

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 3, 2003

TO: Honorable Allan Ritter, Chair, House Committee on Pensions & Investments

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB1047 by McClendon (Relating to the State Pension Review Board fund.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1047, As Introduced: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from <i>STATE PENSION REVIEW BD 662</i>	Probable Savings/ (Cost) from <i>TRS TRUST ACCOUNT FUND 960</i>	Probable Revenue Gain/(Loss) from <i>SER TRUST ACCOUNT FUND 997</i>	Probable Revenue Gain/(Loss) from <i>LOCAL PUBLIC RETIREMENT SYSTEMS</i>
2004	\$436,000	(\$100,000)	(\$100,000)	(\$236,000)
2005	\$436,000	(\$100,000)	(\$100,000)	(\$236,000)
2006	\$436,000	(\$100,000)	(\$100,000)	(\$236,000)
2007	\$436,000	(\$100,000)	(\$100,000)	(\$236,000)
2008	\$436,000	(\$100,000)	(\$100,000)	(\$236,000)

Fiscal Analysis

This bill would amend Section 801.113 of the Government Code to require Texas public retirement systems to contribute to the State Pension Review Board \$0.50 for each active member and annuitant as of January 1 of the year for which the contribution was made. The bill would limit the contribution to not more than \$100,000 per retirement system. At present, contributions from public retirement systems are voluntary, and between \$30,000 to \$45,000 per fiscal year in contributions is deposited to the Pension Review Board Fund No. 662.

This bill would take immediate effect upon enactment, assuming it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2003.

Methodology

According to the Pension Review Board, there are 369 public retirement systems in Texas with a combined membership of 1.78 million. Four public retirement systems, including the Employees Retirement System (ERS) and the Teacher Retirement System (TRS), account for 1.51 million members. The remaining 365 systems account for 270,000 active and retired members.

For purposes of this analysis, it is assumed that the bill would take effect on September 1, 2003.

The ERS and TRS contributions would be capped at \$100,000 per fiscal year. This analysis assumes that the contributions would be made from each retirement system's trust account, and that the remaining public retirement systems would contribute an estimated \$265,700 per year beginning in fiscal year 2004. The total amount collected, less the \$30,000 currently contributed by participating systems, would be an estimated \$435,700 per fiscal year.

The Employees Retirement System (ERS) assumes that enactment of this legislation would violate IRS law and regulations, and that the state's contribution to the retirement system on behalf of each employee could become taxable for FICA contribution purposes. According to ERS, this legislation violates the "exclusive benefits rule" in Section 401(a)(2) of the IRS Code, which prohibits the use or diversion of pension trust funds for purposes that do not directly benefit the members or beneficiaries of the pension trust funds. ERS estimates that as a result of this legislation, the State of Texas will pay \$23.0 million per year in additional payroll taxes. This \$23.0 million per year is not included in the table above.

The Teacher Retirement System (TRS) notes that state law requires that TRS administrative operations, including the \$0.50 per member fee, anticipated by this legislation, be funded out of the General Revenue Fund. However, at present, none of TRS' administrative operations are funded by the General Revenue Fund. For purposes of this analysis, it is assumed that Pension Trust Fund No. 960 would provide the funding for the \$100,000 per year in member fees.

Technology

No technology impacts are anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller Of Public Accounts, 323 Teacher Retirement System, 327 Employees Retirement System, 338 Pension Review Board

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