

**STATE PENSION REVIEW BOARD**

November 1990

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## **SUMMARY**

## Summary

The State Pension Review Board is subject to the Sunset Act and will be automatically abolished unless statutorily continued by the 72nd Legislature in 1991. The review of the board included an assessment of: the need for the functions of the agency; benefits that could be gained through transfer of all or part of the agency's functions to another existing agency; and changes needed if the agency were continued using its current organizational structure. The results are summarized below.

### Assessment of Need for Agency Functions

The review concluded that the functions of the State Pension Review Board should be continued for a 12-year period. The state needs to continue to play an oversight role regarding public pension systems because of the size, importance and complexity of these systems. In addition, state oversight of public pension systems could save tax dollars by assuring that governments contribute to these pension funds only the amount needed to cover the cost of benefits and that benefit levels are satisfactory.

### Assessment of Organizational Alternatives

If the agency's functions are continued, the review concluded that the State Pension Review Board should be continued as a separate agency. The effective analysis of pension issues requires a high degree of expertise in retirement and pension matters. Because no other agency provides the expertise and qualifications needed to understand and address these issues, no clear alternative exists for consolidating the state's pension review function.

### Recommendations if Agency is Continued

The State Pension Review Board should be made solely responsible for providing the legislature with actuarial information regarding proposed legislation affecting public pension systems. This change would make the actuarial review process more like the Legislative Budget Board's fiscal note process, and it would assure greater independence of the board's work.

The board should also be made responsible for providing the legislature with an analysis of the overall impact of pension legislation that affects the Teacher Retirement System (TRS), and the Employees Retirement System (ERS), and the Law Enforcement and Custodial Officer Supplemental Retirement Fund within the ERS. This provision would help the legislature anticipate the full effect of its actions on these systems.

### Fiscal Impact

The recommendations could result in a fiscal impact to the TRS and the ERS, but the amount cannot be estimated.

## **BACKGROUND**

## Creation and Powers

The State Pension Review Board was created in 1979 to study state and municipal retirement systems and make recommendations for their improvement. The creation of the board was recommended by the House Interim Committee on Public Pension Plans in 1978. The committee found that a number of local pension systems would have trouble paying benefits to their retirees and active employees in the future. There was concern that the state might have to bail out these systems. In addition, there was concern over the increasing size of public pension funds and indications that the federal government would begin to oversee public pension systems if the states failed to do so. The board was created to monitor these systems to detect and resolve problems before they became critical and to forestall intervention by the federal government.

The board's original responsibilities were to collect information from the public pension systems and to evaluate these systems. The board was authorized to recommend policies, practices, and legislation to improve the financial condition or the distribution of benefits of these public systems.

Since 1979, the legislature has expanded the board's authority over public pension systems. In 1983, the legislature made the board responsible for reviewing and commenting on the actuarial impact of all legislation that would affect a public pension system. Also in 1983, the legislature specified a number of administrative requirements for public pension systems and made the board responsible for seeing that these requirements were met. In 1989, the legislature established a State Pension Review Board fund and authorized public pension systems to contribute money on a voluntary basis in return for services provided by the board.

## Policy-making Body

The State Pension Review Board consists of nine members, who serve for staggered, six-year terms. Seven of the members are appointed by the governor. The governor's appointees must satisfy the following experience requirements:

- three members must have experience in securities investment, pension administration or pension law, but not be members or retirees of a public pension system;
- one member must be an actuary;
- one member must have experience in governmental finance;
- one member must be an active member of a public pension system; and
- one member must be receiving retirement benefits from a public pension system.

The remaining two members are a member of the senate, appointed by the lieutenant governor, and a member of the house, appointed by the speaker. The board selects its presiding officers.

The board is responsible for hiring an executive director who heads the agency. The board also approves the agency's budget, sets policy and determines pension issues for study. During the legislative sessions, a four-member legislative advisory committee of the board meets each week to prepare the actuarial impact statements for legislation affecting the public pension systems.

## Funding and Organization

In fiscal year 1990, the board had five full-time employees operating out of an office in Austin. Exhibit A below depicts the changes in the agency's workforce over a five-year period in categories of employment. Since the state Appropriations Act establishes minority employment goals for these categories, the agency's minority employment is also depicted by category over this time period.

### Exhibit A

#### Percentage of Minorities in Agency's Workforce

| Job Category             | 1986 Total Workforce<br>5 |            | 1990 Total Workforce<br>5 |            | 1990-1991<br>Appropriations Act<br>Statewide Goal for<br>Minority Workforce<br>Representation |
|--------------------------|---------------------------|------------|---------------------------|------------|-----------------------------------------------------------------------------------------------|
|                          | Total Positions           | % Minority | Total Positions           | % Minority |                                                                                               |
| Officials/Administrators | 1                         | 0%         | 1                         | 0%         | 14%                                                                                           |
| Professionals            | 2                         | 0%         | 2                         | 0%         | 18%                                                                                           |
| Office/Clerical          | 2                         | 0%         | 2                         | 0%         | 25%                                                                                           |

In 1990, the board was appropriated \$267,096. Of this amount, \$249,410, or 93.4 percent, came from general revenue and \$17,686, or 6.6 percent came from the State Pension Review Board fund. The legislature created this fund in 1989 to allow public pension systems to contribute money voluntarily in return for services from the board. The board's expenditures totaled \$269,732 in 1990. Of this amount, \$194,422 was for salaries and administration and \$70,000 was for hiring a consulting actuary. The board also spent \$5,310 from its special fund for a bi-monthly newsletter; an educational seminar, and other educational materials for the public pension systems.

## Programs and Functions

The State Pension Review Board has one program for reviewing public pension systems. To administer this program, the board divides its work between its routine activities when the legislature is not in session and its legislative activities during the session.

During the interim between legislative sessions, the board collects information and monitors the condition of all public pension systems in the state. In fiscal year 1990, the board maintained records on 254 public pension plans. Of these, nine are statewide plans, including the Employee Retirement System (ERS) and the Teacher Retirement System (TRS). Eight are pension systems that are specified in state law for Austin, Dallas, El Paso, Houston, and San Antonio police, fire fighters and municipal workers. The remainder of these plans are smaller local pension systems, including 171 paid and volunteer fire departments and 66 locally-created systems. In 1989, these systems had over one million active members and retirees and total assets of over \$ 35 billion.

Each public pension system must register with the board within 90 days of its creation. This registration provides basic information about each system, such as its name and address, the names of its chair and members of its governing body, and the beginning and ending dates of its fiscal year. The public pension systems must also provide the board the following information:

- actuarial valuations and reports;
- annual financial reports;
- an annual membership report, detailing the number of members and retirees of each system;
- information about the system, summarizing plan benefits and the procedures for claiming them and summarizing the provisions for employer and employee contributions, withdrawals, and eligibility for benefits; and
- a copy of the plan design, detailing such things as contribution levels, basic benefit formulas, and vesting requirements.

The board uses this information to monitor each public pension fund. For example, by tracking actuarial data and examining the changing ratios between assets and liabilities, the board assesses the financial and actuarial condition of these funds. The condition of these funds can have a serious impact on the units of government that are responsible for these systems. Basically, the board checks to see that these systems have sufficient funding to meet their projected benefit obligations.

The board also uses this information from the pension systems for other purposes. By studying the systems' plan designs, the board identifies trends in public employee benefits, and it may provide this information to systems that are examining benefit changes. By studying financial and investment data, the board assesses the effects of changes in the financial markets on Texas plans. The board is developing the ability to track system information over time, enabling it to make more useful comparisons between these systems.

Other activities of the board include conducting special reports and studies and providing technical assistance. During each interim, the board's consulting actuary conducts an in-depth study of at least one public pension system. These studies enable the board to concentrate on specific systems and have led to changes in the Judicial Retirement System and the statutory plans in Houston and San Antonio. The board may conduct studies at the request of the legislature or legislative agencies. At the request of the Legislative Budget Board, for example, the board has

conducted studies comparing the benefit structures of the ERS and the TRS. The board also conducts its own studies, such as its recent analysis of investment practices by public systems. Finally, the board provides information and assistance to public systems and interested persons, and it informs the systems of changes in state or federal law that may affect their operations.

During legislative sessions, the board is responsible for conducting reviews to determine the actuarial impact of legislation affecting public pension systems. The actuary for each system conducts the initial analysis for each piece of legislation, and a consulting actuary hired by the board reviews this analysis to assure that the work is accurate and in accordance with actuarial practices. The board's legislative advisory committee then examines the actuarial analysis and review and drafts an impact statement summarizing the actuarial and policy implications of the legislation. The board is responsible for providing this impact statement, actuarial review, and actuarial analysis at committee hearings on the legislation and updating this information when modifications to the legislation change the actuarial effects. In the 1989 regular session, the board issued 133 impact statements on legislation affecting public pension systems.

## **RESULTS OF REVIEW**

## **Overall Approach to the Review**

## Overall Approach to the Review

The Texas Sunset Act requires an assessment of several factors as part of the review of an agency. These factors include a determination of whether there is a continued need for the functions performed by the agency; whether benefits could be gained by performing the functions through another organizational structure; and finally, if the function is continued, whether changes are needed to improve the efficiency and effectiveness of the board.

The assessment of the need for the board's functions focused on whether the state should continue to oversee public pension systems. The review then examined whether benefits would result from transferring the board's functions to another state agency. The remainder of the report covers changes needed if the board's current structure is maintained.

To make a determination in each of the review areas, the staff performed a number of activities. These included:

- review of various agency documents and records, legislative and budget documents, and literature concerning public pension funds;
- interviews with board staff in Austin;
- attendance at a board meeting;
- interviews with personnel from state agencies that interact with the board;
- telephone conversation with the board's consulting actuary; and
- telephone conversations with officials from state and local public pension systems regarding the activities of the board.

The principal findings and conclusions resulting from the review are set out in three sections of the report: 1) Assessment of Need to Regulate; 2) Assessment of Organizational Alternatives; and 3) Recommendations if Agency is Continued.



## **Assessment of Need for Agency Functions**

**ISSUE 1: The functions of the State Pension Review Board should be continued.**

## **BACKGROUND**

The State Pension Review Board was created in 1979 to study state and municipal public retirement systems and to make recommendations for their improvement. The House Interim Committee on Public Pension Plans recommended creating the board to provide a mechanism for the state to monitor public pension systems and to provide assistance as necessary. The board was also authorized to review actuarial studies of legislation affecting public pension systems.

Over time, the legislature has expanded the board's duties. In 1983, the board became the focal point for assessing the actuarial impact of retirement legislation and commenting on these bills to the legislature. Also in 1983, the legislature expanded the administrative requirements placed on public pension systems, and made the board responsible for seeing that these requirements are met. For example, the legislature required the public pension systems to have an actuarial study at least every three years and to send copies of these studies to the board. Finally, in 1989, the legislature established a special fund for the board to use to expand the services it provides to the public pension systems.

Agencies must satisfy three broad requirements to justify the continuation of their functions. First, the agency must be serving a current and continuing public need in providing the function or service. Second, the responsible agency must have carried out these functions in a generally efficient and effective manner. Third, the functions should not duplicate those of any other state agency.

The current evaluation of the need to continue the functions of the board determined that:

- ▶ **The size, importance, and complexity of the public pension systems suggests the need for the state to play an oversight role.**
  - The 254 public pension systems that reported to the board in 1990 had total assets of over \$35 billion. Taxpayers have an interest in these systems because they provide almost half of these assets through state and local government contributions on behalf of their employees. In addition, over one million active members and retirees belong to these public systems.
  - These pension systems provide for the financial security of their members in retirement. If the financial condition of these systems deteriorates, the retirement benefits of these members could be jeopardized. Board oversight has identified potential problems with public pension plans in Houston and San Antonio and led to corrective action before beneficiaries were affected.

- Issues related to public pensions are complex, requiring expertise to detail the potential effects of changes affecting the systems. In addition, the board's expertise and perspective on the total public pension system enables it to provide a consistent approach to pension policy.
- ▶ **State oversight of public pension systems could save tax dollars.**
  - By evaluating the condition of these pension funds, the board helps governments avoid paying more money into the funds than they need to cover the cost of benefits. By evaluating benefit structures, the board helps governments avoid promising higher employee retirement benefits than they should.
  - Board studies have led to changes in local systems in Houston and San Antonio and the creation of a funded pension system for judges.
- ▶ **Through past enactments, the legislature has demonstrated interest in continuing and enhancing oversight of public pensions in Texas.**
  - In 1983, the legislature gave the board significant responsibility for reviewing and commenting on the impact of pension legislation. In addition, the legislature made the board responsible for collecting actuarial and financial information about the public pension systems.
  - In 1989, the legislature established a special fund under the board's control for providing additional services to the public pension systems.
- ▶ **The federal government and other states have established mechanisms for overseeing pension plans.**
  - In 1974, the U.S. Congress enacted the Employee Retirement Income Security Act (ERISA) to regulate private pension plans. Since 1974, congress has considered legislation to regulate public pension plans, but none has passed.
  - As of October 1990, 22 states have established pension review agencies.

Based on these factors, the review concluded that there is a continuing need for the functions of the agency.

## RECOMMENDATION

- **The functions of the State Pension Review Board should be continued.**

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Continuing the functions of the board would ensure that the state would have a mechanism for monitoring public pension systems and for commenting on the potential impacts of pension legislation.

**FISCAL IMPACT**

If the current functions of the agency are continued, its annual appropriation from the general revenue fund, which was approximately \$250,000 for 1990, would need to be continued.



## **Assessment of Organizational Alternatives**

**ISSUE 2: The State Pension Review Board should be continued as a separate agency with its current functions.**

## **BACKGROUND**

During each review, the potential benefits of transferring all or part of an agency's duties and functions to other state agencies are examined. Combining the activities of different agencies can have several benefits, such as eliminating the duplication of agency activities, reducing state expenditures, and increasing the amount and quality of services provided to the public.

The State Pension Review Board is an independent agency, created to provide an objective evaluation of public pension systems and to make recommendations for their improvement. It is also responsible for providing information to the legislature regarding impacts of bills affecting public pension systems. The board is basically an advisory body, responsible for sharing its expertise with both state and local pension systems and with the legislature.

The review considered alternative organizational approaches for conducting the board's functions and determined the following:

- ▶ **The effective analysis of pension issues requires a high degree of expertise in retirement and pension matters.**
  - No other board provides the expertise and qualifications necessary to understand and address the needs of public pension systems. Each of the board members must satisfy experience requirements that address specific aspects of pension oversight. For example, the board must include three persons with experience in securities investment, pension administration, or pension law, and it must have an actuary, an active member of a pension plan, and a retiree.
  - A similar level of expertise would be required in any agency made responsible for public pension review. As a result, transferring the board's functions to another agency would involve little savings because of the additional personnel and resources this agency would need to assume the board's duties.
- ▶ **No clear alternative exists for consolidating the function of pension review agencies with other agencies.**
  - The review of the 22 states that have established pension review agencies indicated that all but two have established separate mechanisms for overseeing their pension systems. Eight of these states have established executive agencies and 12 states have established legislative agencies specifically to monitor their pension systems.

- None of the recent studies proposing ways to consolidate agencies in Texas have suggested transferring the functions of the board to another agency.

### RECOMMENDATION

- **The State Pension Review Board should be continued as a separate agency with its current functions.**
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The programs and functions assigned to the board are appropriately placed in the agency as it is currently structured. No significant benefits would be achieved by transferring any duties or activities to another agency.

### FISCAL IMPACT

No change in agency expenditures would be required as a result of this recommendation.

**Recommendations if Agency is Continued**

**ISSUE 3:** The statute should be amended to make the State Pension Review Board solely responsible for providing the legislature with actuarial information of proposed legislation that affects public pension systems.

## BACKGROUND

Boards of trustees for the various public pension systems are responsible for the general administration and operation of these systems. These boards select the actuaries to study the systems and make valuations of the systems' assets and liabilities. These boards adopt assumptions regarding such things as mortality rates, turnover, and salary growth that are used by actuaries to predict the fund's condition in the future. These boards are also responsible for investing the assets of the system.

Despite the authority of these boards of trustees, the legislature has considerable oversight authority for many of these systems. For state-funded systems like the Employees Retirement System (ERS) and the Teacher Retirement System (TRS), for example, the legislature establishes benefit levels for retirees as well as contribution levels for system members. For other systems that are not funded by the state, the legislature may determine levels of creditable service for members and it may establish benefit levels for some systems.

These actions by the legislature may significantly affect the public pension systems. Determining these effects requires special expertise provided in actuarial analyses. This is because pension legislation is complex, involving changes that may not be fully felt for many years. For example, legislation to increase benefits typically does not provide funding for the increased benefits. These benefits are instead paid over time from the assets of the fund. As a result, decisions could be made that could adversely affect the systems' long-term ability to pay benefits to retirees. Without an actuarial analysis to examine the potential effects of legislation on these systems' funds, the legislature would have difficulty anticipating the impact of its actions.

Since 1983, the State Pension Review Board has been responsible for providing the legislature with information regarding the actuarial impact of bills affecting the public pension systems. The board determines which bills need actuarial analysis, and it initiates the process with the pension systems to have their actuaries conduct the analyses of the legislation. A consulting actuary, hired by the board, reviews the analyses by the systems' actuaries to assure that the work is accurate and in accordance with actuarial practices. The Legislative Advisory Committee of the board prepares an impact statement for each bill, summarizing the conclusions of the systems' actuaries and its consulting actuary. The board then makes sure that this impact statement, the systems' actuarial analysis, and its consulting actuary's review are attached to each bill at the time of the committee hearing. The board is also responsible for providing updated actuarial information whenever the legislation is modified.

Because of the complexity of pension issues, the legislature needs to get objective information to assist in its consideration of pension-related legislation. The sunset review compared the board's process with the fiscal note process to determine if changes could be made to assure greater objectivity in the way that actuarial information is provided to the legislature. The review of the board's actuarial review process indicated the following:

- ▶ **The existing mechanism for providing information on pension legislation does not provide the same degree of independence as is found in the fiscal note process.**
  - The Legislative Budget Board (LBB) is solely responsible for providing fiscal information to the legislature on each piece of legislation. The LBB consults with other state agencies to obtain fiscal data; however, the LBB alone prepares the fiscal note that accompanies each bill, based on whatever information it considers appropriate. No other state agency has its own fiscal note attached to the bill.
  - The existing actuarial review process gives a large role to the public pension systems. Currently, the public pension systems have their actuarial analyses attached to the bill with the review board's impact statement. By giving the systems such a prominent position, this process dilutes the review board's role as the agency responsible for providing information about the legislation.
  - The public pension systems determine the content of these actuarial analyses with little review or oversight from outside parties. The boards of trustees for these systems adopt the assumptions that are used to predict the future condition of their funds and the effect that proposed changes could have on the funds. These assumptions include such factors as predicted mortality rates, turnover, and salary growth. While these boards have experience adopting assumptions, there is little involvement by outside parties. The review board does not comment on assumptions unless they are clearly unreasonable. A recent example of what this process may produce was an assumption adopted by ERS in 1985 that across-the-board salary increases for state employees would average over six percent annually. In comparison, across-the-board salary increases for state employees have averaged just 1.6 percent from 1986 to 1991.
- ▶ **Other states have established mechanisms for providing their legislatures with objective information regarding pension legislation.**
  - Of the 22 states that have pension review entities, 14 are solely responsible for providing actuarial impact statements to their legislatures. In these states, only the impact statement of the pension review agency is attached to the pension legislation. The pension systems' actuarial analyses are not attached.
- ▶ **The independent status of the State Pension Review Board enables it to provide an objective analysis of pension legislation.**

- When the board was created in 1979, it shared the responsibility with the LBB for providing actuarial information on bills to the legislature. Since 1983, the board has been responsible for providing this information.
- The board has the expertise necessary to review and comment on pension matters before the legislature. Board members must satisfy several experience requirements, such as experience in securities investment, pension administration, or pension law. In addition, one member must be an actuary, and one member must serve in the senate and one member must serve in the house. This composition enables the board to understand pension issues and to share this understanding with the legislature.

## PROBLEM

Comparison with the LBB's fiscal note process indicates that the existing mechanism for providing information to the legislature on the actuarial impact of pension legislation could be strengthened to ensure greater objectivity. By attaching the systems' actuarial analyses to pension legislation, the systems' actuarial analyses could overshadow the more independent reviews by the State Pension Review Board. In addition, there is little outside input into the systems' adoption of actuarial assumptions.

## RECOMMENDATION

The State Pension Review Board's statute should be amended to:

- make the board solely responsible for providing the legislature with actuarial information of proposed legislation affecting public pension systems;
- authorize the board to request that public pension systems conduct the initial actuarial analyses of pension legislation and submit this information to the board for an actuarial review within three weeks of the board's request;
- authorize the board to conduct a full actuarial analysis on pension legislation if a public pension system fails to provide one and specify that the system must pay the board for the cost of conducting an actuarial analysis when this occurs; and
- require the board to comment on the reasonableness of actuarial assumptions used by the systems as part of its impact statement.

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This recommendation would make the board's impact statement the only information provided to the legislature regarding the actuarial effect of pension legislation. The public pension systems would provide the initial actuary analysis, and the board's consulting actuary would review this analysis as they currently do. However, only the board's impact statement would be attached to

the legislation in time for the committee hearing. The systems' analyses and the board's actuarial reviews would no longer be attached to the legislation. This change would make the actuarial review process more like the LBB's fiscal note process, and it would assure greater independence of the board's work. This recommendation would also provide a mechanism for the board to receive funding from public pension systems to pay for full actuarial analyses if the systems fail to provide them. The statute should provide for transferring money from any pension system that fails to provide the actuarial analysis to pay for the board's own actuarial analysis. The board should not use money from the general revenue fund to pay for these analyses.

In addition, this recommendation would require the board to comment on the reasonableness of actuarial assumptions in its impact statements on pension legislation. Currently, the board does not address the reasonableness of actuarial assumptions, unless they are clearly outside the bounds of experience. This change would highlight the assumptions adopted by the systems that predict the future condition of the funds and the effects of proposed changes considered by the legislature.

### FISCAL IMPACT

This recommendation would not result in an additional fiscal impact to the state and could result in a slight savings. Public pension systems already provide actuarial analyses on legislation, and the State Pension Review Board already provides for the review of these analyses. In the 1989 regular session, the board spent approximately \$50,000 for a consulting actuary to conduct these actuarial reviews. A slight savings could result from reduced copying costs by the board and by the legislative committees.

This recommendation would provide a mechanism for transferring money from public pension systems to the State Pension Review Board when a system fails to provide an actuarial analysis on a bill. This transfer would enable the board to pay for actuarial analyses on legislation when needed. This recommendation would not require an additional appropriation from the general revenue fund.

**ISSUE 4: The statute should be amended to require the State Pension Review Board to provide an analysis of the overall impact of pension legislation that affects the Teacher Retirement System, the Employees Retirement System, and the Law Enforcement and Custodial Officer Supplemental Retirement**

## BACKGROUND

The Teacher Retirement System (TRS) and the Employees Retirement System (ERS) are the largest public retirement systems in Texas. They are also the two principal public systems funded by the state in addition to member contributions. In addition, the Law Enforcement and Custodial Officer Supplemental Retirement Fund (LECOSRF) exists within the ERS to provide supplemental retirement and death benefits for certain law enforcement and custodial officers who are members of the ERS. For the 1990-91 biennium, state contributions from general revenue for teacher and state employee retirement totaled approximately \$1.7 billion.

Pension-related issues are complex. Changes in pension structures can have significant effects on government budgets and benefits that may not be apparent for many years. For these reasons, the legislature has established a mechanism for obtaining actuarial information on legislation that would affect the public pension systems. Actuarial analyses help the legislature anticipate the potential effects of its actions on these systems. For example, legislation to increase benefits may affect the financial and actuarial soundness of the systems' funds if the legislature does not fully consider the systems' ability to pay these benefits in the future. Actuarial analyses also help the legislature determine how much money the state needs to contribute to the state-funded systems.

Since 1983, the State Pension Review Board has been responsible for providing the legislature with information regarding the actuarial impact of bills affecting the public pension systems. Through a consulting actuary, the board reviews the actuarial analyses provided by the systems to make sure that they are accurate and that they follow actuarial practices. The board prepares an impact statement summarizing the work of the actuaries. The board then submits this impact statement, the systems' actuarial analysis, and the consulting actuary's review to the appropriate committee hearing the legislation.

This actuarial review process, however, only gives the impact of the pension bill being reviewed. It does not seek to predict the impact the bill would have on the system if other bills under consideration by the legislature were also enacted. Provisions in different pension bills that would have little or no impact when considered individually could have a significant impact when they are considered together. For example, the analyses of separate bills to increase retiree benefits and employee salaries for the system could show an acceptable impact if the bills were considered separately. However, the impact on the system would be greater if both bills were enacted.

Because of the complexity of pension issues, the legislature needs to receive comprehensive information on pension legislation to assist in its consideration of pension-related legislation. As part of the review, the information that is provided to the legislature on pension bills was examined to determine if it could be improved. The analysis focused on the TRS, the ERS, and the LECOSRF because they are the principal state-funded pension systems and because legislation on these systems significantly affects the state budget. The analysis indicated the following:

- **Although an actuarial analysis is prepared for each individual bill affecting a public pension system, there is no analysis indicating the overall impact of all pension bills affecting the TRS, the ERS, or the LECOSRF.**
  - The legislature has established a mechanism for providing information regarding the potential impact of each piece of pension legislation. The State Pension Review Board is responsible for overseeing the process and providing actuarial information to the legislative committees before each bill is heard.
  - The actuarial review process does not require the calculation of the overall impact of all pension bills that affect each of these systems. The systems have provided assessments of the overall impacts in past legislative sessions, but they have done so on an ad hoc basis. No mechanism exists to assure that this information is provided on a routine basis.
- **The lack of information regarding the overall impact of multiple pension bills may cause problems in the legislature's consideration of these bills.**
  - The legislature may enact several bills that affect the same pension system. Each bill may affect the system in different ways. By themselves, these effects may not appear significant. However, when taken together, the effects of these bills could have a significant impact on the system in two ways. First, the added effect of provisions in different bills could have a cumulative impact on these systems that may not be anticipated. For example, a bill granting a cost of living allowance to retirees and a bill increasing benefits for current members could have acceptable actuarial effects when viewed separately. When their effects are added together, however, the impact on the system's ability to pay its benefits could be severe.
  - A second way that separate bills may affect these systems is the overall effect of the interaction of different provisions in these bills. The overall impact of legislation on these systems could be different from the cumulative impact. For example, a bill that increases benefits for current members and a bill that lets these same current members retire earlier could have an acceptable effect on the system when viewed separately. When the interaction of the bills is considered, however the effect could be greater than the sum of both bills. This result could occur because the system could have more people retiring and receiving the higher benefits. Without information on the cumulative and overall

impact of pension bills, the legislature is unable to see the full effect of its actions on the TRS, the ERS, and the LECOSRF.

- **Information on the overall impact of legislation has proved useful to the legislature in the appropriations process.**
  - The legislature has established a mechanism for assessing the overall impacts of legislation making an appropriation. The Legislative Budget Board provides this information to the appropriations conference committee as a compilation to help decide which legislation to fund with available revenue.

## PROBLEM

No mechanism exists for calculating the overall impact of pension bills affecting the TRS, the ERS, and the LECOSRF and providing this information to the legislature. Currently, the State Pension Review Board is responsible for providing the legislature with information regarding the potential impacts of each bill individually. It is not currently responsible for providing information that shows how the interaction of provisions in different bills would affect these systems. Without this information, the legislature would be unable to anticipate the overall effects of its decisions on the TRS, the ERS, and LECOSRF.

## RECOMMENDATION

The State Pension Review Board's statute should be amended to:

- **make the board responsible for providing the legislature with an analysis of the overall impact of pension legislation for the TRS, the ERS, and the LECOSRF;**
  - The statute should specify that no later than 70 calendar days before the end of a regular session, the board must provide an analysis of the cumulative effect of all pension bills that have been heard in committee.
  - The statute should also specify that no later than 30 calendar days before the end of the regular session, the board must provide an analysis of the overall impacts of pension bills that have passed at least one house of the legislature.
  - The statute should further specify that these analyses must be provided during special sessions as determined by the board.
- **authorize the board to request that the TRS and the ERS determine the overall impact of pension legislation affecting them and that this information be submitted to the board within three weeks of the board's request; and**
- **authorize the board to conduct the analysis of the overall impact of pension legislation affecting the TRS, the ERS, and the LECOSRF if**

**those agencies fail to provide this analysis and specify that the appropriate system must pay the board for the cost of providing this overall information when this occurs.**

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Under this recommendation, the board's responsibilities would be similar to its current responsibilities for providing actuarial information on pension legislation. The systems would calculate the cumulative and the overall impact of legislation that affects them. They would calculate the cumulative effect of bills that have been heard in committee because these bills have already received an actuarial analysis. They would provide this information to the board, which would review it as it currently reviews actuarial analyses and prepare an impact statement summarizing the cumulative impact of these bills. The board would provide this impact statement to the chairs of the substantive committees responsible for retirement legislation. By providing this cumulative information 70 days before the end of the regular session, the process would assure that most legislation affecting the two pension systems would have been introduced and available for consideration.

The process would be the same for providing an analysis of the overall impact of TRS, ERS, and LECOSRF legislation. The systems would determine the overall impact of TRS and ERS bills and provide this information to the board. The board would prepare and submit an impact statement to the appropriate committee chairs. The analysis of overall impacts would be provided 30 days before the end of the regular session. It would focus on pension bills that have passed at least one house of the legislature because these bills would be most likely to be enacted. The statute should also specify that a similar process should occur during special sessions but that timeframes for providing this information should be left to the board.

This recommendation would also include a provision for transferring money from the TRS or ERS to the board to pay for its analyses of cumulative and overall impacts of pension legislation. A system would have to transfer money to the board only if it fails to provide this information to the board.

## FISCAL IMPACT

This recommendation could result in a fiscal impact to the TRS and the ERS from having to determine the cumulative and overall impact of pension legislation affecting them. The cost of these analyses would be paid from these systems' funds.

## **Across-the-Board Recommendations**

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From its inception, the Sunset Commission identified common agency problems. These problems have been addressed through standard statutory provisions incorporated into the legislation developed for agencies undergoing sunset review. Since these provisions are routinely applied to all agencies under review, the specific language is not repeated throughout the reports. The application to particular agencies is denoted in abbreviated chart form.

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| <b>State Pension Review Board</b> |                 |                    |                                                                                                                                                                   |
|-----------------------------------|-----------------|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Applied</b>                    | <b>Modified</b> | <b>Not Applied</b> | <b>Across-the-Board Recommendations</b>                                                                                                                           |
|                                   |                 |                    | <b>A. GENERAL</b>                                                                                                                                                 |
|                                   | x               |                    | 1. Require public membership on boards and commissions.                                                                                                           |
|                                   |                 | x                  | 2. Require specific provisions relating to conflicts of interest.                                                                                                 |
| x                                 |                 |                    | 3. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board. |
| x                                 |                 |                    | 4. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee.          |
| x                                 |                 |                    | 5. Specify grounds for removal of a board member.                                                                                                                 |
| x                                 |                 |                    | 6. Require the board to make annual written reports to the governor and the legislature accounting for all receipts and disbursements made under its statute.     |
| x                                 |                 |                    | 7. Require the board to establish skill-oriented career ladders.                                                                                                  |
| x                                 |                 |                    | 8. Require a system of merit pay based on documented employee performance.                                                                                        |
|                                   |                 | x                  | 9. Provide for notification and information to the public concerning board activities.                                                                            |
| *                                 |                 |                    | 10. Place agency funds in the treasury to ensure legislative review of agency expenditures through the appropriation process.                                     |
|                                   |                 | x                  | 11. Require files to be maintained on complaints.                                                                                                                 |
|                                   |                 | x                  | 12. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.                                          |
| x                                 |                 |                    | 13. Require development of an E.E.O. policy.                                                                                                                      |
| x                                 |                 |                    | 14. Require the agency to provide information on standards of conduct to board members and employees.                                                             |
| x                                 |                 |                    | 15. Provide for public testimony at agency meetings.                                                                                                              |
| x                                 |                 |                    | 16. Require that the policy body of an agency develop and implement policies which clearly separate board and staff functions.                                    |
| x                                 |                 |                    | 17. Require development of accessibility plan.                                                                                                                    |

\* Already in law -- no statutory change needed.

\*\* Already in law -- requires updating to reflect standard ATB language.

| State Pension Review Board<br>(cont.) |          |             |                                                                                                                                           |
|---------------------------------------|----------|-------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| Applied                               | Modified | Not Applied | Across-the-Board Recommendations                                                                                                          |
|                                       |          |             | <b>B. LICENSING</b>                                                                                                                       |
|                                       |          | x           | 1. Require standard time frames for licensees who are delinquent in renewal of licenses.                                                  |
|                                       |          | x           | 2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.          |
|                                       |          | x           | 3. Provide an analysis, on request, to individuals failing the examination.                                                               |
|                                       |          | x           | 4. Require licensing disqualifications to be: 1) easily determined, and 2) related to currently existing conditions.                      |
|                                       |          | x           | 5. (a) Provide for licensing by endorsement rather than reciprocity.<br>(b) Provide for licensing by reciprocity rather than endorsement. |
|                                       |          | x           | 6. Authorize the staggered renewal of licenses.                                                                                           |
|                                       |          | x           | 7. Authorize agencies to use a full range of penalties.                                                                                   |
|                                       |          | x           | 8. Specify board hearing requirements.                                                                                                    |
|                                       |          | x           | 9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.     |
|                                       |          | x           | 10. Authorize the board to adopt a system of voluntary continuing education.                                                              |

\* Already in law -- no statutory change needed.

\*\* Already in law -- requires updating to reflect standard ATB language.

## **Minor Statutory Modifications**

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Discussions with agency personnel concerning the agency and its statute indicated a need to make minor statutory changes. The changes are non-substantive in nature and are made to comply with federal requirements or to remove out-dated references. The following material provides a description of the needed changes and the rationale for each.

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**Minor Modifications to the  
State Pension Review Board  
Sections 801 and 802, Government Code**

| Change                                                           | Reason                                                  | Location in Statute |
|------------------------------------------------------------------|---------------------------------------------------------|---------------------|
| Delete "... not later than October 1 of the year."               | To remove a timeframe that is unnecessary.              | Section 801.113(c)  |
| Change "... before the 210th day" to "... before the 211th day." | To make timeframes consistent for reports to the board. | Section 802.104     |

**State Pension Review Board**

**Report prepared by:**

**Joe Walraven  
Charla Ann Baker  
Karl Spock**

**Sunset Advisory Commission  
P. O. Box 13066, Capitol Station, Austin, Texas 78711**

**(512) 463-1300**