

BILL ANALYSIS

Senate Research Center

H.B. 1638
By: Kuempel (Armbrister)
Intergovernmental Relations
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Engrossed

DIGEST

Currently, the Texas County and District Retirement System (TCDRS) is the statewide system which administers retirement, disability, and death benefits for officers and employees of counties and other political subdivisions, with the exception of cities and school districts, which voluntarily elect to participate in the system. Each participating subdivision is separately funded. H.B. 1638 would bring TCDRS into compliance with the Government Accounting Standards Board and the requirements of the Internal Revenue Code.

PURPOSE

As proposed, H.B. 1638 outlines provisions regarding participation and credit in, contributions to, and benefits and administration of the Texas County and District Retirement System.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the board of trustees of the Texas County and District Retirement System under SECTION 7 (Section 843.603, Government Code) and SECTION 32 (Section 845.507, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 841.001(1), Government Code, to redefine "actuarial equivalent."

SECTION 2. Amends Section 841.002, Government Code, to provide that the assets of the Texas County and District Retirement System (retirement system) are held in trust for the exclusive benefit of the members, retirees, and their beneficiaries and may not be diverted. Prohibits forfeitures from being applied to increase the benefits any person would otherwise receive under this subtitle.

SECTION 3. Amends Chapter 841A, Government Code, by adding Sections 841.010 and 841.011, as follows:

Sec. 841.010. DISTRIBUTION REQUIREMENTS. Sets forth distribution requirements.

Sec. 841.011. FULL VESTING OF ACCRUED BENEFITS AT TERMINATION. Provides that if the retirement system is terminated or if there is a complete discontinuance of contributions to the retirement system, each member will become fully vested in that member's accrued benefit to the extent funded as of the date of termination or contribution discontinuance.

SECTION 4. Amends Section 842.005(g), Government Code, to delete text regarding the board of trustees of the Texas County and District Retirement System (board of trustees).

SECTION 5. Amends Section 842.201(c), Government Code, to delete text providing that a person who is eligible for membership in the retirement system becomes a member on a certain date, unless a membership is waived.

SECTION 6. Amends Chapter 842C, Government Code, by adding Section 842.204, as follows:

Sec. 842.204. REPEAL OF OPTION TO WAIVE OR RETURN TO MEMBERSHIP. Outlines provisions regarding a repeal of a person's option to waive or return to membership in the retirement system.

SECTION 7. Amends Chapter 843G, Government Code, by adding Section 843.603, a follows:

Sec. 843.603. CURRENT SERVICE FOR REEMPLOYED VETERANS. Outlines provisions regarding current service for reemployed veterans.

SECTION 8. Amends Sections 844.003(a) and (c), Government Code, to provide that the effective date of a member's service retirement is the date the member designates at the time the member applies for retirement under Section 844.101, except as provided by Subsection (b), rather than Subsections (b) and (e). Makes a conforming change.

SECTION 9. Amends Section 844.008, Government Code, to outline provisions relating to limitation of the payment of benefits. Deletes definitions and text regarding the payment of benefits. Prohibits an employer from providing employee retirement or deferred benefits under a plan other than the retirement system to the extent that the provision of benefits, when considered together with the benefits provided under the retirement system, rather than authorized by this subtitle as required by the Internal Revenue Code, would result in the failure of the retirement system, rather than system's plan, to meet any of the limitation requirements of Section 415 of the Internal Revenue Code 1986 (26 U.S.C. Section 415), and the benefits of the other plan will automatically be reduced, eliminated, or adjusted to the extent necessary to prevent the failure, rather than federal qualification standards as applied to governmental retirement plans. Deletes text regarding limitations on benefits.

SECTION 10. Amends Section 844.209, Government Code, to outline provisions regarding a member's estate.

SECTION 11. Amends Section 844.401(a), Government Code, to set forth amounts in which a lump-sum death benefit is payable from the employee's saving fund except as provided by Subsection (c), if a member dies before retirement.

SECTION 12. Amends Sections 844.605(a) and (c), Government Code, to outline provisions regarding the subdivision accumulation fund and a supplemental contribution rate. Deletes text regarding a supplemental contribution rate.

SECTION 13. Amends the heading of Section 844.606, Government Code, as follows:

Sec. 844.606. New heading: OPTIONAL DECREASE IN CREDITS.

SECTION 14. Amends Section 844.606(a), Government Code, to authorize the governing body of the subdivision, by order or resolution, to reduce multiple matching credits for contributions made after the effective date of the reduction if the actuary has made the determination described by Section 844.605(a), rather than determines that the obligations of a participating subdivision to the subdivision accumulation fund cannot be amortized within a period of 40 years.

SECTION 15. Amends Sections 844.607(a) and (b), Government Code, to require the actuary to give written notice of the determinations to the director of the board of trustees (director) if the actuary has made the determination described by Section 844.605(a), rather than provided for by Section 844.601(b), that a subdivision's contributions are inadequate to fund all obligations charged against its account in the subdivision accumulation fund. Outlines provisions regarding additional contributions and a reduction in multiple matching credits. Deletes text regarding actuary determinations.

SECTION 16. Amends 844.608(b), Government Code, to outline provisions regarding the amortization of the obligations of a participating subdivision to the subdivision accumulation fund.

SECTION 17. Amends Sections 844.703(b), (c), (d), and (f), Government Code, to outline provisions regarding the rate of contribution to the subdivision accumulation fund. Deletes text

regarding the rate of contribution to the subdivision accumulation fund.

SECTION 18. Amends Section 845.108, Government Code, as follows:

Sec. 845.108. New heading: DESIGNATION OF AUTHORITY TO DISBURSE FUNDS. Provides that the director is authorized to sign checks and authorize fund transfers, rather than requiring the board of trustees, by resolution, to designate one or more representatives who have the authority to sign vouchers, for payments from the assets of the retirement system. Authorizes the director to designate in writing additional persons to have authority to sign checks and authorize fund transfers for payments from the assets of the retirement system.

SECTION 19. Amends Section 845.202(d), Government Code, to require the director to annually prepare a budget showing the amount required to pay the retirement system's administrative expenses and submit the administrative budget, rather than report, to the board.

SECTION 20. Amends Section 845.206(d), Government Code, to require the actuary to make an annual evaluation of the assets and liabilities, rather than funds, of the retirement system and of each participating subdivision with regard to the retirement system. Deletes text requiring the actuary to compute the current interest rate in accordance with Section 845.314.

SECTION 21. Amends Section 845.301, Government Code, by amending Subsections (a) and (b) and adding Subsection (f), to set forth requirements regarding the assets of the retirement system. Deletes text regarding the assets of the retirement system. Sets forth requirements concerning the investment expenses and asses of the retirement system.

SECTION 22. Amends Section 845.305, Government Code, to set forth requirements and delete text regarding crediting system assets. Makes a conforming change.

SECTION 23. Amends Section 845.307(a), Government Code, to set forth items the retirement system is required to deposit in the account of a participating subdivision.

SECTION 24. Amends Section 845.309, Government Code, to outline provisions and delete text regarding the interest fund.

SECTION 25. Amends Sections 845.310(b), (c), and (e), Government Code, to set forth the composition of the endowment fund. Outlines provisions and sets forth requirements relating to the endowment fund. Deletes text regarding the distributive benefits account.

SECTION 26. Amends Section 845.311, Government Code, to delete text and set forth requirements regarding the expense fund.

SECTION 27. Amends Section 843.313, Government Code, to outline provisions and delete text regarding disbursements from the assets of the retirement system.

SECTION 28. Amends Section 845.314(c), Government Code, to provide that the current interest rate is seven percent for calendar years after December 31, 1996. Deletes text regarding the interest rate.

SECTION 29. Amends Sections 845.315(a) and (b), Government Code, to set forth amounts the board of trustees is required to transfer from the distributable income account of the interest fund on December 31 of each year and after the balance of the investment expenses account has been transferred to the distributable income account. Provides that the account of each subdivision, other than a subdivision that has ceased participation, will receive a share of the amount transferred under Subsection (a)(5) that is in proportion to the amount that the balance credited to its account on January 1 bears to the total credited to the subdivision accumulation fund on that date. Deletes text regarding the transfer of amounts to the endowment fund.

SECTION 30. Amends Sections 845.402(b) and (c), Government Code, to outline provisions

regarding the increase and reduction of the rate of member contributions.

SECTION 31. Amends Section 845.501(a), Government Code, to require the board of trustees to send to the governing body of each subdivision and to each requesting member an annual statement that contains the basic financial statement of the retirement system, rather than certain items.

SECTION 32. Amends Chapter 845F, Government Code, by adding Sections 845.505, 845.506, and 845.507, as follows:

Sec. 845.505. CLOSING OF ACCOUNTS. Sets forth requirements and outlines provisions regarding the closing of accounts.

Sec. 845.506. APPEAL OF ADMINISTRATIVE DECISION. Provides that a decision of the board of trustees denying or limiting membership, service credit, eligibility for or the amount of benefits payable by the retirement system, or regarding to whom benefits should be paid is a decision in a contested case as defined by the administrative procedure law, Chapter 2001, and is subject to judicial review under the substantial evidence rule in accordance with Sections 2001.174-2001.177.

Sec. 845.507. QUALIFICATION. Provides that it is intended that this subtitle be construed and administered in a manner that the retirement system will be considered qualified under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). Authorizes the board of trustees to adopt rules that it determines necessary for the retirement system to be considered qualified. Provides that rules adopted by the board of trustees relating to qualification issues are considered a part of the plan.

SECTION 33. Repealers: 842.202; 842.203; 843.303; 844.003(d), (e), (f), and (g); 844.601-844.604; 844.607(c); 845.111; 845.315(c); 845.401; 845.402(d), (e), and (f); 845.503; and 845.504, Government Code (Waiver of membership, Subsequent election to become member, Member not entitled to prior service credit, Effective date of retirement, Conditions permitting additional subdivision contributions or decrease in credits, Optional additional subdivision contributions, Optional decrease in credits, Additional contributions and decrease in multiple matching credits may be combined, Required decrease in credits, Certification of current interest rate, Transfer of Assets from interest fund, Collection of membership fees, Member contributions, Forfeiture of contributions).

SECTION 43. Effective date: December 31, 1997, except for SECTIONS 21 and 34, which take effect September 1, 1997.

SECTION 44. Emergency clause.