

BILL ANALYSIS

C.S.H.B. 258
By: Pickett
Pensions & Investments
Committee Report (Substituted)

BACKGROUND

Currently, large retirement systems such as the Employees Retirement System of Texas have adequate procedures in place, such as regular audits and reviews of accounts and calculations, to verify annuity payments are correct. Smaller public retirement systems and independent pension funds of firefighters and police officers do not. As a result, errors are made and remain undiscovered until years later.

In El Paso alone, 14 widows of firefighters and police officers were recently asked to repay a total of \$750,000 to the El Paso Firemen and Policemen Retirement Fund. The overpayments were the result of an error made 15 years ago by the City of El Paso, which at that time administered the now independent fund.

One case involves a 68-year-old woman who began to receive her late husband's pension in September 1991. Eleven years later, the pension board informed her that an error was made in calculating her annuity and that she needed to pay back nearly \$43-thousand. If her pension is garnished to reimburse the fund, it would be five years before she receives another pension check.

PURPOSE

To set a three-year limit on reimbursement sought from recipients of public retirement systems and firefighter and police officer pension funds, with the exclusion of cases of fraud and prior agreements.

RULEMAKING AUTHORITY

This bill does not grant additional rulemaking authority to any state officer, agency, department or institution.

SECTION-BY-SECTION

SECTION 1. Amends Subchapter B, Chapter 802, Government Code, by adding Section 802.1024, as follows:

Adds Section 802.1024, Correction of Errors (a) States that except as provided by Subsection (b) if an error occurs in the public retirement system in which the recipient receives more or less money than they are entitled to, the retirement system's governing board is required to correct the error in a practicable manner and adjust future payments so that the recipient receives the amount they are actuarially entitled. If no payments are due, the overpayment may be collected within the three-year period in the manner as any other debt collection.

Adds Subsection (b) stating that the governing board can correct the overpayment of benefits detailed in Subsection (a), but may go back only three years from the date of discovery of the overpayment. Prohibits the public retirement system from recovering any money overpaid more than three years prior to the discovery.

Adds Subsection (c) stating that any reasonable person who knowingly accepts money they are not entitled to is excluded from the protections of Subdivision (b).

SECTION 2. Amends Section 12(b), Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes) by applying Section 802.1024 to the Municipalities Retirement System in municipalities with a population of 460,000 to 500,000.

SECTION 3. Amends Section 10.02, Chapter 452, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), by applying Section 802.1024 to the Police and Fire Fighter Retirement System in municipalities with a population of 460,000 to 500,000.

SECTION 4. Amends Section 3.03(d), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas Civil Statutes) by applying Section 802.1024 to the Police Retirement Fund in municipalities with a population of 750,000 to 1,000,000.

SECTION 5. Provides that this Act applies to overpayments or underpayment made before or after the effective date. States that agreements made prior to the effect date will remain valid.

SECTION 6. Effective date.

EFFECTIVE DATE

On passage or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Changes the period for recoupment of overpayments from two to three years. Clarifies that if no future payments are due to the recipient of an overpayment, regular debt collections are available within the three-year period. Allows recoupments of overpayments any time for payments made through fraud or otherwise to a person who should know is not entitled to them. The bill applies to underpayments and overpayments made before as well as after the bill's effective date. It also exempts from the application of the bill agreements to repay an overpayment that are made before the bill's effective date.