HOUSE RESEARCH ORGANIZATION bill analysis	5/2/2005	HB 1579 Kolkhorst, et al. (CSHB 1579 by Krusee)

SUBJECT:	Revising return-to-work restrictions for TRS retirees
COMMITTEE:	Pensions and Investments — committee substitute recommended
VOTE:	7 ayes — Eiland, Flynn, McClendon, Griggs, Krusee, Rodriguez, Straus 0 nays
WITNESSES:	For — Beaman Floyd, Texas Association of School Administrators; Tim Lee, Texas Retired Teachers Association; Pat Olney; Charles Sander; (*Registered, but did not testify:* Tom Rogers, TRTA; Milton Bosse; Zora Mae Hise; DeEtta L. Sayers; Russell E. Sayers; Annie B. Scholtz; Flossie Sweat; Margaret Wallace; Novella Wiley) Against — Jack Kelly, Texas State Teachers Association On — Ann Fickel, Texas Classroom Teachers Association; Ronnie G. Jung, Teacher Retirement System of Texas; Patty Quinzi, Association of Texas Professional Educators; Ted Melina Raab, Texas Federation of Teachers
BACKGROUND:	Government Code, sec. 824.602 prohibits the Teacher Retirement System (TRS) from withholding a monthly retirement benefit check from a TRS retiree if the person is employed in a Texas public educational institution as a substitute teacher, in a half-time position, in a full-time position for up to six months, or as a full-time bus driver. A retiree who is certified as a principal or assistant principal, or who is certified to teach in an acute shortage area, may return to that work full-time after being separated from all public schools for at least 12 months. Employers withhold 6.4 percent of active employees' salary for the TRS pension fund, while the state contributes the constitutional minimum of 6 percent of payroll (Texas Constitution, Art. 16, sec. 67(b)(3)).
DIGEST:	CSHB 1579 would require employers subject to TRS who hired a TRS retiree to pay both the state and employee contribution to TRS as if the retiree were an active, contributing member. Employers also would have to pay TRS any difference between the retiree's required premium for TRS-Care group health insurance and the full cost of this insurance, as

determined by TRS. Each employer would be required to report monthly to TRS the number of employees it rehired. The bill also would specify that a retiree could be rehired as a bus driver only if his or her primary employment was as a bus driver. These provisions would not apply to rehired retirees who were on the payroll in January 2005.

The bill would take effect September 1, 2005, and would apply only to retirees hired on or after that date.

SUPPORTERS SAY:

CSHB 1579 would reduce costs for TRS by creating disincentives for school districts to rehire TRS retirees. Current "retire-rehire" provisions encourage school districts to shift health insurance costs to TRS by allowing employees to retire and be rehired once they are eligible for TRS-Care, the retiree group health insurance program. In addition to having to assume the cost of health insurance for the retiree and dependents, TRS loses the state and employer contributions to the pension system when an employee retires and is rehired.

The retire-rehire provisions were intended to help school districts address teacher shortages, but some school districts are offering this option to almost any employee who is eligible to retire as a way of shifting costs to the state. The practice must be reined in to protect TRS's solvency.

Although TRS has experienced solid investment gains in recent years, the fund has about $11 billion less than the amount needed to pay current and future benefits to retirees. Under state law, TRS cannot increase pension payments to retirees unless the fund is deemed "actuarially sound," meaning that it is sufficiently funded to pay current and future benefits over the next 31 years. TRS needs to limit its costs in order to become actuarially sound so that it can provide annuity increases for current and future retirees. According to the Legislative Budget Board (LBB), the bill would generate $11.7 million to the TRS pension fund and $6 million to TRS-Care between fiscal 2006 and 2010.

The bill would help reverse a trend towards earlier retirement that is beginning to have a significant impact on TRS. Over the past decade, the average age of TRS retirees has dropped to 59.4 years of age, in part as the result of retire-rehire provisions and other early retirement incentives adopted during this period. As the retirement age decreases, TRS faces significantly higher health insurance costs for retirees who are not yet eligible for Medicare, as well as the loss of employee contributions to the pension fund.

Retirees should not be able to continue taking advantage of early retirement options such as retire-rehire while also expecting the state to shore up the pension fund. Changes should be made to discourage early retirements before the state commits to an increase in its contribution rate.

The bill would not prohibit employers from deducting some or all of premium or retirement contribution costs from the salary of the rehired employee. This would give districts and retirees flexibility in determining the costs and benefits of specific retire-rehire arrangements.

OPPONENTS SAY:

Instead of creating disincentives for a popular program that benefits both districts and retirees, the Legislature should address the TRS solvency problem by increasing its share of payments to the pension fund.
The Legislature authorized retire-rehire provisions to give school districts a tool to address teacher shortages. The retire-rehire option offers retirees the opportunity to significantly increase their fixed annuity incomes by returning to work after they are eligible to retire. Since 1999, when retire-rehire provisions were adopted for teachers in shortage areas, the average age of TRS retirees only has dropped from 60.3 years to 59.4 years. This decrease is not significant enough to justify changes to retire-rehire provisions.

CSHB 1579 would not have a meaningful impact on TRS solvency. According to the LBB, the bill would generate about $2 million per year for the pension fund and $1 million per year for TRS-Care. This is a tiny percentage of the pension fund’s projected shortfall, which increased from $8 billion to $11 billion this year. The real cause of the TRS solvency problem is that the Legislature has reduced its contribution rate from 8.5 percent to the constitutionally minimum of 6 percent of payroll.

NOTES:

While the original version of the bill would have applied retire-rehire provisions only to retired certified teachers returning to work in shortage areas, the substitute, as under current law, would allow rehired principals, assistant principals, and bus drivers to receive pension payments. The substitute would exempt from the provisions of the bill rehired employees on the payroll in January 2005 and specified that a retiree could be rehired as a full-time bus driver only if bus driving was the retiree’s primary employment. The committee substitute also eliminates a provision in the original that would have prohibited employers from deducting any part of the amount to be paid to TRS from an employee's compensation.

According to the LBB's fiscal note, CSHB 1579 would generate about $2 million per year for the pension fund and $1 million per year for TRS-Care in fiscal 2006-07. The total for fiscal 2006-2010 would be $11.7 million and $6 million, respectively.

A related bill, SB 1691 by Duncan, which would require employers who hired a TRS retiree to pay both the state and employee contribution to TRS as if the retiree were an active, contributing member, currently is pending in the Senate State Affairs Committee. HB 2568 by Eiland, which would make various changes to statutes governing TRS, is pending in the Pensions and Investments Committee.