LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: **HB1070** by Truitt (Relating to audits of certain public retirement system actuarial valuations, studies, and reports.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1070, As Passed 2nd House: a negative impact of ($2,186,982) through the biennium ending August 31, 2011.

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
2010	($1,125,991)
2011	($1,060,991)
2012	($1,060,991)
2013	($1,060,991)
2014	($1,060,991)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *General Revenue Fund* 1
2010	($1,125,991)
2011	($1,060,991)
2012	($1,060,991)
2013	($1,060,991)
2014	($1,060,991)

Fiscal Analysis

The bill would amend Government Code 802.1012 pertaining to retirement plans with over $100 million in assets, which requires them to have actuarial audits every five years. Under the provisions of the bill, plans which have not recently obtained an appropriate actuarial audit would be required to initiate one before March 1, 2010. Statewide plans are not subject to Section 802.1012.

Additionally, the bill would amend Chapter 801 of the Government Code to change the scope of the Pension Review Board (PRB) beyond its oversight of public retirement systems in Texas, and add board oversight of the investment of public funds by the Comptroller; the Permanent University Fund (PUF); Permanent School Fund (PSF); the Employees Retirement System, including a retirement system administered by the system; the Teacher Retirement System; the Texas Municipal Retirement System; the Texas County and District Retirement System; and the Texas Emergency Services

Retirement System. The bill would also direct the PRB to develop, by rule, actuarial standards, procedures for receiving and investigating complaints against investment managers, and the review of contracts and fees paid to investment managers.

The Texas Education Agency (TEA) reports that the bill would have no direct fiscal implication for the Foundation School Program (FSP) and no significant impact on the operations of TEA, but that it may be required to seek an opinion from the Attorney General to clarify the relationship between the PRB and the State Board of Education, which has the current oversight of the PSF.

Methodology

The PRB reports it would need eleven additional full-time-equivalents (FTEs) to carry out the provisions of the bill. These would include a General Counsel and a staff attorney to ensure that the agency has sufficient legal expertise to meet the board's new oversight authority. An Investment Analyst IV would serve in a senior-level position, with two Investment Analyst I positions to provide support. A full-time Database Administrator V would ensure that all information and data received by the PRB is securely and properly stored in the agency databases. A Program Specialist III would work with the staff actuary, and two additional Research Specialist I positions would provide data entry support. Finally, two additional Administrative Assistant I positions would support the administrative functions of the agency. The projected salary and benefits costs for these positions is approximately $1.6 million for the 2010-11 biennium. The PRB reports that other costs associated with the new FTEs total approximately $0.7 million for the 2010-11 biennium, which includes approximately $0.1 million in one-time costs for new office furniture equipment and moving costs.

Although not reflected in the tables above, the University of Texas Investment Management Company (UTIMCO), the investment manager of the PUF, estimates increased administrative costs of approximately $0.3 million for the 2010-11 biennium as a result of the bill’s provisions. It is believed that these costs could be absorbed with current resources.

Both the Comptroller of Public Accounts and the State Auditor’s Office report that the bill’s provisions would have no fiscal impact on their operations.

Local Government Impact

The bill would remove the language that a rule adopted by the board may not be enforced against a public retirement system if compliance with the rule would cause the system to incur a major expense. The fiscal impact on local governmental entities public retirement system could be significant related to implementation of this provision of the bill.

Two public retirement system entities reported the provisions of the bill could have a significant fiscal impact on counties and cities.

The Texas County and District Retirement System (TCDRS), a statewide public employee retirement system that provides retirement, death and disability benefits for full-time employees reported some of the provisions that require certain reports and filings would have a cost impact, but until there is an opportunity to review the policies and procedures that would be set by PRB, TCDRS is unable to provide a definitive amount or a reasonable estimate of the total fiscal impact of the bill. The TCDRS also noted that they do not receive state funds; each subdivision participating in TCDRS separately funds its own benefits from both employers and employees contributions to the system.

The Texas Municipal Retirement System (TMRS) which centrally administers retirement plans for over 830 cities and receives no state funding reported that funds held in trust for the members of the plans are invested by the TMRS Board of Trustees. Investment earnings are used to supplement and offset employer contributions made by the cities to their plans. The ability of the TMRS Board to perform its fiduciary duty with regard to investments could be impaired or delayed by the provisions of the bill, which could result in losses (or lower gains) to the fund. The impairment or delay could also result in increasing city contribution rates which pay for the current level of benefits provided by each TMRS city. It is impossible to quantify such increases. Because the procedures and policies created by the bill would be new, it is difficult to assess what effect the reviewing function of the PRB would have on TMRS' investment practices. TMRS also noted the potential costs of a slower contracting process may be higher than for other funds. TMRS began the diversification of its $14 billion trust fund in 2008, moving from a 100 percent fixed income portfolio into a diversified one more typical of large investment funds. As diversification progresses, the timing of individual contracts may play a critical role, and losses resulting from the system's delay in diversification would translate directly into increased benefit costs for the cities.

Source Agencies: 304 Comptroller of Public Accounts, 308 State Auditor's Office, 338 Pension Review Board, 701 Central Education Agency, 720 The University of Texas System Administration

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