HOUSE RESEARCH ORGANIZATION bill analysis | 5/26/2003 | SB 1369 Duncan (Delisi) (CSSB 1369 by Wohlgemuth)

SUBJECT: Restructuring group health benefits for retired school employees

COMMITTEE: Select Committee on State Health Care Expenditures — committee substitute recommended

VOTE: 7 ayes — Delisi, Gutierrez, Berman, Crownover, Harper-Brown, Miller, Wohlgemuth

1 nay — Uresti

3 absent — Capelo, Deshotel, Truitt

SENATE VOTE: On final passage, May 15 — voice vote (Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, and West recorded nay)

WITNESSES: For — Tom Pritchard, Texas Retired Teachers Association

Against — Ann Fickel, Texas Classroom Teachers Association; Eric Hartman, Texas Federation of Teachers; Jack Kelly, Texas State Teachers Association; David Pore, Association of Texas Professional Educators; (*Registered, but did not testify:)* Charles Zucker, Texas Faculty Association

On — Ronnie Jung, Teacher Retirement System

BACKGROUND: Texas lawmakers created TRS-Care in 1985 to provide health insurance coverage for public school retirees. TRS-Care now covers about 148,000 people, including public school and higher education retirees, surviving spouses and children, and dependent spouses. The plan offers three tiers of coverage, from the most basic Tier 1 to the most comprehensive Tier 3 coverage. TRS-Care is funded by active-employee payroll deductions of 0.25 percent of salary, matched by a state contribution of 0.50 percent. The ratio between the state's contribution and active employees' contribution must be maintained at two to one. Other revenue sources include retiree premiums, copayments and deductibles, and investment earnings.

While state and active-employee contributions were capped in 1989, retiree premiums rose by 87 percent between 1989 and 2001. Even with premium increases, enrollment growth and rising costs of medical care and prescription drugs have created a cash-flow problem for the plan. Program costs began to exceed revenues in fiscal 1996, and in the past two legislative sessions, the program has required supplemental appropriations to cover medical claims and maintain plan solvency. TRS-Care has no contingency reserve.

Under HB 3343 by Sadler, enacted in 2001, the 77th Legislature transferred $42 million from TRS-Care to TRS-ActiveCare to pay for initial claims costs during the startup phase of the new state-run group health insurance program for active public school employees.

In its Legislative Appropriations Request for fiscal 2004-05, TRS sought $1.37 billion for TRS-Care, more than double the $649 million appropriation for fiscal 2002-03. By the time the 78th Legislature convened, TRS estimated the program shortfall at $854 million. In its building blocks submission, TRS requested $515 million in general revenue appropriations plus $1.1 billion in supplemental funding. Funding proposals for TRS-Care in HB 1 by Heflin, the general appropriations bill for fiscal 2004-05, range from $630 million proposed by the House to $671 million proposed by the Senate. To make up the solvency shortfall, the following changes have been proposed:

- reducing the payroll growth assumption ($116 million);
- increasing office copayments by 67 percent, instituting a three-tiered drug copayment, and tightening the provider network ($176 million);
- increasing retirees' TRS-Care premiums by 33 percent ($133 million);
- raising active employees' contributions to 0.50 percent in 2004 and to 0.75 percent in 2005 ($168 million);
- requiring school districts to make a 0.50 percent contribution ($220 million); and
- transferring the initial claims buffer amount back to TRS-Care from TRS-ActiveCare ($42 million).

A public school retiree is eligible to receive TRS-Care benefits at age 65 with 10 years of service credit in the Texas public schools, if he or she is not also eligible for coverage for employees of the state of Texas, the University of Texas, or Texas A&M University, or has taken a disability retirement under the system.

DIGEST: CSSB 1369 would change the definition of public school retirees eligible for TRS-Care benefits to allow retirees to substitute five years of military service for five years of creditable service in Texas public schools. All retirees also would be able to calculate their eligibility based on the "Rule of 80," which is met if the sum of the retiree's age and the total years of service credit equals or exceeds 80.

During an open enrollment period, any retiree over age 65 who was covered by Medicare and was enrolled in TRS-Care as of August 31, 2004, could enroll in any of the three coverage tiers and could add dependent coverage in that same coverage tier. Retirees not covered by Medicare could enroll only in the next-higher coverage tier and could add dependent coverage only in that tier. Any retiree could select a lower level of coverage at any time. The bill would specify that TRS could not deny basic (Tier 1) coverage to a retiree during an open enrollment period unless the retiree was found to have defrauded the program.

CSSB 1369 would establish a sum-certain state contribution to assist retirees with dependent coverage under the Tier 1 plan, subject to appropriation. TRS would have to collect the balance of the dependent coverage premium from the retiree.

The bill would increase the state's contribution to TRS-Care from 0.5 percent to 1 percent of the salary of each active employee, defined as a contributing member of TRS, and would increase an active employee's contribution from 0.25 percent to 0.50 percent of his or her salary. It would delete the mandate for the state to maintain a two-to-one ratio in its contribution relative to active employees' contributions. Public schools would have to make payroll contributions of between 0.25 percent and 0.75 percent of the salary of each active employee, as prescribed by the general appropriations act.

The bill would require cost-sharing for TRS-Care program costs among the state, active and retired public school employees, and school districts. The state would have to pay not more than 55 percent of the program's total costs, retirees would have to pay at least 30 percent, and the balance would have to be paid by active employees and school districts. TRS would have to establish a range of premium levels for retirees, taking into account years of service and whether or not the retiree was covered by Medicare Part A.

Effective September 1, 2003, the comptroller could transfer $42 million from TRS-ActiveCare to TRS-Care to compensate TRS-Care for the money transferred from that fund in 2001 to pay startup costs for the active public school employees' health insurance program.

The increased payroll contributions and the cost-sharing ratios established by the bill would take effect September 1, 2003. All other provisions would take effect September 1, 2004.

SUPPORTERS SAY:

CSSB 1369 would increase substantially the amount of state assistance to retired teachers while asking all affected players in the system to share the costs of a serious funding crisis at TRS-Care. A report by the state auditor in January 2003 found that "significant changes" are necessary to keep the TRS-Care plan solvent. Since 1993, the program's expenditures consistently have exceeded revenues. Early projections for fiscal 2006-07 put the funding gap for TRS-Care at more than $2 billion.

The current TRS-Care system is insolvent and must be restructured to be financially viable over the long term. TRS trustees have worked with retirees over the years to institute a series of network design changes that TRS-Care participants could accept. Retirees voluntarily have paid more to keep their system intact, and they support the structural changes the bill would make.

CSSB 1369 would require the state to double its minimum contribution, to a level equal to twice the employees' contribution. The fiscal impact of doubling the state's contribution would be neutral, since it merely would provide more money in payroll contributions in exchange for less money in solvency supplementation.

A school district contribution has become necessary now that the Legislature must come up with a solvency supplement for TRS for the third session in a row. The school district contribution would be set on a sliding range by appropriation at between 0.25 percent and 0.75 percent of active employee payroll. This would not be an unreasonable request, since most private-sector employers pay a contribution toward their employees' retirement health-care coverage. The state has committed to paying a majority share of program costs, even though teachers are not state employees.

OPPONENTS SAY:

CSSB 1369 would allow the state to back away from its commitment to TRS-Care by shifting all responsibility for rising costs onto employees and school districts. The state's increased contribution from 0.5 percent to 1 percent of payroll would be a shell game, since the state would have to make up the difference anyway through a solvency supplement.

Imposing higher payroll contributions on active school employees would be unfair, especially since the future of the TRS-ActiveCare passthrough is in doubt in the appropriations process. It also would be unreasonable to ask school districts to come up with a payroll contribution, which would shift an ever greater burden onto local property taxpayers. More than 400 school districts have reached the statutory cap on maintenance and operations taxes, and another 200 are close to the cap. Payroll typically accounts for 85 percent of a district's costs, and when the proposed district contribution is coupled with proposed state funding cuts for education programs, districts would be left between a rock and a hard place.

This proposal would necessitate a tax increase for 60 percent of Texas school districts and budget cuts for the 40 percent of districts that already have reached their fiscal capacity. Either way, if the state refused to pay its fair share, school children and local taxpayers would suffer.

NOTES:

According to the fiscal note, CSSB 1369 would result in net annual gains to the TRS retiree insurance fund rising from about $259 million in fiscal 2004 to $332 million in fiscal 2008. The bill would have no net impact on general revenue. School districts would contribute $203.4 million to the TRS-Care insurance fund during fiscal 2004-05.

The committee substitute differs from the Senate engrossed version of SB 1369 in two major respects. The substitute would change the definition of "retiree" to allow teachers to substitute five years of military service for five years of creditable service with TRS, within the Rule of 80 parameters. The substitute also would double the state's payroll contribution from 0.5 percent to 1 percent of each active employee's salary.