SUBJECT: Supplemental payment for TRS retirees paid by investment returns

COMMITTEE: Pensions, Investments and Financial Services — committee substitute recommended

VOTE: 8 ayes — Truitt, Anchia, C. Anderson, Creighton, Hernandez Luna, Nash, Orr, Veasey

1 nay — Legler

WITNESSES: For — Jamie Larson, Milam County Retired Teachers Association and TRTA; Tim Lee, Texas Retired Teachers Association; Tom Rogers, Austin RTA Legislative Committee; Randy Woodley, Williamson County Retired Teachers Association; (*Registered, but did not testify:* Bill Barnes, Texas Retired Teachers Association; Portia Bosse, Texas State Teachers Association; Carole Buchanan; Bill Carpenter; Randall Craig; Carolyn Sue Duncan; Martin Duncan; Dwight Harris, Texas AFT; James Hubert, Milam County TRIAD and Milam County Retired Teachers Association; Becky Jenkins; Wayne King, Austin Retired Teachers Association; Susan Larson; Lloy Lizcano; Emma Lea Mayton; Naomi Pasemann; Robert Pasemann; La Vonne Rogers; Josh Sanderson, Association of Texas Professional Educators; Sheila Sargent; Ruth Spear)

Against — None

On — Brian Guthrie, Teacher Retirement System

BACKGROUND: Government Code, sec. 825.402(c) prohibits the Teacher Retirement System (TRS) from issuing a supplemental payment required or authorized by the Legislature by law if the board finds that after making the payments the amortization period for the unfunded actuarial liabilities of the retirement system would exceed 30 years by one or more years.

Sec. 821.006 requires a maximum 31-year amortization period for TRS pension fund, meaning the pension fund must have the funds to pay-off an unfunded liability within 31 years.

DIGEST: CSHB 3542 would permit the board of trustees for the Teacher Retirement System (TRS) to provide a one-time supplemental payment of no more than $2,400 to a retired member of TRS receiving an annuity as of August 2011. A retiree under the optional retirement payment plan of TRS would have to have been receiving annuities before 2009.

The supplemental payment could be made any time between September 1, 2011, and December 31, 2013, and would come from TRS pension fund investment returns. The payment could be made only if during the preceding fiscal year investment earnings exceeded 8 percent by an amount sufficient to fund the supplemental payment.

The extra payment would be authorized even if the amortization period for the unfunded actuarial liabilities of the retirement system exceeded 30 years by one or more years, but only if the board determined that at the time of the supplemental payment, it could be made while preserving the system's ability to meet at least 80 percent of its pension obligations.

The ability to provide a supplemental payment under the bill's provisions would expire on January 1, 2014.

The bill would take effect September 1, 2011.

**SUPPORTERS SAY:**

CSHB 3542 would authorize the Teacher Retirement System (TRS) board of trustees to issue a supplemental payment, also known as a "13th check," using investment returns if certain conditions were met. A supplemental payment would help retirees weather the current economic climate. Retirees do not receive automatic cost-of-living increases, and their only source of additional funds would be an increase in annuities.

The TRS pension fund has improved dramatically over the past fiscal year and this year. With the protections provided by the bill, the pension fund could afford to provide a supplemental payment to retirees without harming the fund. The rate of investment earnings for the 2010 calendar year was 15.4 percent, and the current assets to funding obligations is 81.3 percent as of February 28, 2011.

**OPPONENTS SAY:**

CSHB 3542 would make a commitment to retirees that could not be fulfilled because a supplemental payment would never materialize. The fiscal note and the actuarial impact statement for the bill indicate that a supplemental payment could not be paid under the bill's provisions. The pension fund would not meet the amortization and investment returns requirements before 2014 because of the way amortization is calculated and the expected decrease in state contributions to the fund.

Amortization calculations include investment returns over the preceding five years, which would include the poor returns realized in 2008 and 2009. Recent increases in investment returns would not counteract the low returns in those years. The actuarial impact report indicates that the state would not be 80 percent funded as of August 31, 2011, a projection that does not even take into account the likely lower state contribution rate to the pension fund next biennium.

According to the bill's actuarial impact statement, the pension fund would have to realize a rate of return greater than 21 percent to permit a supplemental payment, assuming the current combined state and employee contributions of 13.04 percent, but the fund only is expected to realize close to 13 percent for the current fiscal year.

Any supplemental payment issued would harm the health of the fund. The likely decrease in the state's contribution to the fund for the fiscal 2012-13 biennium in conjunction with the diversion of investment earnings would further decrease the actuarial soundness of the fund. Investment returns accumulate, increasing the overall fund balance, which brings the fund toward eventual actuarial soundness. Assuming the current combined state and employee contributions of 13.04 percent, the actuarial impact statement indicates that the proposed supplemental payment would cost about $387 million, which would increase the unfunded liability of the system by $3.82 billion. Using investment funds in excess of 8 percent would require an increase of combined contribution rates to 15.65 percent to achieve actuarial soundness — an increase of 1.09 percent over the current combined contribution rate. Yet both the House and the Senate versions of the general appropriations bill actually would lower the state contribution rate to TRS from the current 6.644 percent of payroll to 6.0 percent.