HOUSE
RESEARCH
ORGANIZATION bill analysis 4/25/2013 HB 2198
Anchia

SUBJECT: Continuing the State Pension Review Board

COMMITTEE: Pensions — favorable, without amendment

VOTE: 6 ayes — Callegari, Branch, Frullo, Gutierrez, P. King, Stephenson

0 nays

1 absent — Alonzo

WITNESSES: For — (*Registered, but did not testify:* Javier Gutierrez, McAllen Firemen's Relief and Retirement Fund; Sampson Jordan; Austin Police Retirement System; Juan Loya; Roberto Martinez; Baldomero Ozuna; Maxie Patterson, TEXPERS)

Against — (*Registered, but did not testify:* David Crow, Arlington Professional Fire Fighters Association; Quentin Huser and Jerry Sutton, TLFFRA)

On — Christopher Hanson, Pension Review Board; Michelle Kranes, Sunset Advisory Commission staff; (*Registered, but did not testify:* Manuel Vargas, McAllen Firefighters Relief and Retirement Fund; Joe Walraven, Sunset Advisory Commission)

BACKGROUND: The State Pension Review Board (PRB) was created in 1979 to oversee state and local public retirement systems through ongoing assessments of the systems' actuarial and financial soundness. The agency also provides legislators and the public with information on pension-related topics. The PRB:

- reviews state and local retirement systems' financial and actuarial conditions, and highlights potential problems;
- collects and aggregates information on the systems and relevant pension-related topics;
- assesses the actuarial impact of proposed legislation related to public retirement systems; and
- offers education for public retirement system trustees and administrators.

The PRB's nine-member board includes seven members appointed by the governor, one House member appointed by the speaker, and one Senate member appointed by the lieutenant governor. The governor's appointees must include:

- three members with experience in securities investment, pension administration, or pension law, but who are not members or retirees of a public retirement system;
- one member who is an actuary;
- one member with experience in government finance;
- one member who is contributing to a public retirement system; and
- one member who is receiving retirement benefits from a public retirement system.

At the end of fiscal 2011, the PRB employed a staff of 12. It received $667,249 in general revenue and also collected $7,600 in registration fees to help fund its annual seminar.

There are 352 public retirement systems registered with the PRB representing more than 2.4 million members and more than $200 billion in assets. The four largest statewide retirement systems, which account for a large majority of these individuals and assets, are exempt by law from reporting to PRB, but voluntarily submit reports.

The agency's principal focus is on the remaining systems that have about 300,000 members and $49 billion in assets. These include 13 municipal and public safety plans established in state law, four municipal plans established in city ordinance, 210 plans established by districts or other governmental entities, and 127 firefighter plans organized under the Texas Local Fire Fighters' Retirement Act.

DIGEST:

HB 2198 would continue PRB until September 1, 2025.

The bill would exclude certain retirement plans that were not traditional defined benefit pensions from certain reporting requirements, amend other reporting requirements, and establish provisions for online training.

Defined benefit plans. HB 2198 would remove defined contribution plans and certain local volunteer firefighter pay-as-you-go defined benefit plans from most PRB reporting requirements. These plans would still be required to register, provide a summary of member benefits and report significant plan changes. Defined contribution plans and certain local volunteer firefighters' plans would be exempt from filing actuary studies, five-year audits, actuarial experience studies, annual reports, the number of members and retirees, and written investment policies.

The bill would define "defined contribution plan" as a plan that provided an individual account for each participant and paid benefits based solely on the amount contributed to the participant's account and any income, expenses, and investment gains or losses.

The bill would exempt certain local volunteer firefighter retirement plans from the statutory requirement to have their accounts audited at least annually by a certified public accountant but would not include this exemption for defined contribution plans.

HB 2198 would repeal a provision that allows local firefighter pension plans with less than $50,000 in total assets to make annual financial reports to the firemen's pension commissioner instead of the PRB.

Reporting requirements. The bill would shorten the time frame for reporting significant plan changes that affect contributions, benefits, or eligibility from 270 to 30 days. The shortened reporting requirement would apply to plan changes adopted on or after September 1, 2013.

HB 2198 would define "actuarial experience study" and the time frame for reporting such studies. This provision would not require any systems to conduct experience studies, merely to send them to PRB if they choose to perform them. The bill would define "actuarial experience study" as one in which actuarial assumptions were reviewed in light of relevant experience factors, important trends, and economic projections with the purpose of determining whether actuarial assumptions required adjustment. Any study done after September 1, 2013 would be submitted to PRB within 30 days of adoption by the pension system governing board. This reporting requirement would not apply to five statewide retirement systems already exempt from most PRB reporting requirements.

The bill would stipulate that an overall financial audit of the governmental entity sponsoring the pension plan would not satisfy retirement systems' annual financial reporting requirements.

Training. HB 2198 would allow PRB to offer live, online training seminars via the Internet and maintain Web-based archives of previous seminars as part of its mission to develop and conduct training sessions and other educational activities for pension system trustees and administrators. The bill would direct the agency to use technology and innovations to reach the largest audience.

Conflict of interest. HB 2198 would prohibit a person from being appointed as a PRB board member or high-level agency employee if the person or the person's spouse were closely affiliated with a pension-related professional trade association. It would define “Texas trade association” as a cooperative and voluntarily joined statewide association of business or professional competitors designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest. The prohibition on board appointments would apply only to a member appointed on or after September 1, 2013.

The bill also would add standard sunset provisions regarding the use of negotiated rulemaking and alternative dispute resolution.

The bill would take effect September 1, 2013.

SUPPORTERS SAY:

Texas has a large number of local retirement systems that provide defined benefit plans. The state needs a way to monitor these plans and work with them to help ensure they remain financially and actuarially sound without unnecessarily burdening taxpayers. A central source like the PRB serves as a forum for public pension accountability and Sunset staff could not identify potential savings from any PRB consolidation.

Focus on defined benefit plans. HB 2198 would recognize the shift in the pension landscape that has lessened the reliance on mostly defined benefit plans to a mix that includes pay-as-you-go defined benefit plans and defined contribution plans. Exempting these defined contribution and pay-as-you-go plans from unnecessary reporting requirements would allow the agency to focus on traditional defined benefit plans that pose the greatest financial risk to taxpayers and retirees. However, the bill would preserve basic registration requirements for defined contribution and pay-as-you go plans so PRB could continue to respond to complaints.

PRB oversight tools were designed for traditional defined benefit plans and have little value for plans that are not actuarially funded and pose no significant risk of leaving unfunded liabilities for taxpayers. Currently, unclear and outdated statutory provisions cause PRB to waste time tracking compliance with reporting requirements that were never intended for low-risk defined contribution retirement plans, such as 401(k)s. Pay-as-you-go plans provide a specific benefit for life, but the benefit is often small and the plans are not pre-funded. The sponsoring entity simply pays benefits as they become due. Pay-as-you-go plans average payouts of $3,000 a year per retiree.

Reporting requirements. The bill would shorten the time frame for reporting significant plan changes so PRB could analyze the changes to determine if a system was accruing new unfunded liabilities. The agency then could make the retirement system aware of the future effects on actuarial soundness in a timely manner.

HB 2198 would clarify that an audit of a sponsoring entity, such as a city, would not satisfy a defined benefit system's annual reporting requirements. Some pension funds have used this lack of clarity as a loophole to avoid sending PRB a system audit. Sunset staff found that in fiscal 2011, nearly 20 percent of the traditional defined benefit pension systems submitted their sponsoring entity's audit, and the problem is growing. While a city audit may include information about the plan, it is not a comprehensive audit of the retirement system and lacks detailed analysis of the plan's transactions. Without a full system audit, PRB staff is limited in its ability to analyze a system's financial condition.

Training. The Sunset review found that the PRB's training efforts — centered on an annual conference in Austin — are not reaching retirement systems with the greatest needs. HB 2198 would allow training using Web-based technology so smaller systems with limited travel budgets could access PRB assistance. A survey of pension systems conducted by Sunset staff revealed that many systems lack full-time staff and the trustees need more narrowly focused, Texas-specific content on topics such as sound plan design, asset allocation, implications of statutory changes, and best practices for contracting with actuaries and investment managers. The bill would allow the PRB to provide training on those and other topics in a more cost-effective way.

OPPONENTS SAY:

HB 2198 would remove important oversight from hundreds of local volunteer firefighters' pension plans. Many of these plans want to retain their connection with the PRB. While pay-as-you-go and defined contribution plans may not pose the risk to taxpayers as traditional defined benefit plans, they still need oversight to make sure they are handling funds properly. Reducing the reporting requirements for these plans would diminish the amount of information the PRB could provide members of the Legislature and others regarding the entirety of public retirement systems statewide.

The bill would clarify that pension systems could not submit audits of their sponsoring entities in lieu of an annual audit of the retirement plan. This would mean that all defined benefit plans, even those with relatively small assets, would have to spend money on costly annual audits even though the city audit already includes financial information about the plan.

NOTES:

The companion bill, SB 200 by Patrick, was passed by the Senate on April 2. It would remove the House and Senate member appointees from the PRB's nine-member board. The House Pensions Committee on April 10 reported SB 200 favorably as substituted. The substitute would change the expiration date for the legislative appointees' terms from September 1, 2013 to January 31, 2017.