HOUSE RESEARCH ORGANIZATION bill analysis — 5/26/2003

SB 1370
Duncan (Delisi)
(CSSB 1370 by Wohlgemuth)

SUBJECT:	Benefit plans provided to certain governmental employees and retirees
COMMITTEE:	State Health Care Expenditures, Select — committee substitute recommended
VOTE:	6 ayes — Delisi, Berman, Crownover, Harper-Brown, Miller, Wohlgemuth 2 nays — Gutierrez, Uresti 3 absent — Capelo, Deshotel, Truitt
SENATE VOTE:	On final passage, May 15 — voice vote (Barrientos, Hinojosa, Lucio, Shapleigh, Van de Putte, West, Whitmire recorded nay)
WITNESSES:	For — Trish Conradt, Texas Retired Teachers Association Against — Eric Hartman, Texas Federation of Teachers; Lonnie Hollingsworth, Jr., Texas Classroom Teachers Association; Jack Kelly, Texas State Teachers Association; Caroline O'Connor, Texas State Employees Union; David Pore, Association of Texas Professional Educators (ATPE); Charles Zucker, Texas Faculty Association; and 18 private citizens On — Andrew Homer, Texas Public Employees Association; Ronnie Jung, Teacher Retirement System; William S. Nail, Employees Retirement System; James Willmann, Texas Nurses Association
BACKGROUND:	The state Employees Retirement System (ERS), established by constitutional amendment in 1947, provides retirement, death, and disability benefits to state employees, including employees of some higher education institutions and the judiciary. It administers the Texas Employees Uniform Group Insurance Program (UGIP), which offers life, accident, and health benefits. Generally, each full-time state employee and annuitant is covered automatically by the basic coverage plan unless coverage specifically is waived or unless the employee or annuitant is expelled for fraud. Automatic coverage begins on the date an employee or annuitant becomes eligible for coverage. The 72nd Legislature in 1991 mandated the consolidation of higher education insurance programs in the UGIP beginning on September 1, 1992, but the

University of Texas System and the Texas A&M University System were exempted. Eleven four-year public university systems representing 25 separate universities and health science centers and 48 public community/junior colleges began participation in UGIP at that time. ERS has more than 152,000 active members and about 42,000 retirees.

The 65th Legislature in 1977 enacted the Uniform Insurance Benefits Act for Employees of the University of Texas System and the Texas A&M University System. Among its stated purposes is to provide uniformity in the basic group life, accident, and health benefit coverages for all system employees.

Texas lawmakers created TRS-Care, administered by the Teacher Retirement System (TRS), in 1985 to provide health insurance coverage for public school retirees. TRS-Care now covers about 148,000 people, including public school and higher education retirees, surviving spouses and children, and dependent spouses. The plan is funded by active-employee payroll deductions of one-quarter of one percent of salary, matched by a state contribution of one-half of one percent. Other revenue sources include retiree premiums, copayments and deductibles, and investment earnings.

In 2001, the 77th Legislature enacted HB 3343 by Sadler, creating a state-administered health insurance program for teachers and other public school employees in districts with 500 or fewer employees. Beginning with the 2003-04 school year, all districts will be eligible to join. Lawmakers directed TRS to manage the new health plan, in part because of the agency's 17-year history managing TRS-Care. TRS-ActiveCare now covers about 112,500 employees, about 20 percent of all public education employees in Texas and about 25 percent of those with group health coverage. Counting dependents, the plan covers about 182,800 people.

DIGEST:

TRS-ActiveCare. A member of the professional staff of a school district, charter school, or service center would not be eligible to receive state funds for active employee health coverage or compensation supplementation. An employee would not be eligible to receive a state contribution until the 90th day after employment. The state would pay its contribution for active employee health coverage or supplemental compensation for August 2005 not earlier than September 1, 2005, delaying pass-through payments for an entire biennium.

Effective September 1, 2003, the comptroller would transfer $42 million from TRS-ActiveCare to TRS-Care to compensate for money it transferred for the start-up Texas school employees uniform group coverage.

Texas Employees Group Benefits Act. The bill would define a "full-time employee" to mean an employee working 40 or more hours a week, not 20 hours or more as in current law. Under the bill, "part-time employee" would mean an employee designated to work less than 40 hours a week, not less than the current 20 hours.

Initial eligibility. Eligibility for group health insurance would begin on the first day of the calendar month that occurred after the 90th day a new employee performed service or began to hold elected or appointed office. Eligibility for an individual who did not retire at the end of the last month for which the person was on the state payroll would begin on the first day of the calendar month that began after the 90th day after the individual's retirement date. These waiting periods would apply only to the determination of initial eligibility to participate in the group benefits program and would not apply to initial eligibility to participate in optional and voluntary insurance coverages under the group benefit program. Regarding an employee of an institution of higher education or the employee's dependent, eligibility could not begin earlier than the first day that an employee performed services for the institution. If any amount paid for premium incurred before the first day of the calendar month after the 90-day waiting period, it would be paid from money not appropriated from the general revenue fund, in accordance with policies established by the governing body of the institution of higher education.

An individual who had at least a number of years, rather than three years in current law, of service credit for which the individual was eligible to participate in the UGIP or who had at least five years of membership and five years of military service credited in ERS, would be eligible to participate as an annuitant in the UGIP.

The bill would modify current law to establish criteria that an individual's participation in the UGIP would require being at least 65 years of age, or that the individual's age plus service credit, including months, equaled or exceeded the number 80. This would vary from current statutory provisions that permit retirees at age 60 with a minimum of five years of service to have UGIP benefits.

Further, the bill would allow UGIP benefits for individuals who retired under the jurisdiction of TRS and had at least 10 years of military service credited in ERS, or had five years of eligible service credit and was the sole surviving spouse of military personnel who was killed in action. A person eligible to participate in the UGIP as an annuitant on September 1, 2003, could continue to participate in the program as an annuitant if a lapse in coverage had not occurred.

The bill would apply eligibility standards of 65 years of age and at least 10 years of service for members of the Texas Municipal Retirement System and the Texas County and District Retirement System.

Members and their dependents who began employment or became an officer of the Texas Turnpike Authority on August 31, 1997, or the preceding three-year period, could participate if that member was at least 65 years of age and was eligible to retire with at least 10 years of service credit under the proportionate retirement program.

Board members of state agencies. On application to the ERS board of trustees and arrangement for payment of contributions, an individual participating in the UGIP on August 31, 2003, as a current or former board member with administrative responsibility over a state agency whose employees were covered by UGIP or as a current or former member of the State Board of Education or the governing body of an institution of higher education would remain eligible for participation in the UGIP if a lapse in coverage had not occurred.

The bill would require that the superintendents of the Texas School for the Deaf and the Texas School for the Blind and Visually Impaired determine whether an educational professional employee was a full-time employee eligible for group benefits. Further, the bill would provide that the executive head of the Windham School District would determine if an educational professional was a full-time employee for purposes of eligibility.

An institution of higher education could contribute in excess of monies that were appropriated for a part-time employee by using money that was not appropriated from the general revenue fund.

CSSB 1370 would repeal the definitions of "annuitant" and "dependent" as defined by Acts of the 77th Legislature, Regular Session, 2001, ch. 1231, sec. 27. It would also appeal Insurance Code, sec. 1551.101©) and (d) pertaining to eligibility of board members of state agencies and members of the State Board of Education.

TRS-Care. Each fiscal year, the state would be required to contribute to TRS-Care an amount equal to 1 percent, rather than one-half of one percent, of the employee's salary. The bill would cause the contribution to the fund by an active employee to increase to one-half of one percent, from one-quarter of one percent in current law, of the employee's salary.

Each state fiscal year, each public school would contribute to the fund the amount prescribed by the general appropriations act, which could not be less than one-quarter of one percent or greater than three-quarters of one percent of the salary of each active employee of the public school. The public school would make the contributions on a monthly basis and as otherwise prescribed by the trustee.

Uniform Insurance Benefits Act for university employees. An individual would be eligible to participate in the uniform program only if the person had at least 10 years of service credit and the sum of the person's age and amount of service credit, including months of age and credit, equaled or exceeded the number 80. A person eligible to participate in the group program as an annuitant on September 1, 2003, could continue to participate in the program if a lapse in coverage had not occurred.

The bill would impose a waiting period for benefit eligibility to begin on the first day of the calendar month that began after 90 days of employment, as with the other plans. An individual who did not retire at the end of the last month for which the individual was on the payroll of a system would receive benefits on the first day of the calendar month that began after the 90th day after retirement. These waiting periods would apply only to determination of initial eligibility to participate in the group health benefits program and not to the determination of initial eligibility to participate in optional coverages under the uniform program. Eligibility could not begin earlier than the first day that an employee performed services for a system. If any amount paid for premium incurred before the 90-day waiting period for the employee or dependents, the amount would be paid from money not appropriated out of the general revenue fund, in accordance with policy and procedures established by the system.

The bill would prohibit a system from contributing more than the amounts specified for coverages provided under the uniform program. For an employee designated by the system as working 40 or more hours a week, the system could contribute the full cost of basic coverage and not more than 50 percent of the cost of dependent coverage. For an employee designated by the system as working less than 40 hours a week, including individuals required to be enrolled as a student in the system in graduate-level courses, the system could contribute from a general revenue appropriation not more than 50 percent of the cost of basic coverage for the employee and not more than 25 percent of the cost of dependent coverage. This would not prohibit a system from contributing amounts in excess of those specified, as long as they were from monies other than general revenue.

Conflict provision. To the extent of any conflict, this legislation would prevail over another act of the 78th Legislature relating to nonsubstantive codifications of law or nonsubstantive additions to and corrections in enacted codes.

The bill would take effect September 1, 2003.

SUPPORTERS SAY:

CSSB 1370 would make necessary changes in health-care plans for state employees, teachers, and higher education employees to meet the recent fiscal constraints. ERS, TRS, and the University of Texas System, and Texas A&M University System provide group health insurance benefits to over one million Texans. State costs for these programs total nearly $3.7 billion for the current biennium. Initially, these agencies requested an additional $1.7 billion to maintain current benefit levels for the fiscal 2004-05 biennium. Both the Senate Finance and House Appropriations committees determined that funding this amount was a near impossibility under the state's current fiscal crisis.

Budget writers in both the House and Senate asked these agencies to produce an extensive list of money-saving options regarding the state's employee benefits package to create plans that could be financed within available revenue. Months of discussions have ensued to narrow the list to savings options. Most of the changes did not require statutory changes and could be accomplished by the various oversight boards under existing authority. This bill would represent six other changes that required amending existing laws.

The specific items needing statutory change are:

- implementing a 90-day waiting period for health care benefits for new hires;
- applying the 90-day waiting period to retirees that did not retire directly from state employment;
- establishing that access to retiree health insurance required an employee to be either 65-years old with 10 years of state service or satisfying the rule of 80 — a combination of age and service credit, including months, that equals or exceeds the number 80;
- reducing contributions for part-time employees to 50 percent and designating a part-time worker as anyone with fewer than 40 hours per week;
- discontinuing contributions for non-employee board members with a provision that existing board members could retain benefits by paying for their contributions; and
- reducing contributions for graduate teaching assistants by 50 percent.

To the extent possible, this bill would aim to treat equally the main group benefit programs through ERS, TRS-ActiveCare, TRS-Care, the University of Texas System and the Texas A&M University System. For example, the bill would establish uniform retirement ages for all three groups of employees. The state would realize enormous savings by having a higher percentage of its retirees eligible for Medicare rather than totally dependent on state health benefits.

This legislation would increase active teacher contributions from one-quarter of one percent to one-half of one percent. Also, it would enact a contribution range for school districts between one-quarter of one percent and three-quarters of one percent of covered payroll at a level prescribed by the general appropriations act. Even with these contribution increases, the state still would be putting an unprecedented amount of monies in TRS-Care.

CSSB 1370 would implement cost saving measures already adopted by the House Appropriations and Senate Finance Committees to save an estimated $326 million in fiscal 2004-05. The House has already passed elements of these policy changes in HB 3456 by Heflin and HB 3441 by Pickett. Enactment of these provisions, though representing tough choices, is critical to balancing the budget.

OPPONENTS SAY:

By changing retirement eligibility for health coverage in the largest state benefit programs, the Legislature would, in effect, be switching rules on dedicated employees in the fourth quarter. The bill no longer would recognize a state employee at age 60 with 10 years of service credit as eligible for health benefits. This change would be demoralizing to employees who had counted on such provisions for early retirement soon after September 1, 2003. Enactment of CSSB 1370 could force them to delay retirement by as much as five years in order to retain medical insurance through the state. The intent of this bill would seem to be at cross purposes with other retirement policies and pending legislation that would create incentives for some state employees to retire early and produce a savings to the state.

Any saving to the budget from the 90-day freeze on benefits for new employees would depend on the number of new hires during the coming biennium. Proposed hiring freezes and reductions in force by state agencies in order to work within the budget shortfall could reduce the estimated saving outcome of this provision. The 90-day waiting period for qualified retirees who did not retire directly would seem almost punitive after extensive years of service credit to the state. In addition, reducing the state's benefit contribution by 50 percent for employees who work fewer than 40 hours a week would be a direct salary hit. The state already underpays most of its employees in comparison with comparable private-sector functions.

CSSB 1370's increase of active teacher contributions to TRS-Care from one-quarter of one percent to one-half of one percent would be particularly burdensome in view of increases in copayments already in place. This bill would allow the state to back away from its commitment to TRS-Care by shifting all responsibility for rising costs onto employees and school districts.

The state's increased contribution from one-half of one percent to 1 percent of payroll would be a shell game, since the state would have to make up the difference anyway through a solvency supplement.

This bill would attempt to balance the budget on the backs of most of its employees. For active employees, it would translate into a pay cut and for prospective retirees it would slice at their earned and expected benefits, undermining their performance, loyalty, and morale.

NOTES: The revised fiscal note for the committee substitute would reflect a positive impact of over $326 million through fiscal 2004-05.

The committee substitute differs from the Senate engrossed version by:

- removing limitations to applicable TRS-ActiveCare;
- adding a provision related to military service credited with ERS;
- excluding provisions related to any willing provider;
- allowing a university employee or dependents not to be subject to the 90-day waiting period if the university systems paid for premiums from monies other than general revenue funds; and
- including a provision related to determination of full-time employee status for the Windham School District.