

## **BILL ANALYSIS**

C.S.H.B. 2568  
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Pensions & Investments  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Teacher Retirement System of Texas was created in 1937 and is established by the Texas Constitution at Article XVI, Section 67. Constitutional provisions include the establishment of a trust and a board of trustees to administer the system, a requirement that assets of the trust be held for the exclusive benefit of the members, and a requirement that financing of benefits be based on sound actuarial principles.

Although the payment of current benefits is not in jeopardy, the system currently has an “infinite” funding period according to the TRS outside consulting actuary. This refers to the necessary amortization period for assets to fund liabilities. Benefit increases, even if only for current retirees, cannot be passed until such time that the fund can amortize liabilities within a 31-year period. As such, it is estimated that an increase for retirees to adjust for cost of living is not expected within the next decade unless there are sufficient changes in contributions to the system or to the structure of future liabilities.

CSHB 2568 attempts to address actuarial soundness and lessen the escalating pressure on TRS-Care by making changes that should encourage employees to retire later. It also includes a variety of provisions intended to improve efficiencies in system administration of TRS and clarify the board’s authority to manage and protect pension assets.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Teachers Retirement System of Texas in SECTIONS 6,23,31,32,45 and 46 of this measure.

### **ANALYSIS**

SECTION 1. Amends Section 12.057 (b), Education Code, to clarify that the employees of school district campus charter schools are not TRS members unless they are considered employees of the school district.

SECTION 2. Amends Section 12.1057 (a), Education Code, to clarify that employees of an open-enrollment charter school are TRS members if the school is operating under a charter granted by SBOE.

SECTION 3. Amends Subchapter D, Chapter 12, Education Code, by adding Section 12.1164 to require notice to the Teachers Retirement System of Texas by the Texas Education Agency if there is a change in status of a charter school.

SECTION 4 Amends Sections 22.004 (a,b,c,i and j) to update cross references regarding the comparability study.

SECTION 5. Amends Subchapter A, Chapter 22, Education Code by adding Section 22.007 to prohibit a local school district from providing an incentive to an employee to retire from Teachers Retirement System of Texas.

SECTION 6. Amends Chapter 22, Education Code, by adding Subchapter D to move the administration of the Compensation Supplementation Program to Texas Education Agency.

C.S.H.B. 2568 79(R)

SECTION 7. Amends Section 821.003, Government, Code, to clarify authority distinctions arising from administration of trust funds; identifies TRS as “a public entity” instead of “an agency of the state.”

SECTION 8. Amends Section 822.201 (c) Government Code to clarify language related to the compensation supplement excluded from salary for Teacher Retirement System purposes.

SECTION 9. Amends Section 823.006, Government Code, to align requirements for the purchase of permissive service credit to federal law.

SECTION 10. Amends Section 823.401 (d & e), Government Code, to require payment of the actuarial cost for the purchase of out-of-state service credit.

SECTION 11. Amends Section 824.202, Government Code, by amending subsections (a, b, & d) and adding subsections (a-1, b-1, & d-1) to change retirement eligibility for those who become members of TRS on or after 9/1/06 to a Rule of 80 (age + service = 80) but with a reduction in annuity, at the rate of 5% per year, for each year below age 60.

SECTION 12. Amends Section 824.203 (a), Government Code, to change the three-year average salary for benefit calculation to a five-year average.

SECTION 13. Amends Section 824.2045 (a,b,c,d), Government Code, to establish an additional requirement for the Partial Lump Sum Option, a participant must have age plus years of service equal 90.

SECTION 14. Amends Section 824.405, Government Code, to clarify a section reference related to death benefits and provide conforming changes to the eligibility modifications.

SECTION 15. Amends Section 824.503 (d) , Government Code, to permit TRS to pay a benefit to a deceased beneficiary’s beneficiary if one is designated, rather than the estate.

SECTION 16. Amends Section 824.602 (a) , Government Code, to specify that a retiree who returns to work under the bus driver exception to the loss of monthly annuities must be a bus driver as his or her primary employment.

SECTION 17. Amends Subchapter G, Chapter 824, Government Code, by adding 824.6022 that requires a local employer to report to TRS the employment of a retired employee and makes it an offense to knowingly fail to file the report.

SECTION 18. Amends Subchapter I, Chapter 824, Government Code, by adding 824.8011 to establish a deadline to participate in the Deferred Retirement Option Plan of 12/31/05.

SECTION 19. Amends Section 824.805 (b) , Government Code, to establish a window for DROP revocation between 9/1/05 and 12/31/05.

SECTION 20. Amends Section 825.101, Government Code, to clarify the authority of the board of trustees to protect the trust fund, pursuant to the Texas Constitution and the plan qualification requirements under federal tax law for qualified pension plans.

SECTION 21. Amends Section 825.103, Government Code, by adding (c,d,e,f, & g) to clarify TRS authority over trust assets, including administrative functions such as risk management, contract disputes, purchasing, information technology and related resources.

SECTION 22. Amends Section 825.112, Government Code, to clarify the board’s authority to self-insure for all types of insurance coverage associated with administration, including fiduciary and other liability coverages.

SECTION 23. Amends Section 825.115, Government Code, to clarify board discretion over administrative appeals.

SECTION 24. Amends Section 825.208, Government Code, to clarify board discretion over salaries and travel, to the extent needed to perform fiduciary duties.

SECTION 25. Amends Sec. 825.307(a), Government Code, which concerns deposits to member accounts related to the Credit Purchase Option, to conform with a repeal provision.

SECTION 26. Amends Section 825.308, Government Code, to conform to related employer contributions for the employment of retirees established under Sec. 825.4092.

SECTION 27. Amends Section 825.403, Government Code, by adding (k & l) to require reporting by Texas Education Agency to Teachers Retirement System of Texas of a change in the state of a charter school.

SECTION 28. Amends Subchapter E, Chapter 825, Government Code, by adding 825.4041 to require employer payments of the state contribution amount (6%) for the first 90 days of employment for a new Teachers Retirement System member.

SECTION 29. Amends Subchapter E, Chapter 825, Government Code, by adding 825.4092 to require employers to pay the current contribution amount for the state and an employee (now 12.4%) for each employed retiree, unless grandfathered in a later section. Also, for employees covered by TRS-Care, employers pay the difference between the retiree and enrolled dependents premiums and the full cost of coverage.

SECTION 30. Amends Section 2254.102, Government Code, by adding subsection (d) to specify that the Teachers Retirement System of Texas has authority to retain legal counsel using contingent fees, if paid from non-GR funds.

SECTION 31. Amends Section 825.410 (a & h) , Government Code, to allow installment payments for the purchase of all types of service credit (except unused sick leave that must be bought at retirement).

SECTION 32. Section 825.506, Government Code, by adding Subsection (c) to satisfy plan qualification requirements that stipulate the Teacher Retirement System of Texas adhere to federal law related to minimum distribution.

SECTION 33. Amends Section 825.507 (a & b) , Government Code, to allow the release of member specific information to local law enforcement as can be released to state and federal law enforcement per current statute and to provide procedures for confidential member information.

SECTION 34. Amends Section 825.512, Government Code, to rename section title to conform to the body of the language.

SECTION 35. Amends Section 825.512 (e) , Government Code, to remove the requirement that the annual investment performance report be in a form recommended by the evaluating firm.

SECTION 36. Amends Subchapter F, Chapter 825, Government Code, by adding Sections 825.519 and 825.520 to authorize Teacher Retirement System of Texas to send or receive confidential information electronically with respect to members and covered employers.

SECTION 37 Amends Section 1575.004, Insurance Code, to change the definition, as it applies to this chapter, of "retiree" to be closer to the definitions that apply to retirement from the Teachers Retirement System of Texas.

SECTION 38 Amends Subchapter A, Chapter 1575, Insurance Code, by adding Section 1575.008 to exempt coverage under this chapter from any other insurance law.

SECTION 39 Amends Section 1575.052 (b) to allow the trustee to contract for counsel and advice with consultants and actuaries.

SECTION 40 Amends Section 1575.203 (a), Insurance Code, to increase the active membership contributions to TRS-Care from .5% to .65%.

C.S.H.B. 2568 79(R)

SECTION 41 Amends Section 1575.204, Insurance Code, to require employers of retirees to pay the difference between what the retired employee and any enrolled dependents are required to pay for participation in the group insurance program and the full cost except if the employee was an employed retiree as of January 2005.

SECTION 42 Amends Section 1575.303, Insurance Code, by adding (c) to state that the fund is held in trust for the benefit of the participants of the program and may not be diverted.

SECTION 43 Amends Sections 1576.003 and 1576.004 to clarify that the trustee may contract with the carrier to provide long term coverage. (Sections 43-46 conform Chapter 1576 to the repeal of Chapter 1577, which is largely duplicative regarding long term care insurance.)

SECTION 44 Amends Section 1576.005, Insurance Code, to clarify that the group long term care not part of Teachers Retirement System Active Care

SECTION 45 Amends Section 1576.006, Insurance Code, is amended to provide that the trustee may adopt rules to administer this chapter.

SECTION 46 Amends Chapter 1576, Insurance Code, by adding 1576.008-0013 to define the rules of the competitive bidding requirements.

SECTION 47 Amends Subchapter A, Chapter 1579, Insurance Code, by adding Sections 1579.005-008 to allow records of system members to be disclosed to health and benefit providers or claims administrator when the retirement system deems disclosure necessary to administer the program. This section also provides exemptions from these requirements.

SECTION 48 Amends Section 1579.052 (c), Insurance Code, and adds (e) to allow the trustee to contract with consultants and actuaries for advice on implementing and administering the program and to take actions to devise, implement, and administer the group plans.

SECTION 49 Amends Section 1579.102 provide that the catastrophic TRS-ActiveCare plan shall provide coverage at least as extensive as TRS-Care 1.

SECTION 50 Amends Section 1579.104, Insurance Code, to specify that the trustee may not offer optional coverages other than optional permanent life, optional long term care insurance, and optional disability insurance to employees participating in the program.

SECTION 51 Amends Section 1579.253 (b) to address conforming changes regarding the payment of the compensation supplementation made in this measure

SECTION 52 Amends Subchapter F, Chapter 1579, Insurance Code, by adding 1579.254 and 1579.255 to state that the contributions held in the trust are for the trust and its participants and may not be diverted. Also, addresses interest assessed on late payment of contributions by participating entities.

SECTION 53 Amends Section 1581.702, Insurance Code, to provide conforming changes in reference to the Compensation Supplementation Program in this measure.

SECTION 54 Repeals:

- (1) Section 824.202(c), Government Code;
- (2) Section 1575.211(c), Insurance Code;
- (3) Chapters 1577 and 1580, Insurance Code;
- (4) Section 57, Chapter 201, Acts of the 78th Legislature, Regular Session, 2003;
- (5) Chapter 313, Acts of the 78th Legislature, Regular Session, 2003; and

(6) Section 1.01, Chapter 366, Acts of the 78th Legislature, Regular Session, 2003.

(b) Section 823.405, Government Code, is repealed. This section refers to what is commonly know as "airtime" and the repeal of this sections prevents the purchase of such service credit subject to the effective date.

SECTION 55 Provides transfer language for the Compensation Supplementation Program.

SECTION 56 Provides out of state service credit grandfathering language.

SECTION 57 Provides grandfathering language for early age service retirement eligibility, partial lump sum payment and final average salary calculations

SECTION 58 Provides grandfathering language for the bus driver changes made in SECTION 16 of this measure.

SECTION 59 Provides language for the contribution changes found in 825.4092 and 1575.204, Insurance Code.

SECTION 60 Provides an effective date for transfer of optional insurance trust funds to the group long term care program accounts to conform to the repeal of Chapter 1577, Insurance Code .

SECTION 61 Provides grandfathering language for installment payment contracts upon the repeal of 823.405, Government Code, which addresses "air time" purchases.

SECTION 62 Provides effective date of September 1, 2005 for this act except the change in 825.307(a), Government Code, relating to deposit of air time payments, which takes effect January 1, 2009, and Section 54 (b), air time repeal, which takes effect January 1, 2006.

### **EFFECTIVE DATE**

Effective date of September 1, 2005 for this act except the change in 825.307(a), Government Code, which takes effect January 1, 2009 and the repeal of 823.405, Government Code takes effect January 1, 2006 along with Section 54 (b).

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

CSHB 2568 changes the final average salary from three to five years and eliminates subsidized early retirement in Sec. 824.202(c). It establishes a new standard of retirement eligibility for new hires on or after 9/1/06, wherein the requirement becomes a total of age plus years of creditable service equal to 80 but provides for reductions in the annuity at the rate of 5% per year under the age of 60. It conforms death benefit annuity calculations to the new retirement eligibility tables. It also addresses the first 90 days of membership by requiring local employers to pay the 6% state contribution during that period. It increases the active member contribution for TRS-Care retiree health benefits program from .5% to .65%. It restricts a school district's authority to provide local retirement incentives. It requires local employers to contribute 12.4% to the Pension Fund for each of its retired employees and the difference in TRS-Care between the retiree and dependent premium and the full cost. It requires the actuarial cost for purchases of out-of-state service as of 1/1/06 but grandfathers those who are TRS members and have accrued out of state service credit before 1/1/06. It repeals Credit Purchase Option, also know as "air time", on 1/1/06. It requires that age plus years of service must equal 90 for those that take the Partial Lump Sum Option at retirement. It allows purchased service credit to count towards TRS-Care eligibility. Also, it does not repeal the comparability report performed by TRS.

It provides procedures for requests of participant records that are confidential. It provides an additional requirement for the bus driver exception of retiree employment without loss of

benefits. It provides for statutory changes regarding deposit of out-of-state or service credit purchase option payments to conform with other changes in the bill.

CSHB 2568 deletes the changes in the filed bill related to home-rule districts. It adds provisions to move administration of the supplemental compensation program to TEA. It establishes a deadline of 12/31/05 for participation in the Deferred Retirement Option Plan and provides a window for voluntary revocation for members currently in DROP.

It includes miscellaneous nonsubstantive changes to clarify language related to the Insurance Code. The clean up is needed to reconcile differences in statute created by the passage of several pieces of legislation, including recodification, during the last two years. The nonsubstantive changes also include conforming changes to reflect the repeal of Chapter 1577, largely duplicative of Chapter 1576 relating to long term care insurance.