

SUBJECT: Sunset revisions to administration of the Teacher Retirement System

COMMITTEE: Pensions and Investments — favorable, without amendment

VOTE: 5 ayes — Truitt, McClendon, Burnam, Keffer, Macias
0 nays
2 absent — Villarreal, Rodriguez

WITNESSES: For — Tim Lee, Texas Retired Teachers Association; Josh Sanderson, Association of Texas Professional Educators (*Registered, but did not testify*: Ted Kennedy, AIG)
Against — None
On — Pattie Featherston, Teacher Retirement System; Ann Fickel, Texas Classroom Teachers Association; Steve Hopson, Sunset Advisory Commission; Jack Kelly, Texas State Teachers Association; Ted Melina Raab, Texas Federation of Teachers

BACKGROUND: The Teacher Retirement System of Texas (TRS), created in 1936, provides retirement, disability, death and survivor benefits to more than one million employees of public schools and state-supported colleges and universities. In membership, TRS is the largest public pension fund in Texas and the second-largest in the United States.

The board's nine members serve staggered six-year terms and are appointed by the governor. The board is responsible for the administration of the Pension Trust Fund, which currently is valued at \$109 billion and is the nation's eighth-largest public pension fund in terms of valuation. The board also oversees the Health Benefits Trust Fund (TRS-Care Fund) for retired teachers and the TRS-Active Care Enterprise Fund (TRS Active-Care Fund) for active employees.

In addition to administering pension benefits, TRS administers two separate health insurance programs for active and retired public education employees. TRS-Care, the health insurance program for retired employees, is funded by legislative appropriations, contributions from active members

and employers, and retiree premiums. TRS-Active Care, for current employees, is funded by a combination of employee premiums, employer contributions, and state contributions.

TRS is not subject to abolishment under the Sunset Act, but undergoes sunset review every 12 years.

DIGEST:

HB 2427 would require TRS to offer retirement counseling throughout the state, authorize the board to oversee 403(b) investment products, address disability retirement benefits, eliminate the Public School Employees' Health Coverage Comparability Study, and authorize standard Sunset provisions governing board member training and conflicts of interest, negotiated rulemaking and alternative dispute resolution policies, and the use of technology.

Retirement counseling. The TRS board would have to adopt policies on retirement counseling provided to TRS members. These policies would address the manner in which TRS makes group and individual counseling available throughout the state. It would identify the geographic regions of the state most in need of retirement counseling and the manner in which these needs would be met. To the extent possible, TRS would make individual retirement counseling available in conjunction with information or education programs and would have to offer individual counseling outside of Austin.

Oversight of 403(b) investment products. The bill would amend V.T.C.S. Article 6228a-5, which governs 403(b) retirement investment products. A 403(b) offered on or after January 1, 2008, would have to be registered with TRS, which would establish and maintain a list of qualified investment products. The list would include information on the fees charged in connection with the product as well as other information and would have to be available on the TRS website.

The TRS board could deny, suspend or revoke a company's certification or recertification or impose an administrative penalty against a company that violated statutes or board rules governing the administration of 403(b) products adopted after January 1, 2008. A company's registration with TRS could be revoked if a company offered a product that was not an eligible qualified investment or if the company or a product offer was in violation of TRS rules or statutes. TRS could establish administrative penalties of up to \$1,000 based on the seriousness of the violation, the

history of previous violations, efforts to correct the violation, and other considerations. The attorney general could file suit to collect administrative penalties.

Disability retirement benefits. HB 2427 would specify that a member who received disability retirement benefits could not earn compensation that exceeded income amounts established by TRS rule. TRS would have to adopt rules under which a member's disability retirement benefit would be reduced on a sliding-scale basis or suspended for a period in which the retiree's compensation during a 12-month period exceeded the amount of the compensation the member earned before applying for a disability retirement annuity.

The rules would have to provide for a partial or full reinstatement of disability benefits if compensation earned by a retiree was reduced or suspended. A disability retiree would have to report to TRS any compensation that exceeded that amount established by board rule for disability income. A disability retiree whose annuity was adjusted still would qualify for health insurance coverage by paying an additional premium.

Health insurance comparability study. The bill would eliminate a requirement that TRS certify whether a school district that did not participate in the TRS ActiveCare health insurance program was receiving comparable coverage through another provider. TRS no longer would have to report this information to the district and the LBB, but would continue to report to the Legislature about the status of each district's group health coverage program.

The bill would specify that TRS would be reviewed in 2019 and every subsequent 12 years.

HB 2427 would take effect September 1, 2007.

**SUPPORTERS
SAY:**

HB 2427 would help improve the operation of a retirement system that serves one in 20 Texans as either active or retired members of TRS. Since the system underwent sunset review 12 years ago, the operation has improved dramatically, and TRS is now considered to be one of the best-run public pension systems in the nation.

The bill would expand access to retirement counseling for TRS members by requiring the system to offer additional group and individual counseling outside of Austin. This counseling could be offered along with training in other locations that TRS already is providing for its members. Face-to-face retirement counseling is as important to a member in El Paso as it is to one in Austin, and TRS members should not have to travel to Austin to receive this benefit. The cost of additional counseling would be covered by the TRS Pension Trust Fund and would not require additional general revenue from the state.

The bill would provide the TRS board with a greater range of oversight over 403(b) plans, which allow TRS members to save pre-tax income for retirement. TRS would have greater authority to impose fines or to suspend or withdraw registration for providers that did not meet standards established by the board. This would help improve retirement security for members who chose to participate in these investment programs.

HB 2427 would ensure that system assets were distributed to reduce hardship and not as an entitlement by requiring the TRS board to adjust disability benefits for individuals who were earning compensation of as much or more than the disability benefit. Allowing individuals to earn disability retirement benefits as bonus income is an unfair use of the Pension Trust Fund. TRS is the only major public retirement program in the United States that does not limit earnings by disability retirees.

The TRS health insurance comparability study was intended to be a temporary planning tool in designing the statewide benefit. It was not intended to be a permanent fixture, and it has outlived its usefulness. Most of the school districts that do not participate in TRS ActiveCare, the TRS health insurance plan, are large districts that have other tools they can use to compare and negotiate prices with providers.

The TRS board makeup should remain as it is currently structured to protect the soundness of the pension fund and provide member representation. The TRS board is responsible for the management of more than \$100 billion in the pension fund alone. It is critical that the board membership reflect financial expertise as well as the makeup of the membership.

A statutory cost-of-living benefit increase would be too costly for TRS to maintain for any length of time while still preserving the health of the

pension trust fund. The Legislature should retain the authority to make decisions about whether to authorize benefit increases.

**OPPONENTS
SAY:**

The health insurance comparability study continues to be useful to many school districts and should not be eliminated. Two-thirds of TRS employees do not participate in TRS-ActiveCare and need to know about the availability of comparable plans.

The number of TRS members receiving disability annuities as well as compensation is not significant enough to justify increased oversight by TRS. The system should not be in the position of policing its members in this way. If a member is entitled to a disability benefit, it should not matter whether a person is receiving compensation from other sources.

The TRS board membership should be modified to reflect more closely the interests of the members for whom the agency primarily exists. TRS members should be able to elect at least some of the board members, rather than having the entire nine-member board appointed by the governor.

TRS should establish a cost-of-living increase as a permanent part of the benefit structure. The decision to increase annuities should be a financial and economic matter, not a political one. TRS members' annuities should increase automatically with inflation, to the extent that the fund prudently could support cost-of-living increases.

NOTES:

The companion bill, SB 905 by Whitmire, has been referred to the Senate Government Organization committee.