

## **BILL ANALYSIS**

C.S.H.B. 1587  
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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 TCDRS, and the system receives no state funding.

This bill makes improvements to the administrative and operational side of the system and codifies current processes. In addition, the bill addresses benefit design, employer participation and termination, disability retirement, investment of assets, clarifies the Board's authorities and simplifies the prior service process.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the board of trustees of the Texas County and District Retirement System in SECTION 5, SECTION 10, SECTION 17, SECTION 18, SECTION 20, SECTION 25, SECTION 30, SECTION 31, SECTION 35, SECTION 38, SECTION 44, SECTION 46, SECTION 47, SECTION 48, SECTION 67, SECTION 72, SECTION 90, and SECTION 91.

### **ANALYSIS**

#### ***Benefits Design Change***

This bill allows subdivisions, other than a county with fixed rate plans, to adopt benefit options. The remaining fixed rate plans will be able to authorize all the options currently only available to variable rate plans. If a fixed rate plan authorizes increased benefits, it can remain a fixed rate plan. These plans could now offer benefit increases like variable rate plans and the costs to them will be calculated the same. This bill allows present value payoffs for small benefits. This bill gives TCDRS this option if the payee lives outside of the United States and recovery of annuity overpayments would be difficult. CSHB 1587 decreases the lower limit on CPI-based cost of living increases for retirees from 30% to 10%. This bill makes survivor annuities available with 4 years of service, in all instances for all employers and eliminates the single exception to this rule and makes survivor annuities equal to the actuarial equivalent of the deceased member's accrued benefit. Language is added to create a provision for special retirement eligibility when and if circumstances warrant the need. This bill provides the flexibility for employers to set up special vesting and retirement eligibility rules under unique circumstances; such as mass layoffs, with TCDRS Board approval. This bill allows the three employers with a basic matching rate greater than one to revert to a one-to-one basic match with a concomitant increase in the multiple matching rate, this is optional to the county. This change leaves the members' benefit levels unchanged but provides the employers with a decreased employer contribution rate. The ability for local plans to merge is removed in the bill.

#### ***Employer Participation and Termination***

CSHB 1587 simplifies the new subdivision approval process. This bill allows the TCDRS Director to approve the participation date of a new subdivision so that they may begin withholding for retirement contributions (pending future board approval at the next meeting). This bill allows for partial assumptions by a transferee subdivision and allows the transfer of a portion of assets from one employer's plan to another in instances where one subdivision is taking over a group of members which up to that point were employed by the transferor TCDRS subdivision. This bill stipulates that TCDRS will make payment to the county when the county hospital plan is terminated and there are excess funds after the termination.

### ***Clarification of the Board's Authorities***

This bill revises the provisions which define the board's authority. This gives the board the ability to respond to factors and environments that cannot be predicted in advance and these changes clarify that the board has broad rule-making authority. The board has the right to determine what retirement payment options are available and to create and remove available options. The board can allow lump sum payments or other alternate payments. The board can allow an employer to set special retirement or vesting eligibility in specific, unique circumstances. The board can adopt rules regarding beneficiaries. The board can set system-wide standards regarding how all participating subdivisions recognize service. CSHB 1587 stipulates that the board can define the terms and standards to be applied by the medical board. The board can define the calculation of prior service compensation for purposes of granting prior service credit.

### ***Prior Service Process***

This bill clarifies that prior service monetary credit that is forfeited by a member's election to withdraw funds cannot be reestablished. Months of service can be reestablished but not the forfeited monetary credit. CSHB 1587 allows a person who returns to work to receive prior service credit if returning within two years of that subdivision beginning TCDRS participation and then remaining an employee for six months after reemployment (Prior rules allowed persons who returned to work within five years to receive prior service credit if they continued as an employee for 5 years of uninterrupted re-employment). This bill removes the details regarding the prior service months and salary calculation. This bill stipulates that the employing subdivision will certify to TCDRS the months of prior service and the average prior service compensation. The Board of Trustees by administrative rule will establish the definition of and method for calculating average prior service compensation. This bill provides clarification that the prior service monetary credit is calculated at retirement.

### ***Disability Retirement Changes***

CSHB 1587 provides clarification that the disability retirement annuity calculation is identical to the service retirement annuity calculation. This bill makes it mandatory that if a member applies for disability retirement and is eligible for service retirement that the retirement will be processed as a service retirement and that the disability retirement application will be considered an application for service retirement. This bill permits the board to establish procedures for the director to approve or disapprove some disability retirement applications without a medical board review. This would be allowed if the member has had the disabled status certified by the social security administration, or other similar organization; there is clear and irrefutable evidence of the disability; or if the issues to be ruled upon involve only the finding of facts or interpretation of governing law. The director may not make a determination under the summary procedure that the applicant is not permanently incapacitated. This bill modifies the disability retirement review process. TCDRS will no longer request or review earnings in disability reviews. The Medical Board can request an exam to review the health and recovery status but earnings will no longer be reviewed. Reviews occur when there are credible allegations of retiree misconduct or if the medical review approved a disability retirement with the contingency of a future review of their disability. The director will require disability retirement reviews in either instance, when such a review is requested by the medical board and in cases of retiree misconduct. This bill stipulates that disability retirements are discontinued on the first day of the month in which the retiree begins depositing with another TCDRS subdivision or on the first day of the month in which recovery or fraud are officially established.

### ***Investment of Assets***

This bill modifies provides language that gives TCDRS the ability to invest in futures. CSHB 1587 redefines board investment discussions to be briefing sessions and therefore not open to public disclosure.

### ***Administration of the System***

This bill consolidates the sections of the Act which refer to retirement options. Currently, retirement options are listed in both the service and disability retirement section. This duplication was removed and a single section was created for retirement options. Listed in the Act are the Life Only joint and 100% to Beneficiary and 15-year guaranteed term annuities. All other options will be listed in the administrative rules and gives the board the right to create new options as they become necessary and delete obsolete options. This bill consolidates the sections

of the Act which refer to retirement eligibility removing language that is no longer applicable or that was duplicated. This bill redefines current service credit, multiple matching credit and prior service credit. These credits are now defined as monetary credits to be calculated and awarded at retirement. This bill adds an indemnification clause to the correction of error section which limits the time a participant can make a fraud claim if payment was made as requested on an application and in good faith. CSHB 1587 modifies the interest credits related to retirement section to provide partial year interest to member accounts only. This bill removes the limitation that the board appointed legal adviser must be used in all litigation circumstances. CSHB 1587 allows the system to require payment by method other than check should that payment method become impractical or costly and allows for the acceptance and use of electronic signatures. This bill clarifies that multiple trusts can be named as a beneficiary. CSHB 1587 modifies the confidentiality of information section to reflect that TCDRS cannot be compelled to compile certain lists of participant's names, addresses and social security numbers and that TCDRS does not need to seek an opinion from the Attorney General when information about a participant is sought because this information is made confidential by statute. Language is added to allow TCDRS to directly pay various agencies that are providing services to the aged; other than just nursing homes. This bill gives TCDRS the ability to stop making payments to attorney's- in-fact and other designated agents if there has been a breach of fiduciary duty.

### ***Codification***

CSHB 1587 deletes the Cash on Hand section of the Act which is obsolete. This bill simplifies the interest rate section of the Act to state that the annual interest rate, unless otherwise specified for a particular purpose, is seven percent. This bill adds to the Act the current process of holding annuity payments when payments are not negotiated and the retiree fails to respond to a written request for information. This bill deletes the requirement for health certification for (OGTL) Optional Group Term Life or plans with less than ten employees because this process has been obsolete for numerous years. CSHB 1587 clarifies that payment of excess assets to successor plans can only be paid to governmental successors. This bill modifies the Multiple Retirement System Membership section of the Act because multiple retirement system membership is now permitted under Sec. 810.001(j) of the Government Code. This bill rewords the effective retirement date and retirement date sections for clarity. The bill also clarifies that the burden of proof is on the claimant when a person is seeking an appeal of administrative decision involving TCDRS. CSHB 1587 clarifies that military, legislative and service with the predecessor entity of a new subdivision are the only forms of optional credited service and that optional credited service is a form of service along with current service and prior service. This bill renames the system's group term life program throughout the Act from "Supplemental Death Benefit Program" to "Optional Group Term Life Program" for clarity in understanding of the benefit.

### **EFFECTIVE DATE**

January 1, 2008. Except Sections 844.609 and 845.4031, Government Code, added by this Act and Section 97 of this Act, which take effect September 1, 2007.

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

The substitute amends Section 62 by adding language that allows subdivisions, other than a county with fixed rate plans, to adopt benefit options. The remaining fixed rate plans will be able to authorize all the options currently only available to variable rate plans. The original bill did not contain this provision.