

- SUBJECT:** Deregulating TRS oversight of 403(b) products
- COMMITTEE:** Pensions, Investments and Financial Services — favorable, without amendment
- VOTE:** 9 ayes — Murphy, Vo, Capriglione, Flynn, Gervin-Hawkins, Gutierrez, Lambert, Leach, Wu
- 0 nays
- 2 absent — Longoria, Stephenson
- WITNESSES:** For — Doug Massey, NAIFA; Scott Hauptmann, TCG Administrators; Jennifer Cawley, Texas Association of Life and Health Insurers
(*Registered, but did not testify:* Ted Kennedy, AIG; Jay Thompson, TALHI; Miles Mathews, Voya Financial Services)
- Against — None
- On — (*Registered, but did not testify:* Brian Guthrie, Teacher Retirement System)
- BACKGROUND:** A 403(b) plan is a tax-sheltered annuity plan similar to a 401(k) plan for specific employees of public schools and other tax-exempt organizations.
- Under Art. 6228a-5, Vernon's Texas Civil Statutes, the Teachers Retirement System (TRS) has regulatory authority over 403(b) products offered to public school teachers. Insurance companies must certify to TRS that the company offers a qualified investment product in order to be eligible to sell annuities and investments to teachers. TRS maintains a list of qualified investment products registered under this statute, regulates maximum fees for 403(b) products, and exercises other rulemaking authority.
- DIGEST:** HB 2820 would remove regulatory authority over 403(b) products from the Teacher Retirement System and change the requirements a 403(b)

providers had to meet in order to offer investment products in the state.

In order to offer qualified investment products to employees of education institutions in Texas, a company would be required to be licensed by the Texas Department of Insurance and be in compliance with minimum capital and surplus requirements.

HB 2820 would remove the requirement that eligible 403(b) plan providers have at least five years' experience in offering qualified investment products and would replace the standard that an eligible 403(b) plan provider had to have its main office, branch office, or a trust office in the state with a requirement that the company have sufficient presence to serve plan participants. The bill also would update certain statutory language.

The bill would take effect September 1, 2019.

**SUPPORTERS
SAY:**

HB 2820 would eliminate repetitive regulation for 403(b) investment plans available to certain nonprofit employees, including public school teachers. While the Teacher Retirement System (TRS) has been charged with certifying these plans, TRS does not have the staff or expertise to do this, and oversight of these products is already being conducted by other, more appropriate state and federal agencies. Deregulating TRS oversight of 403(b) products would allow TRS to focus on its core function of managing one of the country's largest public pension funds.

Like 401(k) investment options, all 403(b) financial products are regulated by the state through the Texas Department of Insurance and the State Securities Board as well as by the federal government. This oversight includes the registration, regulation, and approval of these products, ensuring that strong consumer protection safeguards are in place.

Texas is the only state that regulates maximum fees for 403(b) products rather than allowing the market to determine these rates. Limiting fees may reduce product and investor services and could deny teachers access to products that may have higher returns. HB 2820 would remove TRS's

authority to regulate maximum fees for these products and allow the market to govern these fees.

Removing the requirement that plan providers have at least five years of experience offering 403(b) products is an appropriate update to bring TRS policy in line with current market practice. Although requiring minimum experience used to be a regulatory norm, insurance regulators now rely on more sophisticated financial analysis tools to assess an insurance company's ability to operate in a solvent manner.

HB 2820 would also bring the state's requirements for insurers consistent with market practice requiring that a plan provider have a sufficient presence in the state rather than a main, branch, or trust office. The existing requirement that a provider have an office presence in the state ignores the realities of the national market for these products. Moving to a functional standard based on the sufficiency of presence to adequately serve plan participants would provide a better standard and conserve TRS enforcement resources.

OPPONENTS
SAY:

No concerns identified.