

ANALYSES OF PROPOSED CONSTITUTIONAL AMENDMENTS

88th Texas Legislature November 7, 2023, Election

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SUMMARY ANALYSIS

H.J.R. 2, 88th Legislature, Regular Session, 2023, proposes a temporary amendment to the Texas Constitution that authorizes the current 88th Legislature to (1) provide by general law a cost-of-living adjustment to certain annuitants of the Teacher Retirement System of Texas and (2) appropriate state money to pay for the adjustment. The legislature has appropriated \$3.355 billion to fund the cost-of-living adjustment contingent on voter approval of the proposed amendment.

BACKGROUND AND DETAILED ANALYSIS

Section 67, Article XVI, Texas Constitution, authorizes the legislature to enact general laws establishing systems of programs of retirement and related disability benefits for public employees and officers. Section 67(b)(1), Article XVI, Texas Constitution, specifically requires the legislature to establish the Teacher Retirement System of Texas (TRS) “to provide benefits for persons employed in the public schools, colleges, and universities supported wholly or partly by the state.” Included in the authority to provide benefits is the authority to change benefits, which the legislature has done on multiple occasions since the creation of the TRS. Historically, an increase in benefits provided under the TRS was funded from the system’s trust fund, an appropriation of state revenues, or some combination of those methods of funding. Regardless of the method of funding used to provide an increase in benefits, Section 67(a), Article XVI, Texas Constitution, requires that the “[f]inancing of benefits . . . be based on sound actuarial principles.” If the legislature seeks to fund an increase in benefits using an appropriation of state revenues, depending on the amount or method of appropriation, the Texas Constitution may impose other limitations on the appropriation, including the spending limit imposed by Section 22, Article VIII, Texas Constitution. Section 22, Article VIII, limits the rate of growth of appropriations from state tax revenues not dedicated by the Texas Constitution for a state fiscal biennium to the estimated rate of growth of the state’s economy.

The constitutional amendment proposed by H.J.R. 2, 88th Legislature, Regular Session, 2023, adds Section 67-a, Article XVI, Texas Constitution, to authorize the legislature to (1) provide a cost-of-living adjustment to annuitants of the Teacher Retirement System of Texas who are eligible for the adjustment as determined by that general law and (2) appropriate an amount of money from the general revenue fund to the comptroller of public accounts for deposit to the system’s trust fund to pay the adjustment.

The proposed amendment also provides that for purposes of Section 22, Article VIII, Texas Constitution, an appropriation of state tax revenues to fund the authorized cost-of-living adjustment be treated as if it were an appropriation of revenues dedicated by the Texas Constitution, which effectively exempts it from the constitutional limit on overall state spending.

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The proposed amendment expires September 1, 2025.

S.B. 10, 88th Legislature, Regular Session, 2023, is the enabling legislation for the proposed amendment. That legislation, in part, specifies the annuitants (TRS retirees and their beneficiaries) who are eligible for the cost-of-living adjustment and prescribes the amount and timing of the adjustment. The portion of S.B. 10 providing for the adjustment takes effect only if a constitutional amendment proposed by the 88th Legislature, Regular Session, 2023, authorizing the legislature to provide a cost- of-living adjustment for TRS annuitants is approved by the voters.

The 2023 General Appropriations Act (Rider 18.37, page IX-129, H.B. 1, 88th Legislature, Regular Session, 2023) appropriates \$3.355 billion in fiscal year 2024 from the general revenue fund to provide a cost-of-living adjustment for certain annuitants of the Teacher Retirement System of Texas. The appropriation is contingent on both the enactment of S.B. 10 and voter approval of this proposed constitutional amendment. Further, the General Appropriations Act rider provides that it is the legislature's intent that amounts directed for the adjustment be structured so as to not exceed the state spending limit under Section 22, Article VIII, Texas Constitution.