

BILL ANALYSIS

C.S.S.B. 10
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Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been many years since the last cost-of-living adjustment for retired teachers, which has resulted in a substantial decline in purchasing power. C.S.S.B. 10 seeks to address this issue by providing to eligible annuitants of the Teacher Retirement System of Texas (TRS) a one-time cost-of-living adjustment effective in January 2024 and an annual gain-sharing cost-of-living adjustment beginning in September 2028 that is contingent on TRS's investment earnings. The bill additionally provides a one-time lump-sum payment equal to \$5,000 for eligible annuitants who are at least 70 years of age. Lastly, the bill increases both the active member contribution rate and the state contribution rate to nine percent.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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.S.B. 10 amends the Government Code to provide for certain benefit enhancements for eligible annuitants of the Teacher Retirement System of Texas (TRS), to make adjustments regarding state and active member contributions to TRS, and to require the state to make certain actuarially required payments. The bill establishes that TRS is actuarially sound for purposes of providing the benefits enhancements pursuant to the Texas Constitution if, based on the most recent actuarial valuation of TRS, the amount of contributions and actuarially determined payments to TRS are sufficient to cover the normal cost of TRS and to amortize the unfunded actuarial accrued liability of TRS within 30 years.

Gain Sharing Cost-of-Living Adjustment

C.S.S.B. 10 requires TRS, for each fiscal year beginning with the 2029 fiscal year, to make a cost-of-living adjustment payable to eligible TRS annuitants receiving a retirement or death benefit annuity payment contingent on TRS's average rate of return on the investment of its assets during the preceding five fiscal years, expressed as a percentage rate, being equal to or exceeding seven percent. The bill sets the adjustment at an amount equal to the annuitant's monthly annuity payment for the month the adjustment is effective multiplied by a percentage rate that is computed by:

- determining the average rate of return on investment during the preceding five fiscal years, expressed as a percentage rate;
- subtracting five percentage points from that percentage rate;

- multiplying the resulting difference by 50 percent; and
- rounding down to the nearest one-tenth of a percent.

The bill caps the adjustment amount at two percent of the annuitant's monthly annuity payment.

C.S.S.B. 10 makes eligible for the gain-sharing adjustment an annuitant who is eligible to receive one of the following annuity payments on the adjustment's effective date, disregarding any forfeiture of benefits due to a resumption of service:

- a standard service or disability retirement annuity payment;
- an optional service or disability retirement annuity payment as either a retiree or beneficiary;
- a 60-month retirement annuity payment or an optional lifetime retirement annuity payment following the death of an active member;
- an annuity payment following the death of a disability retiree; or
- an alternate payee annuity payment in lieu of benefits awarded by qualified domestic relations order.

The bill further conditions eligibility on the annuitant being alive on the adjustment's effective date and on the annuitant becoming eligible to receive the annuity payment at least three years before the first day of the fiscal year in which the adjustment is made, except that for a beneficiary eligible to receive an optional service or disability retirement annuity payment on the adjustment's effective date, it is either the beneficiary or the applicable retiree who must have become eligible to receive the annuity payment in that time frame.

C.S.S.B. 10 makes the gain-sharing adjustment inapplicable to the following:

- retirees who receive a standard service retirement annuity in an amount fixed by statute;
- disability retirees with less than 10 years of service credit or who receive a disability annuity in an amount fixed by statute;
- active member or retiree survivor beneficiaries who receive a survivor annuity in an amount fixed by statute; or
- participants in the deferred retirement option plan with regard to payments from their deferred retirement option plan accounts.

One-Time Cost-of-Living Adjustment

C.S.S.B. 10 requires TRS to make an additional one-time cost-of-living adjustment payable to eligible annuitants receiving a monthly death or retirement benefit annuity. An annuitant is eligible for this one-time adjustment if, on the adjustment's effective date and disregarding any forfeiture of benefits due to a resumption of service, they are eligible to receive any of the types of annuity payments that qualify for the gain-sharing adjustment as prescribed by the bill. The bill further conditions eligibility for the one-time adjustment as follows:

- for an annuitant who is a retiree or is a beneficiary under an optional service or disability retirement payment plan, the annuitant must be living on the effective date of the adjustment and the effective date of the retirement of the member on whose service the annuity is based must have been on or before December 31, 2020;
- for an annuitant who is a beneficiary receiving an eligible annuity payment following the death of an active member or a disability retiree, the annuitant must be living on the effective date of the adjustment and the date of death of the member on whose service the annuity is based must have been on or before December 31, 2020; and
- for an annuitant who is an alternate payee under a qualified domestic relations order, the effective date of the election to receive the annuity payment must have been on or before December 31, 2020.

The bill makes the one-time adjustment inapplicable to the same types of payments to which the gain-sharing adjustment does not apply.

C.S.S.B. 10 requires the one-time adjustment to be made beginning with an annuity payable for the month of January 2024. The amount of the adjustment depends on when the retiree retired,

the member died, or the election to be an alternate payee under a qualified domestic relations order occurred, as applicable depending on the type of annuity payment received. The bill sets the adjustment at an amount calculated by multiplying the amount of the monthly benefit subject to the adjustment by one of the following percentage rates, as applicable:

- if the date of retirement, death, or election was before January 1, 2004, six percent;
- if the date of retirement, death, or election was on or after January 1, 2004, but before January 1, 2014, four percent; and
- if the date of retirement, death, or election was on or after January 1, 2014, but before January 1, 2021, two percent.

The bill requires the TRS board of trustees to determine the eligibility for and the amount of any adjustment in monthly annuities in accordance with the bill's provisions providing for a one-time adjustment.

One-Time Supplemental Payment

C.S.S.B. 10 requires TRS to make a one-time supplemental payment of a retirement or death benefit to an eligible annuitant in an amount equal to \$5,000, payable not later than February 2024, and, to the extent practicable, on a date or dates that coincide with the regular annuity payment payable to each eligible annuitant. The bill makes eligible for the supplemental payment an annuitant who, for the calendar month immediately prior to the calendar month in which TRS issues the payment, is at least 70 years of age and is eligible to receive one of the following:

- a standard retirement annuity payment;
- an optional retirement annuity payment as either a retiree or beneficiary;
- a 60-month retirement annuity payment or an optional lifetime retirement annuity payment following the death of an active member; or
- an alternate payee annuity payment in lieu of benefits awarded by qualified domestic relations order.

C.S.S.B. 10 establishes that the supplemental payment is payable without regard to any forfeiture of benefits due to a resumption of service and requires TRS to make applicable tax withholding and other legally required deductions before disbursing the payment. The bill clarifies that the 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 also clarifies that the payment is in addition to the annuitant's guaranteed number of payments, if applicable, and may not be counted as one of those guaranteed monthly payments. The bill requires the TRS board of trustees to determine the eligibility for and the amount and timing of a supplemental payment and the manner in which the payment is made.

The supplemental payment provided by the bill does not apply to the following:

- 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; or
- retiree or active member survivor beneficiaries who receive a survivor annuity in an amount fixed by statute.

C.S.S.B. 10 conditions the duty of TRS to make the supplemental payment on the board of trustees finding that the legislature appropriated money to TRS in an amount that is sufficient to provide the payment and that is in addition to the amount the state is required to contribute to TRS. If the board determines that the amount differs between what was appropriated and what is required to issue the payment, the comptroller of public accounts, after the end of the fiscal year, must make adjustments in the teacher retirement fund and the general revenue fund so that the total transfers during the year equal the total amount of the funds required for the payment. This transfer is in addition to and separate from the amount the state is required to contribute to TRS.

Contribution Rate Change

C.S.S.B. 10 increases to nine percent the rates of state and active member contributions to TRS beginning January 1, 2024. This increase replaces an increase of the rates to 8.25 percent that was set to begin September 1, 2023, and the bill provides for the rates between September 1, 2023, and January 1, 2024, to remain at eight percent as they are currently.

Actuarially Determined Payments

C.S.S.B. 10 requires the state, each fiscal year and in addition to other statutorily required state contributions to TRS, to make an actuarially determined payment in the amount necessary to amortize TRS's unfunded actuarial liabilities by not later than the 2054 fiscal year. The bill requires TRS, before each regular legislative session, to provide the Legislative Budget Board (LBB) with the amount necessary to make that actuarially determined payment and requires the LBB director, under the direction of the LBB, to include that payment in the general appropriations bill the LBB prepares for introduction at each regular legislative session. These provisions expire September 1, 2055.

EFFECTIVE DATE

January 1, 2024, if the constitutional amendment authorizing the legislature to provide cost-of-living adjustments or other benefit enhancements to eligible annuitants of the Teacher Retirement System of Texas and providing a one-time transfer of funds for contributions, actuarially determined payments, and benefit enhancements is approved by the voters.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 10 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes provisions that were not in the engrossed relating to the following:

- TRS's actuarial soundness for benefit enhancements;
- the gain sharing cost-of-living adjustment;
- the rate of state and active member contributions to TRS; and
- actuarially determined payments.

While both the engrossed and the substitute provide for a one-time cost-of-living adjustment, the substitute changes the month in which the adjustment begins from September 2023, as in the engrossed, to January 2024. Additionally, whereas the engrossed conditioned eligibility for the adjustment on the applicable date of retirement, death, or election for an annuity payment under a qualified domestic relations order having been on or before December 31, 2021, the substitute conditions eligibility on such date having been on or before December 31, 2020.

The substitute also revises the bill's method for calculating the one-time cost-of-living adjustment amount. The engrossed set the adjustment at an amount calculated by multiplying the amount of the monthly benefit subject to the adjustment by one of the following percentage rates, as applicable:

- if the date of retirement, death, or election was before September 1, 2013, four percent; and
- if the date of retirement, death, or election was on or after September 1, 2013, but before January 1, 2022, two percent.

The substitute sets the adjustment at an amount calculated by multiplying the amount of the monthly benefit subject to the adjustment by one of the following percentage rates, as applicable:

- if the date of retirement, death, or election was before January 1, 2004, six percent;

- if the date of retirement, death, or election was on or after January 1, 2004, but before January 1, 2014, four percent; and
- if the date of retirement, death, or election was on or after January 1, 2014, but before January 1, 2021, two percent.

While both the engrossed and the substitute provide for a one-time supplemental payment, the substitute sets the amount of the payment at \$5,000, whereas the engrossed set the payment amount at \$7,500. Additionally, the substitute provides the payment to an otherwise eligible annuitant who is at least 70 years of age, whereas the engrossed provided the payment to an otherwise eligible annuitant who is at least 75 years of age.

The substitute replaces the engrossed version's effective date of immediately on passage or, if it does not receive the necessary vote, September 1, 2023, with an effective date of January 1, 2024, contingent on voter approval of a certain constitutional amendment proposed by the 88th Legislature, Regular Session, 2023.