LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 25, 2005

TO: Honorable David Dewhurst, Lieutenant Governor, Senate

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **SB1691** by Duncan (Relating to certain retired school employees and the powers and duties of the Teacher Retirement System of Texas; providing a penalty.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1691, As Passed 2nd House: a positive impact of $450,657,019 through the biennium ending August 31, 2007.

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
2006	$220,998,857
2007	$229,658,162
2008	$238,164,488
2009	$246,987,068
2010	$256,242,550

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *GENERAL REVENUE FUND* 1	Probable Savings/(Cost) from *EST OTH EDUC & GEN INCO* 770	Probable Revenue Gain/(Loss) from *RETIRED SCHOOL EMP GROUP INSURANCE* 989	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1
2006	$249,798,857	$11,525,129	$29,054,157	($21,600,000)
2007	$260,158,162	$12,101,385	$30,216,323	($22,900,000)
2008	$270,564,488	$12,585,441	$31,424,976	($24,300,000)
2009	$281,387,068	$13,088,858	$32,681,975	($25,800,000)
2010	$292,642,550	$13,612,413	$33,989,254	($27,300,000)

Fiscal Year	Probable Revenue Gain/(Loss) from *FOUNDATION SCHOOL FUND* 193
2006	($7,200,000)
2007	($7,600,000)
2008	($8,100,000)
2009	($8,600,000)
2010	($9,100,000)

Fiscal Analysis

The bill would make several changes to Teacher Retirement System (TRS) statutes regarding administration and the agency's role as a trust. These changes would grant similar or greater independence as statutes related to the Employees Retirement System (ERS). Among these changes is a provision that would grant exclusive control of all assets held in trust and all operations funded by trust assets to the TRS Board of Trustees. Since the 2000-01 biennium, TRS administrative functions have been funded with trust assets that have been appropriated through the General Appropriations Act.

The bill would allow TRS to be exempt from several provisions governing state agencies' requirement regarding the use of services or functions of the State Office of Risk Management, the Texas Building and Procurement Commission, the Department of Information Resources, and the State Office of Administrative Hearings, as well as other requirements related to contracting. TRS would be permitted to utilize these services at the discretion of the board of trustees.

Section 5 would prohibit school districts from offering financial or other incentives to encourage early retirement from TRS.

Section 6 would add Subchapter D to Chapter 22, Education Code, related to supplemental compensation for school district employees which is governed under Chapter 1580, Insurance Code, under current law. The bill would direct the Texas Education Agency (TEA) to provide funding to TRS-participating school districts, participating charter schools, and regional education service centers for the purpose of providing supplemental compensation to district employees in an amount established in the General Appropriations Act.

The bill makes numerous changes to policies related to TRS retirement and retiree insurance eligibility.

Section 10 would require a member to pay full actuarial cost for the purchase out-of-state service credit.

Section 11 would amend retirement eligibility rules for TRS members who become members after September 1, 2007. The rules would stipulate eligibility for full service retirement as age 65 with 5 years of service or the rule of 80 with a minimum age of 60. A reduced annuity could be taken when the member reaches the rule of 80 with at least 5 years of service, but before age 60.

Section 12 would increase the number of years used to calculate average annual compensation for the standard service retirement annuity formula from three to five.

Section 18 would require a member to elect participation in the Deferred Retirement Option Program (DROP) program by December 31, 2005. Section 19 would allow a DROP participant participating on September 1, 2005, who has not retired before that date to revoke participation before December 31, 2005.

Section 28 would require an employer to contribute an amount equal to the state contribution rate to TRS for retirement applied to the compensation of new members of the retirement system during the first 90 days of employment. This provision applies to new members as of September 1, 2005.

Section 29 would require a district that employs a TRS retiree to remit a contribution to TRS equal to the amount that would have been contributed by the retiree and by the state if the retiree were an active member. If the retiree is enrolled in the Texas Public School Employees Group Insurance Program (TRS-Care), the employer must pay the difference between any amount the retiree is required to pay for the retiree and dependents and the full cost of the retiree's and dependents' participation. These provisions apply to retirees rehired after January 1, 2005, by that reporting employer or by another employer, if both employers are school districts that consolidated into a consolidated school district on or before September 1, 2005.

Section 37 would require that TRS members retiring after September 1, 2005, have 10 years of service credit and either meet the rule of 80 or have 30 or more years of service at retirement in order to be eligible to participate in TRS-Care.

Section 40 increases the rate at which active public education employees contribute to TRS-Care to 0.65 percent.

Section 47 would exempt all premiums or contributions on a policy, insurance contract, or agreement for the ActiveCare insurance program for public education employees from any state tax or fee, including a premium or maintenance tax or fee.

Effective January 1, 2006, the bill would repeal statute allowing a member to purchase service credit under section 823.405, Government Code. This provision would disallow the purchase of what is commonly referred to as “air time.”

The bill establishes various reporting requirements for TEA related to the status of charters and school districts.

Methodology

Section 6 transfers the supplemental compensation program defined by Chapter 1580, Insurance Code, from TRS to TEA and stipulates that the rate of payment be established in the General Appropriations Act. For purposes of this estimate, it is assumed that the amount set in the General Appropriations Act would be equivalent to that stipulated in current law. To the extent that the amount set in the General Appropriations Act differs from the amount stipulated in current law, there could be state costs or savings. It is assumed that any administrative costs associated with transferring this function to TEA could be absorbed within the existing full-time equivalent (FTE) cap and administrative budget.

According to TRS, the changes in eligibility for TRS-Care would have no net fiscal impact.

Section 40 increases the rate at which active public education employees contribute to TRS-Care to 0.65 percent. The associated additional revenue to TRS-Care would be about $29 million in fiscal year 2006 and $30 million in fiscal year 2007 statewide.

Requiring local employers to make a contribution for the first 90 days of employment for new members would provide an actuarial gain to the retirement fund, but would not result in direct savings to the state relating to the retirement contributions for these members. The Texas Constitution requires that the state contribute 6 percent for all members of TRS, and the 90-day delay in eligibility for TRS membership for new employees in place under current law expires at the end of fiscal year 2005.

Collectively, changes to retirement eligibility would have the following actuarial impact according to the TRS consulting actuary:

The present value of future benefits for all current members would be reduced by $1.5 billion. The normal cost would decrease by 1.31 percent. The funding period would remain infinite, but the contribution rate required to bring the fund within the 30-year period stipulated in statute would be reduced from 8.11 percent to 7.01 percent. Assuming this contribution were made by the state, the cost to achieve the 30-year funding period would be reduced by $250 million in General Revenue in fiscal year 2006, increasing to a reduction of $293 million in General Revenue by fiscal year 2010.

The revenue loss associated with the ActiveCare exemption from the premium tax is estimated at $21.6 million in General Revenue and $7.2 million from the Foundation School fund in fiscal year 2006, increasing to $27.3 million in General Revenue and $9.1 million from the Foundation School fund by fiscal year 2010.

Local Government Impact

The bill would require an employer to pay an amount equivalent to the state contribution for retirement for new employees who are also new TRS members for the first 90-days of employment. The cost to public education employers is estimated at about $20 million annually statewide. The cost to higher education employers is estimated at about $4 million annually statewide.

The bill would require public education employers who employ TRS retirees to remit a contribution to TRS equal to the state and member contribution that would have been made on the employee’s salary if the employee were an active member and would require the employer to pay any difference between the costs paid by the retiree on behalf of the retiree and his or her dependents and the actual cost of coverage if the retiree is a TRS-Care participant. These provisions apply to retirees employed after January 1, 2005. Based on current state and member contribution rates and an average teacher salary of about $41,000, these provisions would lead to increased district costs of about $5,100 per year per rehired retiree for retirement contributions. The cost associated with TRS-Care would vary according to the plan chosen by the retiree, the number of dependents, and participants’ Medicare eligibility, but could range from $0 to about $460 per month for a retiree who is not eligible for Medicare with no covered dependents.

The bill would prohibit local school districts from offering early retirement incentives. To the extent that school districts employ more experienced teachers longer, who are generally higher paid, district costs could increase.

Source Agencies: 701 Central Education Agency, 323 Teacher Retirement System

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