HOUSE RESEARCH ORGANIZATION bill analysis | 5/9/2011 | HB 159 Raymond (CSHB 159 by Anchia)

SUBJECT: Lump-sum annuity payments to certain twice-retired TMRS participants

COMMITTEE: Pensions, Investments and Financial Services — committee substitute recommended

VOTE: 6 ayes — Truitt, Anchia, Legler, Nash, Orr, Veasey

0 nays

3 absent — C. Anderson, Creighton, Hernandez Luna

WITNESSES: For — None

Against — (*Registered, but did not testify:* William Atkins)

On — David Gavia, Texas Municipal Retirement System; (*Registered, but did not testify:* Dan Wattles, Texas Municipal Retirement System)

BACKGROUND: Government Code, Title 8, subtitle G establishes and regulates the Texas Municipal Retirement System (TMRS). Within that subtitle, sec. 852.108 addresses resumption of employment with the same municipality from which an employee originally retired. As described in that section, when a retiree is reemployed by the original employing municipality, payment of the annuities that person had been receiving as a retiree of the municipality are suspended. When that person ends employment with the municipality for the second time, he or she may apply for resumption of retirement, entitling the person to resumption of the suspended annuity payments and, as applicable, to additional benefits as provided in the section. The annuity payments resume with no change in the amount, except as allowed by other provisions in the subtitle, or in the duration of the payments. The annuity payments that the person otherwise would have received while reemployed are forfeited.

DIGEST: CSHB 159 would provide an individual meeting certain criteria who retired for a second time from the same municipality, as described by Government Code, sec. 852.108, with a lump-sum payment equal to the amount of the annuity payments that the person would have received had the payments not been suspended while the person was reemployed. To be eligible for this lump-sum payment, an individual would have to have originally retired based on a bona fide termination of employment and resumed employment with the same municipality at least eight years after the first retirement.

The bill would take immediate effect if finally passed by a two-thirds record vote of the elected membership of each house. Otherwise, it would take effect September 1, 2011. The bill would apply only to a TMRS member who ended employment with the reemploying municipality and filed for resumption of retirement on or after the effective date.

SUPPORTERS SAY:

An individual who works for a municipality and then retires receives TMRS annuity payments that continue even if that person takes a new job at any public, private, or nonprofit entity other than the municipality from which he or she retired. Only if that individual becomes reemployed by the same municipality are his or her annuity payments forfeited for the duration of reemployment. The laws governing TMRS were written this way to prevent “double-dipping,” in which an employee games the system by dropping out of the workforce, collecting retirement benefits, and then quickly coming back to work to collect a pension and a salary simultaneously.

Double-dipping is exploitative and should be prevented, but this system unfortunately punishes public servants who retire in good faith but years later would like to return to work for their city. If such a person comes out of retirement to resume employment with the same municipality, he or she loses hard-earned annuity payments. Alternatively, if such a person is sufficiently discouraged by this exceptional forfeiture of benefits and decides not to pursue reemployment, the city loses the opportunity to recapture the immense human capital of someone with expertise in the operations of that very city. Either way, a party acting in good faith loses out because of laws implemented to stop bad actors in the system.

CSHB 159 would address this problem by allowing a public servant who had retired in good faith, as evidence by sustained, bona fide retirement of at least eight years, and then decided to return to work for the same city to collect, upon retirement for the second time, a lump-sum payment equal to all the annuity payments that had been suspended during reemployment. The bill would ensure that hard-working municipal employees received the retirement benefits they had earned, and it would help municipalities recruit out of retirement individuals with rich, highly tailored experience if they were needed to serve their communities again.

The bill would have no fiscal implication to the state, and the costs to TMRS and municipalities would not be significant, according to the Legislative Budget Board. Furthermore, the changes under the bill would have no long-term actuarial impact on any TMRS municipality or on TMRS as a system. Only six retirees have returned to work at a reemploying municipality after at least eight years of retirement, a number dwarfed by the more than 14,000 retirees who have been retired for at least eight years and not returned to work at any TMRS municipality.

OPPONENTS SAY:

CSHB 159 would put new financial burdens on TMRS and on municipalities. TMRS would be required to reprogram both internal computer systems and actuarial systems, and municipalities would have to make new contributions to fund the lump-sum payments. Furthermore, the bill would incentivize resumption of employment, further adding to the public financial burden. Considering both immediate and long-term costs, the Legislative Budget Board has estimated that the bill would have a present-value cost of $1.35 million. The middle of a difficult recession is no time to be adding new costs to public pension systems.