

## **BILL ANALYSIS**

C.S.H.B. 1984  
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Pensions & Investments  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Texas County and District Retirement System (TCDRS) is a voluntary, statewide retirement system that administers service retirement, disability retirement, and death benefits for employees and officers of counties and other political subdivisions, excluding cities and school districts. Each participating subdivision separately funds its benefits, with both employers and employees making contributions to TCERS, and the system receives no state funding. As proposed, C.S.H.B. 1984 would authorize members to reinstate forfeited service credit with or without member contributions; authorize changes and funding for subdivision plans in cases in which the plans are not enrolling new members, have no depositing members, or have been taken over by another public employer; authorize TCERS to conform to federal law, including authorizing the creation of a program to pay benefits that otherwise would be limited by federal law; shorten funding periods for subdivisions in certain cases to ensure financial stability; authorize retirees to be appointed to the TCERS board of trustees; make minor changes in the crediting of member service and computation and payment of benefits; and make administrative changes. These changes respond to the changing needs of more than 130,000 members and more than 23,000 annuitants of the system.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the TCERS board of trustees in SECTION 1 (Section 841.001(6), Government Code), SECTION 20 (proposed Section 844.010(b), Government Code), and SECTION 35 (proposed Section 845.504, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1: Amends Section 841.001(6), Government Code, to allow the TCERS board of trustees by rule to increase the limit of compensation that is subject to TCERS deductions as the result of changes in federal law.

Amends Section 841.001(7), Government Code, to conform to the repeal of Sections 843.106 and 843.107, Government Code, in SECTION 37 of the bill.

Amends Section 841.001(8) and deletes current Section 841.001(19), Government Code, to allow participating subdivisions to determine who is a temporary employee.

Amends Section 841.001(18), deletes current Section 841.001(20), and renumbers current Section 841.001(21), Government Code, to consolidate duplicative definitions that were enacted in error.

SECTION 2: Amends Sections 842.008(a), (f), and (i), Government Code, to allow a subdivision that is not enrolling new members to make changes in its retirement plan with TCERS board approval and to allow employer funding of the plan to be at any sufficient fractional percentage of compensation.

SECTION 3: Amends Section 842.009(b) and (g), Government Code, to allow a subdivision that has a reduction in payroll of at least 26 percent of its employees to fund its retirement plan at any sufficient fractional percentage of compensation.

SECTION 4: Amends Section 842.010(e), Government Code, to allow a subdivision that has no contributing members to make changes in its retirement plan with TCDRS board approval.

SECTION 5: Amends Section 842.101(b), Government Code, to delete an obsolete provision that dated from the time before 1985 when there was a 30-day waiting period for TCDRS membership.

SECTION 6: Amends Section 842.108(b), Government Code, to conform to the change in law made by Chapter 1240, Acts of the 77th Legislature, Regular Session, 2001, relating to the proportionate retirement program for statewide retirement systems and certain local retirement systems, and to conform to the proposed change in SECTION 10 of this bill.

SECTION 7: Amends Section 842.112, Government Code, to allow TCDRS to create a simplified method for correcting membership and service records within Internal Revenue Service guidelines.

SECTION 8: Amends the heading to Section 843.003, Government Code, to read "REESTABLISHING CREDITED SERVICE AND SERVICE CREDIT PREVIOUSLY FORFEITED."

SECTION 9: Amends Section 843.003(b) and (d), Government Code, to remove the requirement that a member work at least 24 months after resumption of employment before taking advantage of a subdivision's offer to reestablish forfeited service and credit.

SECTION 10: Amends Subchapter A, Chapter 843, Government Code, by adding Section 843.0031 to authorize a member who has forfeited credit and service to reestablish the service on application, authorize a member to repay all or a portion of the withdrawn contributions, and provide that amounts repaid under the section are not subject to employer matching contributions.

SECTION 11: Amends Section 843.102, Government Code, to move a provision from Section 843.107, Government Code, which is repealed in SECTION 37 of the bill.

SECTION 12: Amends Section 843.103, Government Code, to clarify that prior service credit must be applied for within five years of becoming a member.

SECTION 13: Amends Section 843.201(d), Government Code, to reduce from 25 to 20 years the maximum funding period for a subdivision that contributes at a fixed rate and wants to authorize certain kinds of prior service credit.

SECTION 14: Amends Section 843.203(a), Government Code, to authorize any public employer that assumes the functions of a participating subdivision to assume, with TCDRS board approval, the obligations to TCDRS that the former employer had incurred.

SECTION 15: Amends Section 843.204(b), Government Code, to reduce from 25 to 20 years the maximum funding period for a subdivision that contributes at a fixed rate and wants to grant credit for persons who exceeded a maximum age for membership that existed before September 1, 1987.

SECTION 16: Amends Section 843.401, Government Code, to clarify that TCDRS credit is granted for each month for which contributions are made, reported, and certified by a subdivision.

SECTION 17: Amends Section 843.403(c), Government Code, to reduce from 25 to 20 years the maximum funding period for a subdivision that contributes at a fixed rate and wants to increase matching credits.

SECTION 18: Amends Section 843.601 (c), Government Code, to provide that subdivisions wanting to allow military service credit may do so for members who have at least the minimum service credit for retirement at age 60 (normally 8 or 10 years).

SECTION 19: Amends Section 844.009 (a), Government Code, to reduce from 25 to 20 years the maximum funding period for a subdivision that contributes at a fixed rate and wants to allow partial lump-sum distributions on retirement.

SECTION 20: Amends Subchapter A, Chapter 844, Government Code, by adding Section 844.010 to the Government Code, to cancel beneficiary designations of spouses on divorce in most circumstances, allow the TCDRS board by rule to require spousal consent before payment of a benefit to a married retiree or former member, and provide that a benefit is not subject to a will or law of intestacy to the extent that the decedent has a different beneficiary under TCDRS.

SECTION 21: Amends Section 844.104 (c), Government Code, to provide that a service retirement annuity guaranteed for 60, 120, or 180 months becomes payable to the deceased retiree's surviving spouse if no beneficiary exists.

SECTION 22: Amends Section 844.208 (b), Government Code, to provide that an optional cost-of-living increase is applied to a standard service or disability retirement annuity in certain circumstances in which the annuity has been increased after retirement.

SECTION 23: Amends Section 844.305 (c), Government Code, to provide that a disability retirement annuity guaranteed for 60, 120, or 180 months becomes payable to the deceased retiree's surviving spouse if no beneficiary exists.

SECTION 24: Amends Section 844.504, Government Code, to allow a retiree lump-sum death benefit to be paid by each subdivision that has elected to provide this benefit and for which the decedent worked.

SECTION 25: Amends Section 844.605 (a), (b), and (d), Government Code, to reduce from 40 to 30 years and from 25 to 20 years the maximum funding period in circumstances in which the retirement plan of a subdivision that contributes at a fixed rate is not adequately funded.

SECTION 26: Amends Section 844.606 (b), (d), and (e), Government Code, to reduce from 25 to 20 years the maximum funding period for a subdivision that contributes at a fixed rate and wants to reduce the value of future benefits because its retirement plan is not adequately funded.

SECTION 27: Amends Section 844.608 (b), Government Code, to reduce from 25 to 20 years the maximum funding period for a subdivision that contributes at a fixed rate and needs to reduce member contribution rates to adequately fund its retirement plan.

SECTION 28: Amends Section 844.704 (d) and (f), Government Code, to change the due date for changes in a subdivision's retirement plan from December 31 to December 15 of the year before the changes will take effect and to conform to the change in military credit eligibility made in SECTION 18 of the bill.

SECTION 29: Amends Section 845.003, Government Code, to allow a TCDRS retiree to be appointed to the TCDRS board and to allow a sitting trustee to remain eligible for the position on retirement.

SECTION 30: Amends Section 845.007 (a), Government Code, to retain the requirement of four regular annual TCDRS board meetings but delete specific months for the meetings.

SECTION 31: Amends Section 845.309 (b) and (e), Government Code, to make a purely technical correction in the crediting of amounts in system accounts.

SECTION 32: Amends Section 845.315 (a), Government Code, to make a purely technical correction in the transfer of amounts in system accounts.

SECTION 33: Amends Section 845.402 (c), Government Code, to reduce from 25 to 20 years the

maximum funding period for a subdivision that contributes at a fixed rate and wants to reduce the rate of member contributions.

SECTION 34: Amends Section 845.407, Government Code, to allow TCDRS to extend the monthly subdivision reporting due date for good cause.

SECTION 35: Adds Section 845.503 to the Government Code, to authorize TCDRS to reduce future payments of benefits to recover amounts overpaid or otherwise paid in error and to adjust subdivision accounts to correct errors. Makes provisions for recovery of the overpayment if no future payments are due. Prohibits the retirement system from going back more than three years to recover overpayments. This subsection does not apply to an overpayment a reasonable person intentionally takes when not entitled to the payment.

Adds Section 845.504 to the Government Code, to authorize the TCDRS board by rule to create a program to pay benefits that are limited by federal law absent the program.

SECTION 36: Provides that the change in law made to Section 844.605(d), Government Code, in SECTION 25 of the bill applies only to contribution rates adopted on or after the bill's effective date.

SECTION 37: Repeals Sections 843.005, 843.106, 843.107, and 843.601(g), Government Code.

SECTION 38: Effective date.

#### **EFFECTIVE DATE**

This Act takes effect January 1, 2004.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

In SECTION 35 the substitute bill provides for cases in which lump sum payments were made and there are no future payments due. It allows a means of recovery for overpayments in that instance. It also adds language that prohibits a pension system from going back more than 3 years to recover overpayments except in the instance of fraud.