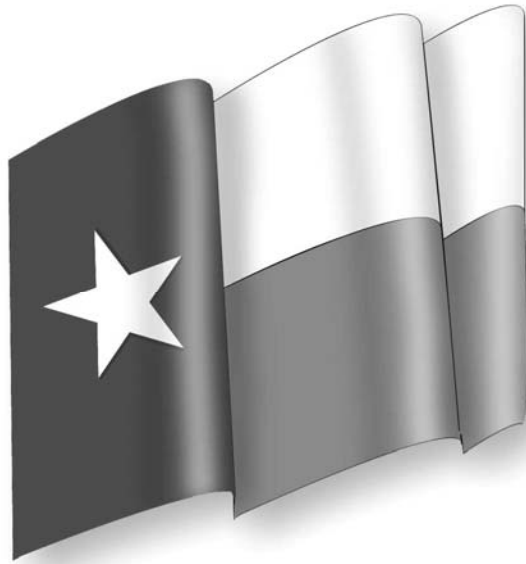


SUNSET COMMISSION DECISIONS



Teacher Retirement System of Texas

August 2006

Agency Information

Agency at a Glance

The Teacher Retirement System of Texas delivers retirement benefits to employees of public schools and state-supported colleges and universities, and manages assets held in trust to provide future benefits for members and their beneficiaries. Following voter passage of a constitutional amendment, the Legislature created the agency in 1937. To accomplish its mission, the Board of Trustees:

- ◆ administers and operates a system to provide retirement, disability, death, and survivor benefits for more than 1 million Texas public and higher education employees, retirees, and beneficiaries;
- ◆ invests and manages the \$93.7 billion Pension Trust Fund;
- ◆ offers health and long-term care insurance to eligible public education employees, retirees, and their dependents; and
- ◆ provides counseling services and information about retirement and health-care benefits and other agency activities.

Key Facts

- ◆ **State Funding.** TRS' fiscal year 2006 appropriation totals \$1.65 billion, including \$1.6 billion from the General Revenue Fund, and \$44.7 million from the TRS Trust Account for administrative expenses.
- ◆ **Staffing.** TRS has 466 employees in fiscal year 2006, all based in Austin. The majority of TRS staff, 427 employees, assist the agency in investing the Pension Trust Fund (Fund) and delivering retirement benefits, while 39 employees assist with the administration of health-care benefits and other TRS functions.
- ◆ **TRS Membership.** Employees and retirees of 1,363 independent school districts, charter schools, education service centers, and colleges and universities comprise the membership of TRS. At the end of fiscal year 2005, TRS membership totaled 1.1 million persons, which included 867,000 current members and 249,000 annuitants.
- ◆ **Pension Trust Fund.** TRS' Pension Trust Fund is currently the eighth largest pension fund in the nation, valued at \$93.7 billion. The Fund holds contributions from TRS members, the State, educational employers, and accumulated investment returns. In fiscal year 2005, members contributed \$1.6 billion into the Pension Trust Fund, the State contributed \$1.3 billion, and educational employers contributed \$221 million.
- ◆ **Retirement Program.** TRS administers a defined benefit plan to provide a lifetime stream of income to eligible members during retirement years. In fiscal year 2005, TRS paid 249,000 retirees and their beneficiaries \$5.4 billion, with an average monthly retirement benefit of \$1,788.
- ◆ **Investments.** TRS manages and invests monies in the Pension Trust Fund and other funds it administers. In fiscal year 2005, TRS earned a 14.4 percent return on its investment portfolio, a gain of \$12 billion. TRS' investment-related administrative costs to achieve that gain totaled \$17.4 million. During the past 10 years, TRS' investment performance has averaged 9.28 percent.

- ◆ **TRS-Care.** TRS offers a health insurance plan to retired public school employees and their dependents. In fiscal year 2005, of the 225,000 eligible TRS retirees, 187,000 participated in TRS-Care. TRS contracts with Aetna to administer the health plan and Caremark for pharmacy benefits.
- ◆ **TRS-ActiveCare.** TRS offers a health insurance plan to active public education employees whose employers have chosen to participate. Of the 1,244 school districts eligible to participate, about 1,042 or 84 percent have enrolled. Currently, about 276,000 TRS members and dependents receive health insurance from TRS-ActiveCare. TRS contracts with BlueCross BlueShield of Texas to administer the health plan and Medco Health Solutions to administer pharmacy benefits.
- ◆ **Member Services.** TRS provides information to members, retirees, and the general public through publications, the agency's toll-free telephone number and website, one-on-one counseling, and group presentations. In fiscal year 2005, TRS counseled 9,000 members on a one-on-one basis about their retirement benefits, made more than 150 group presentations, received 655,000 telephone calls and 1.5 million website visits. The table, *Quick Facts About TRS Members*, provides information on the average age, salary, and benefits of TRS active and retired members.

Quick Facts About TRS Members	
Average Age of Active Members	43.6
Average Annual Salary of Active Members	\$36,278
Average Age of Retirees	69.3
Average Age at Time of Retirement	59.7
Average Years of Service at Retirement	24.8
Average Annual Salary at Retirement	\$33,405
Average Monthly Annuity Benefit of Retirees	\$1,788
Ratio of Active Members to Retirees	3.5 to 1

Issues/Recommendations

Issue 1 Granting Service Credit Only in Whole-Year Increments Prevents TRS From Fairly Accounting for Time Worked by Members.

Recommendations

Change in Statute

1.1 Require TRS to grant membership service credit in half-year increments.

This recommendation would require TRS to grant service credit to members in half-year increments, rather than in whole years as currently required in law. Although the states examined during the review use a variety of methods of granting service credit, Sunset staff recommends a half-year increment method based on the simplicity of the calculation and ease of transition to the new system. Creating a system that more precisely credits actual time worked would result in a fairer system for all members. The current prohibition in law restricting TRS from granting more than one year of credit for service performed in any one school year would still apply.

To avoid disrupting planned retirements, this change in service credit calculation should take effect on September 1, 2008, and apply to service credit earned after that date. Extending the implementation period for this recommendation would also afford TRS adequate opportunity to make necessary system changes. This recommendation would not apply to the purchase of service credits by members or affect TRS' calculations of members' age for purposes of determining retirement eligibility.

1.2 Require TRS' Board of Trustees to create rules defining how much service constitutes a half-year of credit.

This recommendation requires the TRS Board to amend its current rules relating to

service credit to allow for half-year service credit accrual, beginning in September 2008. TRS would set the criteria under which members would earn one-half year of credit for service performed. TRS should adopt rules that ensure fairness to its members, and do not result in a negative impact to the Pension Trust Fund. TRS service credit rules, at a minimum, should better reflect actual time worked by members than current rules by requiring members to work more than one-half of a semester to receive one-half year of service credit.

Fiscal Implication

Requiring members to work the full number of years to earn corresponding credit would delay enrollment in TRS-Care insurance for some members, creating an estimated savings to the General Revenue Fund of \$2.2 million. The savings would begin to accrue in fiscal year 2009, following a one-year phase-in period. TRS would incur a one-time cost of up to \$900,000 to alter its database and tracking system. As TRS budgets about \$2 million per biennium for system upgrades, the agency could incorporate a portion of the changes required by this recommendation into its routine maintenance schedule.

Changing the basis on which the agency grants service credit would also result in a gain to the Pension Trust Fund as some members would continue contributing to the Pension Trust Fund while working their last full year before retirement eligibility. The amount of the savings cannot be estimated for this report.

Responses

Agency

As a legislative policy issue, TRS takes no position on this recommendation, but believes that in judging fairness, benefits as a whole should be considered rather than isolated components. TRS also notes that any change resulting in a favorable actuarial impact for the Pension Trust Fund could be characterized as a benefit reduction to members. Conversely, any favorable benefit change would result in an actuarial cost. (Ronnie Jung, Executive Director – Teacher Retirement System)

For

None received.

Against

Patty Quinzi – Association of Texas Professional Educators, Austin

Ann Fickle, Director of Legislation – Texas Classroom Teachers Association, Austin

Recommended Action: Adopt Recommendations 1.1 and 1.2.

Commission Decision: Not adopted. The Commission took no action on Issue 1.

Issue 2 TRS Does Not Provide Equal Access to Counseling Services to Members Across the State.

Recommendations

Change in Statute

2.1 Require TRS to conduct in-person, individual member counseling in locations other than Austin.

This recommendation would allow members who live outside of Austin to access the in-person, individual counseling services now offered by TRS only at its headquarters. To enable the most effective delivery of these services, TRS should adopt policies regarding availability, timing, and scheduling. The agency should identify the geographic areas most in need of the counseling services and focus efforts on those areas. TRS should also make these individual counseling services available in conjunction with scheduled group sessions, and should announce the schedule with sufficient advance notice to permit members to schedule appointments and obtain up-to-date benefit estimates if needed.

TRS has stated that conducting one-on-one counseling throughout the state would not be feasible because the counselors would have to travel with the files of individual members. However, the agency has used technological solutions to solve similar problems. For example, TRS has created computerized images of most of the required documents and these files could be easily loaded on the

laptop computers of counselors before departing from Austin. The agency could also preschedule the counseling sessions so that the files are available for counselors to bring to the sessions.

Management Action

2.2 TRS should improve the convenience of counseling services for its members.

This recommendation would ease the hardship on members who live outside of central Texas and wish to access TRS' in-person counseling services. TRS should offer in-person counseling sessions after normal working hours on one or two days a week. This change would allow members outside of Austin to attend individual counseling sessions at the end of their workdays. TRS should also allow members to schedule telephone counseling sessions to speak with counselors familiar with their retirement details. TRS should improve the capability of its website to allow members to access and complete forms online, increasing the usefulness of TRS' website.

Fiscal Implication

These recommendations would not have a fiscal impact to the State.

Responses

Agency

TRS continually looks for ways to improve member services in a cost-effective manner and will expand current field visits to include one-on-one counseling in locations outside of Austin during the 2006-2007 school year. TRS also notes that the agency discontinued providing field, one-on-one counseling as an efficiency measure; the Constitution grants TRS flexibility in administering pension benefits; and the agency has received high marks in recent customer satisfaction surveys. (Ronnie Jung, Executive Director – Teacher Retirement System)

For

Patty Quinzi – Association of Texas Professional Educators, Austin

Ann Fickle, Director of Legislation – Texas Classroom Teachers Association, Austin

Against

None received.

Recommended Action: Adopt Recommendations 2.1 and 2.2.

Commission Decision: Adopted Recommendations 2.1 and 2.2.

Issue 3 TRS' Disability Retirement Benefit Program Is Not Properly Structured to Ensure Protection of Pension Trust Fund Assets.

Recommendations

Change in Statute

3.1 Require TRS to adjust benefits for disability retirees who earn significant incomes.

This recommendation would make clear that disability retirement is meant as hardship relief and not as a supplemental income program. Under this recommendation, TRS should adopt rules to reduce or limit benefits, and provide for benefits to be reinstated when appropriate. The limitations should not prohibit disability retirees from earning supplemental income up to an appropriate level set by TRS. However, TRS should limit disability retirees' earnings to the amount less than or equal to their previous position's salary. This approach would prevent misuse of Pension Trust Fund assets as a bonus for disability retirees that also work for significant pay. Creating these limitations in rule would also give TRS flexibility to adjust the levels as needed. To avoid loss of health insurance, the statute would allow disability retirees, with at least 10 years of service credit, who lose benefits under this recommendation, to continue enrollment in TRS-Care by paying the appropriate premium.

3.2 Grant TRS authority to require income reports from disability retirees who earn incomes in excess of limits set by TRS.

This recommendation would require disability retirees, who earn significant incomes as defined by TRS, to report earned income. By only requiring disability retirees with incomes over a certain level to report to TRS, this process would not burden the majority of disability retirees. Presuming 5 percent of disability retirees would submit reports, TRS

would receive about 400 reports. The agency would adjust or cancel benefits after investigating cases in which earnings exceed limitations. Should TRS require disability retirees to undergo medical examinations as part of its investigations, the Medical Board would review these records. However, TRS should make the benefit adjustments based strictly on disability retirees' earnings. The recommendation would grant TRS rulemaking authority to establish the income parameters under which disability retirees would be required to report income. TRS also would be granted authority to determine when and how much to adjust benefits.

Management Action

3.3 Direct TRS to access Texas Workforce Commission records on disability retirees for the purpose of reviewing earnings.

This recommendation would direct TRS to enter into an inter-agency contract with TWC to verify income reports of disability retirees. The information would reveal to TRS which disability retirees are working and earning high salaries within Texas. TRS would use this information, along with the self-reporting required above, to ensure that disability retirees receive the income benefits they deserve, and no more.

Fiscal Implication

Removing disability retirees, who are gainfully employed, from TRS-Care would have a positive fiscal impact to the State. Because the number of disability retirees who earn excessive incomes is unknown, the exact fiscal impact is difficult to estimate. Assuming that 5 percent of TRS disability retirees would be affected, the

recommendation would save \$256,000 in General Revenue.

Reducing the pensions of gainfully employed disability retirees would also have a positive fiscal impact to the Pension Trust Fund.

Assuming that 5 percent of TRS disability retirees would be affected, TRS would reduce annuity payments from the Fund by \$6.45 million for disability retirees who are earning high incomes in other positions.

Responses

Agency

As a legislative policy issue, TRS takes no position on this recommendation. TRS notes that disability payments currently account for about 2.5 percent of total benefit payments. (Ronnie Jung, Executive Director – Teacher Retirement System)

Affected Agency

The Texas Workforce Commission agrees that the cost of providing wage-data matches on TRS' disability retirees would be about \$600. (Larry E. Temple, Executive Director – Texas Workforce Commission)

For

Patty Quinzi – Association of Texas Professional Educators, Austin

Against

None received.

Recommended Action: Adopt Recommendations 3.1 through 3.3.

Commission Decision: Adopted Recommendations 3.1 through 3.3.

Issue 4 TRS Lacks Sufficient Authority in Its 403(b) Certification Program to Adequately Protect Public Education Employees.

Recommendations

Change in Statute

4.1 Require certified 403(b) companies to register individual products offered for sale to Texas educators.

This recommendation would retain the basic structure of the 403(b) certification program and add a requirement for companies to register all individual 403(b) products with TRS before being marketed to public education employees in Texas. Adding product registration to TRS' 403(b) certification would allow the agency to know exactly which products companies represent as meeting the fee limitations and the actual fees charged. Companies would register products by submitting an annuity policy form or a mutual fund prospectus to TRS in addition to a standardized form listing fees assessed in each of the categories capped by TRS: front-end or back-end load, annual administrative fee, surrender charge, loan application or origination fee, and other aggregate charges as a percentage of total assets. TRS should have authority to determine other relevant information that would be submitted for product registration as well as the form in which it would be submitted.

School districts currently ensure that a 403(b) company is on TRS' list of certified companies before processing a salary reduction agreement. Under this recommendation, school districts should ensure that a selected investment product is registered with TRS, before processing a salary reduction, by checking TRS' website.

Companies still would certify financial stability to TRS at five-year intervals. TRS

should have the authority to re-structure its 403(b) fees to incorporate product registration with company certification.

4.2 Require TRS to list all registered 403(b) products and their fees on the TRS website.

This recommendation would require TRS to list all registered 403(b) products on its website as well as information on the fees in each category and other relevant information collected during registration. This change would greatly increase public education employees' access to comprehensive, unbiased information on 403(b) products.

4.3 Grant TRS a greater range of oversight tools including suspension and administrative penalty authority.

The recommendation would grant TRS a range of oversight tools to better protect public education employees in the 403(b) market. Specifically, TRS would have authority to conduct complaint-based or self-generated investigations of certified companies and registered products to determine compliance. TRS would also have the ability to require companies to specify which products have been sold to public education employees. Additionally, TRS would have authority to suspend certification and levy administrative penalties up to \$1,000 per violation. TRS should adopt a penalty matrix in rule that specifies the fine amounts for various offenses by severity. This recommendation will give TRS the ability to detect registered 403(b) products that violate TRS' fee limitations, and the flexibility to work with a 403(b) company that has reported a violation to come back into compliance.

Fiscal Implication

These recommendations would not have a fiscal impact to the State.

Responses

Agency

TRS believes that this is a legislative policy issue. TRS notes that the role of monitoring 403(b) companies and products is not aligned with the constitutional mission of the agency, current law has substantial strength in placing the burden of compliance on the companies and subjecting violations to criminal penalties, and TRS has sufficient authority to investigate violations. TRS further notes that existing regulatory authorities including the Texas Department of Insurance and the State Securities Board provide a cost-effective approach to enforcement and that relevant code amendments could provide for disciplinary actions by these regulatory agencies for violations of TRS standards. (Ronnie Jung, Executive Director – Teacher Retirement System)

Affected Agency

The State Securities Board agrees with staff that current laws addressing 403(b) plans contain shortcomings including an apparent lack of authority for TRS to protect participants from excessive fees and to address violations. In addition, no statutory requirements exist for regulation or audit of third-party servicing entities that enter into business relationships with investment advisers to 403(b) plans.

State Securities Board Modification

1. Protect 403(b) plan participants by requiring TRS to regulate and oversee third-party servicing entities including submission of periodic audit reports.

(Denise Voigt Crawford, Securities Commissioner – State Securities Board)

For

Patty Quinzi – Association of Texas Professional Educators, Austin

Recommendation 4.2: Ted Melina Raab – Texas Federation of Teachers, Austin

Against

Phil Lynch, President – 1st American Pension, Arlington

Recommended Action: Adopt Recommendations 4.1 through 4.3.

Commission Decision: Adopted Recommendations 4.1 through 4.3.

Issue 5 State Law Requires TRS to Produce a Costly Study That Is No Longer Useful.

Recommendation

Change in Statute

5.1 Repeal the statutory requirement for TRS to conduct the Public School Employees' Health Coverage Comparability Study.

This recommendation would eliminate the statutory provision that requires TRS to analyze health coverage data submitted by public education entities, certify coverage that is comparable, and produce the Comparability Study every other year. Eliminating this

requirement will save staff time at TRS in producing the reports and in school districts responding to TRS' information requests. Because the information is no longer useful, eliminating the report will not result in a significant loss of needed data.

Fiscal Implication

Eliminating the unnecessary health coverage comparability study would result in a positive fiscal impact of \$125,000 per year to the State.

Responses

Agency

TRS concurs that the value of the Comparability Study has decreased with the creation of TRS-ActiveCare, but defers to the wishes of the Legislature on whether to continue the study and provide the necessary funding. (Ronnie Jung, Executive Director – Teacher Retirement System)

For

Patty Quinzi – Association of Texas Professional Educators, Austin

Against

Ted Melina Raab – Texas Federation of Teachers, Austin

Tim Bacon – Texas State Teachers Association, Austin

Recommended Action: Adopt Recommendation 5.1.

Commission Decision: Adopted Recommendation 5.1.

Across-the-Board Recommendations

Teacher Retirement System of Texas

Recommendations	Across-the-Board Provisions
Already in Statute	1. Require public membership on the agency’s policymaking body.
Update	2. Require provisions relating to conflicts of interest.
Already in Statute	3. Require unbiased appointments to the agency’s policymaking body.
Already in Statute	4. Provide that the Governor designate the presiding officer of the policymaking body.
Update	5. Specify grounds for removal of a member of the policymaking body.
Modify	6. Require training for members of the policymaking body.
Already in Statute	7. Require separation of policymaking and agency staff functions.
Already in Statute	8. Provide for public testimony at meetings of the policymaking body.
Modify	9. Require information to be maintained on complaints.
Apply	10. Require the agency to use technology to increase public access.
Modify	11. Develop and use appropriate alternative rulemaking and dispute resolution procedures.

Recommended Action: Adopt staff recommendations.

Commission Decision: Adopted staff recommendations.

New Issues

New Issues

The following issues were raised in addition to the issues raised in the staff report. These issues are numbered sequentially to follow the staff's recommendations.

TRS Board of Trustees

6. Change the make-up of the TRS Board of Trustees from nine to seven members by reducing the gubernatorial appointments from five to three, and providing for the direct election of the four Trustees who represent system members. (Ted Melina Raab – Texas Federation of Teachers, Austin)

Staff Comment: This change would eliminate the two TRS Board positions currently nominated by the State Board of Education and remove the Governor's ability to select from candidates nominated by public school district employees, higher education employees, and TRS retirees. The resulting composition would be seven members: three selected by the Governor, two elected by public school district employees, one elected by higher education employees, and one elected by TRS retirees.

7. Provide for greater representation of retired school employees on the TRS Board of Trustees. (Anna Nohavitzka – Retired School Employees Hurst-Euleless-Bedford, Bedford)

TRS Funding and Retirement Benefits

8. Increase the State contribution to the Pension Trust Fund to 7 percent of total member compensation. (Pat Rogers)
9. Increase the state contribution rate to enable the Pension Trust Fund to support annuity increases. (Ted Melina Raab – Texas Federation of Teachers, Austin; Ann Fickle, Director of Legislation – Texas Classroom Teachers Association, Austin; and Tim Bacon – Texas State Teachers Association, Austin)
10. Set up a plan to reduce the unfunded liability of the Pension Trust Fund. (Anna Nohavitzka – Retired School Employees Hurst-Euleless-Bedford, Bedford)
11. Fund TRS administrative operating expenses from the State's General Revenue Fund, as required by statute. (Frances Henk, Denton)
12. Keep the Legislature out of teacher retirement and prevent diversion of teacher funds to other purposes. (Anonymous)
13. Implement an automatic cost-of-living-adjustment mechanism that would provide pension increases when triggered by increases in the consumer price index and judged to be prudently affordable by the Pension Trust Fund. (Ted Melina Raab – Texas Federation of Teachers, Austin)
14. Prohibit cuts in benefits already earned by vested system members and restore retirement benefits already taken from vested educational employees. (Ted Melina Raab – Texas Federation of Teachers, Austin)

TRS Health Insurance

15. Restore the \$1,000 health-care stipend for active public school employees. (Ted Melina Raab – Texas Federation of Teachers, Austin)
16. Increase supplemental funding for TRS-Care to forestall future premium increases. (Ted Melina Raab – Texas Federation of Teachers, Austin)

Employment after Retirement Policies

17. Direct TRS to revoke the retirements of former public school employees who return to work as consultants. (Dr. Robert Kimball, Fulshear)
18. Exempt TRS retirees who are rehired at the University level from the requirement that employers pay the retirement benefits surcharge to TRS. (Jenise Cronan, The Woodlands)
19. Extend the grandfather provisions of the retire/rehire statute to persons who were not working at the time the statute was created. (Jenise Cronan, The Woodlands)

Public Information

20. Require TRS to make available information generated in response to requests from legislators and public officials. (Ted Melina Raab – Texas Federation of Teachers, Austin)

Recommended Action: Staff makes no recommendations on the new issues.

Commission Decision: The Commission did not adopt any of the new issues.