HOUSE RESEARCH ORGANIZATION bill analysis | 5/15/95 | SB 1231 Armbrister (CSSB 1231 by Telford)

SUBJECT: Employee Retirement System revisions and benefit increases

COMMITTEE: Pensions and Investments — committee substitute recommended

VOTE: 7 ayes — Telford, Johnson, Averitt, Berlanga, Haggerty, McCall, Rangel

0 nays

2 absent — Willis, Wilson

SENATE VOTE: On final passage, April 27 — voice vote

WITNESSES: (*On SB 1231 or companion bill, HB 2364*:

For — Billy D. Ivey, Department of Public Safety Officers Association; Lane Zively, Texas Public Employees Association

Against — None

On — Charles D. Travis, Employees Retirement System

BACKGROUND: The Employees Retirement System (ERS) has more than 150,000 active members, about 30,000 retirees and assets with a market value of about $10.6 billion. Established by constitutional amendment in 1947, ERS provides retirement, death and disability benefits to state employees and elected officials. It administers the Texas Employees Uniform Group Insurance Program, which provides life accident and health benefits for state employees, elected officials, judges and retirees, the two judicial retirement programs (JRS I and JRS II) and the supplemental retirement program for state law enforcement and custodial officers (LECOSFR).

DIGEST: CSSB 1231 would increase retirement and death benefits by 12.5 percent for members of the ERS who retire or survivors of members who die before September 1, 1995. The increase would not apply to persons who retired under the retirement incentive program that increased the multiplier for those who retired during the current biennium from 2 percent to 2.25 percent. The 12.5 percent increase would be made the first month after the ERS actuary certifies that the increase would not affect the actuarial soundness of the system or increase the amortization period beyond 31 years.

The bill would allow the ERS board of trustees to increase retirement and death benefits by not more than 12.5 percent to members who retire or die between September 1, 1995, and August 31, 1996. The board could not make this decision until September 1, 1996, and the decision would be contingent upon the ERS actuary certifying that the increase would not violate the 31 year funding limit.

The bill would also require the ERS board of trustees to provide all ERS retirees or their survivors with one supplemental payment (13th check) in fiscal year 1997. It would allow the ERS board to continue to make a 13th check payment to retirees and survivors in future years so long as it did not violate the 31 year funding limit. The 13th check payment would equal 10 percent of one month's annuity times the number of years the person had been retired prior to 1997 and could not exceed 350 percent of a monthly annuity.

The bill would make a number of other changes including:

• making a number of adjustments to the program enacted in 1993 to transfer credit between ERS and TRS for members with service in both retirement systems;

• allowing members of ERS to use accumulated unused sick leave to satisfy length-of-service requirements to retire (Current law allows accumulated sick leave to be used for service credit in ERS);

• allowing ERS to make rules to comply with the federal laws affecting crediting of military service;

• allowing employees of the Texas Cooperative Inspection Program in the Texas Department of Agriculture to purchase credit in ERS by January 1, 1996, for service performed for the Department of Agriculture as an employee of the Federal State Inspection Service of Texas;

• including state jail custodial officers as employees eligible to receive LECOSRF benefits and requiring the state auditor to review the Department of Criminal Justice standards for determining eligibility for LECOSRF service credit every two years (This provision would take effect September 1, 1996);

• changing the method of computing LECOSRF annuities from the current method (a graduated scale on which service diminishes in value after 20 years service) to the three highest years average salary multiplied by 2.5 percent, with a cap 100 percent of the average of the three years highest salary;

• repealing the requirement that the LECOSRF appropriation come from the general revenue fund;

• allowing peace officers who retire with total disability under the federal social security law to receive an occupational disability retirement annuity equal to 100 percent of their salary at the time of retirement;

• invalidating a former spouse's eligibility to receive death benefits unless the beneficiary selection was made after the divorce date and including other technical changes regarding death benefits beneficiaries;

• requiring that once a year the ERS board of trustees select an independent financial auditor based on a competitive bid and to allow the state auditor to be bid on the audit;

• allowing a member of ERS who is an appointed officer of the 74th House of Representatives with at least 28 years of service and an ERS member with at least 18 years of service who has served as the executive head of a legislative agency to receive the retirement benefits of elected officials if they inform the ERS in writing of the selection by January 1, 1996;

• requiring judges who retire under JRS I and resume service, except those appointed or assigned, to be prohibited from rejoining or receiving credit in JRS I for the resumed service and requiring JRS I to suspend annuity payments to such judges until they no longer hold office or apply to JRS I to resume annuity payments, including judges who retired and resumed service prior to August 28, 1995;

• making a number of technical changes to the Texas Employees Uniform Group Insurance Benefit Act (UGIP) including exempting UGIP from other insurance laws unless it expressly applies to UGIP; and

• no longer requiring banks or savings and loans institutions to collateralize 457K deferred compensation accounts as state funds.

The bill would take effect August 28, 1995, except the provision requiring the auditor to examine certain staff designations by the Department of Criminal Justice, which would take effect on September 1, 1995.

SUPPORTERS SAY:

ERS retirees do not receive automatic cost-of-living benefit increases to allow for inflation. The benefit increases provided by CSSB 1231 would increase retirement benefits for retirees without jeopardizing the actuarial soundness of the system. The last time ERS retirees received a cost-of-living increase was in 1991. The increases would provide benefit equity for all members of the system because the 12.5 percent increase would not apply to those who retire under the incentive retirement program and receive a 0.25 percent increase. This benefit would bring parity to the multiplier used to calculate benefits.

The 13th check would apply to all retirees, but would not obligate the ERS further. The ERS is currently overfunded by $619.4 million, and this ad hoc increase would cost about $24.7 million. Authorizing benefits is a responsibility of the Legislature, especially when there is money to spare.

Changing the method of computing LECOSRF annuities from a graduated scale, where service diminishes in value after 20 years service, to a straight 2.5 multiplier would make the retirement plan easier to administer and make the benefits more equitable. It would reduce the overfunded actuarial accrued liability by $87.6 million and not jeopardize the actuarial soundness of the system.

No longer allowing an ex-spouse to receive death benefits unless the beneficiary selection was made after the divorce date would make ERS laws on this matter consistent with provisions of the Insurance Code.

Suspending payments to judges in JRS I who retire and resume working as a judge, except as a visiting judge, would fill a gap in the JRS-I law and make JRS-I conform to provisions in JRS-II and the retirement law for state elected officials. The bill would allow suspension of annuity payments to apply to retirees who retired before August 28, 1995, to suspend the annuity payments of a judge in El Paso who retired and is receiving both a judge's salary and retirement benefits because of the loophole in the law.

Allowing certain high-ranking legislative staffers to retire in the elected-class is a time-honored tradition in the Legislature. These staff members are invaluable and hard working and should be rewarded for their efforts when they retire.

Repealing the requirement that LECOSRF retirement payments be paid only from the general revenue fund and thereby allowing the appropriation to the retirement fund to be proportioned from the funds paying salary is the accepted method of allocating retirement costs to funds and is more equitable.

Allowing ERS retirees to use unused accumulated sick leave to satisfy service requirements for retirement would allow state employees to retire earlier and save the state money.

Allowing ERS trustees to use a competitive bidding process to select an annual financial auditor, instead of requiring the audit be performed by the state auditor, would give the board more flexibility in choosing an auditor and assure that the cost for the audit would be competitive.

OPPONENTS SAY:

The ERS benefit increases proposed in CSSB 1231 would reduce the ERS overfunded actuarial accrued liability and could affect the actuarial soundness of the system if the proposed state contribution rate of 6 percent is reduced permanently. The ERS benefit increases proposed in this bill would reduce the ERS overfunded actuarial accrued liability by $351.4

million, from $619.4 million to $268 million. The ERS actuary certifies that these changes would allow the ERS to remain actuarially sound only if the contribution rate is increased to 12.250 percent. If the state contribution rate, which is set at six percent in HB 1 (the fiscal 1996-97 appropriations bill), is permanently reduced to 6 percent the total contribution (six percent state and six percent employee) would be insufficient in the long term because it is less than the normal cost, which is the current cost as a percentage of payroll that is necessary to pre-fund pension benefits adequately during the course of an employee's career.

The additional cost to the LECOSRF from reconfiguring the method of computing LECOSRF annuities would reduce the overfunded actuarial accrued liability by $92 million, from $246.6 million to $154.6 million. The ERS actuary certifies that these changes could affect the actuarial soundness of the system in the long term if the state contribution rate were to remain at 2.13 percent.

It is unfair to include special provisions in the law for certain legislative staffers to retire as elected officials. The generous retirement benefits given to elected officials is to repay them for the responsibility of being state leaders, and in the case of the Legislature, for receiving minimal compensation while in office. Although there is a tradition of rewarding certain legislative employees for their long and difficult service to the state by giving them generous retirement benefits, the Legislature should instead provide legislative employees with adequate compensation for their service prior to retirement.

NOTES:

The Senate-passed version would have allowed elected officials who were not in office on May 1, 1995, and who had seven years of elected-class service credit to receive retirement benefits under the elected-class. It would have allowed participants in the Optional Retirement Program to be eligible for membership in the Teacher Retirement System if they become employed in the public school system or with a state agency. It would have permitted elected officials who had previously retired to designate a beneficiary without their spouse's consent.

The committee substitute added the provision for the allowing ERS members who retire in fiscal 1996 to receive benefits calculated on a 2.25 percent multiplier if approved by the ERS board in fiscal 1997. It changed the effective date of the bill from September 1, 1995, to August 29, 1995, with one exception.