LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 14, 2021

TO: Honorable Larry Taylor, Chair, Senate Committee on Education

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **SB1232** by Taylor (Relating to the management and investment of the permanent school fund, including the duties of the School Land Board and the creation of the Permanent School Fund Investment Management Organization.), **As Introduced**

Because of the uncertainty regarding future returns on investment and fund distributions, the fiscal implications of the bill cannot be determined at this time.

The bill would establish the Permanent School Fund Investment Management Organization, which would be responsible for managing the Permanent School Fund (PSF). The organization would be composed of seven members, including three appointed by the State Board of Education (SBOE), one appointed by the General Land Office (GLO), and three appointed by the Governor, from a list of individuals nominated jointly by the SBOE and the GLO. The organization could employ an executive director, a chief investment officer, and other employees.

Under existing law, the ASF is a method of finance for the school finance system and for the Technology and Instructional Materials Allotment (TIMF). In addition to transfers from the PSF to the ASF that are authorized under existing law, the organization could distribute from the PSF to the ASF amounts based on rules established by the organization. In establishing such rules, the bill would require the organization to consider historical trailing averages for the total market value of the PSF, student enrollment growth, and inflation.

The bill would also require that all revenue from mineral or royalty interests governed by the School Land Board (SLB), shall be transferred to the organization for investment into the PSF.

Fiscal Implications

Due to uncertainty regarding the nature of future returns and the effect of the bill on distributions from the PSF to the ASF, the TIMF, and the PSF Investment Management Organization, the fiscal implications of the bill cannot be determined at this time. However, TEA and GLO provided the following information on the potential impact of the bill.

According to TEA, the bill would "result in a negative fiscal impact in terms of growth of the fund, future fund distributions, and administrative costs to the state due to questions of constitutional authority, flexibility in making investments, transition costs, and other considerations." The primary reason for this, according to the agency, is because The Texas Constitution grants authority over management of the PSF to the SBOE and the SLB. The bill would move investment authority of the PSF away from the SBOE and the SLB without a constitutional amendment, which could limit the legal authority and operating environment of the new entity.

As written, the bill would prevent the new entity from investing in international stocks and bonds, real estate, and private equity. As a consequence, TEA anticipates that the resulting reduced returns accruing to the PSF would reduce the value of the fund by approximately $715.3 million in fiscal year 2022 and by $1,611.8 million in fiscal year 2023, with loses growing to $4,938.4 million by fiscal year 2026. Resulting distributions to the ASF would materialize beginning in fiscal year 2024, resulting in a $91.3 million loss in that year, with losses growing to $172.8 million by fiscal year 2026. The GLO also highlighted the restrictions that would be imposed on allowable investments by the bill, leading the agency to remark that the bill could "result in a substantial reduction in future investment earnings to the PSF, likely producing an opportunity cost of very large proportions."

In addition to loses accruing to the PSF and ASF, TEA anticipates that the bill would also result in costs associated with increased administrative expenses. TEA provides support for certain administrative functions related to the PSF, and the PSF is used to support approximately $8.0 million in various divisions, including human resources, information technology, finance, and other areas. This analysis assumes that any reduced funding provided by the PSF at TEA would be transferred to the new organization. However, according to the agency, the impact on the workload in the affected divisions at TEA would not be proportional to the reduction in funding, and the agency would require some of the lost funding to be restored in order to support agency operations. TEA estimates that the bill would result in a reduction of 5.0 FTEs and a savings of approximately $1.1 million in costs in fiscal year 2022, after accounting for $6.9 million in additional General Revenue funds that would be required to ensure no reduction in agency capacity. In addition, due to lost economies of scale related to comingling PSF operations at TEA, this analysis assumes that the new organization may require funding from the PSF in excess of current funding levels.

The GLO estimates that the agency would require $38.6 million in General Revenue funds in the biennium to support agency operations if PSF funds included in the GLO's budget are transferred to the new organization.

The Texas Comptroller of Public Accounts was unable to estimate the fiscal impact of the legislation.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 305 General Land Office, 701 Texas Education Agency

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