

Appropriations Chair Otto makes a Dramatic Declaration to the House

The last two weeks have seen a breathtaking revision in the battle to protect retired teachers from eminent and dire increases in TRS-Care premiums. Throughout February thousands of emails and phone calls from retired educators had barraged Texas legislators. On February 25 Appropriations Chair **John Otto**, R-Dayton, announced to what I imagine was a “deer in the headlights” legislature that **all** of the \$768 million TRS-Care shortfall will be covered delaying the crisis by 2 years. Chairman Otto said,

“Members of Appropriations and members throughout the House have come up to me and expressed their clear desire to help retired teachers. I want to reassure every member in the House and every retired teacher that the House will fully fund TRS-Care. This issue is too important to go unaddressed so I want to commit to you today that the House will fund our obligations to our retired teachers.”

House members from this area have sent the following messages to CCART:

Rep. Dennis Paul: "I was glad to hear that the budget leadership in both the house and senate are working on meeting our states obligation to retired educators' health care needs. I look forward to working with them as we go forward to solving our funding issues with this plan and I do fully expect that the legislature will pass and the Governor will sign a bill to take care of our retired teachers' health care needs. We will be glad to discuss this with any of your members and look forward to meeting with you all again in the future."

Rep. Greg Bonnen: "I am proud that House leadership has committed to public school retirees our intention to fully fund TRS-Care and make the fund financially sound. While the cost of healthcare has soared, and the financial strain on this system has increased, it is our responsibility to ensure that retired teachers do not bear the burden that would result from the Legislature's failure to act. As a member of the Appropriations Committee, charged with funding a reliable benefit program for our retirees, I look forward to delivering on our collective promise when the budget is presented to the full House later in the month. "

Rep. Wayne Faircloth: “The Texas House will fully fund TRS-Care, the health insurance program for retired public school employees of Texas. The TRS-Care retiree health insurance program was created in 1986 and now has roughly 240,000 participants. The TRS-Care shortfall is expected to be approximately \$768 million by the end of the 2016-2017 biennium. Representative Faircloth along with Chairman Otto are committed to providing TRS-Care with all necessary additional funding to ensure the future sustainability of this vital program. Considering 95 percent of our retired school employees do not receive Social Security benefits, securing this funding will prevent any drastic change in access to affordable health care to our retired teachers.”

The most probable ultimate development will be the naming of an **interim committee** charged to come up with a long term systemic solution and make recommendations for the 2017 Session.

The following three articles present the story from different perspectives.

1. Teachers applaud Pledge on Insurance

By Lauren McGaughy, *Houston Chronicle*, 2-26-15

AUSTIN — Lawmakers...[Feb.25] pledged to shore up the depleted health care fund for retired Texas teachers, but were less committed to defraying the burgeoning health insurance costs of active teachers. **“I want to reassure every member in**

the House and every retired teacher that the House will fully fund TRS-Care,” said Rep. John Otto, R-Dayton. “This issue is too important to go unaddressed.”

Roughly 240,000 retired teachers and their dependents participate in TRSCare, the health insurance fund administered by the Teachers Retirement System, which is scheduled to run out of money in September. Once that happens, it will be \$768 million in the hole for the next two years, a tab that Otto pledged the state would pick up in full to ensure benefits are not cut.

Lawmakers lauded the pledge, with House Pensions Committee Chair Dan Flynn, R-Van, saying he was in full support and his counterpart in the Senate, Republican Joan Huffman of Houston, saying she, too, was “committed to fully funding TRS-Care.” Senate Finance Committee Chair Jane Nelson, R-Flower Mound, stopped short of making the same commitment, but said the issue was “important to several members, including myself” and that her panel was “working very hard on these and other budget issues.” [Sen. Taylor is a member of the Senate Finance Committee.]

Educator groups said they were thankful for the commitment, but urged lawmakers to turn their sights to solving the growing health care premiums for active teachers, too. “Providing funding to retiree health care is the most responsible thing the House can do to make sure health insurance isn’t taken away from retirees,” said Josh Sanderson, a lobbyist for the Association of Texas Professional Educators, the state’s largest educator group, which boasts around 100,000 members. “However, there is still the issue of active employees. Contributions from the state are among the lowest in the nation and haven’t increased since 2001,” Sanderson said. “To maintain a competitive workforce, the state must make an effort to keep employee premiums down and competitive with the private sector.”

Soaring premium cost

Since 2002, the state’s share of teachers’ health premiums has remained at \$75 a month. During that same period, some of the 280,000 educators seeking

coverage for just themselves through TRSActive Care, the health insurance program for working teachers, have watched their premiums increase 238 percent. Teachers seeking basic coverage for themselves and their families saw their monthly premiums jump \$85 to \$1,145 a month last fall, nearly two and a half times the national average. “Health insurance costs are almost unbearable,” said Tim Lee, executive director of the Texas Retired Teachers Association. “It may potentially discourage people from staying in teaching or from going into the field.”

While lawmakers can plug the hole in the retirees’ health costs temporarily by funneling in more state dollars, experts agree there is no easy fix for TRSActive Care. Earlier in the week in Flynn’s pensions committee, lawmakers discussed allowing school districts to opt out of the program altogether or creating “regional rates” where smaller areas could provide lower costs to their teachers. El Paso ISD already is pushing to get out of TRSActive Care, citing the high premiums, but state law currently prohibits school districts from doing so.

Concerns about delay

Lawmakers should start by promising to double the state’s contribution to \$150 per month, said Sanderson, and then work on a long-term solution for both TRS-Care and Active Care. Advocates, however, are concerned the state Legislature will pass the buck on health care costs for active teachers because the program is tied to the state’s method of funding public schools, which a state district judge struck down as unconstitutional last year. The case is pending before the Texas Supreme Court, and many lawmakers are reluctant to make any systemic fixes — including for health care — until the justices make their final decision. If the court strikes down any part of the law, the Legislature likely will be forced into a special session to deal with school finance issue. “I don’t know how significant the action will be on it this time,” Sanderson acknowledged, “but I think there will be something to show good faith. And, hopefully, it’ll be addressed on a larger scale when the special session on school finance finally happens.”

Huffman said she was hopeful of some progress before then, but admitted she did not know what a final solution for TRS-Active Care would look like. **Flynn agreed, saying pensions and health care are a top priority for lawmakers in both chambers. “I think we’re committed to take care of the health care issue this session,” Flynn said. “In the past, there has been somewhat of an attitude to kick the can down the road. Well, I think we’re at the point where we want to make substantive changes.”**

2. Otto Promises to Fund Health Care

Jim Malewitz, Texas Tribune, 2-26-15

Saying a nearly broke state health care program for retired Texas teachers is “too important an issue to leave unaddressed,” the head of the House budget-writing committee pledged [Feb. 25] to work to fully fund the program. “I want to commit to you today that the House will fund our obligations to our retired teachers,” state Rep. John Otto, R-Dayton, said following a meeting of the House Appropriations Committee, which he chairs.

Without action from lawmakers, the Teacher Retirement System of Texas expects its health insurance program – TRS-Care – to run out of money during the 2016 fiscal year, with a \$768 million shortfall by 2017. A cash infusion from the Legislature would prevent the retirement system from hiking premiums for the fund’s more than 233,000 retirees and their dependents, or cutting their benefits – its two other main options for keeping the fund solvent.

Following Otto’s announcement, other Texas lawmakers voiced their support. **“Texas teachers are a large part of molding the Texas leaders of tomorrow, and many teachers and retirees have expressed their concerns on this matter,” state Rep. Dan Flynn, R-Canton, chairman of the House Pensions Committee, said in a statement.** House Speaker Joe Straus, R-San Antonio, tweeted that the “House appreciates retired educators.” Texas teacher groups also welcomed the announcement.

“We’re very happy to hear that,” said **Clay Robison, spokesman for the Texas State Teachers Association.** “These are people on limited income who have spent their careers educating school children – one of the most important jobs in the state.” Robison’s group also wants lawmakers to increase the state’s contribution to health care premiums for active teachers. Texas has kept its contribution at \$75 per month since 2002, as premiums have more than doubled. **“That’s basically cutting into their paychecks because they haven’t been getting raises,” he said.**

In 2013, retiree premiums made up about 36 percent of TRS-Care revenue, according to Legislative Budget Board estimates, while the state chipped in 24 percent. Active teachers and school districts were the next biggest contributors, followed by federal subsidies and investment income.

Why is the program so troubled? That’s largely due to soaring health care costs and lawmakers’ piecemeal approach to funding a system that experts have long considered unsustainable.

Before 1986, Texas had no health insurance program for retired teachers. When lawmakers created the program, they expected its initial funding would last until 1995 – long enough to design a more sustainable model, the retirement system says. But lawmakers never did that, leaving the agency to occasionally request more funding to keep the program solvent – as it is doing now.

“TRS-Care is in a crisis moment,” Tim Lee, executive director of the Texas Retired Teachers Association, said in a statement cheering Otto’s announcement. If lawmakers simply choose to tap the general fund to plug the short-term budget gap without making structural changes, the fund would still be short about \$1 billion next biennium, Brian Guthrie, executive director of the Teacher Retirement System of Texas, told the Senate Finance Committee earlier this month. Several senators at that hearing expressed support for keeping the fund afloat. “This is an emergency right now, so they need to address this,” Robison said. “And then longer term, yes, they need to see a way for making it something retirees can continue – and not go from crisis to crisis.”

3. TRS Chief Brian Guthrie presents 7 Sustainability Options

based on Tim Lee, *Inside Line*, 2-25-15

For several days at the end of February TRS Executive Director Brian Guthrie made multiple presentations to three different committees: Senate Finance, the House Appropriations and Pensions committees and responded to many thorny questions.

The most detailed accounting was given to the House Appropriations Subcommittee on Article III.

Brian Guthrie, the Executive Director of TRS, delved into the **systemic flaws** that have led to the TRS-Care shortfall. “This is actually an issue that we have been looking at for some time,” Guthrie said. The immediacy of the shortfall has turned the issue into a crisis, which could surpass \$768 million and cause TRS-Care to become insolvent by January 2016.

“There are no easy solutions to this problem,” Guthrie said. “If you want to have a fix that is more than just a one-off solution, there are some difficult policy discussions involved with that.”

Guthrie provided details on the make-up of the TRS-Care tiers, mentioning that more than half of all TRS-Care participants utilize TRS-Care 3.

31% of TRS-Care participants are non-Medicare as they are younger than age 65, while another 8% are over age 65 but do not qualify for Medicare A.

The contribution structure was discussed, and Guthrie reminded committee members that the rates contributed by the state (1%), school districts (.55%) and active employees (.65%) are based on active teacher payroll. Guthrie stated the contributions are based upon a “metric not related to the cost of health care and providing that care.”

The medical expenditures of TRS-Care have out-paced the contributions. Other contributing factors include increasing pharmacy costs and more retirees participating in the program.

Even if the \$768 million shortfall is paid for in full by the state now, because of the systemic funding issues with the program, TRS would return to the Legislature in two years asking for another large supplemental appropriation as high as \$1.5

billion.

This hearing was an analytical view of the various options TRS has explored for resolving the funding shortfall. Unfortunately, TRS and TRS-Care participants already have picked all the “low-hanging fruit” to try and control the rising costs of the program. At this time, most of the options discussed by TRS involve increasing contributions (including retiree premiums), altering benefits or making eligibility changes. To put a finer edge on it, these proposals may increase costs on retirees or active school employees or both.

The Seven Options

Guthrie reviewed the sustainability study option by option. **The first option** considers different ways to pre-fund TRS-Care, similar to how the pension trust is funded. This is a substantially expensive option, and could result in a threefold increase from the state, actives, school districts and retirees. If only the state contribution of 1% increased, it would need to rise to at least 5%. Bear in mind that 1% of active teacher payroll equals nearly \$600 million per biennium, meaning an additional \$2.4 billion would be required from to state to fund this option. Pre-funding would require a commitment of at least 30 years from the state.

The second option details methods for pay-as-you-go, which is the current method of funding (a two-year fix). This includes everything from having only the state pay for it to spreading the cost among all stakeholders. For example, this option could raise retiree premiums 54% over the next four years. **A retiree under age 65 with 25 years of school service could pay nearly \$500 per month under this option.**

The third option includes methods for maintaining 10 years of solvency for TRS-Care. Pursuing this option possibly would require an additional \$8 billion from the state over the next 10 years. **This option would also increase premiums to almost \$600 per month by 2024 for retirees under age 65 with 25 years of service.**

The next several options look at shifting costs (to the retiree or dependent) and changing behavior. **Option 4**, for example, would require the retiree to pay for the

cost of insurance for anything above catastrophic coverage (TRS-Care 1). **Premiums would increase in this scenario exorbitantly, to as high as \$616 for an individual or nearly \$1800 for a retiree and spouse. This potentially could deplete a retiree's entire annuity!**

TRS Option 5 focused on mandating Medicare Advantage and Medicare Part D plans for Medicare-eligible participants. Representative Phelan asked if there has been any pushback from doctors and other medical providers on accepting the TRS Medicare Advantage plan. Guthrie said yes, particularly in rural areas. There are pockets of the state where Medicare Advantage plans are not accepted. Members could appeal the mandatory participation in the program if providers do not accept Medicare Advantage plans in their area. Savings of \$159 million could be achieved if this option were put into place.

TRS has done a great job developing a widely accepted and very benefit-rich Medicare Advantage option. It has been reported by TRTA members around the state, however, that considerably more work is necessary to expand Medicare Advantage acceptance by providers who may not want to accept our Aetna-based plan.

Unfortunately, some other large provider networks around the state may have their own agenda to be the TRS-Care Medicare Advantage provider. In addition, other providers say they do not accept ANY Medicare Advantage plans, BUT may be part of a network that HAS agreed to take the TRS-Care Medicare Advantage plan. Often, though, provider office personnel do not understand this arrangement and tell retirees our plan is not accepted. This confusion must be addressed by TRS, as the Legislature seriously may consider mandatory Medicare Advantage. The next two options change the delivery of health care for the non-Medicare population. These options are generally not popular among retirees.

One is a health reimbursement account (HRA), meaning the retiree would receive a stipend and use the funds to purchase their own health insurance on the federal exchange or private market. The stipend would equal approximately \$502 per month per

retiree. Representative VanDeaver asked how retirees feel about this option, and Guthrie stated that it is not a popular one. This option is heavily dependent upon federal action on the Affordable Care Act (ACA). TRS-Care participants would be forced into the individual market and subjected to considerable cost uncertainties, reduced plan options, higher out-of-pocket costs, and even less member protection.

The final option is a consumer-directed health care plan, including disease management. These options are referred to as Accountable Care Organizations (ACOs) and generally are more applicable to the pre-65 population as a way to contain costs. An example is using the Austin Regional Clinic for all services, including primary care and specialists. This reduces choice for the member, forcing them into a specific network. This option is being tested in several areas of the state for TRS-Active Care, but results of effectiveness cannot be determined until it has been in place for a full year. This type of plan would be hard to create for rural areas....

TRS Director Brian Guthrie Testimony proves Effective

Based on Inside Line, 2-20-15

The following are selected gems from Tim Lee's description of Guthrie's testimony:

The TRS fund is in "robust health... with about **\$132 billion** and presently serves about 1.4 million retired and active members. The system pays out over \$8 billion in retirement benefits each fiscal year."

....During fiscal year 2014, the pension fund earned nearly 17% in returns. [and the] 25 year return rate for the fund is 8.8%....

Retirees pay for approximately 38% of TRS-Care's total costs through premiums, deductibles, co-pays and other out-of-pocket costs!....

We believe that 3% is the minimum level of state contribution necessary to begin any conversation about "sharing the pain" of addressing the shortfall and the program's long-term sustainability issues. We have all heard the phrase "kicking the can down the road." The proverbial TRS-Care can has been kicked to the edge of the cliff! There is no road left.

Who has the most say on the Budget?

Inside Line, 2-17-15

The Texas Budget starts with the LBB (Legislative Budget Board) who do all the original research and grunt work. But throughout the 140 day session both the House Appropriation Committee and the Senate Finance Committee tweak, twist and modify after listening to many different interested groups both inside and outside government. You can be assured Tim Lee and other TRTA adherents will be giving testimony along with other educational interests such as TSTA, voucher advocates, water and highway enthusiasts and those who just want Texas to reduce spending on everything.

The final product of the House and Senate Committees will likely not agree though each budget will have achieved a firm ok in their respective Houses. By this point we will within a few days of adjournment and Lt. Gov. Patrick and Speaker Straus will carefully select the members of a **Conference Committee**. This Committee will not start from scratch. They will argue points within the two budget bills passed in each house. In previous sessions the budget conference committee has met behind closed doors announced its decisions at the end of what appeared to be a furtive weekend just in time for the last day or so of the session.

TRTA Lobbies in Washington for WEP Repeal

Tim Lee, Inside Line, 3-6-15

Members of the Texas Retired Teachers Association (TRTA) legislative team visited Washington, D.C. last week, and spoke with Texas congressional leadership about the Windfall Elimination Provision (WEP). Executive Director Tim Lee, State President Fran Plemmons, Legislative Coordinator Bill Barnes and Retirement Consultant Ronnie Jung attended the National Institute on Retirement Security (NIRS) Sixth Annual Policy Conference to learn more about the state of retirement security of all Americans. Texas Congressman Kevin Brady (R - Woodlands) discussed the Equal Treatment of Public Servants Act of 2015, H.R. 711 with the TRTA legislative team.

Brady filed the bill in early February after the new 114th Congress convened. The bill, formerly H.R. 5697, would repeal the Social Security Windfall Elimination Provision (WEP), and replace it with a more fair formula helping those who have been impacted by the WEP and those who will be in the future. In December 2014, TRTA members and staff attended a press conference held by Brady in the Houston area.

While in D.C., TRTA representatives visited the offices of all Texas congressional members to advocate for support of the bill. TRTA provided information to our Texas Congressional delegation about the negative impact the WEP has had on Texas public education retirees.

H.R. 711, if passed, would:

1. Permanently repeal the current Windfall Elimination Provision and replace it with a new and fair formula that treats public servants like the rest of American workers.
2. Guarantee public servants receive the benefits they earned while they paid into Social Security.
3. Reduce the WEP by up to a third for current retirees, and up to half for future retirees – increasing lifetime Social Security benefits by between \$20,000 and \$32,400 (as estimated by the Social Security actuary).
4. Not impact the Social Security trust fund.

What does this mean for retired educators in Texas?

If H.R. 5697 passes, your Social Security amount will no longer be figured by the arbitrary WEP formula established in 1983, but will be based on your real-life Social Security contributions and work history -- just like everyone else.

The bill has been referred to the House Committee on Ways and Means, a committee on which Representative Brady serves. After review by the Committee, the bill would need to be brought to the House of Representatives for a vote, then if passed, would need to be presented to the Senate for a vote as well. If the bill passed both Houses of Congress, it would then be sent to the President to be signed and become law.