

- SUBJECT:** Revising operations of the Teacher Retirement System of Texas
- COMMITTEE:** Pensions, Investments and Financial Services — committee substitute recommended
- VOTE:** 9 ayes — Anchia, Parker, Capriglione, Muñoz, Perez, Rogers, Slawson, Stephenson, Vo
- 0 nays
- WITNESSES:** For — Beaman Floyd, Texas Association of School Administrators; Timothy Lee, Texas Retired Teachers Association; (*Registered, but did not testify*: Monty Exter, ATPE; Dena Donaldson, Texas AFT; Ann Fickel, Texas Classroom Teachers Association; Laura Atlas Kravitz, Texas State Teachers Association)
- Against — None
- On — Anumeha Kumar, Pension Review Board; Tamara Aronstein, Sunset Advisory Commission; Brian Guthrie, TRS
- BACKGROUND:** The Teacher Retirement System of Texas (TRS) provides retirement and health benefits to more than 1.6 million active and retired teachers, public education support staff, certain higher education professionals, and their dependents. TRS was created in 1936 by an amendment to the Texas Constitution, and enabling legislation for the agency was enacted by the 45th Legislature in 1937. As a constitutionally created state agency, TRS is not subject to abolishment. The Sunset Advisory Commission review of TRS focused on the agency's efficiency and effectiveness.
- Functions.** TRS manages and invests a pension trust fund and administers retirement benefits to plan participants and their beneficiaries. The plan is a defined benefit pension plan to guarantee benefits for its members upon retirement. The agency also manages two trust funds for health care and oversees the TRS-Care program for retired members and the TRS-Active Care program for active members, particularly in school districts with

fewer than 500 employees. TRS also administers a voluntary long-term care insurance program for eligible members and their families.

Governing structure. The TRS Board of Trustees consists of nine members and is responsible for general administration and operation of the agency. The governor directly appoints three trustees and appoints six others nominated by the State Board of Education or TRS members. Trustees serve staggered, six-year terms and must demonstrate financial expertise or be an active or retired TRS member. The board oversees asset management and may contract with private investment professionals for advice about investing the assets of the retirement system. The board meets five times a year, including quarterly meetings and an educational meeting in February.

Funding. TRS funds its activities with state, employer, and member contributions and investment income. In fiscal 2019, about half of TRS' funding came from contributions and about 40 percent from investment income. That year TRS' revenue totaled \$19.2 billion, including retirement contributions of \$7 billion, health insurance contributions of \$3.2 billion, and investment income of \$7.7 billion. The 86th Legislature also made a supplemental appropriation for fiscal 2019 of \$663 million to improve the actuarial soundness of the pension trust fund.

Staffing. In fiscal 2019, TRS had 693 staff at two locations in downtown Austin and four investment staff at a foreign subsidiary office in London. The agency also had 79 contract employees to assist with a major IT system upgrade.

DIGEST: CSHB 1585 would implement recommendations from the Sunset Advisory Commission review of the Teacher Retirement System of Texas (TRS) and set the date for the next TRS Sunset review for 2033.

The bill would require TRS to:

- develop a communication and outreach plan on retirement planning for members and employers;

- adjust financial penalties for TRS retirees who return to work in public education;
- require the appointment of an ombudsman to monitor the agency's interactions with members and investigate complaints; and
- require TRS to make improved efforts to return contributions to inactive members before funds were forfeited.

Member outreach. CSHB 1585 would establish new requirements for TRS outreach to members and employers. The board of trustees would have to create an outreach plan designed to assist members and employers in planning for the member's retirement. The plan would have to require TRS to:

- improve communication between the system and the system's members and employers;
- create outreach materials written in understandable terms for distribution by the retirement system;
- provide each member with an annual estimate of the member's retirement benefits;
- enhance employer training and establish an internet portal to assist employers with meeting reporting requirements and providing information to TRS members on retirement and health insurance benefits; and
- implement methods for maintaining up-to-date contact information for members and beneficiaries.

In developing the plan the board would have to solicit input from TRS members, employers, and other stakeholders and update the plan every five years.

The bill would clarify that retirement benefits counseling must be provided by TRS in different geographic regions of Texas and in person or by phone, at the member's choice.

Ombudsman. The board of trustees would have to designate an ombudsman within TRS to assist members and retirees by performing

protection and advocacy functions, including:

- monitoring the system's interactions with members and retirees;
- receiving and reviewing complaints from members and retirees;
- taking appropriate action regarding complaints, including conducting investigations or reporting complaints to the board;
- informing a member or retiree and the board of the results of the ombudsman's review or investigation; and
- recommending corrective actions to the board if necessary.

Return-to-work penalties. The bill would remove a prohibition that requires TRS members who retired after January 1, 2011, to forfeit their monthly retirement payment for any month in which they are employed in any position by a Texas public educational institution. Instead, the bill would reduce the monthly benefit payments for such a retiree to the lesser of the retiree's pension benefit payment for that month or the total compensation earned by the retiree for that month's employment as reported by the retiree's employer or verified in a manner prescribed by the retirement system.

The bill would clarify that a retiree receiving a disability retirement payment who was employed by a Texas public educational institution for more than 90 days in a school year would not be entitled to disability retirement benefit payments for the remaining months of the school year during which the retiree continued to be employed unless the retiree qualified for a return-to-work exception.

Return of contributions. The bill would require the TRS board to adopt a policy to make all reasonable efforts to locate and notify certain members or the member's heirs about the entitlement to the return of accumulated contributions before funds were forfeited. The policy would have to ensure that the procedure used to locate a member or the member's heirs included conducting internet searches to determine a current and accurate mailing address for the member, contacting the member's designated beneficiary, obtaining information from consumer reporting agencies, and using commercial locating services, as necessary. Notices containing

information on how to withdraw contributions would have to be sent to the member's last known address or to the member's heirs by certified mail.

Appeals. The bill would require TRS to respond to appeals at all levels of staff review within the same amount of time that members have to appeal agency decisions. It also would require TRS to create informational materials for individuals enrolled in a TRS health benefit plan for members or retirees informing them of their right to appeal an adverse determination regarding health care services to an independent review organization, of the procedures for appeal, and of available assistance.

Board training. CSHB 1585 would apply standard Sunset recommendations for board member training and require the agency's executive director to create a training manual for distribution to each board member.

Reporting requirements. The bill would modify and repeal some reporting requirements. It would require an annual, rather than a six-month, report on cost savings achieved by requiring prior authorization for certain prescription drugs. TRS would have to identify any additional categories of prescribed drugs for which requiring prior authorization could achieve cost savings.

Effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

The changes made by the bill for retirees returning to work would apply only to a benefit payment that became payable on or after the bill's effective date. New requirements for board member training would apply to a member appointed before, on, or after the effective date. A member who had completed training requirements that existed before the bill was enacted would only have to complete additional training on subjects added by the bill. A member could not vote, deliberate, or be counted as a member in attendance at a meeting of the board held on or after December

1, 2021, until the member completed the additional training.

**SUPPORTERS
SAY:**

CSHB 1585 would implement needed reforms and restore trust between the Teacher Retirement System (TRS) and its members. The bill would improve the process for members to appeal agency decisions and would lessen return-to-work financial penalties so that more retired educators could bring their experience to public schools. It also would require TRS to increase efforts to reach inactive members and their heirs so that the member's contributions could be returned.

Member outreach. The Sunset Advisory Commission determined that TRS generally manages its \$165 billion trust fund well but should focus more on its communication with members to provide them with the support and information needed for a secure retirement. CSHB 1585 would require TRS to develop a communication and outreach plan and materials to better help members and their public school employers plan for the member's retirement. Having a stronger outreach, including better phone counseling and materials written in understandable terms, would help repair the agency's relationship with its members and explain complex TRS laws and rules that often prove frustrating for members to understand.

Requiring the agency to appoint an ombudsman to monitor agency responses to member issues also would go a long way toward restoring TRS members' confidence in the system. The ombudsman would have broad authority to report to the board on member issues and recommend changes to better assist members.

Return-to-work penalties. CSHB 1585 would simplify and clearly define reasonable rules for employment after retirement. Retirees would still have to wait an entire calendar year after their retirement before returning to work. However, the bill would rectify a situation in which some retirees lose an entire pension check if they work too many hours in a month. The bill would allow a retiree who returned to work in a public school to forfeit the lesser of their monthly retirement payment or a dollar-

for-dollar reduction equivalent to the amount earned working that month. It also would modify employment after retirement provisions for disability retirees to specify that they would not be subject to any reduction or loss of benefits during the first 90 days of employment.

Return of contributions. CSHB 1585 would require TRS to make improved efforts to return contributions to inactive members before funds were forfeited. According to the Legislative Budget Board's actuarial impact statement on the bill, it could result in the return of about \$450,000 a year to inactive members.

Benefit enhancement. While some have said the Sunset report should have recommended a permanent cost-of-living increase for retirees, doing so could have impacted the actuarial soundness of the system. The issue of whether to increase monthly retirement benefits is a separate policy consideration for the Legislature.

The Legislature in 2019 enacted SB 12 by Huffman, which increased contributions to TRS from the state, active employee members, and public education employers. That bill made the pension fund actuarially sound and provided retired school employees with a one-time supplemental payment, or "13th check," of up to \$2,000.

Transparency. As a result of the Sunset review, TRS is including clear, easily understandable information about alternative investments in its Comprehensive Annual Financial Report. The Sunset review did not assess the agency's investment strategy.

CRITICS
SAY:

While CSHB 1585 provides many important reforms to improve TRS operations, the bill should do more to financially improve the pension fund so that retirees and members could receive much-needed benefit enhancements.

Benefit enhancement. The state's contribution rates to the pension fund are among the lowest in the country, and it has been a decade since retired

teachers received a permanent cost-of-living adjustment to their retirement checks. A 1995 Sunset staff report recommended using available pension funds to raise retirement benefits for the oldest career educators and to provide cost of living increases for all retirees.

The bill would not address concerns of many retired teachers that TRS has been increasing its operating expenses at a time when more and more retirees struggle to stretch their retirement checks to cover monthly expenses.

Transparency. As TRS has transitioned to greater use of so-called "alternative assets," such as private equity, hedge funds, and real estate, it has returned only 6.5 percent on investments over the last five years despite historic market growth. The agency and its members would benefit from greater transparency about its use of alternative investments. The bill should require TRS to provide detailed information to members about alternative investments and perhaps direct the agency to get out of alternative investments and cease working with the high-priced advisers who manage them.