SUBJECT: Eliminating state payment of state employee social security

COMMITTEE: State Affairs — favorable, without amendments

VOTE: 8 ayes — Black, Carter, Craddick, Hilbert, B. Hunter, D. Jones, McCall, Ramsay

3 nays — Seidlits, Bosse, Hochberg

1 present, not voting — S. Turner

3 absent — Alvarado, Danburg, Wolens

SENATE VOTE: On final passage — February 1 — voice vote (Barrientos, Gallegos, Rosson, Truan, Whitmire recorded nay)

WITNESSES: For — None

Against — Shirley Goldsmith, Texas Faculty Association; Dally Willis, Communications Workers of America

On — Rayford Walker, Texas Public Employees Association; Ken Welsh, Comptroller's Office

BACKGROUND: Employers and employees each are required to contribute 7.65 percent of a portion of the employee's salary to the federal Social Security system. Since 1978, in addition to the employer contribution, the state has paid in social security taxes for each state employee 5.85 percent of the first $16,500 in taxable wages, a maximum of $965.25 per year per employee.

HB 1 by Junell, the proposed general appropriations act for fiscal 1996-1997, would allocate $411.5 million for the state-paid portion of state employees' social security tax payments.

DIGEST: SB 102 would, beginning September 1, 1995, eliminate the state requirement to pay part of the employee portion of federal social security taxes. In lieu of social security payment, the state would be required to pay employees and state-paid judges on the state payroll on August 31, 1995, supplemental pay equal to the lost social security payment as well as increased retirement contributions resulting from the pay increase. The bill would require all state employees, including judges paid by the state, to pay social security tax on the total amount of their wages as a condition of state employment.

The bill would cancel the state-paid portion of social security tax payments to state employees and judges between January 1, 1996 and August 31, 1997. The state employer matching contribution would not be affected.

SB 102 would become law only if the fiscal 1996-97 general appropriations bill appropriated an amount equal to 5.85 percent of the first $16,500 of state employee and state-paid judges wages, plus any additional contributions to be paid to the state retirement systems as a result of the higher base salaries resulting from January 1, 1996, through August 31, 1997. A general salary increase that did not include appropriations specifically to compensate state employees and state-paid judges for loss of state-paid social security would not satisfy the provisions of SB 102. Before January 1, 1996, the comptroller would be required to determine if the above appropriations was enacted to publish that finding in the *Texas Register*. This section would take effect September 1, 1995.

State employees and state-paid judges who leave state employment after September 1, 1995, but return to state employment within two years would be entitled to receive the supplemental pay increase and increased retirement contributions resulting from the pay increase.

The bill would repeal the Sec. 606.065, Government Code, relating to state payment of judges social security taxes.

SUPPORTERS SAY:

SB 102 would free state revenue by eliminating an unnecessary and expensive provision that requires the state to pay part of the state employee social security contribution. The state is in dire need of additional revenue, and eliminating the state-paid portion of the state employees and judges social security taxes for employees hired after August 31, 1995, would save the state $26.3 million in fiscal 1996-1997. The savings would continue to increase as old employees leave or retire and are replaced by new employees. The fiscal note indicates the state could save a total of $232 million over next five years. Employees and judges on the state payroll as of August 31 would be given supplemental salary payments to offset any loss as a result of SB 102. The bill would ensure that current state employees salaries are not reduced to help balance the state budget.

The original purpose for the state-paid portion of social security taxes was to give state employee a raise without increasing the state's social security payments based on the increased wages. However, the anticipated savings never materialized because the IRS ruled that the state social security payments were taxable wages. Nevertheless, the state has continued to pay part of the social security taxes on employees salary and the state-paid portion of social security.
SB 102 would eliminate the social security payment and give current state employees a supplemental pay increase to offset payment. The bill would increase the base salary of state-employees on the payroll on August 31, 1995, by about $1,000 a year and as a result would subsequently increase retirement benefits.

While this change would raise the wage base for determining future retirement benefits, any cost would be more than offset by the lower costs from not paying the social security payment for state employees hired beginning September 1, 1995.

OPPONENTS SAY:

This bill in effect would cut the salaries of future state employees by almost a $1,000 a year. It would create a two-tier state employee pay scale: those employed before September 1, 1995, and those employed on or after that date. The state-paid portion of employees social security taxes was originally meant to be a salary increase, yet newly hired employees would start at a lower base.

Current state employee have no guarantee that the Legislature would continue to fund the supplemental increase to offset the $1,000 a year loss in pay beginning January 1, 1996, because one legislature cannot bind another.

The proposed fiscal 1996-1997 general appropriations bill includes no provision for a salary increase for state employees. State employees have not received a pay increase in three years. To compound this inequity, SB 102 would eliminate a substantial state salary benefit.

OTHER OPPONENTS SAY:

This bill would effectively increase current state employees' salaries beginning January 1, 1996, by a $1,000 a year and thereby increase their salary base for retirement benefits. This would be unfair to employees who retire before January 1996.

NOTES:

The 73rd Legislature enacted a similar bill, HB 1873 by Mowery and Craddick, which was vetoed by Gov. Ann Richards, who said converting state-paid social security into a salary supplement only for current state employees would eventually cause a problem in the state salary and classification system by creating two classes of employees, with one paid more than the other for the same work.