

BILL ANALYSIS

H.B. 633
By: Kuempel
Pensions & Investments
Committee Report (Unamended)

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 TCDRS, and the system receives no state funding. As proposed, HB 633 would allow a retiree to resume employment with the same employer without a suspension of benefits, remove automatic termination of membership because of absence from service, allow all permanent employees of a participating subdivision to become members, allow participation by any political subdivision not eligible to participate in another system established by the legislature, provide voluntary and involuntary termination of participation by subdivisions other than counties under certain circumstances, allow credit for military service for federal military retirees, increase the allowable percentage of a consumer price index cost-of-living increase, provide accounting measures within TCDRS accounts in the event of negative financial circumstances, and make administrative changes. These changes respond to the changing needs of more than 130,000 members and more than 26,000 annuitants of the system.

RULEMAKING AUTHORITY

Rulemaking authority is expressly delegated to the Texas County and District Retirement System Board of Trustees in Section 5 [842.0075(f) Government Code], Section 6 [842.051 (c) Government Code], Section 9 [842.107(b) Government Code] of this bill.

ANALYSIS

SECTION 1. Amends Sec. 75.112 (c), Government Code, to conform to a citation change made in Section 9 of the bill.

SECTION 2. Amends Sec. 841.001 (8) and (17), Government Code, changes the definition of employee to provide membership in the system for all employees (other than temporary employees) of a participating subdivision by deleting the requirement that a person hold a position requiring at least 900 hours of service per year and to allow any political subdivision not eligible to participate in another system established by the legislature to participate in TCDRS.

SECTION 3. Adds Sec. 841.0051 (a) and (b), Government Code, to define a venue for an action brought against TCDRS in Travis County and to provide venue for an action brought by TCDRS in Travis County or in the county of the defendant.

SECTION 4. Amends Sec. 841.010 (b), Government Code, to provide that the required beginning date of a benefit distribution corresponds with changes in federal law.

SECTION 5. Adds Sec. 842.0075 (a-f), Government Code, to allow the governing body, with approval of the board of trustees, to assume a subdivision account and pension liabilities of a subdivision that no longer exists, is in the process of dissolution, is changing its operational form, or that no longer has employees. Prevents the account

and pension liabilities from being assumed if the subdivision has executed a voluntary termination agreement or the board has specified a date for the involuntary termination of the subdivision's participation in the retirement system. Grants the assuming body full authority to exercise plan provisions for members and annuitants of the plan being assumed. Keeps intact all provisions of the plan being assumed until changed by the governing body of the assuming plan. Treats the accounts of the subdivision being assumed and the assuming subdivision as one account for purposes of receiving allocations and paying benefits as of the assumption date. Exempts the retirement system of liability for any claim or loss of benefits due to the assumption by another subdivision. Authorizes the board to establish rules to administer assumptions under this section.

SECTION 6. Adds Subchapter A-1 to Chapter 842, Government Code, relating to termination of participation by subdivisions other than counties.

Sec. 842.051 sets forth that upon a subdivision's termination of participation or discontinuance of contributions its members become fully vested to the extent funded as of the date of termination or contribution discontinuance. Exempts the retirement system of liability for any claim or loss of benefits due to the termination or failure of the subdivision to make payments or required contributions under the termination agreement. Authorizes the board to establish rules to administer this subchapter.

Sec. 842.052 provides for voluntary termination of participation by a subdivision other than a county, if the subdivision agrees to fund all benefits accrued before the date specified in the termination agreement and all supplemental annuities. On the date specified in the termination agreement additional contributions or deposits cannot be made to the members' accounts and their future service may not be credited unless authorized by the board. On the date specified in the termination agreement the subdivision's account in the subdivision accumulation fund ceases to receive allocations for any prior, current, or future plan years unless authorized by the board. Releases the subdivision from liability for all accrued benefits and supplemental annuities upon full performance of the termination agreement. The system shall make transfers from the subdivision's account to satisfy all accrued benefits and supplemental annuities and pay any remaining funds to the subdivision or its successor. When the termination agreement has been completed any member who has not received a refund of his or her individual account will be immediately eligible to retire with a service retirement annuity or lump sum distribution. Members vested under subsection (e) or 842.051(a) are eligible members under 844.407. For death benefits payable under 844.402 the member's account only consists of the deposits and contributions made by the member and the accumulated interest.

Sec. 842.053 provides for involuntary termination of participation under certain circumstances. Gives the board authority to terminate the subdivision's participation in the program if the subdivision has not met the terms of the termination agreement, the subdivision no longer exists or is changing its operational form, the benefits of the subdivision are at risk of forfeiture, the system is no longer an effective program for providing benefits to members of the subdivision or continued participation of the subdivision is not in the best interest of the system. Allows the board to set a date by which members can no longer make deposits or receive credit for their future service and the subdivision's account in the accumulation fund will cease to receive allocations except as authorized by the board. Releases the subdivision of all liability related to accrued benefits and supplemental annuities if the assets in the subdivision's account exceed the actuarial equivalent value of the pension benefits and directs the system to make transfers to satisfy all accrued benefits and supplemental annuities. Directs the system to pay any surplus funds to the subdivision or its successor in accordance with 845.317(b). Allows the subdivision or its successor to make contributions in any amount to the subdivision's account if the actuarial equivalent value of pension benefits exceeds the assets in its account. Requires the retirement system to allocate funds in the order of priority set forth in 842.054 - 842.057 if there are insufficient assets to pay all pension liabilities.

Secs. 842.054-842.057 creates classes A, B, C and D to set forth priorities for allocation of assets to members and annuitants under involuntary termination of participation.

Sec. 842.058 (a) and (b) provides that after the appropriate actions have been taken under sections 842.054 - 842.057 any member who has not received a refund becomes fully vested and is immediately eligible to retire and receive a retirement annuity or distribution of the benefits in a lump sum regardless of age, service or employment. Defines vested members under this section or 842.051 (a) as eligible under 844.407. Death benefits determined under 844.402 are calculated using only the members deposits, contributions and accumulated interest.

SECTION 7. Amends Sec. 842.101 (a) and (b), Government Code, to conform to the change made in the definition of employee in Section 2 of the bill and to remove obsolete language.

SECTION 8. Amends Sec. 842.105, Government Code, to conform to the change made in the definition of employee in Section 2 of the bill and to remove obsolete language.

SECTION 9. Amends Sec. 842.107 (a) and (b), Government Code, to define optional membership of judges and district attorneys and to prohibit such persons who are first included in membership after December 31, 2005, from receiving credit for prior service. Allows the board to develop rules to establish reasonable restrictions on granting membership and service credits.

SECTION 10. Amends Sec. 842.108 (a) and (c) and adds Subsection (a-1), Government Code. Directs unclaimed funds being held by the system for a membership terminated prior to January 1, 2005, to be held in a non-interest bearing account until the person again becomes a member, is eligible under 843.003 or 843.0031 and has submitted an application to the system. Provides that except for memberships terminated prior to January 1, 2005, interest is calculated on the balance on January 1 through the month before the month of the withdrawal by a person described in (b). Moves language describing method of calculating interest on terminated memberships to transition section of the bill [Section 32].

SECTION 11. Amends Sec. 842.109 (a) and (b), Government Code, to provide that absence from service for a specified period does not result in termination of membership.

SECTION 12. Amends Sec. 842.110 (a-f) and strikes (g), Government Code, to provide that a retiree who resumes employment after not less than one month with the same employer resumes membership without suspension of annuity provided there has been a bona fide termination of employment. Reinstates membership for those who return to work with the same subdivision but do not meet requirements in (a) and orders repayment of any benefit payments made to that person. Defines memberships under (a) to be a new membership for beneficiary determination and benefits selections. Allows previously retired members who meet requirements in (a) to receive additional standard or optional service retirement annuity or a refund of their contributions regardless of age or credited service requirements with exception of requirements found in (f). Upon the death of a member meeting requirements in (d) a person can apply for optional service retirement annuity or a refund of the decedent's contributions. The age waiver does not apply to persons becoming eligible solely on a subdivisions termination of participation. Removes reemployment language addressed by (a-f).

SECTION 13. Amends Sec. 842.112 (a-g) and adds Sec. 842.113 (a,b,c), Government Code, to provide for the correction of errors in membership, credit or payment and delineates the related responsibilities of the subdivision and TCDRS. Sec.842.113 includes the civil rights division of the Texas Workforce Commission to the venues that should receive complaints or grievances against a subdivision. Authorizes the system and subdivisions to make the appropriate account adjustments when a judgment, order

or settlement is reached. Provides that adjustments to the accounts should be made if the system has received full payment or if restoration of a refunded account is required. Directs the system to not implement actions that would grant any person a status, right, or benefit not otherwise available. Allows the system to seek clarification of any judgment or order upon the determination of the system's director.

SECTION 14. Amends Sec. 843.103, Government Code, to remove the requirement that the treasurer or disbursing officer of a subdivision receive an application for prior service credit.

SECTION 15. Amends Sec. 843.601 (c) and (f), Government Code, to allow federal military retirees to receive service credit if they are not receiving credit for the same month under TCDRS or another retirement system.

SECTION 16. Amends Sec. 844.002 (c), Government Code, to conform to changes made in Section 6 of the bill.

SECTION 17. Amends Sec. 844.003 (d), Government Code, to conform to changes made in Section 12 of the bill.

SECTION 18. Amends Sec. 844.208 (b), Government Code, to allow a cost-of-living increase to be up to 100 percent of the change in the consumer price index.

SECTION 19. Amends Sec. 844.209 (c), Government Code, to allow the TCDRS board to determine the maximum increase in an alternative cost-of-living computation.

SECTION 20. Amends Sec. 844.408 (b), Government Code, to conform to changes made in Section 12 of the bill.

SECTION 21. Adds (i) to Sec. 844.703, Government Code, to allow an alternative, actuarially sound funding method in circumstances that would otherwise prevent full funding.

SECTION 22. Amends Sec. 844.704 (a,b,d), Government Code, to allow matching of employee contributions by employers in any increment of five percent (rather than 25 percent) that does not exceed existing statutory maximums. Strikes the 25 percent language. Allows the governing body to use the increased percentage in determining multiple matching credits under 843.403 for contributions made after the effective date of the increase or that the increased percentage both prospectively and retroactively be used in determining the multiple matching credits for employees not otherwise matched at a higher percentage. Limits the percentage for determining allocated prior service credits to not more than half of 200 percent plus the lowest percentage used for determining multiple matching credits applicable to any employee contribution with respect to the subdivision. Strikes surplus language limiting the selection of or increase in the percentage used to determine allocated prior service credits. Strikes the governing bodies ability to adopt the establishment of pre-membership credited service for overage employees under 843.204.

SECTION 23. Amends Sec. 845.114 (b), Government Code, Removes the requirement that specifically the treasurer or payroll disbursing officer shall prepare reports to board.

SECTION 24. Amends Sec. 845.305, (a,b,c) Government Code, to specify that the supplemental death benefits trust is not part of the pension trust. Strikes the requirement that the system shall deposit all receipts immediately.

SECTION 25. Amends Sec. 845.306 (a), Government Code, to update a provision that was affected by previous changes in the law.

SECTION 26. Amends Sec. 845.307 (a), Government Code, to specify the charges and credits to the accounts of participating subdivisions.

SECTION 27. Amends Sec. 845.309 (a,b,c), Government Code, to remove the separate accounts within the interest fund and determine when the net investment income will be determined and when its income or loss will be allocated. Strikes language that requires specific designated accounts.

SECTION 28. Amends Sec. 845.310 (a,c,d and e) and adds (c-1), Government Code, removes non-essential language specifically describing the purposes of the endowment fund. Requires the board to allocate the next years operating expenses as of December 31 of each year. Provides greater flexibility to where funds from the endowment fund can be allocated. Requires a board resolution to allocate any funds to a subdivision to which section 842.052, 842.053 or 845.317 applies. Strikes requirement of board to transfer any surplus in the general reserve account to the distributable income account.

SECTION 29. Amends Sec. 845.311, Government Code, to simplify language relating to the purpose of the expense fund.

SECTION 30. Amends Secs. 845.315 and 845.317, Government Code, provides guidelines for the annual allocation of net investment income or loss.

SECTION 31. Amends Sec. 845.403, Government Code, to remove language relating to the treasurer or disbursing officer.

SECTION 32. Transition section requiring TCDRS to reinstate the accounts of certain persons whose memberships were terminated because of absence from service, describing manner of calculating interest on memberships terminated prior to January 1, 2006, allowing a subdivision to exclude part-time employees from membership until the first pay period after December 31, 2006, and allowing a subdivision before April 1, 2006, to discontinue participation of members of the optional membership class under Section 842.107.

SECTION 33. Repeals Sections 842.003, 842.008, 842.009, 842.010, 842.102, 842,103, 842.111, 843.203, 843.204, 843.402, 843.602, 845.309(d)and (e), 845.310(b) and (f), and 845.403(c) and Subchapters C, Chapter 842, and D, Chapter 843, Government Code.

SECTION 34. Provides an effective date of January 1, 2006, except the change to Section 844.704(a), Government Code, takes effect December 31, 2006

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