TEACHERS' RETIREMENT BOARD LEGISLATIVE CONCEPTS

SAVA COMMITTEE MEETING
JUNE 24 & 25, 2010

TRS BOARD 2011 LEGISLATIVE CONCEPTS

The legislative concepts submitted to the Governor's Budget Office on April 15, 2010, by the TRS Board included three proposals. The first priority is to actuarially fund the TRS. The amount of funding required will depend on how the markets perform between now and June 30, 2010, and the new plan design and funding legislation recommend by SAVA, which could include some of all of the following funding proposals. The second priority is a housekeeping proposal, and third is a proposal to increase the University System's supplemental contribution rate to comply with the statutory requirement to amortize the unfunded liabilities associated with creation of the ORP by July 1, 2033.

1. Funding Proposals

Increase Employer Contribution Rate – While the amount of the increase will depend on the plan design adopted by SAVA and future market returns, based upon the recently competed experience study, the actuary estimates an employer contribution rate increase of 2.54% effective July 1, 2011, would be required to amortize the unfunded liabilities over 30 years. The TRS Board recommends that an increase in the employer contribution rate, §19-20-605 and/or §19-20-607, MCA, be implemented in a series of steps over the next 4-6 years. A less expensive new plan design combined with the following funding concepts could reduce this cost. A 0.5% increase in the employer contribution rate would generate approximately $4.0 million a year in new revenue to the TRS; a 2.54% increase effective July 1, 2011, would generate approximately $40.4 million over the next biennium.

Working Retirees – Current law, §19-20-731, MCA, limits retirees returning to work, to part-time employment that pays no more than one-third of their Average Final Compensation (AFC). Part-time employment is defined as less than 180 days (1260 hours based on 7 hour days) in a fiscal year; at least 140 hours per month in at least 9 months (1260 hours) in the fiscal year; or less than full time based on the school district's alternate school year schedule that meets accreditation standards.

Recently, following the retirement of a TRS member, there have been attempts to divide a TRS-reportable position into two or three positions, of which only one is now claimed to be TRS-reportable, and then rehire the recently retired member into the two or three "newly" created positions. Under this legislative concept, if a TRS retiree is re-employed in a part-time TRS-reportable position by an employer and is concurrently employed by the same employer in a position that, on its own, would not be a TRS-reportable position, the positions and compensation would be deemed to be combined as a single TRS-reportable position. Such provision will prevent the splitting of job functions and/or the creation of new positions as a means of paying retirees more than the one-third limit by "employing" them in positions that would appear not to be reportable to TRS in order to end-run the earnings limitations.

There may need to be some means of excepting the hiring of TRS retirees working under both the 1/3 earnings limitation and in a non-TRS-reportable position that has been a long-standing position with the employer.

The substantive limitation under current law is the dollar amount a working retiree may earn. Tracking the number of hours or days a retiree works each month in a part-time position has proven to be very difficult, and for salaried employee, i.e., part-time administrators, almost impossible. For this reason, the Board also recommends the statute be amended to remove the part-time limitation for retirees returning to TRS-reportable positions.

10% Cap Exceptions - Repeal all or most exceptions to the 10% cap, §19-20-715, MCA. There may be a need to allow exceptions for increases resulting from movement on a collectively bargained salary matrix, or for increases resulting from a move from part-time to full-time employment or part-time positions in general. An alternative to exempting increases in excess of 10% that result from causes other than collective bargaining would be to allow the excess to exceed the cap by a certain dollar amount, e.g., $100, or to increase the cap to 12 or 15 percent and not provide for any exceptions.

Currently the 10% cap states that the compensation reported in each year of the 3 years that make up the average final compensation may not be greater than 110% of the previous year's compensation included in the calculation of average final compensation or the earned compensation reported to the retirement system, whichever is less, except as provided by rule by the retirement board. Since the cap was enacted in 1989, the following exceptions have been approved.

Code	Reason for Exception
1.	Collective bargaining agreement
2.	A change or adjustments in a salary schedule covering a certifiable group of employees not covered under a collective bargaining agreement. The employer must certify the group of employees affected by the change or adjustment in the salary schedule, the increase received by each employee, and the methodology for determining the increases
3.	Compensation received for summer employment, provided summer compensation does not exceed one-ninth of the academic year contract for each full month or prorated for each portion of a month employed during the summer
4.	Change of employer
5.	Re-employment for a period of not less than one year following a break in service

6. A promotion to an existing permanent position with the same employer. The assignment of temporary duties or a new job added to existing duties, an acting or interim appointment, a change in classification or title, or an increase in compensation received would not qualify as a promotion
7. The combination of salary from multiple employers that when reviewed separately does not exceed 10%
8. Annualized part time wages
9. Excess earnings less than $100

Between July 1990 and April 2010, 747 exceptions to the 10% cap were authorized, with an average benefit increase was $44.04 per month. The actuarial cost over this period of time has been approximately $4.8 million, see attached table.

If all or most exceptions were eliminated, any amounts in excess of the 10% cap would still be included in average final compensation under termination pay option 2, which provides for a minimal increase funded by the normal employee and employer contributions already collected. For example: A member with 25 years of service and earnings in excess of the cap of $10,000. If the $10,000 were exempt from the cap, the monthly benefit would increase $115.74. If there were no exemptions and the excess is included under termination pay option 2, the benefit increase would only be $13.51 per month.

Full Actuarial Reduction for Early Retirement – Members retiring with less than 25 years of service between the ages of 50 and 60 receive a reduced "early" retirement benefit. The reduction is 0.5% for the first 60 months early and 0.3% for each additional month, §19-20-802, MCA. The maximum reduction is 48.0%. The reduction is based on the number of months the member is short of 25 years of service, or age 60, whichever is less.

Actuaries recommend Early Retirements Factors should be true actuarially equivalent factors and the system should not subsidize early retirement for the member. Actuarially equivalent factors generally start out at 6-8% per year and grade down to 3-5% per year over time. There should be no maximum reduction. The actual factors should be based on the actuarial assumptions based on the most recent experience study.

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<u>Effective July 1, 2011, Charge the Actuarial Interest Rate on all Buy Backs</u> -- For members hired prior to July 1, 1989, current law sets the rate of interest charged on service purchase agreements for the following types of service to the rate credited to the member's account. Members hired after July 1, 1989, are required to pay the full actuarial cost for most service purchased. With the rate credited to member's accounts effective July 1, 2010 at only 0.25% these service purchases will be underfunded. Therefore, the Board proposes to change the law (Title 19, Chapter 20, Part 4) effective July 1, 2011, to charge the actuarial assumed rate of 7.75%.

As of May 2010, the following service types would be affected only for members hired before July 1, 1989:

Description	Counts	Balance
Leave Time	27	$138.699.22
Out of State Teaching	33	$258,424.65
Private Teaching	5	$70,166.1
Mt. Extension Service	1	$12,644.81

Interest charged on the following types is limited to the rate credited to members' accounts regardless of the date of hire:

Description	Counts	Balance
Legislative Time	1	$460.83
Military Service	8	$35,707.23
Redeposit Previous Service	64	$524,394.93

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2. <u>TRS Housekeeping</u>

A housekeeping proposal will be necessary to address any possible IRS rule changes or changes related to our request for a determination letter, clarifications to the amendments to the Family Law Order provisions, definitions, and other statutory clarifications. For example:

- Clarify the definition of "retired member" and add a definition of "retirement," each of which would mean that a member has terminated <u>all</u> employment covered under TRS and has received and accepted a retirement benefit.
- Clarify the definition of full-time and part-time
- Clean up confusion regarding ability to change designated beneficiaries and use the term "joint annuitant" in reference to the optional retirement benefits, i.e., options A, B, & C.
- Add a provision allowing family law orders to be drafted using form documents and/or provisions as determined by TRS and set forth in administrative rule.
- Move substance of definition of "earned compensation" to statutes and out of definition (and expressly allow for administrative rules).
- Include specific employer reporting requirements and possible penalties for failure to properly report – including liability for overpaid benefits and interest.
- Expand recovery and debt collection capabilities to provide greater options for current judgments and recoveries as opposed to actuarial adjustment of benefits – clarify that recovery to the system has priority over payment of benefits to the member or any beneficiary thereof.
- TRS/PERS data sharing requirements

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3. Increase University Supplemental Contribution Rate

Section 19-20-621, MCA, requires each employer within the university system with employees participating in the Optional Retirement Program (ORP) to contribute to the teachers' retirement system a supplemental employer contribution sufficient to amortize, by July 1, 2033, the past service liability of the teachers' retirement system for their employees participating in TRS. The law also requires the TRS Board to periodically review the supplemental employer contribution rate and recommend adjustments to the legislature as needed to maintain target date of July 1, 2033, to amortization the past service liability left behind when the ORP was created. Therefore, an increase in the university system supplemental contribution rate was included with the legislative concepts submitted to the budget office.

A preliminary valuation report of the university system's supplemental contribution rate shows the required supplemental contribution rate, effective July 1, 2010, is 8.52% of ORP member salaries. This represents an increase of 3.80% from the current rate of 4.72%, or approximately $7.7 million increase per year. This valuation is based on July 1, 2009 data and will be updated and finalized once the July 1, 2010 valuation is completed. The final report will also reflect any investment gains or losses for FY 2010, and any recommendations from the experience study that will be completed and presented to the Board at this meeting.