

LOUISIANA FIREFIGHTERS' RETIREMENT SYSTEM HR 136
COMMITTEE REPORT AND RECOMMENDATIONS FOR COST-OF-
LIVING ADJUSTMENTS FOR RETIRED FIREFIGHTERS AND
BENEFICIARIES

Preliminary Statement and Authority for the Committee

On May 26, 2022, House Resolution 136 was adopted creating a committee composed of designated officials and stakeholder representatives, as well as members of the Board of Trustees of the Firefighters' Retirement System (FRS) to study alternative means of providing a cost-of-living adjustment (COLA) to FRS retirees.

In the House Resolution, the Legislature noted that since a 2.21% increase in January 2015, there have been no cost-of-living increases to retirees. Since that time, the House Resolution concluded that inflation has eroded the purchasing power of the retirement benefits, particularly the most elderly and economically vulnerable. At the same, the Social Security benefits, which most Louisiana firefighters do not receive, have increased on several occasions, keeping pace with increases in the cost of living.

The Resolution charges the Committee with studying various forms of cost-of-living benefits and recommending to the Legislature alternatives to the current statutory COLA provision which is dependent on "excess" investment earnings.

The Study Performed by the Committee

As directed by the resolution the Committee convened its initial meeting on _____, 2022. At that time, the Committee appoint the FRS fiduciary counsel to assist the Committee. The Committee also directed its actuary Greg Curran of Curran Actuarial to provide specific examples of COLA formats.

The Current COLA

The current COLA is found in R.S. 11:2260 (A)(7) payable at the discretion of the Board of Trustees based on interest earnings "in excess of normal requirement" as determined by the actuary. This has proven an unsatisfactory arrangement given the continued existence of the frozen unfunded accrual actuarial liability. This has placed the Board of Trustees, as fiduciaries of the FRS in the untenable position of adding cost to the System for the relief of retirees when prudence dictated use of

investment gain to strengthen the funded status of the System and stabilize employer contribution rates. As a result, HR 136 was commissioned to study an alternative approach to offsetting inflationary effects on retiree benefits.

Options Reviewed by the Committee

In the course of its review, the Committee looked at the following:

1. Ad Hoc COLA - a flat dollar payment of a fixed amount. This is likely to place money in the hands of retirees most quickly. The question considered by the Committee is whether this would apply to all retirees or only those who have been retired for a set number of years. Additionally, consideration was given to whether this should be confined to those retirees who are below the "Poverty Level" as determined by the U.S. Department of Labor, Bureau of Labor Statistics for Louisiana. Of the current retirees, 77 service retirees are below the poverty level of \$18,310; 51 disabled retirees are below the poverty level; and 199 survivors are below the poverty level. A one-time, non-recurring cash payment of \$2000 to these 327 individuals would be \$654,000. With appropriate legislative authority, the Committee believes that the cost of this benefit would not prove an actuarially material cost to the various participating employers. Given the limited dollar amount and its application to the most financially vulnerable beneficiaries, it may be an appropriate matter for a specific legislative grant. If the payment is expanded beyond the poverty level class, however, the cost could increase substantially.

However this fixed rate payment is ultimately determined, the Committee concluded that this is not a long-term solution to the absence of a reliable COLA.

2. Fixed rate COLA - A fixed rate, recurring COLA has a significant actuarial cost. The Committee members observed that many of the contributing employers in FRS are currently struggling to make their actuarially required contributions. The cost can be ameliorated by placing limits on the portion of the benefit which would be the base for a COLA calculation. For example, a COLA could be limited to a maximum dollar amount of the base benefit; could require a material elimination period (period of years after retirement); or could be based on attainment of minimum age, such as age 65. The Curran study outlined several of these options and their respective costs. That study is attached to and

incorporated in this report.

The issue was raised about employees increasing their contributions as a means of partially funding a COLA. While the Committee believed that was a matter worthy of further discussion, it was clear that an increase in employee contributions would not address the needs of current retirees. A dedicated contribution stream from current employees could provide a COLA basis in the future for those individuals. Using an increase in contributions of current employee to fund COLA benefits of current retirees, however, was seen as placing the burden of funding a benefit for former employees unfairly on the current workforce.

3. Performance based COLAs. The Committee considered and rejected the concept of a COLA based on “excess” investment performance. In any plan with an unfunded, accrued actuarial liability, there is no such thing as excess earnings. The Committee discussed and concluded that basing a COLA on a portion of investment gain effectively deprived the Fund as a whole of needed asset growth.
4. Funding Deposit Account. The Committee looked at two variations of a funding deposit account concept. The first is the recently adopted provision for the Municipal Police Employees Retirement System (MPERS) in Act 360 enacted in 2022. Under this construct, a portion of the employer contribution in excess of that required in R.S. 11:103 would be set aside in a funding deposit account for the sole purpose of providing a future COLA. The Committee also looked at a similar arrangement employer by the Sheriffs Pension and Relief Fund in R.S. 11: 2175.1. The primary difference in the two is that in the former, the money is specifically dedicated to COLA and in the latter, the Board of Trustees may determine to use a portion of the account to stabilize employer contributions. The Committee recommends that the MPERS model be adopted for the FRS.

The text of the options reviewed by the Committee are attached as Appendix One to this report. The actuarial analysis is attached as Appendix Two.

Funding of the Benefit

All benefits are the actuarial responsibility of the plan sponsors, the employer agencies participating in FRS. See, *Louisiana Municipal*

Association v. State, No. 2004-CA-0227, 893 So.2d 809 (2005). Several city representatives addressed the Committee concerning their inability to pay more than the current employer contribution.

Representatives of the LMA and some cities reiterated that an increase in employee contributions would be appropriate to help pre-fund a COLA. The Committee considered that while that may provide a source of future funding for current employees, using current employee contributions to pay benefits to retirees would face significant legal issues including the concept of a taking without just compensation. In addition, use of current employees' contributions for former employees could be viewed as a donation in violation of Article VII, Section 14 of the Constitution. See, *McElveen v. Callhan*, No. 4881, 309 So.2d 379 (La. App. 3 Cir. 1975)(bonus payments to be legal must be in the form of salary increases in the future and not extra compensation for past services).

It is not the charge of the Committee to determine whether a COLA should be paid for by the employing agencies, the plan participants, the State, or some combination of the three. Even a one-time, fixed rate payment to a limited group of poverty level retirees needs a funding source.

A Two-Tiered Approach

There is current a frozen unfunded liability which will be fully amortized in _____. This will result in a reduction the employer contribution of _____% of payroll. Until that time, the Committee recommends that any COLA pay be limited to a lump sum payment applicable only to the lowest earning members of FRS (one caveat to this approach is that some retirees did not work a full career and as a result, have a lower annual benefit). The lump sum benefit should be limited to participants who retired on an unreduced normal service retirement or a service-connected disability retirement and the surviving spouse of each.

Following the elimination of the frozen accrued unfunded liability, a material employer contribution can be dedicated to establishing a COLA. A question will remain as to the ability to apply that benefit retroactively. However, to assure this second tier of the approach, a funding deposit account should be adopted with a restriction on its use until the frozen unfunded accrued liability is fully amortized.

Recommendation

The Committee recommends that one-time, lump sum bonus for all normal service and disability retirees, at or below the poverty level, in the amount of \$2000 be authorized for the next ensuing fiscal year. The cost

will be added to the annual employer contribution as determined by the FRS actuary. It is further recommended that the MPERS funding deposit account be adopted for FRS beginning in fiscal year 2023-2024 with payment restricted until such time as the frozen unfunded accrued actuarial liability is exhausted.

The Committee found that a spirited discussion among the interested parties contributed substantially to this process and thanks those who participated for their invaluable input. The Committee encourages continued dialogue among stakeholders (employers, active members, and retirees) to develop a permanent solution to the COLA question.

