

BILL ANALYSIS

C.S.H.B. 2400
By: Keffer, Jim
Pensions & Investments
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Emergency Services Retirement System is a voluntary, statewide retirement system that administers, through the Office of the Fire Fighters' Pension Commissioner, service retirement, disability retirement, and death benefits for volunteers and auxiliary personnel of emergency services departments, including volunteer fire departments and emergency medical services personnel. Currently, there are 181 departments that have chosen to participate in the system, serving more than 7,000 members, retirees, and their beneficiaries. The law governing the system was modernized and codified as Subtitle H of Title 8 of the Government Code by SB 522 of the 79th Legislature, Regular Session, 2005. That revision gave the state board of trustees of the system considerable flexibility in changing the plan design to improve years of past under funding by the state and the effects of a previous down-turn in the stock market

This bill would continue the process, begun by the legislature last session and continued during the interim by the state board of trustees, of modernizing and improving the operations of the system and the state and local boards of trustees for the purpose of making clear and uniform the procedures for the delivery of the benefits promised by the system.

RULEMAKING AUTHORITY

Rulemaking authority is delegated to the Texas Emergency Services Retirement System state board in amended Section 864.008, Government Code (in SECTION 6 of the bill) and in added Section 864.0135, Government Code (in SECTION 7 of the bill). In addition, the scope of the rulemaking authority previously delegated to the state board by Section 864.007, Government Code (in SECTION 6 of the bill) is enlarged.

ANALYSIS

C.S.H.B. 2400 adds Section 861.008 to the Government Code to provide immunity from liability for good-faith acts or omissions made or suffered by the state board, the commissioner, and employees of the system in performing a duty or prerogative in administering the system. Also adds Section 861.009 to the Government Code to provide that venue of an action in state court brought by or against the system is in Travis County.

C.S.H.B. 2400 amends Section 862.002(a), Government Code, to refer to the change made in Section 862.0021, Government Code.

C.S.H.B. 2400 adds Section 862.0021 to the Government Code to allow a participating department to impose a probationary period not to exceed six months for new volunteers or auxiliary employees. During the period, a department is not required to make contributions to the system for those persons, and individual membership does not begin until the contributions begin.

C.S.H.B. 2400 amends Sections 864.004 and 864.005, Government Code, to provide that temporary disability benefits are payable only if a local board of trustees determines that the disability is duty-related and makes the member unable to work at the member's regular occupation or return to school, if the member is a student; require that continuation of disability benefits is contingent on certification of the person as permanently disabled for the performance of the duties of the person's regular occupation by the medical board appointed by the state

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board of trustees before the first anniversary of the date of the initial disability determination by a local board; authorize a local board to terminate temporary disability benefits after a hearing if the local board determines a significant improvement in condition; provide for termination of temporary or continuing disability benefits if the recipient returns to work at the person's regular occupation or performs emergency service duties; provide for termination of continuing disability benefits for a person who is not recertified by the medical board, before the fifth anniversary of the date the continuing benefits begin, as being permanently disabled for the performance of the duties of any occupation for which the person is reasonably suited by education, training, and experience and that could reasonably be expected to provide the person with at least 75 percent of the salary the person was earning at the time the disability occurred; and provide that failure to provide in a timely manner financial information required by the state board or a local board is a ground for terminating disability benefits.

C.S.H.B. 2400 amends Section 864.006(a), Government Code, to provide that the surviving spouse and dependents of a person who dies while performing emergency service duties are entitled in equal shares to the service retirement annuity to which the decedent would have been entitled if the decedent had retired, vested at 100 percent, on the date of death.

C.S.H.B. 2400 amends Sections 864.007 and 864.008, Government Code, to authorize the state board by rule to provide a lump-sum benefit or an annuity for the beneficiary of a deceased member whose death did not result from the performance of emergency service duties; provide to a surviving spouse a portion of the annuity to which a deceased member would have been entitled who dies as an active member of a participating department after meeting age and service requirements for service retirement; and provide to a surviving spouse a portion of the annuity to which a deceased member who dies before age 55 after meeting service requirements for service retirement and terminating service with all participating departments would have been entitled, payable beginning on the later of the date the decedent would have reached age 55 or the date of application for the annuity.

The section also amends Section 864.011, Government Code, to provide that the electronic transfer to a financial institution of the first payment of an annuity is considered acceptance of the amount of the annuity and the amount of service on which the annuity is based.

C.S.H.B. 2400 adds Section 864.0135 to the Government Code to authorize the state board by rule to allow participating departments to make additional contributions to pay lump-sum benefits, such as a 13th check, or increase annuity amounts for retirees and other beneficiaries of the departments.

C.S.H.B. 2400 amends Sections 864.016(a), (c), and (d), Government Code, to provide for the filing and determination of claims for benefits with a local board and the fire fighters' pension commissioner and to provide for the filing and determination of appeals from local board decisions.

C.S.H.B. 2400 amends Section 865.010(c), Government Code, to authorize the Fire Fighters' Pension Commissioner to request and administer appropriations in addition to those required by Subtitle H of Title 8 of the Government Code.

C.S.H.B. 2400 repeals Section 864.015, Government Code, which authorized the state board to maintain the benefit structure in effect on August 31, 2005, regardless of whether the system was actuarially sound.

C.S.H.B. 2400 provides that the changes in disability benefits made by the Act do not apply to persons receiving permanent disability benefits on the effective date of the Act and provides that persons receiving temporary disability benefits on the effective date of the Act have one year to be certified by the medical board as permanently disabled and are subject to recertification after five years.

EFFECTIVE DATE

September 1, 2007.

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COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2400 removes "providing a penalty" from the caption and changes the reference in amended Sec. 864.005(b) from (a) to (d).