**HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES**
**P.O. Box 2910, Austin, Texas 78768-2910**
**(512) 463-0752 • http://www.hro.house.state.tx.us**



# HOUSE RESEARCH ORGANIZATION

## daily floor report

Tuesday, August 01, 2017
85th Legislature, First Called Session, Number 10
The House convenes at 10 a.m.

Two bills are on the General State Calendar for second-reading consideration today.



The House also is scheduled to consider four bills on third reading today.

The House Public Education Committee was scheduled to hold a public hearing in Room E2.036 at 8 a.m., and the House State Affairs Committee is scheduled to hold a public hearing in Room JHR 140 at 10:30 a.m. or on adjournment.

Dwayne Bohac

Dwayne Bohac
Chairman
85(1) - 10

SUBJECT: Using ESF money to decrease health care costs for retired teachers

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 23 ayes — Zerwas, Longoria, Ashby, G. Bonnen, Capriglione, Cosper, Dean, Giddings, Gonzales, Howard, Koop, Miller, Muñoz, Perez, Phelan, Raney, Roberts, J. Rodriguez, Rose, Sheffield, Simmons, VanDeaver, Wu

0 nays

4 absent — S. Davis, Dukes, González, Walle

WITNESSES: For — Timothy Lee, Texas Retired Teachers Association; (*Registered, but did not testify*: Edna Butts, Austin ISD; Dwight Harris, Texas American Federation of Teachers; Amy Beneski, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards; Tracy Ginsburg, Texas Association of School Business Officials; Ann Fickel, Texas Classroom Teachers Association; Colby Nichols, Texas Rural Education Association and Texas Association of Community Schools; Kevin Stewart, Texas School Nurses Organization; Portia Bosse, Texas State Teachers Association; Monty Exter, The Association of Texas Professional Educators; Susan Armstrong; Rosemary Morrow; Leah Stephanow)

Against — (*Registered, but did not testify*: Adam Cahn, Cahnman's Musings; John Marler, Texans 4 Truth)

On — Brian Guthrie, Teacher Retirement System; (*Registered, but did not testify*: Trevor Simmons, Legislative Budget Board; Katrina Daniel, Teacher Retirement System)

BACKGROUND: The 85th Legislature enacted HB 3976 by Ashby, which changes enrollment, premium, and benefit requirements for retired school employees, their spouses, and dependents under the TRS-Care program of the Teacher Retirement System of Texas (TRS) beginning with the 2018 plan year. The TRS Board of Trustees on June 2 approved new plan designs and premiums that would go into effect January 1, 2018.

Texas Constitution, Art. 3, sec. 49-g governs the Economic Stabilization Fund (ESF), also known as the "rainy day fund," including the manner in which the Legislature may appropriate money from it. Under Art. 3, sec. 49-g(m), the Legislature may appropriate money from the ESF "at any time and for any purpose" after obtaining an affirmative vote of two-thirds of the members present in each house.

DIGEST: CSHB 20 would appropriate $212.7 million from the Economic Stabilization Fund to the retired school employees group insurance fund, TRS-Care. The Teacher Retirement System of Texas (TRS) could use the money for the 2018 and 2019 plan years only to decrease premiums and deductibles that otherwise would be paid by TRS-Care participants and to reduce costs for an enrolled adult child with a mental disability or a physical incapacity.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership elected to each house. Otherwise, it would take effect on the 91st day after the last day of the special session, provided it was approved by two-thirds of the members present in each house as required under Texas Constitution, Art. 3, Sec. 49-g(m).

SUPPORTERS SAY: CSHB 20 would use money from the Economic Stabilization Fund (ESF) to reduce premiums, deductibles, and out-of-pocket expenses for participants in TRS-Care, the group health insurance program for retired school employees. The bill would be expected to provide financial assistance in areas of greatest need, including deductibles and out-of-pocket expenses for retirees under the age of 65, premiums for spouses and dependent children of all retirees, and premiums for enrolled adult children who have a mental or physical disability. For example, retirees not eligible for Medicare could see their deductibles reduced from $3,000 to $1,500 and their family deductibles reduced from $6,000 to $3,000. The bill also could lead to monthly premiums for spouses and families of all retirees being $100 lower.

During the last regular session, the Legislature took action to keep TRS-Care solvent during fiscal 2018-19, including increased appropriations from the state and school districts totaling about $483 million per year.

The TRS Board of Trustees has adopted plan designs that would go into effect January 1, 2018.

The Legislature also enacted HB 3976 by Ashby, which provides a high-deductible plan for younger retirees who are not Medicare eligible, a population that has been a source of much of the rising costs for TRS-Care. According to plan designs adopted by TRS in June, retirees under age 65 will face significantly higher deductibles and out-of-pocket expenses. Many plan participants have complained about the higher costs at a time when the average monthly pension check for retired school employees is about $2,000.

It would be appropriate to use the ESF to help retired teachers afford rising health care costs, particularly at a time when the fund is growing faster than expected. With a projected balance of nearly $12 billion by the end of fiscal 2019, it would be prudent and responsible to use $212.7 million from the fund to help retired teachers. The ESF was created in 1987 for the purpose of stabilizing state revenue fluctuations and was not designed specifically for one-time needs or natural disasters, as some have claimed. The use of the ESF is preferable to other TRS-Care funding approaches, such as deferring certain Medicaid payments, which would only increase the amount of the Medicaid shortfall that the 86th Legislature would have to fund through a supplemental appropriations bill in fiscal 2019.

OPPONENTS SAY:

CSHB 20 would hamper progress made by the 85th Legislature to address the solvency of the health insurance program for retired school employees by increasing the program's ongoing costs. Reductions in the deductibles, premiums, and maximum out-of-pocket expenses for the 2018 and 2019 plan years could increase the state appropriations needed to sustain the plan in the following biennium. The Legislature should not use the ESF as a way to fund an ongoing cost such as health care for retired school employees. The state's economic future is uncertain, and the Legislature should retain its savings in the ESF for use during an economic downturn or in the event of an unexpected, one-time expense, such as a natural disaster.

The Legislature should not retreat from the plan changes made through the enactment of HB 3976. These changes represent a commitment to share the burden of rising health care costs between the state, school districts, and retirees, who have not faced a premium increase in 12 years.

OTHER OPPONENTS SAY:

The Legislature should appropriate a larger amount from the ESF to help defray more of the health care costs for retired school employees. With the fund projected to grow to $11.9 billion by the end of fiscal 2019, it has a sufficient cushion to appropriate as much as $1 billion for TRS-Care to ease the burden of former school employees who dedicated their careers to educating Texas children.

NOTES:

According to the Legislative Budget Board's fiscal note, CSHB 20 would cost the Economic Stabilization Fund (ESF) $212.7 million in fiscal 2017. It would result in anticipated loss of interest and investment income for the ESF of about $142,000 in fiscal 2017 and $2.8 million in fiscal 2018.

CSHB 20 differs from the filed bill in that it would change the appropriation from the ESF from $150 million to $212.7 million. It also would allow appropriated funds to be used to reduce costs for all plan participants, rather than only participants in the high-deductible plan.

SUBJECT: Making a one-time cost-of-living adjustment for certain TRS members

COMMITTEE: Appropriations — favorable, without amendment

VOTE: 22 ayes — Zerwas, Longoria, Ashby, G. Bonnen, Capriglione, Cosper, Dean, Giddings, Gonzales, Howard, Koop, Miller, Muñoz, Perez, Phelan, Raney, Roberts, J. Rodriguez, Rose, Sheffield, VanDeaver, Wu

0 nays

5 absent — S. Davis, Dukes, González, Simmons, Walle

WITNESSES: For — Timothy Lee, Texas Retired Teachers Association; (*Registered, but did not testify*: Colby Nichols, Texas Association of Community Schools, Texas Rural Education Association; Amy Beneski, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards; Ann Fickel, Texas Classroom Teachers Association; Kevin Stewart, Texas School Nurses Organization; Portia Bosse, Texas State Teachers Association; Monty Exter, Association of Texas Professional Educators; Susan Armstrong; Marlene Lobberecht; Rosemary Morrow; Leah Stephanow)

Against — (*Registered, but did not testify*: Adam Cahn, Cahnman's Musings; John Marler, Texans 4 Truth)

On — Katrina Daniel and Brian Guthrie, Teacher Retirement System of Texas; (*Registered, but did not testify*: Trevor Simmons, Legislative Budget Board)

BACKGROUND: Government Code, ch. 824 governs service retirement, disability retirement, and death benefits for the Teacher Retirement System of Texas (TRS). As added in 2013 by the 83rd Legislature's enactment of SB 1458 by Duncan, sec. 824.702 required TRS to make a one-time cost-of-living adjustment (COLA) to certain annuitants receiving a monthly death or retirement benefit annuity. This COLA applied to members who retired on or before August 31, 2004, and their beneficiaries.

Sec. 821.006 prohibits any action that would extend the amortization of TRS unfunded actuarial liabilities by 31 years or more.

DIGEST:

HB 80 would require the Teacher Retirement System of Texas (TRS) to make a one-time cost-of-living adjustment (COLA) to annuitants receiving a monthly death or retirement benefit annuity. The COLA would be limited to the lesser of a 3 percent increase of the monthly benefit or $100 per month and would begin with an annuity payable for December 2017.

**Eligibility.** To qualify for the COLA, an annuitant would have to be eligible to receive:

- a standard service or disability retirement annuity payment;
- an optional service or disability retirement annuity payment as either a retiree or beneficiary;
- a standard service retirement annuity of 60 monthly payments or an optional retirement annuity for the designated beneficiary's life;
- benefits on the death of a disabled retiree; or
- an alternate payee annuity payment.

Alternate payees would qualify for the COLA if the election to receive the annuity payment was after August 31, 2004, and on or before August 31, 2015. Other annuitants would qualify for a COLA if they were alive on the COLA's effective date and the member's retirement or death was after August 31, 2004, and on or before August 31, 2015.

The TRS board of trustees would determine the eligibility for and the amount of any adjustment in monthly annuities in accordance with the bill.

**Exceptions.** The COLA would not apply to:

- retirees who receive a standard service retirement annuity in a statutorily fixed amount;
- disability retirees with less than 10 years of service credit or who receive a disability annuity in a statutorily fixed amount;

- active member or retiree survivor beneficiaries who receive a survivor annuity in a statutorily fixed amount; or
- participants in the deferred retirement option plan.

**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 December 1, 2017.

SUPPORTERS SAY:

HB 80 would improve the economic stability of retirees who live on fixed incomes by making a cost-of-living adjustment (COLA) payable to certain members in the Teacher Retirement System of Texas (TRS). The last COLA was made in 2013 to members who retired on or before August 31, 2004. Gov. Abbott has encouraged the Legislature to increase benefits for TRS members because some are anticipating a rise in health care costs and changes to their health plans. A COLA would help offset rising costs of health care, transportation, housing, food, travel, and other living expenses.

According to the Legislative Budget Board's (LBB's) actuarial impact statement, the Legislature could finance the entire COLA amount without extending the amortization of unfunded liabilities by contributing about $1.36 billion in fiscal 2018 or $1.47 billion over the biennium ($736 million each in fiscal 2018 and 2019). Alternatively, the state's annual contribution could be increased from 7.7 percent to 8.18 percent to meet the statutory 31-year amortization benchmark, according to the LBB.

OPPONENTS SAY:

HB 80 would cause the Teacher Retirement System of Texas (TRS) fund to exceed the statutorily required amortization period of unfunded liabilities. This would negatively affect the long-term sustainability of TRS and require taxpayers to pay for any funding gaps.

According to the LBB's actuarial impact statement, TRS currently is actuarially unsound, and the fiscal note indicates that this bill is not expected to take effect because the standard of actuarial soundness cannot be met upon payment of the COLA. HB 80 would delay the amortization of TRS' unfunded liabilities from 34.3 years to 38.1 years and increase the unfunded liabilities by $1.28 billion, from $36.6 billion to $37.88 billion, according to the LBB.

NOTES: According to the Legislative Budget Board's fiscal note, there would be a significant but indeterminate cost to the state, unless the cost was passed on to Teacher Retirement System of Texas members or local employers. The fiscal note indicates the bill's provisions would not be expected to take effect because the statutory requirement for actuarial soundness could not be met upon payment of the proposed benefit increases.