

BILL ANALYSIS

Senate Research Center
78R9841 SMJ-D

H.B. 1984
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State Affairs
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Engrossed

DIGEST AND PURPOSE

H.B. 1984 amends the laws governing the Texas County and District Retirement System (TCDRS). Changes include: authorizing members to reestablish credit for an account previously canceled; allowing public employers to take over functions of a defunct employer or an employer that is inadequately funded and to assume the financial obligations of the previous employer or alter the benefit structure; allowing the creation of a program to pay benefits that would be limited under federal law without the program; conforming to the Internal Revenue Code; reducing the maximum funding period for individual plans with a fixed contribution rate to meet upcoming accounting standards and to emulate or exceed funding standards of the teacher and state employee retirement systems; expanding the pool of potential appointees to the board of trustees to include retirees of TCDRS; and clarifying administrative issues.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 841.001(6), (7), (8), (18), (19), (20), and (21), Government Code, as follows:

- (6) Redefines “compensation.”
- (7) Redefines “credited service.”
- (8) Redefines “employee.”
- (18) Redefines “supplemental death benefit program.”
- (19) Redesignated from Subdivision (21), defining “vested member.” Deletes text of Subdivisions (19) and (20), defining “temporary employee” and “supplemental death benefit program.”

SECTION 2. Amends Sections 842.008(a), (f), and (i), Government Code, as follows:

- (a) Requires a subdivision participating in the Texas County and District Retirement System (TCDRS) that has an annually determined contribution rate plan to elect to contribute in all future years in which the allocation described by Subsection (b) is necessary at a rate that is either the rate being paid at the time of the election to discontinue enrollment or a rate that is greater, rather than an integer percent greater, than the rate being paid at the time of the election to discontinue enrollment.
- (f) Prohibits the governing body of a participating subdivision that is not enrolling new members in accordance with Subsection (e) from authorizing a change in a provision of the subdivision’s

plan, except that the governing body is authorized to authorize the adoption of an option described by this subtitle under certain circumstances. Deletes text making the provision conditional, and relating to increases in annuities and credits.

(i) Makes conforming changes.

SECTION 3. Amends Sections 842.009(b) and (g), Government Code, to make conforming changes.

SECTION 4. Amends Section 842.010(e), Government Code, to make conforming changes.

SECTION 5. Amends Section 842.101(b), Government Code, to delete text regarding a member's date of employment and missed credit.

SECTION 6. Amends Section 842.108(b), Government Code, to amend statutory references relating to reestablishment of canceled service credit.

SECTION 7. Amends Section 842.112, Government Code, as follows:

(a) Authorizes TCDRS to correct any administrative or operational error by any appropriate means, taking into account any applicable Internal Revenue Service guidelines.

(a) - (i) Deletes the existing text of these subsections, regarding reporting errors and the correction of errors.

(b) The existing text of Subsection (j) is redesignated as Subsection (b).

(k) Deletes the existing text, regarding reestablishment of forfeited service credit.

SECTION 8. Amends the heading to Section 843.003, Government Code, to read as follows:

Sec. 843.003. REESTABLISHING CREDITED SERVICE AND SERVICE CREDIT PREVIOUSLY FORFEITED.

SECTION 9. Amends Sections 843.003(b) and (d), Government Code, as follows:

(b) Provides that a member eligible to reestablish credit under this section is one who is a member as an employee of the subdivision on the effective date of an order authorized by the subdivision under Subsection (a). Deletes text requiring the member to have had at least 24 consecutive months of service. Makes conforming changes.

(d) Makes nonsubstantive changes.

SECTION 10. Amends Subchapter A, Chapter 843, Government Code, by adding Section 843.0031, as follows:

Sec. 843.0031. ALTERNATIVE REESTABLISHMENT OF CREDIT SERVICE PREVIOUSLY FORFEITED; OPTION TO PAY LUMP-SUM AMOUNT. (a) Authorizes a member who has withdrawn contributions from TCDRS and who subsequently resumes employment with a subdivision to, by application to TCDRS at any time before retirement, reestablish forfeited prior and current credited service.

(b) Authorizes a member who has withdrawn contributions from TCDRS and who subsequently resumes employment with a subdivision to at any time before retirement pay to the system a lump sum in any amount that does not exceed the actuarial present

value of the additional benefits that would have been attributable to the withdrawn contributions.

(c) Provides that an amount paid under Subsection (b) is not subject to employer matching contributions, even if the member would otherwise be eligible under an order adopted under Section 843.003.

SECTION 11. Amends Section 843.102, Government Code, by adding Subsection (c), to provide that a person who has withdrawn contributions from an account for service for a subdivision and who subsequently resumes employment with the subdivision is not eligible to receive service credit under this section for prior service for the subdivision that was not established before the person withdrew the contributions.

SECTION 12. Amends Section 843.103, Government Code, to require a member eligible to receive prior service credit to claim the credit by filing a certain statement. Requires the statement to be filed before the fifth anniversary of the date the person becomes a member as an employee of the subdivision.

SECTION 13. Amends Section 843.201(d), Government Code, to provide that allocated prior service credits are allowable for a subdivision if TCDRS' actuary determines that the subdivision's unfunded actuarial accrued liability amortization period will be less than 20, rather than 25, years.

SECTION 14. Amends Section 843.203(a), Government Code, to authorize the governing body of a public employer, rather than a subdivision, that has taken over the functions, rather than the facilities of a hospital, utility, or other public facility, formerly performed, rather than operated, by a participating subdivision to assume in whole or in part the obligations that the subdivision, rather than former employer, had undertaken under this subtitle by reason of service performed by members of the system. Deletes reference to members who became employees of the subdivision seeking to participate in the system. Authorizes the governing body of a public employer that assumes the obligations of a subdivision under this section to make a lump-sum deposit to the appropriate account in TCDRS, in an amount computed by TCDRS' actuary, on terms approved by the board of trustees of TCDRS (board) and agreed to in writing by the former employer and the assuming employer, if the former employer exists, or by the assuming employer alone, if the former employer does not exist. Makes conforming and nonsubstantive changes.

SECTION 15. Amends Section 843.204(b), Government Code, to authorize the governing body of a subdivision to adopt the provisions of this section if the board determines that the adoption would not impair the ability of the subdivision to fund its obligations before the 20th, rather than 25th, anniversary of the subdivision's most recent actuarial valuation date.

SECTION 16. Amends Section 843.401, Government Code, to provide that current service is service performed by an employee of a participating subdivision while a member of TCDRS and credited as provided under this section. Requires TCDRS to grant one month of current service for each month for which the required contributions are made, reported, and certified by the employing subdivision. Makes conforming and nonsubstantive changes.

SECTION 17. Amends Section 843.403(c), Government Code, to make a conforming change.

SECTION 18. Amends Section 843.601(c), Government Code, to authorize the governing body of a participating subdivision to authorize the establishment of credited service, rather than credit, for current service in TCDRS for qualified military service as provided by this subsection. Provides that a member eligible to establish credited service for current service under this subsection is one who has credited service in TCDRS for at least the minimum period required to receive a service retirement annuity at the age of 60 from the subdivision from which credit under this subsection is sought. Deletes a requirement that the person performed as an employee at least 10 years of service that is credited in TCDRS.

Makes conforming and nonsubstantive changes.

SECTION 19. Amends Section 844.009(a), Government Code, to authorize the governing body of a subdivision to adopt the provisions of this section if the board determines that the adoption would not impair the ability of the subdivision to fund its obligations before the 20th, rather than 25th, anniversary of the subdivision's most recent actuarial valuation date.

SECTION 20. Amends Subchapter A, Chapter 844, Government Code, by adding Section 844.010, as follows:

Sec. 844.010. CERTAIN BENEFICIARY DESIGNATIONS. (a) Provides that a beneficiary designation that names a former spouse as beneficiary is invalid for the purposes of this subtitle unless the designation fulfills certain criteria.

(b) Authorizes the board to adopt rules to require consent of a member's spouse for certain member actions.

(c) Provides that a benefit payable under this subtitle is not subject to a will, other testamentary document, or the law of intestacy to the extent that the member, retiree, or other former member has a different beneficiary under TCDRS than under the testamentary document or law of intestacy.

SECTION 21. Amends Section 844.104(c), Government Code, to specify that in optional annuities where a retiree dies before all the payments are made, the remainder of the payments are payable to the member's spouse before the estate.

SECTION 22. Amends Section 844.208(b), Government Code, to provide an alternative method of computing the amount of annuity increase if the person's increase has been effected under certain sections.

SECTION 23. Amends Section 844.305(c), Government Code, to make conforming changes.

SECTION 24. Amends Section 844.504, Government Code, to remove text regarding supplemental death benefits of a retiree who had service with more than one subdivision.

SECTION 25. Amends Sections 844.605(a), (b), and (d), Government Code, as follows:

(a) Authorizes the governing body of a subdivision to provide additional contributions by adopting a supplemental contribution rate to reduce the funding period if the actuary determines that the obligations of the subdivision accumulation fund cannot be amortized within a period of 30, rather than 40, years.

(b) Provides that a supplemental contribution rate is the rate of contribution by a subdivision to its account in the accumulation fund that is required, together with certain other contributions, to amortize the obligations to the accumulation fund within a period of 20, rather than 25, years.

(d) Provides that a supplemental contribution rate adopted by the governing body of a subdivision expires at the end of the 20th, rather than 25th, calendar year after its effective date. Makes a conforming change.

SECTION 26. Amends Sections 844.606(b), (d), and (e), Government Code, to make conforming changes.

SECTION 27. Amends Section 844.608(b), to make conforming changes.

SECTION 28. Amends Sections 844.704(d) and (f), Government Code, as follows:

(d) Makes conforming changes.

(f) Requires an order or resolution under this section to be filed with TCDRS not later than December 15 of the year preceding the year in which it will take effect.

SECTION 29. Amends Section 845.003, Government Code, as follows:

(a) Provides that a retiree of TCDRS is eligible to serve on the board.

(b) Prohibits a person serving on the board, if the person ceases to meet an eligibility requirement under Subsection (a), rather than ceases to be an employee of the participating subdivision or fails to attend four consecutive regular meetings of the board, from acting as a trustee and requires the person to vacate the office of trustee.

(c) Prohibits a person serving as trustee who fails to attend four consecutive regular meetings of the board of trustees from acting as a trustee and provides that the person is considered to have vacated the office of trustee.

SECTION 30. Amends Section 845.007(a), Government Code, to require the board to hold four regular meetings each year. Deletes the requirement that the meetings be held in specific months.

SECTION 31. Amends Sections 845.309(b) and (e), Government Code, to make nonsubstantive changes.

SECTION 32. Amends Section 845.315(a), Government Code, to make a nonsubstantive change.

SECTION 33. Amends Section 845.402(c), Government Code, to make a conforming change.

SECTION 34. Amends Section 845.407, Government Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Makes a conforming change.

(e) Authorizes TCDRS to extend the due date provided by this section if a subdivision applies for an extension before the due date and the director of TCDRS determines that good cause exists for the extension and that the need for the extension is not caused by neglect, indifference, or lack of diligence.

SECTION 35. Amends Subchapter F, Chapter 845, Government Code, by adding Sections 845.503 and 845.504, as follows:

Sec. 845.503. AUTHORITY TO RECOUP OR MAKE ADJUSTMENTS FOR PAYMENTS MADE IN ERROR. (a) Authorizes TCDRS to reduce future payments of benefits based on the account of a member, a retiree, or other former member to recoup an amount overpaid or otherwise paid in error to or on behalf of the member, retiree, or other former member. Authorizes TCDRS, if no future payments are due, to recover the overpayment in any manner that is permitted for the collection of any other debt.

(b) Prohibits TCDRS from recovering from a member, retiree, or other former member any overpayment made more than three years before the date the overpayment is discovered. Provides that this subsection does not apply to an overpayment a reasonable person should know the person is not entitled to receive.

(c) Authorizes TCDRS to adjust amounts in a subdivision's account in the subdivision accumulation fund to correct an error related to the account.

Sec. 845.504. EXCESS BENEFIT PROGRAM. (a) Authorizes the board by rule, if it determines that it is in the interest of TCDRS and will benefit members and annuitants, to establish an excess benefits program for the payment of benefits under Section 415(m) of the Internal Revenue Code of 1986, and its subsequent amendments, that would otherwise be barred by the limitation on benefits imposed by Section 415 of that code.

(b) Authorizes the board by rule, notwithstanding any other provision of this subtitle, to provide for the transfer of contributions as part of the excess benefits program in a manner consistent with a governmental excess benefit arrangement.

SECTION 36. Makes application of Section 844.605(d), Government Code, as amended by this Act, prospective.

SECTION 37. Repealers:

Section 843.005 (Adjustment to Credited Service and Current Service Credit), Government Code.

Section 843.106 (Prior Service Certificate), Government Code.

Section 843.107 (Void Prior Service Certificate), Government Code.

Section 843.601(g) (authorizing a reduction in the minimum credited service requirement), Government Code.

SECTION 38. Effective date: January 1, 2004.