INTERIM REPORT

to the 87th Texas Legislature

HOUSE COMMITTEE ON
PENSIONS, INVESTMENTS & FINANCIAL SERVICES

JANUARY 2021

HOUSE COMMITTEE ON PENSIONS, INVESTMENTS & FINANCIAL SERVICES
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2020

A REPORT TO THE
HOUSE OF REPRESENTATIVES
87TH TEXAS LEGISLATURE

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January 6, 2021

Jim Murphy
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The Honorable Dennis Bonnen
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on Pensions, Investments & Financial Services of the Eighty-sixth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eighty-seventh Legislature.

Respectfully submitted,

Jim Murphy

Hubert Vo	Dan Flynn
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Introduction

In the 86th Legislative Session, two committees merged into one, forming the House Pensions, Investments, and Financial Services Committee (PIFS). The Committee, constituted of 11 members, had jurisdiction over banking and the state banking system, savings and loan associations, credit unions, the regulation of state and local bonded indebtedness, the lending of money, benefits or participation in benefits of a public retirement system, the financial obligations of a public retirement system, the regulation of securities and investments, privacy and identity theft, and over a dozen different agencies with oversight of these issues.

The 86th Legislative Interim was a particularly tumultuous one, encompassing a spirited presidential election, a record hurricane season, and of course, the disastrous Covid-19 pandemic. The pandemic directly impacted the ability of many legislative committees to hold and participate in public hearings and also significantly impacted public participation as well. Fortunately, the PIFS Committee was able to hold live, in-person testimony on March 9, 2020 before the mandated shutdown.

Testimony at the March 9th hearing covered charges 1 and 3. In addition, invited testimony was heard relating to the Teacher Retirement System's planned lease in downtown Austin. On August 4th, when it became apparent that the committee would likely not be able to meet ahead of the 87th legislative session, a request for information (RFI) was posted soliciting written testimony on charges 2, 4, and 5. A concurrent RFI was posted asking for updates on the coronavirus pandemic impact on committee stakeholders.

Participation was strong in each portion of the committee's public interaction. Over 20 testimonies were heard in person on March 9th, and over 30 parties submitted written testimony covering the topics discussed.

It is the wish of the committee members to thank everyone who went the extra mile to make this discussion a productive one, particularly in light of the difficulties faced not only in convening, but in making time despite their disrupted schedules and routines. We hope that the following report will be of use to the incoming 87th Legislature, and that it provides a starting point to continue the progress made by this committee.

PENSIONS, INVESTMENTS & FINANCIAL SERVICES

At the beginning of the 86th Legislature, the Honorable Dennis Bonnen, Speaker of the Texas House of Representatives, appointed eleven members to the House Committee on Pensions, Investments & Financial Services. The committee membership included the following: Jim Murphy, Chairman; Hubert Vo, Vice Chair; Dan Flynn, Gary Gates, Barbara Gervin-Hawkins, Roland Gutierrez, Stan Lambert, Jeff Leach, Oscar Longoria, Phil Stephenson, Gene Wu.

The committee was given jurisdiction over all matters pertaining to:

- banking and the state banking system;
- savings and loan associations;
- credit unions;
- the regulation of state and local bonded indebtedness;
- the lending of money;
- benefits or participation in benefits of a public retirement system and the financial obligations of a public retirement system;
- the regulation of securities and investments;
- privacy and identity theft; and
- the following state agencies: the Finance Commission of Texas, the Credit Union Commission, the Office of Consumer Credit Commissioner, the Office of Banking Commissioner, the Texas Department of Banking, the Department of Savings and Mortgage Lending, the Texas Treasury Safekeeping Trust Company, the Texas Public Finance Authority, the Bond Review Board, the Texas Emergency Services Retirement System, the Board of Trustees of the Teacher Retirement System of Texas, the Board of Trustees of the Employees Retirement System of Texas, the Board of Trustees of the Texas County and District Retirement System, the Board of Trustees of the Texas Municipal Retirement System, the State Pension Review Board, and the State Securities Board.

INTERIM STUDY CHARGES

In November of 2019, House Speaker Dennis Bonnen issued the following interim charges to the House Committee on Pensions, Investments & Financial Services:

1. Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 86th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including the following:
   - HB 1442, which is the sunset bill for the Office of Consumer Credit Commissioner (OCCC). The legislation contains provisions relating to the regulation of online lenders. Monitor the OCCC's rules regulating the online lending industry.
   - HB 2945, which relates to consumer protection against credit card skimmers. Monitor the Office of the Attorney General's (OAG) rules, polices, and procedures regulating the payment terminals on motor fuel dispensers and credit card skimmer violations. Examine the process by which the OAG creates, manages, and utilizes the payment fraud fusion center.
   - SB 322, which relates to the evaluation and reporting of investment practices and performances of certain public retirement systems. Examine the process by which state agencies and public retirement systems collaborate on, plan, and implement the structure necessary to perform these evaluations.
   - SB 2224, which relates to requiring a public retirement system to adopt a written funding policy. Examine the process by which state agencies and public retirement systems collaborate on, plan, and implement the structure necessary to create sound and practical funding policies.

2. Monitor the Teacher Retirement System's (TRS) actions in implementing high deductible regional plans for certain school districts interested in providing alternatives to the current TRS Active Care options.

3. Study pension plan and personal retirement savings options for small businesses in order to be competitive with state and larger employers.

4. Review and evaluate the actuarial soundness of the Employees Retirement System and TRS pension funds. Examine the cost of and potential strategies for achieving and maintaining the actuarial soundness of the funds. Examine the effect the unfunded liabilities could have on the state's credit. Examine the state's investment policies and practices, including investment objectives, targets, disclosure policies, and transparency. (Joint charge with the House Committee on Appropriations)

5. Monitor the State Auditor's review of agencies and programs under the Committee's jurisdiction. The Chair shall seek input and periodic briefings on completed audits for the 2019 and 2020 fiscal years and bring forth pertinent issues for full committee consideration.

<u>INTERIM CHARGE 1</u>: Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 86th Legislature

House Bill 1442, relating to continuing the functions of the Office of Consumer Credit Commissioner, the licensing and registration of persons regulated by that state agency, and certain consumer financial transactions regulated by that state agency.

Office of the Consumer Credit Commissioner (OCCC) Leslie Pettijohn provided an update on HB 1442, also known as the OCCC Sunset bill. In her testimony, she reported that the recommendations made in the bill had been implemented effectively.[1]

One notable provision of HB 1442 in Commissioner Pettijohn's update relates to online lending, specifically the sections amending the Finance Code to clarify that Texas law applies to online transactions when the consumer is located within Texas. This change was necessary to minimize regulatory uncertainty and ensure that online market participants who do not have a brick and mortar location do not have an unfair advantage over others who do.

In 2019, OCCC-licensed lenders and financial service providers made 16.8 million loans totaling $11 billion.[2] Ch. 342 of the Finance Code specifically covers consumer loans in the state of Texas. In 2019, more than 4 million loans were made in this category totaling nearly $7 billion.[3] The market demand for consumer loans has been increasing, and is now the fastest-growing category of U.S. debt.[4] These loans are made across many platforms whether at a physical location, online, in-state or out-of-state. HB 1442's amendments which now provide a level playing field for all consumer loans in Texas, are a welcome breath of certainty in this rapidly expanding area.

According to testimony from the Texas Consumer Credit Coalition, Experian has reported that online lenders made $5.7 billion dollars in loans to Texas borrowers.[5] Companies who using technology to provide financial services, often known as "fintech," do not always adhere to the regulations and standards of licensed, Texas lenders. An internet search for loans is subject to algorithmic whims, and is more likely to point a customer to a digitally well-positioned fintech company, who may or may not be licensed in the state of Texas, than to a licensed Texas lender. A 2018 FINRA report identified that approximately 41% of Texans had used fintech to procure an unsecured loan.[6] In this rapidly growing area, Texans cannot be certain that they are dealing with the protections and regulations of the Texas financial environment.

Most financial services in the U.S. require supervision from a regulatory agency. One way to allow the OCCC more equally-applied supervisory abilities would be to require more online lenders to be licensed by the commission.

While subjecting online lenders to Texas laws is a good step towards an even playing field, testimony to the committee from the Texas Consumer Finance Association also suggests that lenders licensed under Chapter 342F (regulating signature and other small dollar loans) be allowed to raise the dollar figure of products they offer over the current $1,420 limit. The current cap may cause licensed, regulated businesses to turn consumers away who then seek an alternative way to borrow the money. Time and again, they seek these options online from a fintech provider, where they may or may not benefit from the protections and oversight of the Texas financial regulatory industry.[7] Arguments have and will continue to be made for and against an increase in dollar value that these regulated lenders can make to consumers and these policy decisions must center around consumer protections and market competition.

House Bill 2945, relating to consumer protection against credit card skimmers.

HB 2945 is one of three bills passed during the 86th Legislature related to credit card skimming. HB 2625 and 2626 create and enhance certain offenses related to fraudulent use and possession of credit card or debit card information and credit or debit card abuse.

HB 2945 requires certain duties to be performed by merchants who own gas pumps and discover credit card skimmers. HB 2945 also establishes a central “fusion center” in Tyler to serve as the state’s primary entity for the “planning, coordination, and integration of…criminal activity related to payment fraud, including through the use of skimmers.”[8] According to testimony offered by Sgt. Adam Colby of the Tyler Police Department, these bills have had an “enormous effect” on the prosecution of criminals who are adapting to technological advances and engaging in credit card abuse.[9] These bills have given law enforcement the tools necessary to arrest criminals and to pass those charges on to prosecutors. What used to require months of work by police departments is now happening in days or even hours, and resulting in felony organized crime charges against these bad actors. Detectives all over Texas are now being trained on the new laws and how to deal with organized crime associated with gas pump skimming. Further, prosecutors are being trained with the involvement of the Smith County Criminal District Attorney.

HB 2945 transferred the responsibility for monitoring of fuel pumps from the Department of Agriculture to the Department of Licensing and Regulation. According to testimony from both Tyler Police and Brian Francis, the Executive Director of TDLR this transition has been a success. The transition's importance stems from law enforcement's reliance on accurate and timely reporting of discovered skimmers. Timely reporting gives law enforcement across the state the ability to quickly react and pursue criminals who have traditionally taken advantage of this delay to evade arrest and prosecution for their crimes. Importantly, the department’s ability to collect and preserve skimmers provides law enforcement with an unbroken chain of evidence useful in prosecuting these crimes. Paul Hardin, President and CEO of Texas Food and Fuel Association, also praised the work of TDLR through the transition, highlighting that the department has made consumer protection their highest priority while also working closely with merchants during the process.[10]

The Tyler fusion center created by HB 2945 provides a central location for information to be held and disseminated across Texas. The center will allow for nearly real-time notification of fraudulent activity, which will benefit both cardholders and financial institutions while providing law enforcement with timely information. The 86th Legislature appropriated $1.24 million for the center for information technology purposes. The Office of the Attorney General (OAG) is developing the IT systems needed for the fusion center. OAG employees have also attended training seminars held by Tyler PD to learn what type of information is most relevant to law enforcement officers and how to best investigate, apprehend, and prosecute criminals engaged in credit card skimmer activities.

The fusion center's funding is a multi-faceted issue. The appropriation by the 86th legislature was entirely for IT services and did not provide for any full-time employees or other costs associated with getting the center up and running. Understandably, Tyler PD wants to retain their capable officers until the costs of hiring and replacement are covered.

HB 2945 did include included a provision allowing for gifts, donations, and grants to carry out the purposes of the bill and industry is interested in contributing funds in order to help with the opening of the center. However, current statute prohibits the agency from accepting gifts, grants, and donations for investigation or prosecution purposes. This statute exists in order to preserve the integrity of the agency and avoid conflicts of interest. Failure of the agency to abide by this rule may prevent prosecutors from submitting evidence to the court during a prosecution. Ultimately, the conflict between these two provisions is preventing private parties from assisting with funds needed to more quickly begin operations.

The 87th legislature should consider methods of appropriating funds that allow for the Tyler fusion center to be staffed and operational and should also consider specific statutory changes that allow the center to accept gifts, grants, or donations for limited purposes while avoiding any conflict with statute.

Senate Bill 322, Relating to the evaluation and reporting of investment practices and performance of certain public retirement systems.

Senate Bill 322 focused on public retirement system transparency. The bill requires retirement systems to hire an independent firm with substantial experience to conduct an analysis of the system’s investment policies, asset allocations, investment fees, governance structure, and investment manager selection and monitoring processes. These independent evaluations must be conducted once every three years for systems with assets exceeding $100 million and every six years for systems with assets greater than $30 million but less than $100 million. Further, SB 322 requires public retirement systems to include, by asset class, a listing of all fees and commissions paid by the retirement system. SB 322 allows lawmakers to compare similarly situated plans and identify processes that can be shared across systems as best practices.[11]

Evaluations were due to the Pension Review Board in June of 2020 and the board expected to receive 56 evaluations covering 62 plans meeting the $30 million threshold. As of November, the board had received 53 reports from qualifying plans, and two from systems under the $30 million threshold. The responses were broken out by category based on the provisions of SB 322 and summarized by the Board in their *Investment Practices Report* which is available on the PRB website.[12]

The Texas Pension Review Board worked with industry experts to publish guidance aimed at assisting plans with preparing a comprehensive evaluation. PRB staff highlighted evaluations that contained no recommendations for improvement, and reached out to those plans directly. Many systems were able to provide updated evaluations to the PRB addressing the concern.[13]

These evaluations provide pension systems with a way to identify practices that require early intervention and can help prevent self-inflicted damage by way of poor investment planning, weak governance, or other factors. The recommendations resulting from these evaluations are contained in *the Investment Performance Report*, which summarizes and compiles information from the evaluations and is reported to the legislature. The report contains not only an analysis of all evaluations, but a summary of each individual evaluation to help systems access best practices and benchmarking resources.[14]

One dataset that can be gleaned from the Investment Performance Report is the likelihood of an outside investment consultant providing more recommendations for improvement than existing investment consultants. In SB 322, a plan may utilize an existing in-house investment consultant to perform the required evaluations if the consultant does not directly or indirectly manage investments of the retirement system. 39 evaluations were performed by an existing consultant, and 14 were performed by a third party. The report shows that nearly all of the party consultants identified one or more recommendations for improvement, about one third of the evaluations lacked both recommendations for improvement and explanations for their absence.[15] There is a case to be made that the cost of a third party consultant is justified to gain a stronger analysis of the investment program.

SB 322 brings increased transparency to public pensions and will help pension systems avoid practices that can put the plan's health at risk. The requirements of SB 322 (and SB 2224) are not onerous and exist to ensure that plans are appropriately managing their assets. During the 86th legislature, this committee and its members were sensitive to concerns raised by plans about effective dates and the time which plans had to comply with these new laws. Still, a small handful of plans – including plans that this committee worked with directly on development of these laws – have failed to comply with one, or even both, of the reporting requirements.

Public pension plans have obligations which they are required to meet but these requirements cannot be enforced by PRB because of its role as a pure oversight agency. The Legislature should consider strengthening PRB’s enforcement authority to further protect pension beneficiaries and taxpayers.

Senate Bill 2224, Relating to requiring a public retirement system to adopt a written funding policy.

Senate Bill 2224 requires public retirement systems to adopt a written funding policy detailing the system's plan for achieving a funded ratio equal or greater to 100 percent, to maintain the policy for public review, and to submit a copy of the policy to the system's governmental plan sponsor.

SB 2224 is intended to be used as a roadmap to fully fund long term debt obligations and encourage the development of the policy with input from the system's sponsoring governmental entity when possible. The Pension Review Board offered assistance by way of providing feedback to plans when requested, providing a sample funding policy, and publishing the *Guidance for Developing a Funding Policy* document.

Each funding policy should include the following components:
- Clear and concrete funding objectives
- Actuarial Methods
- A roadmap to achieve funding objectives; and
- Actions that will be taken to address actual experience that diverges from assumptions

Plans across Texas are experiencing growing unfunded liabilities and returns on investments that have not matched actuarial assumptions. A clear, written plan to achieve funded ratios of 100 percent or greater, will assist in increasing plan discipline and increase transparency for plan participants.

Under SB 2224, plans are required to adopt a funding policy no later than Jan. 1, 2020. As of November 12, 2020, 96 of 100 plans submitted funding policies to the Pension Review Board. The PRB evaluated and published a summary of all submitted reports, which allowed for comparison of individual funding policies by core components, such as contribution type, contribution benchmark, corrective actions, and parameters for contribution or benefit changes. Through this analysis, it is apparent that many plans opted to use elements from the *Guidance for Developing a Funding Policy* document.[16]

10 plans included rolling amortization period benchmarks, which can actually prevent a plan from ever achieving 100% funded status. In order for a rolling amortization period to succeed, all actuarial assumptions must be met. However, industry setting bodies such as the Actuarial Standards Board discourage the use of rolling amortization periods.[17]

The majority of plans call for notifying the plan sponsor where funding policy benchmarks differ from current contribution rate or funding period. However, it is not a current statutory requirement to include the sponsor in the development and approval of the funding policy. Therefore, many systems were restricted in their ability to make unilateral changes without the involvement of the sponsor.

The 87th legislature should consider amending the funding policy statute to require that all plans use a closed amortization period to ensure that all plans have a definite timetable for achieving at least a 100 percent funded ratio. Open amortization periods which reset every year fail to provide plans with a steady target, which cuts against the intent of the legislation. The legislature should also consider requiring plans and plan sponsors to collaborate on the funding policy to ensure buy-in from all invested parties so that sponsors are aware of and committed to the goals.

Recommendations

- With the rapid growth of online lending, it is time to revisit the relationship between licensed and unlicensed online lenders. As fintech reaches more and more of the market, the state's regulatory strategy may need to adjust to keep up.
- Evaluate the appropriateness of the $1,420 cap on loans made under Finance Code 342(F). A cap set too low effectively pushes customers from a licensed and regulated environment into an unlicensed, unregulated environment to meet their needs.

- Increase the fusion center funding to allow for an appropriate number of dedicated FTEs. The fusion center is the most efficient use of resources to combat this type of crime.
- Explore methods to allow gifts or donations to fund the fusion center. Private companies recognize the obvious benefit that the center brings to their industry, and will likely provide aid if allowed.

- Evaluate the need for outside analysis of public pension systems to fulfill the requirements of SB 322.
- One of the best tools available to public pension systems is the Texas Pension Review Board. Explore ways to grant the PRB enforcement capabilities to step in when public pension plans become detrimental to their members.
- Explicitly prohibit rolling amortization periods.
- Evaluate methods for ensuring that all public pension plans maintain a maximum of a 30 year amortization period.
- Although plans are required to have a funding policy, the plan sponsors are not beholden to it, and plans are left asking for support from sponsors. To reconcile this, require that sponsors are tied to the funding policy requirement. Having all parties working from the same roadmap will increase the chances of successfully implementing the funding policy.

INTERIM CHARGE 2: Monitor the Teacher Retirement System's actions in implementing high deductible regional plans for certain school districts interested in providing alternatives to the current TRS-ActiveCare options.

TRS ActiveCare provides healthcare coverage for over 440,000 people through a self-funded health plan model. The premiums paid by public school employees, districts, and the state are combined into a pool that makes up TRS-ActiveCare. A fee is paid out to a third-party administrator (currently Blue Cross Blue Shield) to administrate the plan, but the administrator assumes none of the risk. The risk is wholly assumed by the plan. It is imperative that the plan be managed and funded appropriately, because if it is not, we are the ones on the hook for 440,000 TRS-ActiveCare members' healthcare.[18]

For the 2021 plan year, TRS has rolled out two new plan options (TRS-ActiveCare Primary and TRS-ActiveCare Primary+) and also several new health management organizations (HMO) (Blue Essentials Access HMO Plan covering West Texas, Panhandle, and Rio Grande Valley, and Scott and White Health Plan covering Central and North Texas). The third-party plan administrator has changed from Aetna to Blue Cross Blue Shield of Texas (BCBS) which will result in more than $90 million in savings per year for TRS-ActiveCare. These changes made for the 2020-2021 plan year are a result of meetings between TRS and school districts across the state.[19]

Some school districts have used the district of innovation (DOI) waiver process to exempt themselves from TRS-ActiveCare participation, sometimes resulting in lower costs compared to TRS-ActiveCare plans. The lower costs are a tradeoff for plans with fewer offerings or higher participant burdens than what exists under ActiveCare. For example, competing plans may not cover specialty drugs or may come with a particularly narrow selection of in-network physicians.

Notwithstanding the limits of plans being offered by districts using the DOI waiver, the greater resulting issue of districts backing out of ActiveCare is the resulting "adverse selection" that occurs. Insurance coverage works best when the pool of participating members is largest. When high-risk and low-risk participants are in the same pool, low-risk, low-frequency consumers of healthcare help to cover the costs of coverage for high-risk, high-frequency consumers. If districts continue to opt out of ActiveCare and offer their own plans, the remaining participants will likely be higher-risk, and ActiveCare premiums will have to increase to even higher rates to compensate for the higher rate of care consumption. Adverse selection is a problem recognized by all parties who offered responses to this charge, with the Texas Classroom Teachers Association stating that this is “hardly the type of innovation that was intended when DOIs were authorized in 2015.”[20]

The first step for a district, in order to be designated as a district of innovation is that the district earns a performance rating of acceptable in the most recent performance rating. Upon a successful designation as a DOI, districts can design a local innovation plan that is centered around comprehensive educational program changes.[21] It is a tortured argument to say that opting out of ActiveCare and offering a local health insurance plan is related to educational program development. The legislature should consider explicitly prohibiting this type of activity when the 87th legislature convenes.

Our state budget reflects the reality that healthcare costs in Texas and across the country continue to rise and TRS is not an exception from these increases. Interested parties recognize the work that TRS has done to keep costs low and recommend a number of options going forward: increased contributions from the state, wellness plans to incentivize participants to maintain a healthy lifestyle, and continued engagement with districts to respond to participant needs. TRS should continue to work with districts across the state and leverage its position as a large market participant to get the best prices available under ActiveCare. Plan design should continue to be worked and reworked where possible and prudent so that appropriate healthcare offerings can be made to our Texas teachers.

Recommendations

- Explicitly prohibit independent school districts from using District of Innovation status a method for opting out of TRS-ActiveCare.
- Continue evaluating state and district contributions to member's healthcare plans.

INTERIM CHARGE 3: Study pension plan and personal retirement savings options for small businesses in order to be competitive with state and larger employers

Data shows that retirement is on the mind of many Texans. AARP noted to this committee in March that more than one-third of Texans aged 65 and older are completely reliant on Social Security payments, four-fifths of Texans aged 40-64 wish they saved more for retirements, and that one quarter of that same age population have less than $5,000 in savings.[22] A retirement problem looms for many Texans, as only half of Texas employees are covered by an employer-run retirement program, leaving the other half to determine retirement options on their own.

Both employers and employees agree that the perceived cost of retirement programs and complexity of choosing, designing, and/or implementing workplace retirement programs are barriers for saving. Most retirement plans do require some employer participation – certain investment retirement accounts (IRAs), 401k plans, and 403b plans, to name a few. Many employers freely admit their unfamiliarity with employer-run retirement programs and a lack of knowledge about and comfort with the various options can serve as a barrier for employers in offering an employer-run plan. Further, the costs can range from hundreds to tens of thousands of dollars annually in employer contributions and administrative fees, and not every employer may be situated to bear the direct and indirect costs of administering a plan for their employees.

Advocates for legislatively mandated employer-administered retirement plans claim that the benefits to employees outweigh these concerns, citing higher levels of participation by employees where the plans exist and the reduced strain on social programs where retirees have sufficient savings for the post-employment portion of their life. Criticisms of this approach rely on two major ideals. The first ideal emphasizes that employees have earned their paycheck through a freely-made agreement with their employer and it is the prerogative of the employee to save, or not save, as he or she sees fit. The tradeoff of a retirement account at the cost of lower net income is one that employees may not be willing to make. The second criticism is that this a market-based issue that does not require government intervention. Individuals have the right to market their skills to the highest bidder and employees should be trusted to make decisions in their best interest when considering all factors, including wages and fringe benefits like an employer-administered retirement option.

Employees also have numerous retirement options outside of employer-run plans. Many financial institutions offer individual retirement accounts and other savings vehicles such as health savings accounts for healthcare costs, educational savings accounts for education costs, and more. These are accessible to individuals on the market and do not require employer participation beyond a simple direct deposit setup. Similar to employers, employees often cite the complexity of these offerings as a reason for choosing not to participate. This results in a lack of preparedness for many Texans, who in turn rely on Social Security and limited savings for their retirement needs.

In December of 2019, the Setting Every Community Up for Retirement Enhancement (or SECURE) Act passed the U.S. Congress as part of an end-of-year appropriations act and accompanying tax measure. The Act makes changes designed to increase access tax-advantaged accounts and enhance retirement funding options. The Act will make it easier for small business owners to set up "safe harbor" retirement plans that are easy to administer and less expensive. Also, many part-time workers will be eligible for inclusion.[23]

The Texas Association of Life and Health Insurers testified that the SECURE Act will change the landscape for small employers. In particular, Multiple Employer Plans (MEPs) will enable two or more employers can come together and set up a retirement plan for their employees. An entity is chosen to administrate the plan, and each employer is able to pool together and share the burdens. It will be imperative that employers in Texas are empowered and encouraged to evaluate if an MEP is the right solution for their employees' long-term security. TALHI estimates that Texas could gain over 64,000 new retirement savers due to MEPs.[24]

There is unanimous agreement that saving more will help Texans become better prepared for retirement. It is also widely acknowledged that there are a number of employer-run and individual retirement and savings vehicles available to Texans. The legislature should consider increasing educational opportunities and outreach to employers and employees to help them better understand the options available in the market and the benefits available to both employers and employees through different offerings. The legislature should consider encouraging state agencies charged with oversight of financial institutions and the workforce to increase marketing and outreach about personal savings and retirement, empowering the workforce to change course and better prepare employees for retirement.

Recommendations

- Encourage state agencies to perform education and outreach of private, state and federal retirement programs available to all Texans
- Evaluate the Setting Every Community Up for Retirement Enhancement (or SECURE) Act and identify measures that agencies can take to leverage the greatest benefit for Texans looking to enhance their retirement options.

INTERIM CHARGE 4: Review and evaluate the actuarial soundness of the Employees Retirement System and TRS pension funds. Examine the cost and potential strategies for achieving and maintaining the actuarial soundness of the funds. Examine the effect unfunded liabilities could have on the state's credit. Examine the state's investment policies and practices, including investment objectives, targets, disclosure policies, and transparency.

Overview

In the 86th Legislative session, a promise was made. It would be the Teachers Retirement System (TRS) that would be tended to, and in the 87th Legislative Session, it would be the Employee Retirement System's (ERS) turn. The promise made sense. The size and scope of TRS posed a much different threat to the budget and even credit rating of the state, not to mention the enormous size of its membership. TRS is the 6th largest U.S. public pension, and in the top 25 in the world.[25]

The value of a pension goes beyond its members. The Texas State Teachers Association noted in their written testimony that the National Institute on Retirement Security commented that retirees act as economic stabilizers. During volatile times, their stable monthly pension is spent in their communities on basic needs, even during an economic downturn such as the coronavirus pandemic. According to the TRS, for every dollar sent to its members in benefits, $2.35 in economic activity is created.[26]

Both systems have faced significant challenges, and both systems were in healthy shape as recently as the early 2000's. While TRS has been shored for now, ERS is in desperate need of a solution. Both systems have large unfunded liabilities, and in the case of ERS, no plan for dealing with it. By shortening the timeframe necessary to pay off these long-term pension debts, each fund can reduce its exposure to market factors, which significantly reduces the long-term cost to taxpayers.[27]

Addressing the ERS issues is of paramount importance in the immediate future. However, continuing to address both plans will go a long way towards preventing us from ending up right back where we started, only with billions fewer dollars in our coffers. One key aspect is that neither TRS nor ERS are consistently funded on an actuarial basis. Their contribution levels are set in state law.[28] Making adjustments to the contribution levels can happen in fits and starts, or not at all. This makes it difficult to ensure that a plan is reacting accordingly to both actuarial assumptions and performance.

Actuarial assumptions use two broad categories: demographic and economic. Demographic assumptions include changes in the number of participants, retirement age, and life expectancy. Economic assumptions include wage growth and future investment return. Making accurate actuarial assumptions ensures that resources are allocated appropriately and that costs are distributed fairly across generations of taxpayers. For example, that current taxpayers are not overcharged while future taxpayers are undercharged, or vice/versa.[29] Both TRS and ERS have reduced their expected rate of investment return, but getting this economic assumption right is only part of the puzzle.

TRS Actuarial Soundness

In 2019, TRS had over 1.6 million participants and a net position of $158 billion. That is an increase of over 37,000 members and $4 billion in the fund. The fund paid over $11 billion in benefits to over 434,00 retirees and their beneficiaries. The unfunded actuarial accrued liability (UAAL) of the TRS fund sits at just over $49 billion.

The 86th Legislature passed Senate Bill 12, increasing contributions to TRS by the state, active employees, and employers to return the plan to actuarial soundness. A public pension plan is considered actuarially sound if the overall contribution rate is sufficient for the plan to achieve and maintain an amortization period (the time needed to pay off all outstanding obligations) not exceeding 30 years (Government Code, 802.101).

SB 12 laid out a stair-step plan increasing contributions over the five year period between 2019-2024. The State's contribution prior to SB 12 was 6.8%; over the next five years the contribution rate increases from 7.5% to 8.25%. Active employee contributions prior to SB 12 were 7.7%, increasing for the first time in Sept. 2021 to 8% and moving to 8.25% by 2024. Employer contribution rates increase from 1.5% to 2% over the same time period with the first increase coming in 2020 (1.5% to 1.6%) and increasing by one-tenth of a percent over the next four years. The estimated effect of these contribution increases will be an additional $1.3 billion per year in 2024 and every year going forward. As a result, the funding period has been reduced from 87 years as of August of 2018 to just 27 years today.[30]

Texas Government Code prohibits benefit enhancements if a plan is not actuarially sound, a provision meant to ensure fiscal responsibility for plans. Since actuaries can recognize overall contribution rates in determining whether the plan is sound, these benefit enhancements can be made as soon as the rates are adjusted and before dollars are actually paid into the fund. In conjunction with SB 12, SB 500, the supplemental appropriations bill, provided $589 million for supplemental one-time annuity checks for more than 405,000 TRS retirees which were paid out in 2019. Of the eligible retirees, nearly half (193,279) received a check of $2,000.[31]

Some stakeholders have called for stricter oversight of TRS. Texas AFT points to the Sunset Commission's recommendation that "TRS needs greater oversight of its investments."[32] The Sunset recommendation specifically states that "TRS would benefit from additional oversight and greater transparency of its investment practices".[33] However, other legislation passed during the 86th session has accomplished this, most notably SB 322.

As a requirement of SB 322, TRS hired an outside consultant to review the plan's asset allocation and *Investment Policy Statement*. The independent review found that "TRS has a leading-edge practice for developing asset allocation, assets are well-diversified, and risk is being measured and managed appropriately."[34]

Going forward, the TRS trust fund is well-situated as a healthy plan that will continue to meet its obligations to retirees. Other bills passed during the 86th legislature including SB 322, SB 2244, and HB 1612 ensure that the investment management team at TRS have the tools needed to manage assets appropriately and ensure healthy returns while protecting benefit payments to retirees now and in the future.

Employees Retirement System

The Employees Retirement System (ERS) is charged with administering retirement benefits for state employees, which number over 140,000 active contributing members, roughly the same number as in the early 1990's. However, the number of retirees is currently 117,000 and growing annually. The actuarial value of assets is $28.5 billion, with an actuarial accrued liability of $43.2 billion, leaving an unfunded liability of $14.7 billion. The plan is only 66.0% funded and the funding period is infinite, meaning it has a projected depletion date at which it will run out of funds completely. Currently, this date is 2061 for the ERS.[35]

Two other plans fall under the ERS umbrella: LECOSRF (Law Enforcement & Custodial Officers Supplemental Retirement Fund), and JRS 2 (Judicial Retirement System). Each of these plans also have an infinite amortization period and a projected depletion date, ranging from 2041 for LECOSRF to 2059 for JRS 2. The size of each of these plans is significantly smaller than ERS. LECOSRF has over 35,000 and pays benefits to almost 15,000 retirees, while JRS2 has 570 contributing members and pays out to 484 retirees.[36]

There are many factors affecting a plan’s funding status, including the plan's actuarial assumptions, a factor used in projecting trust fund balance. ERS recently lowered its assumed rate of return from 7.5% to 7%, a change that more accurately reflects market conditions but which had the effect of increasing liabilities, due to lower projected investment revenues coming into the fund.

Other variables which affect the plan’s funding status include currently outstanding unfunded liabilities (over $14 billion) and an actual contribution rate that is lower than the actuarially determined rate.[37] Unlike TRS, which has a growing membership to supply contributions, ERS has a relatively static number of contributing employees and an increasing number of retirees drawing benefits from the plan. By having a lean and efficient state workforce, additional stress is placed on ERS investments to perform. The sum total of these pieces is a bleak outlook for the plan unless reforms are made.[38]

There is no disagreement that taking action to ensure the actuarial soundness of ERS is of primary importance. Instead, the legislature must evaluate the options available. For example, the state could increase its contribution rate to the actuarially determined contribution (ADC) rate. The 2019 ERS Valuation Report indicates that an ADC rate has not been reached since 2004 and that the actual rate has been flat (19.5%) since 2016. An increase in contributions will put the plan on track to actuarial soundness but will cost the state significantly more in raw dollars by waiting. Further, an ADC rate is responsive to the overall health of the plan and will affect contribution levels year-over-year, requiring more frequent adjustments.

Article 16, Sec. 67 of the Texas Constitution provides that the amount contributed by a person participating in ERS may not be less than six percent of *current* compensation but may not exceed more than 10 percent of *aggregate* compensation. In 2014, employee contributions were increased from 6.5-6.6%. In 2015, the rate again climbed to 6.9% and then in 2016 it reached 9.5% for newly hired state employees.[39] The Legislature could consider raising employee contribution levels in a similar manner to SB 12 but there is far less headroom considering that the state and employees already contribute 9.5% each to the trust fund (in addition to social security payments made by employees).

During the 86th Legislature the House passed HB 20 and HJR 10 which proposed to create a legacy fund to pay long-term obligations of the state. This likely includes unfunded liabilities of the pension plans. This statute may be considered by future legislatures as a way to keep contribution rates low.

ERS should be put on a track to achieve a 100 percent funded ratio. This is not a unique or particularly surprising observation: all public pension plans should have a goal of 100 percent funded and passage of SB 2224 in the 86th session reflects that. But short and mid-term goals should include getting rid of a depletion date and achieving actuarial soundness. There are only so many levers that can be pulled to achieve this goal – and many of them have been pulled.

The cost of depletion will be four times the cost of pre-funding.[40] So this is not a problem that can be ignored. Further, the unfunded liability will grow by at least $1.5 billion over the next biennium if not addressed. The 87th legislature will have to heavily invest in ERS to restore it to an actuarially sound level. This is not a decision that can wait until after the coronavirus pandemic. The Texas Pension Coalition put it very clearly: "We don't see funding ERS and TRS as being in conflict with immediate pandemic and economic recovery responses. On the contrary, we see funding ERS and TRS as part of the long-term economic health of the state."[41] They are correct. The time to act on our promise is upon us.

Recommendations

- Statutorily include TRS and ERS to SB322 and SB2224 requirements. Although both plans voluntarily submitted most of this information, it is not required of them unlike other public pension plans.
- Evaluate the need for outside analysis of public pension systems to fulfill the requirements of SB 322.
- Evaluate the composition of the ERS Board of Trustees. Unlike TRS, which requires its 3 gubernatorial appointees to have demonstrated financial experience[42], ERS has no equivalent statutory qualification requirement. Amend Board of Trustee appointments to require relevant experience of appointed members of the board.
- Should the legislature opt to fund a public pension plan with a lump payment, require enhanced reporting requirements every 1 to 3 years down the road.
- Explore adding stress testing requirements as a method for measuring the resiliency of public retirement plans. Stress testing provides a forward-looking outlook of possible future market distress scenarios. Many plans already implement some form of stress-testing.
- Require adherence to actuarially determined contribution rates.
- Although plans are required to have a funding policy, the plan sponsors are not beholden to it, and plans are left asking for support from sponsors. To reconcile this, require that sponsors are tied to the funding policy requirement. Having all parties working from the same roadmap will increase the chances of successfully implementing the funding policy.

INTERIM CHARGE 5: Monitor the State Auditor's review of agencies and programs under the Committee's jurisdiction.

Texas Emergency Services Retirement System
1 report was released between 6/1/19 and 12/1/20
10/04/19 *An Audit Report on Performance Measures at the Texas Emergency Services Retirement System*

Teacher Retirement System
6 reports were released between 6/1/19 and 12/1/20
11/30/20 *A Report on the Audit of the Teacher Retirement System's Fiscal Year 2020 Financial Statements*
08/24/20 *An Audit Report on Incentive Compensation at the Permanent School Fund, General Land Office, Teacher Retirement System, and Employees Retirement System*
06/12/20 *A Report on the Audit of the Teacher Retirement System's Fiscal Year 2019 Employer Pension and Other Post Employment Benefit Liability Allocation Schedules*
12/09/19 *A Report on the Audit of the Teacher Retirement System's Fiscal Year 2019 Financial Statements*
08/21/19 *An Audit Report on Incentive Compensation at the Permanent School Fund, General Land Office, Teacher Retirement System, and Employees Retirement System*
06/12/19 *A Report on the Audit of the Teacher Retirement System's Fiscal Year 2018 Employer Pension and Other Post-employment Benefits Liability Allocation Schedules*

Employee Retirement System
5 reports were released between 6/1/19 and 12/1/20
08/24/20 *An Audit Report on Incentive Compensation at the Permanent School Fund, General Land Office, Teacher Retirement System, and Employees Retirement System*
06/16/20 *A Report on the Audit of the Employees Retirement System's Employer Pension and Other Post-employment Benefit Schedules for Fiscal Year 2019*
01/13/20 A Report on the Audit of the Employees Retirement System's Fiscal Year 2019 *Financial Statements*
08/21/19 An Audit Report on Incentive Compensation at the Permanent School Fund, General Land Office, Teacher Retirement System, and Employees Retirement System
07/05/19 A Report on the Audit of the Employees Retirement System's Fiscal Year 2018 Employer Pension and Other Post-employment Benefit Schedules

TEACHER RETIREMENT SYSTEM OFFICE LEASE

Since inception in 1937, the Teachers Retirement System has been in downtown Austin. Currently TRS staff work in two locations, in buildings that it owns on Red River and in leased space at 816 Congress Ave. As a global institutional investor, TRS believes that a location in close proximity to downtown is essential for attracting and retaining a quality investment team. The Investment Management Division (IMD) has been leasing downtown since 2009.[43]

It came to light that at the end of its current lease at 816 Congress that TRS intended to move the IMD to the new Indeed Tower in downtown Austin. The building, to be completed in 2021, offered competitive rates for the particular space,[44] however the notion that TRS needed such a space fell flat. The media, TRS membership, and the legislature were all quick to express their concerns.

TRS Executive Director Brian Guthrie came before this committee to explain the thought processes behind the decision and the potential outcomes. However, in February, TRS was notified that an expansion of the existing lease at 816 Congress was now possible, due to other tenants deciding to move out. The TRS board decided to change course and pursue the lease expansion at 816 Congress and begin the search for new tenants for the contracted space at the new Indeed Tower.

The resulting decision to negotiate a renewal and expansion at 816 Congress for the IMD with a 7-year term with a rare one-time right to terminate (if the Red River location and IMD are consolidated at a new headquarters) is expected to yield a savings of up to $9.1 million over the 7-year period of the expanded lease at 816 Congress.

Reporting in December by the Austin American Statesman notes that the coronavirus pandemic has substantially reduced demand for office space in downtown Austin. As much as 3.2 million square feet of sublease space was available in November 2020. This is almost three times the amount of space available in November of 2019.[45] This obviously unforeseen lack of demand may significantly hamper the efforts of TRS to find a tenant to take over the impending lease at Indeed Tower.

TRS is obligated to start paying rent on 07/01/21 after a negotiated 4-month abatement. According to the lease agreement, TRS must pay rent until a sub-tenant is found, and would have to pay the brokerage cost of a sub-lease at 6% of the lease obligation. However, if a higher lease rate is negotiated TRS would share in the benefits.

Questions were raised about the role of the Public Information Act in relation to the media and elected officials seeking information about the proposed Indeed Tower lease. An examination could be made into the relevant statute, however one specific case does not always warrant an overhaul, or even a change to currently functioning law. There were a number of "extenuating" circumstances regarding this particular issue that while very deserving of close examination, may not be the best measuring stick for the effectiveness of the current statute.

While there were questions about the appropriateness of the Indeed lease, the due diligence of TRS during its office expansion search, and the non-disclosure requirements, the majority of issues were addressed before the hearing in March. In the end, it will fortunately be market factors that determine the outcome of this process.

COVID-19 IMPACT

Due to the ongoing pandemic and the uncertainty in scheduling interim hearings, the House Committee on Pensions, Investments, & Financial Services requested written submissions from state agencies, regulated entities, interest groups, and the public related to the effects of COVID-19 in areas within the committee's jurisdiction. Submissions included the effects of COVID-19 on industry and business operations, and evaluations of existing statutory, and regulatory barriers to industry performance during COVID-19.

The following is a summary of testimony submitted by August 28th, 2020.

No Loan "Surge"

According to the Consumer Service Alliance of Texas, there was no "overwhelming tsunami" of payday/title loans as a result of the pandemic.[46] In fact, loan repayments in March and April reached all-time highs. After record highs in Q1, motor vehicle repos dropped 60% in Q2. To the contrary, Texas Appleseed noted that 39% of Americans earning <$40k lost their job, and pointed out that the Q1 auto repos were a record high despite a robust economy at the time.[47]

The Credit Union Department provided a report that described "softening demand for loan products" due to the widespread economic uncertainty. The report also outlined how limitations on physical access had slowed some lending processes, particularly in the home equity/real estate arena. Further, Texas Chartered Credit Unions (TCCUs) experienced 20 % annualized growth due to member deposits increasing.[48]

For existing loans, the Texas Department of Banking outlined a situation where the vast majority of banks provided relief in the form of deferments. May of these deferments were for 90-days, with a customer-optional extension of an additional 90 days. The deferments took on many different structures, and depending on the institution, were handled as either a broad program for all customers, or approved on a case-by-case or need basis.[49]

Online Banking + "Remote" Work

Generally, comments submitted regarding "remote" or "tele" -work related to the pandemic were positive. Testimony from state agencies detailed closed offices, and once reopened, minimized staffing levels of 25-50%. The Department of banking reported that 95% of institutions had diminished operations of some kind (reduced hours, drive-thru only, appointments only, etc.)[50]

Testimony from the Independent Bankers Association of Texas noted that utilization of online banking services had increased significantly. Like many financial institutions, many of their branches were closed to in-person transactions.[51] The restrictions on in-person transactions did cause issues in some areas, noted by the Texas Association of Life and Health Insurers, "Antiquated state laws and regulations that require face-to-face contact for certain transactions were unrealistic for consumers during the pandemic."[52] Another issue was the closure of fingerprint and testing sites which limited licensure capabilities, halting new agents from coming into the system.

The Texas Property Tax Lienholders Association experienced "increased productivity and performance while teleworking." Unlike other creditors, "property tax lenders rarely interact with customers at licensed offices."[53]

Closings are handled through mobile notaries and payments are made electronically.

The Houston Firefighter's Relief and Retirement Fund identified trouble spots with in-person interactions with an aging membership. A large portion of their members who do not own a computer, or lack proficiency with one, opted for phone communication rather than virtual meetings. Personal service was preferred. For active members, retirement planning assistance is crucial and limited planning interactions can have a substantial impact.[54] A much smaller system, the Port of Houston Authority of Harris County, which switched to completely online interactions, saw "no declines in service or communications."[55]

There were particular problems with home equity loan services, some of which require a face-to-face interaction. This was a common issue reported by a number of stakeholders. The Joint Financial Regulatory Agencies (Office of the Consumer Credit Commissioner, Texas Department of Banking, Texas Department of Savings and Mortgage Lending, and the Credit Union Department) published the *Home Equity Lending Guidance: Coronavirus Emergency Measures* bulletin to provide guidance for these lenders during the pandemic.

Examination and Oversight

In the early days of the pandemic, rules and regulations were changed and adjusted in a rapid-fire fashion. As described by the Independent Bankers Association of Texas, its member banks faced "an avalanche of regulatory guidance and directives."[56]

However, after the initial wave of uncertainty, most of the industry fell back into a rhythm. The Texas Department of Savings and Mortgage Lending testified that all savings banks requested that their examinations proceed as scheduled.[57] All examinations are conducted off-site, with few necessary exceptions. The Department of Banking (DOB) also moved its examinations off-site, as well as the OCCC, with the exception of franchised motor vehicle dealers which were resumed on-site in June.[58]

Part of the reason the regulators were able to continue their duties was the strong position the industry was in entering the pandemic. The DOB reported that banks were well-capitalized ahead of the economic downturn, and currently, "the number of problem banks is exceptionally low at approximately 3% of the total number of banks."[59] Problem banks take up far more of the regulatory agency's time, so having a low number is certainly beneficial.

There is a warning with the praise, though. As loan payment deferrals are exhausted and the long duration of the economic stress on banking customers takes its toll, loan defaults are expected to increase. Banks under the DOB's supervision have increased reserves in anticipation of increased loan losses.[60]

Cyber Crime + Fraud

Almost every submission to the committee included a mention of increased cybercrime or fraud. With the large increase in online transactions, the opportunities for criminal activity are more numerous. Each regulatory agency developed guidance for agency staff and for their regulated industries on how to prepare for and prevent cybercrime and fraud.

Particularly as agency and industry workers moved to home offices, secure infrastructure became a necessity for protecting communications and data from criminal efforts.

Recommendations

- Allow for a waiver of cooling off periods and three-day waiting periods after closing before fund disbursements of a home equity loan are made during a disaster. These standards can limit access to a consumer's major asset when they need it the most.
- Allow for a waiver of the one-year waiting period between closing and refinancing during a disaster.
- Revisit face-to-face requirements for home equity and real estate closings. Particularly during a disaster. Not only a disease pandemic, but flooding or other large scale disasters can significantly limit the ability of consumers to travel and meet in person.
- Revisit the requirements for in-person transactions. In a post-pandemic world, more business is expected to be conducted online, and the need for a physical location is diminished. As customer preference moves to online transactions, the industry should be able to follow.

STATE REPRESENTATIVE
BARBARA GERVIN-HAWKINS

DISTRICT 120
BEXAR COUNTY

January 1, 2021

The Honorable Jim Murphy Texas House of
Representatives
P.O. Box 2910 Austin, TX 78768

Dear Chairman Murphy:

It has been my pleasure to serve under your leadership on the House Committee on Pensions, Investments and Financial Services during the 86th Legislature. I have reviewed our committee's interim report and am grateful for the work that you and your staff have done to complete the report. I have submitted my signature to the report; however, my signature should not be taken as an endorsement of each policy recommendation presented in this report.

Regarding H.B. 2945, I am delighted with the timely work performed by the Tyler Fusion Centers in stopping credit card skimmers. While I agree additional funding is needed to staff the center with full time employees, we must not let a conflict of interest grow by funding salaries through private entities. I look forward to exploring methods we can use to further halt credit card skimmers in the upcoming session.

As a former educator myself, the healthcare of our schools' teachers and staff is of the upmost importance in my view. Interim Charge 2 explains how certain school districts will use the District of Innovation (DOI) to opt-out of TRS ActiveCare for an alternative healthcare plan. According to the Texas Association of School Boards, as healthcare costs have risen statewide, so have the costs associated with participating in TRS-Activecare. School districts are asking both legal and practical questions about options to reduce health care costs while offering employees the most comprehensive plan possible. Many of these questions relate to the possibility of opting out of TRS-ActiveCare. Districts of Innovation status may seek an exemption from the Texas Education Code section 22.004 however these exemptions cannot be from the Insurance Code. The central legal question lies on Insurance Code Chapter 1579 as it does not directly prohibit alternate healthcare plans for school districts. Regardless of regulation however, in practice DOIs currently use their exempt status to opt for alternative healthcare plans. Thus, the question of how we move forward with the current healthcare infrastructure must be evaluated. Ultimately however, I believe that our educators should have the best options and access to healthcare.

STATE REPRESENTATIVE
BARBARA GERVIN-HAWKINS

DISTRICT 120
BEXAR COUNTY

Regarding the 3rd Charge of the report, I believe we must provide most substantive recommendations considering the staggering figures. Observing that a third of Texan retirees are fully reliant on Social Security and 80 percent report not having enough saved for retirement, the current state of pensions in Texas must be addressed in a more exhaustive manner. While the utilization of the federal SECURE Act and general educational outreach are good first steps, I look forward to further tackling these issues in the upcoming legislative session.

I would like to reiterate my gratitude for your leadership over our committee and your staff's hard work on this report. The work provided by our committee will continue to ensure financial stability for the State of Texas.

Respectfully,

Barbara Gervin-Hawkins

Barbara Gervin-Hawkins
State Representative District 120

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1-5-2021

Representative Gary Gates Further Recommendations for the Employee Retirement System

1. Explore raising both the constitutional cap on the state contribution rate to the Employee Retirement System and raising the employee contribution rate to levels that bring ERS into actuarial soundness.

2. Explore placing new state employees into a defined contribution plan, a cash balance plan, or a hybrid plan which would combine parts of a defined contribution plan and defined benefits plan.

3. Explore basing the assumed rate of return for the Employee Retirement System fund to within 300 to 400 basis points of 30 year Treasury Bills.

For the Teacher Retirement System

1. While TRS made a good-faith effort to inform members of the Legislature and this committee during the hearing in March, closer examination of this process during the 87th Legislative Session may be in order. As part of their overall investment strategy, TRS should make future efforts to identify additional office space within the Austin-Round Rock-San Marcos MSA that strikes a balance between the agency's need for highly skilled employees and their fiduciary responsibility to clients. The impact of COVID-19 on the private sector, particularly in the banking and investment sector and its employees, should also be taken into account to develop new and innovative strategies to retain and better manage client funds. Future strategies may include remote work for appropriate IMD employees or relocation outside of downtown Austin altogether, and should be explored by both TRS and the Legislature.

Appendix

Bills Heard:

HB 9:
Author: Greg Bonnen
Caption: Relating to the contributions to and benefits under the Teacher Retirement System of Texas.

HB 183:
Author: Stephenson
Caption: Relating to establishing a joint interim committee to study the cost-effectiveness and feasibility of implementing a pension revenue enhancement plan for the Teacher Retirement System of Texas.

HB 190:
Author: Bernal
Caption: Relating to verification by a credit services organization of a consumer's ability to repay an extension of consumer credit.

HB 210:
Author: Craddick
Caption: Relating to the service retirement annuity for certain members of the Judicial Retirement System of Texas Plan Two.

HB 293:
Author: Ken King
Caption: Relating to investment training requirements for school district financial officers.

HB 392:
Author: Blanco
Caption: Relating to long-term care insurance for state employees.

HB 440:
Author: Murphy
Caption: Relating to general obligation bonds issued by political subdivisions.

HB 477:
Author: Murphy
Caption: Relating to the notice required before the issuance of certain debt obligations by political subdivisions.

HB 596:
Author: Hernandez
Caption: Relating to the composition of the board of trustees of the Employees Retirement System of Texas.

HB 874:
Author: Walle
Caption: Relating to the threat or pursuit of criminal charges against a consumer in association with certain extensions of consumer credit.

HB 877:
Author: Oliverson
Caption: Relating to the actuarial valuations of certain public retirement systems.

HB 953:
Author: Ken King
Caption: Relating to certain contributions by an open-enrollment charter school to the Teacher Retirement System of Texas.

HB 996:
Author: Collier
Caption: Relating to the collection of consumer debt by debt buyers.

HB 1175:
Author: Lambert
Caption: Relating to investments by state banks to promote community development.

HB 1239:
Author: Parker
Caption: Relating to a study by the Teacher Retirement System of Texas regarding the use of health reimbursement accounts in conjunction with certain Medicare plans to provide health benefit coverage for certain retired school employees.

HB 1442:
Author: Paddie
Caption: Relating to the continuation and functions of the Office of Consumer Credit Commissioner, the licensing and registration of persons regulated by that state agency, and certain consumer financial transactions regulated by that state agency.

HB 1535:
Author: Flynn
Caption: Relating to the continuation and functions of the State Securities Board.

HB 1569:
Author: Lambert
Caption: Relating to the continuation and functions of the Finance Commission of Texas, the Texas Department of Banking, and the Department of Savings and Mortgage Lending and to the regulation of certain financial institutions and businesses.

HB 1612:
Author: Murphy
Caption: Relating to the authority of the Teacher Retirement System of Texas to invest in certain hedge funds.

HB 1716:
Author: Flynn
Caption: Relating to certain public facilities financed, owned, and operated by a public facility corporation.

HB 1731:
Author: Yvonne Davis
Caption: Relating to the payment for funeral services performed by a transferring funeral home under a purchase agreement for funeral services or merchandise.
HB 1887:
Author: Murphy
Caption: Relating to the evaluation and reporting of investment practices and performance of certain public retirement systems.
HB 2173:
Author: Murphy
Caption: Relating to the regulation of state banks, state trust companies, and third-party service providers of state banks and state trust companies.
HB 2178:
Author: Noble
Caption: Relating to terminating participation in the Texas Emergency Services Retirement System.
HB 2227:
Author: Wu
Caption: Relating to preventing the loss of benefits by certain retirees of the Teacher Retirement System of Texas who resume service.
HB 2282:
Author: Parker
Caption: Relating to the applicability of certain limitations on the capture and use of biometric identifiers to financial institutions.
HB 2367:
Author: Greg Bonnen
Caption: Relating to a prohibition on bids by certain insurance and health benefit providers to administer or provide coverage under certain group benefit plans for governmental employees.
HB 2414:
Author: Cortez
Caption: Relating to participation by certain state employees in a default investment product under a deferred compensation plan.
HB 2458:
Author: Capriglione
Caption: Relating to the operation and administration of the Texas Bullion Depository.

HB 2469:
Author: Gutierrez
Caption: Relating to retirement benefits for certain peace officers who are members of the Teacher Retirement System of Texas.
HB 2525:
Author: Burrows
Caption: Relating to participation in the health care market by enrollees of certain governmental managed care plans.

HB 2567:
Author: Capriglione
Caption: Relating to enrollment of certain retirees in the Texas Public School Employees Group Insurance Program.

HB 2624:
Author: Perez
Caption: Relating to the prosecution of certain criminal offenses involving fraud.

HB 2625:
Author: Perez
Caption: Relating to creating the criminal offense of fraudulent use or possession of credit card or debit card information.

HB 2629:
Author: Flynn
Caption: Relating to the deadline to appeal administrative decisions of the Teacher Retirement System of Texas.

HB 2636:
Author: Flynn
Caption: Relating to enforcement of the regulation of perpetual care cemeteries.

HB 2639:
Author: Flynn
Caption: Relating to debt cancellation agreements offered in connection with certain retail installment contracts.

HB 2649:
Author: Flynn
Caption: Relating to requiring the reporting of certain commissions and fees paid by public retirement systems.

HB 2652:
Author: Flynn
Caption: Relating to the procurement of investment and consulting services by certain public retirement systems.

HB 2657:
Author: Flynn
Caption: Relating to the funding soundness restoration plans required for certain public retirement systems.

HB 2662:
Author: Paul
Caption: Relating to voter approval of the issuance of certain obligations by municipalities to pay their unfunded liabilities to a public pension fund.

HB 2697:
Author: Meyer
Caption: Relating to the prosecution of the offense of fraudulent use or possession of identifying information.

HB 2706:
Author: Capriglione
Caption: Relating to authorized investments for governmental entities and a study of the investment and management of funds by public schools.

HB 2763:
Author: Flynn
Caption: Relating to the police pension fund in certain municipalities.

HB 2779:
Author: Wray
Caption: Relating to the exemption for certain savings plans from attachment, execution, or other seizure for a creditor's claim.

HB 2820:
Author: Flynn
Caption: Relating to the registration and certification of certain investment products made available to public school employees.

HB 2821:
Author: Flynn
Caption: Relating to credit in, benefits from, and administration of the Texas Municipal Retirement System.

HB 2822:
Author: Flynn
Caption: Relating to increasing the interest rate and maximum reference base amount of certain consumer loans.

HB 2932:
Author: White
Caption: Relating to the payment for funeral services performed by a transferring funeral home under a purchase agreement for funeral services or merchandise.

HB 2945:
Author: Perez
Caption: Relating to payment card skimmers on motor fuel dispensers and to creating a payment fraud fusion center; imposing civil penalties; creating criminal offenses.

HB 2950:
Author: Guillen
Caption: Relating to perpetual care trust funds and a master trust account.

HB 3130:
Author: Middleton
Caption: Relating to federal refundable credits paid directly to issuers of certain bonds issued by or on behalf of school districts or open-enrollment charter schools.

HB 3162:
Author: Flynn
Caption: Relating to prepaid funeral benefits.

HB 3188:
Author: Gervin-Hawkins
Caption: Relating to the retirement system in certain municipalities for firefighters and police officers.

HB 3247:
Author: Martinez
Caption: Relating to the Texas Emergency Services Retirement System.

HB 3292:
Author: Gutierrez
Caption: Relating to sale-leaseback transactions.

HB 3373:
Author: Middleton
Caption: Relating to the police pension fund in certain municipalities.

HB 3522:
Author: Murphy
Caption: Relating to assignment of certain death benefits payable by the Employees Retirement System of Texas.

HB 3599:
Author: Huberty
Caption: Relating to certain increases in benefits under the firefighters' relief and retirement fund in certain municipalities.

HB 3662:
Author: Walle
Caption: Relating to the composition of the board of trustees of the Teacher Retirement System of Texas.

HB 3855:
Author: Longoria
Caption: Relating to methods of computing interest charges on certain consumer loans.

HB 3872:
Author: Longoria
Caption: Relating to data matching with financial institutions to facilitate the collection of state delinquent tax liabilities.

HB 3887:
Author: Capriglione
Caption: Relating to enrollment of certain retirees in and cost-sharing for the Texas Public School Employees Group Insurance Program.

HB 3945:
Author: Parker
Caption: Relating to the temporary authority of certain individuals to engage in business as a residential mortgage loan originator.

HB 3951:
Author: Longoria
Caption: Relating to the state salary for retired judges.

HB 3983:
Author: Leach
Caption: Relating to service retirement benefits payable by the Employees Retirement System of Texas to commissioned peace officers employed by the attorney general.

HB 3985:
Author: Leach
Caption: Relating to the provision of certain historical claims data and other information to school districts and other participating entities in the Texas school employees uniform group health coverage program.

HB 4026:
Author: Dominguez
Caption: Relating to authorizing certain retired public school employees to participate in the state employee group benefits program.

HB 4086:
Author: Sanford
Caption: Relating to the definition of "closing" for purposes of certain private activity bonds.

HB 4222:
Author: Reynolds
Caption: Relating to health coverage for employees of a municipal school district.

HB 4258:
Author: Murphy
Caption: Relating to review and approval by the attorney general of certain bonds financing an educational facility for certain charter schools.

HB 4343:
Author: Flynn
Caption: Relating to increasing the maximum reference base amount for certain consumer loans.

HB 4371:
Author: Stephenson
Caption: Relating to digital currencies.

HB 4388:
Author: Murphy
Caption: Relating to the management of the permanent school fund by the School Land Board and the State Board of Education and a study regarding distributions from the permanent school fund to the available school fund.

HB 4408:
Author: Middleton
Caption: Relating to the authority of a political subdivision to issue public securities for certain purposes.

HB 4452:
Author: Greg Bonnen
Caption: Relating to the authority of the legislature to vest the power to invest and manage certain public funds in certain officers, boards, and entities.

HB 4517:
Author: Parker
Caption: Relating to the creation of a work group on blockchain matters concerning this state.

HB 4519:
Author: Ken King
Caption: Relating to the development of a central filing system by the secretary of state for the filing of financing statements for certain security interests; authorizing fees; providing civil penalties.

HJR 143:
Author: Greg Bonnen
Caption: Proposing a constitutional amendment to authorize the legislature to vest the power to invest and manage certain public funds in certain officers, boards, and entities.

SB 12:
Author: Huffman
Caption: Relating to the contributions to and benefits under the Teacher Retirement System of Texas.

SB 30:
Author: Birdwell
Caption: Relating to ballot language requirements for a proposition seeking voter approval for the issuance of bonds.

SB 42:
Author: Zaffirini
Caption: Relating to residential mortgage loans, including the financing of residential real estate purchases by means of a wrap mortgage loan; providing licensing and registration requirements; authorizing an administrative penalty.

SB 462:
Author: Campbell
Caption: Relating to ballot propositions authorizing certain political subdivisions to issue debt obligations.

SB 614:
Author: Nichols
Caption: Relating to the continuation and functions of the Finance Commission of Texas, the Texas Department of Banking, and the Department of Savings and Mortgage Lending, to the training requirements applicable to the agencies overseen by the Finance Commission of Texas, and to the regulation of certain financial institutions and businesses.

SB 652:
Author: Campbell
Caption: Relating to procedures and requirements for the issuance of certificates of obligation.

SB 726:
Author: Zaffirini
Caption: Relating to investments by state banks to promote community development.

SB 1138:
Author: Watson
Caption: Relating to securities contracts entered into by the Texas Treasury Safekeeping Trust Company.

SB 1184:
Author: Perry
Caption: Relating to eligible participants in the Texas Achieving a Better Life Experience (ABLE) Program.

SB 1474:
Author: Lucio
Caption: Relating to private activity bonds.

SB 1570:
Author: Flores
Caption: Relating to the effect of certain felony convictions of certain corrections employees.

SB 1682:
Author: Huffman
Caption: Relating to establishing a contingency reserve account under the Texas Public School Employees Group Insurance Program.

SB 1689:
Author: West
Caption: Relating to the creation and use of public facilities corporations.

SB 1821:
Author: Campbell
Caption: Relating to enforcement of the regulation of perpetual care cemeteries.

SB 1823:
Author: Campbell
Caption: Relating to the regulation of state banks, state trust companies, and third-party service providers of state banks and state trust companies.

SB 2037:
Author: Hall
Caption: Relating to a study regarding the feasibility of implementing a central filing system for the filing of financing statements for security interests in farm products.

SB 2224:
Author: Huffman
Caption: Relating to requiring a public retirement system to adopt a written funding policy.

ENDNOTES

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