

BILL ANALYSIS

C.S.H.B. 3542
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Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Several years ago, retired teachers received an additional monthly check through an act of the Texas Legislature. Interested parties observe that this additional check used general revenue funds appropriated through the biennial budget. Interested parties further observe that, since the recent economic downturn, the Teacher Retirement System of Texas (TRS) has continued to regain its strength, showing substantial growth over the span of several recent months.

C.S.H.B. 3542 seeks to provide another round of supplemental payments from a source other than general revenue by authorizing TRS to issue an additional annuity payment to retired teachers, paid from the returns on TRS investments, if the board of trustees determines that the payment can be made while preserving the fund's actuarial soundness.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3542 amends the Government Code to add temporary provisions, set to expire January 1, 2014, authorizing the Teacher Retirement System of Texas (TRS) to provide a one-time supplemental payment to an annuitant eligible to receive one of the following: a standard retirement annuity payment, an optional retirement annuity payment as either a retiree or beneficiary, a life annuity payment, an annuity for a guaranteed period of 60 months, or an alternate payee annuity payment in lieu of benefits awarded by a qualified domestic relations order. The bill authorizes the one-time supplemental payment, even if the amortization period for the unfunded actuarial liabilities of the retirement system exceeds 30 years by one or more years, on the condition that the TRS board of trustees determines that at the time of the supplemental payment the payment can be made while preserving the retirement system's ability to meet at least 80 percent of the system's pension obligations. The bill requires the funding for the one-time supplemental payment to come from the earnings the retirement system makes on its investments as provided by the bill's provisions. The bill authorizes the supplemental payment to be made at any time during the period beginning September 1, 2011, and ending December 31, 2013, only if, during the preceding fiscal year, the return on investments, as provided by the actuarial valuation on August 31 of that year, exceeds eight percent by an amount sufficient to pay for the supplemental payment. The bill exempts the supplemental payment authorized under the bill's provisions from the statutory provision prohibiting the board of trustees from making a supplemental payment required or authorized by the legislature by law and from imposing an increase in the rate of member contributions if the board finds that after such action the amortization period for the unfunded actuarial liabilities of the retirement system would exceed 30 years by one or more years.

C.S.H.B. 3542 requires TRS to make a one-time supplemental payment of a retirement or death benefit, as provided by the bill's provisions, payable not later than December 31, 2013, and, to

the extent practicable, on a date or dates that coincide with the regular annuity payment payable to each eligible annuitant. The bill sets the amount of the supplemental payment at the lesser of the gross amount of the regular annuity payment to which the eligible annuitant is otherwise entitled for the month of August 2011 or \$2,400.

C.S.H.B. 3542 makes the supplemental payment payable without regard to any forfeiture of benefits and requires TRS to make applicable tax withholding and other legally required deductions before disbursing the supplemental payment. The bill establishes that the supplemental payment is in addition to and not in lieu of the regular monthly annuity payment to which the eligible annuitant is otherwise entitled. The bill requires, as a condition of eligibility for the supplemental payment, that a person be, for the month of August 2011, and disregarding any forfeiture of benefits, an annuitant eligible to receive one of the following: a standard retirement annuity payment, an optional retirement annuity payment as either a retiree or beneficiary, a life annuity payment, a annuity for a guaranteed period of 60 months, or an alternate payee annuity payment in lieu of benefits awarded by a qualified domestic relations order.

C.S.H.B. 3542 requires the TRS member's effective date of retirement, if the annuitant is a retiree or a beneficiary under an optional retirement payment plan, to have been on or before December 31, 2008, for the annuitant to be eligible for the supplemental payment. The bill requires the date of the TRS member's death, if the annuitant is a beneficiary of a death benefit consisting of a life annuity payment or an annuity for a guaranteed period of 60 months, to have been on or before December 31, 2008, for the annuitant to be eligible for the supplemental payment. The bill requires the supplemental payment to be made to an alternate payee who elected to receive the alternate payee's portion of the actuarial equivalent of the member's accrued retirement benefit in lieu of benefits awarded by a qualified domestic relations order only if the annuity payment to the alternate payee began on or before December 31, 2008. The bill establishes that the supplemental payment is in addition to the guaranteed number of payments under certain statutory provisions and prohibits the payment from being counted as one of the guaranteed monthly payments.

C.S.H.B. 3542 makes the supplemental payment inapplicable to certain payments made under statutory provisions relating to disability retirees with less than 10 years of service credit, participants in the deferred retirement option plan with regard to payments from their deferred retirement option plan accounts, retiree survivor beneficiaries who receive a survivor annuity in an amount fixed by statute, or active member survivor beneficiaries who receive a survivor annuity in an amount fixed by statute. The bill requires the TRS board of trustees, except as provided by the bill's provisions, to determine the eligibility for and the amount and timing of a supplemental payment and the manner in which the payment is made.

C.S.H.B. 3542 establishes that its provisions are not intended to supplant the power or discretion of the legislature to provide supplemental payments to annuitants of the Teacher Retirement System of Texas and that its provisions provide an additional tool by which the legislature, in enacting this law, is authorized to provide those annuitants with a much-needed one-time supplemental payment without requesting additional funds from general revenue.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3542 contains a provision not included in the original establishing that the bill's provisions are not intended to supplant the legislature's power or discretion to provide supplemental payments to annuitants of the Teacher Retirement System of Texas and that its

provisions provide an additional tool by which the legislature may provide those annuitants with a much-needed one-time supplemental payment without requesting additional funds from general revenue.

C.S.H.B. 3542 differs from the original by specifying that the one-time supplemental payment is authorized to be made at any time during the period beginning September 1, 2011, and ending December 31, 2013, given certain fiscal conditions, whereas the original does not specify the years associated with those dates.