fide promotion and career advancement” and several other exemptions).

The above cost savings may be somewhat offset by a related provision providing that the retirement systems will not refund the employer contributions paid (for non-creditable compensation) but rather utilize those funds to pay down the unfunded liability of the fund to which the employee participated. There will be some time and effort expended developing

required support documentation related to application for, an exemption from, the 10% restriction provided for in the bill.

Data Source(s): Kentucky Association of Counties; Kentucky League of Cities; Kentucky Retirement Systems

Preparer: H. Marks **Reviewer:** _____ **Date:** _____