

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 19, 2011**

**TO:** Honorable Vicki Truitt, Chair, House Committee on Pensions, Investments & Financial Services

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

**IN RE: SB1664** by Duncan (Relating to the powers and duties of and contributions to and benefits from the systems and programs administered by the Employees Retirement System of Texas.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1664, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2013.

It is anticipated that the legislation would result in an estimated \$43,778,914 in revenue to the Employees Health Benefits and Insurance Trust 0973 during the 2012-13 biennium.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2012	\$0
2013	\$0
2014	\$0
2015	\$0
2016	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Revenue Gain from <i>Employees Health Benefits and Insurance Trust (0973)</i>	Probable (Cost) from <i>Employees Health Benefits and Insurance Trust (0973)</i>
2012	\$24,024,457	(\$2,050,000)
2013	\$24,024,457	(\$2,220,000)
2014	\$24,024,457	(\$2,380,000)
2015	\$24,024,457	(\$2,460,000)
2016	\$24,024,457	(\$2,630,000)

**Fiscal Analysis**

Sections 1, 7, 14, 15, and 18 of the bill would amend Government Code, and Section 17 of the bill would amend Insurance Code to clarify that a beneficiary convicted of, or found civilly liable of, causing the death of a member of the Employees Retirement System (ERS) or the Judicial Retirement Systems is not entitled to any of that member’s retirement, insurance, or TexaSaver benefits.

Section 2 of the bill would amend Government Code by adding the state policy committee of the State Employee Charitable Campaign must be composed of employees and retired state employees receiving benefits under Chapter 814.

Section 3 of the bill would amend Government Code by adding that one or more members recruited by the presiding officer of a local employee committee of the State Employee Charitable Campaign may be retired state employees receiving retirement benefits under Chapter 814.

Section 4 of the bill would amend Government Code to change the data transfer from ERS to the Comptroller from an annual requirement to once every five years. It is anticipated that this would result in relatively small savings to ERS.

Sections 5 and 6 of the bill would amend Government Code to change the rate on certain retirement service purchases to ensure it is equal to the employee contribution for service.

Sections 8 and 9 of the bill would amend Government Code to allow a person receiving an annuity to authorize the retirement system to deduct a contribution to the state employee charitable campaign from their monthly annuity payment. The bill would also authorize the State Employee Charitable Campaign policy committee to approve a budget that includes funding for as many of the expenses incurred by the implementation and administration of the annuitants' participation, and for those expenses that are not covered in the budget, the ERS Board of Trustees would be authorized to charge an administrative fee to cover its costs.

Section 10 of the bill would amend Government Code to extend the required retirement service credit for those members hired on or after September 1, 2009.

Section 12 of the bill would amend Government Code to clarify that the Employees Retirement System is allowed to invest in U.S. Government Agency securities.

Section 13 of the bill would amend Government Code to maintain the member contributions for the Employees Retirement System and the Law Enforcement and Custodial Officer Supplemental Retirement System at 6.5 percent and 0.5 percent, respectively, for fiscal year 2012 regardless of the state contribution level. It is expected that the state contribution rates will decrease from the current contribution rates of 6.95 percent for ERS and 1.59 percent for LECOS for the 2012-13 biennium. The bill would therefore prevent an expected loss of member contributions to the ERS fund estimated to be \$58.8 million, and a loss of member contributions to the LECOS retirement fund estimated to be \$15.0 million. Given the expected reduction in the state's contribution to the ERS and LECOS retirement funds during the 2012-13 biennium, the bill would likely have a long-term positive fiscal implication for the state. Maintaining the member contributions, with their earned interest, to the retirement funds could reduce the funds' unfunded liabilities.

Section 16 of the bill would amend Insurance Code to add an age limit to wards who are qualified dependents in the Group Benefits Program.

Section 17 of the bill would amend Insurance Code to clarify that the Group Benefits Program be administered to comply with applicable federal insurance laws.

Sections 19 and 20 of the bill would implement recommendations from the report "Implement a Tobacco User Surcharge on Employees Retirement System Health Premiums" from the Legislative Budget Board's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Texas Legislature, 2011. The bill would amend the Insurance Code by adding Section 1551.226 to require ERS to include coverage in the state employee health plan for tobacco cessation prescription drugs and by adding Section 1551.3075 to require ERS to apply a monthly tobacco user premium differential to each participant covered under the state health plan that uses tobacco. The amount of the monthly tobacco user premium differential can be set in the General Appropriations Act. If it is not set in the General Appropriations Act then the bill would give the ERS Board would be the authority to set the monthly user fee. The bill would require that these changes be implemented no later than January 1, 2012.

Section 21 of the bill would amend Insurance Code to add an Employer Enrollment Fee to be assessed to each general state agency and institution of higher education that participates in the Group Benefits Program, based on a percentage of the employer's payroll as determined in the General Appropriations Act. The ERS Board of Trustees would deposit these enrollment fees into the ERS insurance trust

fund to be used for group health insurance coverage.

Section 22 of the bill would amend Insurance Code to clarify that members of the Group Benefits Program may not receive two state health plan contributions.

The bill would take effect September 1, 2011.

### **Methodology**

For the tobacco user premium differential, ERS reported a total of 411,942 adults enrolled in the state health plan as of February 2011. According to the Centers for Disease Control and Prevention (CDC), an estimated 18.0 percent of adult Texans smoke as of 2009. Applying this statistic to recent ERS health plan enrollment results in an estimated 74,150 tobacco users in the plan. Of those estimated smokers, it is anticipated that 90 percent of them (66,735 plan members) would pay the differential. This would result in a gross revenue of \$24.0 million in All Funds per fiscal year, which would be deposited to the Employees Life, Accident, Health Insurance and Benefits Trust Account (0973). The revenue gain to the trust account would cover the cost associated with the tobacco cessation program coverage. It would also help defray the increased costs to the plan associated with tobacco users, reduce the need for appropriations to the health plan, and minimize the need for cost shifting to employees to fund the state health plan.

For the tobacco cessation coverage, ERS reported a total plan enrollment of 538,465 participants as of February 2011. ERS estimates that physician office visits and counseling for tobacco cessation, which are currently offered within the state health plan, would increase utilization at an initial cost of \$0.08 per member per month. For tobacco cessation prescription drug coverage, ERS estimates a cost of \$0.30 per member per month. The prescription drug cost estimate is based on coverage for generic versions of Wellbutrin and Zyban, which would have a co-pay of \$15 per month and the brand drug Chantix, which would have a co-pay of \$35 per month. ERS estimates that the total cost of tobacco cessation will increase each fiscal year based on the annual benefit cost trends.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 327 Employees Retirement System

**LBB Staff:** JOB, AG, MS, DEH, WM, KJG, JJO