

SUBJECT: Supplemental contributions to the Optional Retirement Program

COMMITTEE: Pensions and Investments — committee substitute recommended

VOTE: 4 ayes — Ritter, Grusendorf, Pena, Rose
0 nays
1 present not voting — Martinez Fischer
2 absent — Telford, McClendon

WITNESSES: For — Ted Kennedy AIG-VALIC; Larry King, Texas Association of College Teachers; Charles Zucker, Texas Faculty Association
Against — None

BACKGROUND: The Legislature in 1967 created the Optional Retirement Program (ORP) for employees in Texas public higher education as an alternative to the Teacher Retirement System. The ORP serves public institutions of higher education, including state universities, health-related institutions, and public community and technical colleges.

Government Code, sec. 830.201 establishes that the state contributes 8.5 percent of the total payroll of eligible higher education institutions for each fiscal year to ORP participants. The Legislature in 1995, upon a recommendation from the comptroller, adopted an appropriation rider that did not fund fully the statutory amount but placed the state ORP contribution at 6 percent for all participants hired on or after September 1, 1995. Similar appropriations riders have followed for each subsequent biennium. The employer institutions are authorized to supplement the contribution up to 2.5 percent for ORP participants hired before September 1, 1995.

DIGEST: CSHB 264 would amend the Government Code to allow higher education institutions to make supplemental contributions to ORP participants in any amount that would not exceed a total contribution level of 8.5 percent, as limited by statute. The supplemental contribution for any participant in a

given fiscal year would have to be equal to or less than the difference between the amount the state was required to contribute for each participant employed by the institution of higher education and the amount the state appropriated for that purpose. This would apply to all ORP participants, except that participants employed on or after September 1, 1995 would not necessarily receive supplemental contributions at the same rate as participants employed before that date. The governing board could use any source of funds for the supplemental contributions.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

In order to hire and retain the best and brightest professors, the public higher education institutions of Texas must have the ability to supplement the appropriated ORP contribution for faculty members and some administrators hired since fiscal year 1996. The national average for faculty retirement contributions is 9 percent, which compares unfavorably with the Texas contribution of 6 percent for professors who were employed on or after September 1, 1995. By allowing universities to restore the contribution rate to 8.5 percent, the bill would make Texas' public higher education institutions much more competitive with others in the country.

Because it would not increase the state's 6 percent ORP contribution, the bill would have no effect on general revenue and would grant colleges and universities the option of increasing ORP contributions with any source of funds, such as local or federal funds, so long as the total contribution did not exceed 8.5 percent. By not requiring a fixed supplemental contribution amount for the employer institutions, it is unlikely that the bill would cause contribution rates to drop for participants as a whole.

**OPPONENTS
SAY:**

By allowing institutions of higher education to supplement ORP contributions to a total of 8.5 percent, CSHB 264 could create an unfair advantage for institutions with large endowments. This bill could have the practical effect of luring away faculty from smaller, less well endowed Texas schools that could not match the supplemental contributions of large state universities. This bill should set ORP contributions at the same rate for all Texas colleges and universities.

NOTES:

The committee substitute varies from bill as introduced by allowing the higher education institution to make supplemental contributions at different rates to participants employed on or after September 1, 1995 versus participants employed before that date.

According to the Legislative Budget Board, CSHB 264 would have no impact to general revenue funds for the fiscal 2004-2005 biennium, but would have a negative impact of \$25.1 million to estimated other educational and general income (i.e, the funds from which institutions would draw supplemental contributions).

The House and Senate-passed versions of HB 1 by Heflin contain identical riders for the state's contribution to the ORP, stipulating that the amount would be based on a state contribution rate of 6 percent of payroll for each fiscal year and authorizing a supplemental contribution of up to 2.5 percent for each ORP participant hired before September 1, 1995.

A related bill, SB 1258 by Armbrister, which would set in statute the ORP provisions in the appropriations riders, was referred to the Senate State Affairs Committee on March 19.