

BILL ANALYSIS

C.S.H.B. 2365
By: Truitt
Pensions & Investments
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2004, the Governmental Accounting Standards Board (GASB) issued Statement No. 45 (GASB 45), creating accounting standards for a governmental entity's "other post employment benefits" (OPEB). GASB 45, which began to go into effect in December 2006, requires governments that had not contracted for or obligated future tax dollars for these benefits to report future benefit costs as if they were obligated. Moreover, GASB 45 requires any funding reserved to address recognized OPEB liabilities be put in an irrevocable trust that could not be redistributed to other governmental needs if the original OPEB estimates turn out to be too large. GASB 45 is an accounting rule requiring governments to report and pre-fund an OPEB liability, even when there is no legal basis for doing so. Additionally, the liability measurement required under this standard does not provide a reasonably accurate measurement, creating a potential for false or misleading financial statements.

Texas law prescribes how Texas governments create and fund debt. If governmental entities in Texas choose to comply with Texas law and not follow GASB 45, other accounting standards need to be established to ensure compliance with the remainder of the generally accepted accounting principles. CSHB 2365 establishes an alternative, statutorily-based, and comprehensive basis of accounting for Texas governments, since GASB 45 could lead to inaccurate and inappropriate reporting of OPEB obligations in Texas.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Comptroller of Public Accounts in SECTION 2 of this bill.

ANALYSIS

The Act states the findings of the legislature regarding accounting practices, recognizing the unique financial structure of government and its commitment to providing accurate accounting and reporting of its financial activities, as well as the statutory, constitutional, and legal limits on the duration for which benefits are legally obligated and the need for discussing these limits with persons who receive or may receive post-employment benefits from state or local governments.

The Act provides for a system of accounting for and reporting the financial activities of the state and its political subdivisions. This statutory accounting standard must meet specified requirements provided by the Act. The statutory accounting standard is applicable to the state and each political subdivision of the state. To the extent that an entity is reported on the financial statement of the state or a political subdivision as a component unit, the statutory accounting standard applies to that entity. The Act authorizes the state and its political subdivisions to account for and report certain types of financial activities on a statutory modified accrual basis for government-wide and fund-level internal and external financial statement reporting. In this state, a statutory modified accrual basis qualifies as another comprehensive basis of accounting that recognizes revenue when it is measurable and available to finance current expenditures and recognizes expenditures when they are normally expected to be liquidated with current financial resources regardless of when they mature. Compliance with the statutory accounting principles set forth by this Act by the state or a political subdivision satisfies any other law that requires accounting and reporting according to generally accepted accounting principles, including Section 403.013, Government Code, or Section 2102.012, Government Code.

The Act defines the terms "other postemployment benefits," "pay-as-you-go," "state system," and "substantive plan".

The Act stipulates that to the extent that generally accepted accounting principles require accounting or reporting of employee benefit programs other than pension benefit programs that extend to retired employees at the government-wide or fund level on any basis other than pay-as-you-go, as defined by the Act, this state and its political subdivisions are authorized to account for or report those benefits in accordance with the statutory accounting principles provided for by the Act.

The Act requires that certain state systems fully disclose to their members that the system is not obligated to provide benefits beyond existing statutory, constitutional, or other legal requirements, and ensure that their members understand the true nature of the system's commitments regarding other postemployment benefits, as defined by the Act. This disclosure must also include a posting of the required information on the system's website. Other governmental entities of this state, or its political subdivisions, not specified by the act are authorized to comply with these disclosure requirements.

The Act requires the state or a political subdivision of the state to disclose specified information in its notes to its financial statement. Specified other information must also be disclosed if the state or a political subdivision of the state has advance-funded on an actuarially determined basis other postemployment benefits.

The Act requires the state, if it does not intend for other postemployment benefits to be guaranteed benefits in future years, to present the financial statements and schedules in a manner consistent with Subchapter C, Chapter 2264, Government Code. The Act specifies certain actions that the state must take if it intends that other postemployment benefits be a potential benefit in future years as funding is made available by the state in accordance with state constitutional and statutory provisions. The act requires that the schedules required under Subsection 2264.105(b)(3) disclose, for informational purposes only, the expense and liability that would exist if other postemployment benefits had been guaranteed and earned by employees.

The Act authorizes a political subdivision of the state to disclose, for informational and planning purposes only, the expense and liability that would exist if other postemployment benefits had been guaranteed to members. The Act provides for the form that this disclosure is authorized to take.

The Act requires that the comptroller maintain a website to provide guidance to the state and its political subdivisions in implementing the requirements and goals of this Act. The site is required to include information that makes the site a resource tool for the state and its political subdivisions to consistently manage other postemployment benefits to conform to statutory, constitutional, and other legal requirements.

The Act requires the comptroller to issue reporting requirements for state retirement systems, including certain specific state systems, to provide guidance on how to comply with accounting principles in a manner consistent with Subchapter C, Chapter 2264, Government Code. The comptroller is also required to provide advice to a political subdivision of this state that requests advice on how to apply accounting principles in a manner consistent with Subchapter C, Chapter 2264, Government Code.

The Act authorizes the comptroller to establish and administer an other postemployment benefits trust fund for state systems to aggregate other postemployment benefits as considered appropriate by the comptroller and the governing bodies of the contributing state systems. The comptroller is authorized to, subject to the consent of the governing body of the appropriate state system, transfer money to and from a fund of that state system into and out of the trust fund. Funds held in trust by a state system and transferred to the other postemployment benefits trust fund under this section continue to be held in trust for the same persons and purposes. The comptroller is required to account separately for each state system's contributions, including investment income for the contributions. The comptroller is authorized to adopt rules to implement Section 2264.109, Government Code. To the extent of a conflict between Section 2264.109 and another law, Section 2264.109 controls.

The Act authorizes the county auditor of certain counties to prescribe a system of accounting for the county that is inconsistent with generally accepted accounting principles if the system of accounting principles is consistent with the Act. The Act further removes language stipulating that general accounting principles for certain counties be established by the Government Accounting Standards Board.

The changes in law made by this Act apply to financial accounting and reporting by a governmental entity subject to Chapter 2264, Government Code, as added by this Act, beginning with fiscal year 2007, except that not later than December 1, 2007, each state system to which Section 2264.103, Government Code, as added by this Act, applies shall comply with that section.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect August 27, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The language housed in SECTION 1 of the bill as filed is housed in Subsection (a) of SECTION 1 in the substitute. The substitute also adds Subsection (b) to SECTION 1 which houses additional findings of the legislature.

In Section 2264.051, the substitute changes the word "must" in Subsection (3) to "may", making the Subsection permissive.

The substitute rewords Subsection 2264.052(a), to specify that a statutory modified accrual basis of accounting qualifies as another comprehensive basis of accounting in this state.

The substitute rewords Section 2264.053, to say that the statutory accounting principles of Chapter 2264 satisfy any other law that requires accounting and reporting according to generally accepted accounting principles including specific statutes cited by the substitute.

The substitute reserves Sections 2264.054-2264.100 for expansion and creates Subchapter C in Chapter 2264, Government Code.

The definition of "other postemployment benefits" found in Subsection 2264.054(a)(1), Government Code, as added by the bill as filed, is found in Subsection 2264.101(1), as added by the substitute. The definition of "pay-as-you-go" found in Subsection 2264.054(a)(2), Government Code, as added by the bill as filed, is found in Subsection 2264.101(2), as added by the substitute. The substitute also defines the terms "state system" and "substantive plan."

Subsection 2264.054(b), Government Code, as added by the bill as filed, corresponds to Section 2264.102, as added by the substitute. The substitute rewords the language to specify that, to the extent that generally accepted accounting principles require accounting or reporting of other post employment benefits on any basis other than pay-as-you-go, the state and its political subdivisions may account for or report those other postemployment benefits in accordance with the statutory accounting principles in Chapter 2264, as added by this Act.

The substitute adds: Section 2264.103, Government Code, relating to the communication of a state system's obligations to provide other postemployment benefits; Section 2264.104, Government Code, relating to the disclosure of information on financial statements; Section 2264.105, Government Code, relating to additional financial disclosure requirements for the state; Section 2264.106, Government Code, relating to additional optional financial disclosure for political subdivisions; Section 2264.107, relating to the comptroller website; Section 2264.108, Government Code, related to comptroller advice and reporting requirements; and Section 2264.109, Government Code, relating to an other postemployment benefits trust fund.

The substitute stipulates that the changes in law made by the Act apply to financial accounting and reporting by a governmental entity subject to the Act beginning with fiscal year 2007, rather

than first fiscal year that begins on or after the effective date of the Act, as provided by the bill as filed. The substitute also states that not later than December 1, 2007, each state system to which Section 2264.103, Government Code, as added by the substitute, applies is required to comply with that Section.

The substitute states that, if the Act does not receive the vote necessary to take immediate effect, the Act takes effect on August 27, 2007, rather than September 1, 2007.