

BILL ANALYSIS

C.S.S.B. 1664
By: Duncan
Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that current law relating to the Employees Retirement System of Texas (ERS) is need of certain technical and clarifying changes to enhance the efficient delivery of high-quality benefits at the lowest practical cost for active and retired state employees, state judges, elected state officials, and law enforcement officers. Among other provisions, C.S.S.B. 1664 seeks to make those changes as they relate to the powers and duties of and contributions to and benefits from the systems and programs administered by ERS.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the board of trustees of the Employees Retirement System of Texas in SECTIONS 9, 17, and 24 of this bill.

ANALYSIS

C.S.S.B. 1664 amends the Government Code to prohibit any benefits, funds, or account balances payable on the death of a public employee or officer participating in a deferred compensation plan from being paid to a person convicted of or adjudicated as having caused that death and to instead make such benefits, funds, or account balances payable as if the convicted person had predeceased the decedent. The bill exempts the deferred compensation plan from being required to change the recipient of the benefits, funds, or account balances under the bill's provisions unless it receives actual notice of the conviction or adjudication of a beneficiary but authorizes the plan to delay payment of any benefits, funds, or account balances payable on the death of a participating employee pending the results of a criminal investigation or civil proceeding and other legal proceedings relating to the cause of death. The bill establishes that, for purposes of these provisions, a person has been convicted of or adjudicated as having caused the death of a participating employee if the person pleads guilty or nolo contendere to, or is found guilty by a court or jury in a criminal proceeding of, causing the death of the participating employee, regardless of whether sentence is imposed or probated, and no appeal of the conviction is pending and the time provided for appeal has expired or the person is found liable by a court or jury in a civil proceeding for causing the death of the participating employee and no appeal of the judgment is pending and the time provided for appeal has expired.

C.S.S.B. 1664 requires the state employee charitable campaign policy committee to be composed of employees and retired state employees receiving benefits from the Employees Retirement System of Texas (ERS), rather than requiring each member of the committee to be a state employee. The bill authorizes one or more members of a local state employee charitable campaign committee to be retired state employees receiving retirement benefits from ERS.

C.S.S.B. 1664 redesignates Section 811.010, Government Code, as added by Chapter 232 (S.B. 1589), Acts of the 81st Legislature, Regular Session, 2009, as Section 811.012, Government Code, and amends the section to change the time frame in which ERS is required to provide to the comptroller of public accounts, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, certain

identification information of each member, retiree, and beneficiary from ERS records from not later than June 1 of each year to not later than June 1, 2016, and once every five years after that date.

C.S.S.B. 1664 changes the required contribution amount for a member of ERS claiming credit in the elected class, for each month of membership, military, or equivalent membership service not previously credited in ERS, from six percent of the monthly state salary paid to a person who holds, at the time the credit is established, the office for which credit is sought to the appropriate member contribution provided by provisions of law relating to the collection of ERS member contributions, if the amount is greater than eight percent of the monthly salary paid to the members of the legislature at the time the credit is established.

C.S.S.B. 1664 changes the required contribution amount for a member of ERS claiming credit in the employee class for membership service not previously established, for each month of the service, from six percent of the member's monthly state compensation for the service during the time for which credit is sought to the appropriate member contribution provided by provisions of law relating to the collection of ERS member contributions, if the amount is greater than \$18.

C.S.S.B. 1664, in a provision prohibiting a benefit payable on the death of an ERS member or annuitant from being paid to a person convicted of causing that death, includes any funds or account balances so payable in the prohibition and specifies that such amounts may not be paid to a person adjudicated as having caused the death of the member or annuitant, rather than causing it. The bill makes related conforming changes and includes the results of a civil proceeding and other legal proceedings relating to the cause of death of an ERS member or annuitant as a reason for which ERS is authorized to delay payment of any benefits, funds, or account balances payable on the member's or annuitant's death. The bill adds as a condition for which a person is considered to have been convicted of or adjudicated as having caused the death of a member or annuitant being found liable by a court or jury in a civil proceeding for causing the death of the member or annuitant and no appeal of the judgment is pending the time provided for appeal has expired. The bill revises an existing condition to include being found guilty by a jury in a criminal proceeding of causing the death of the member or annuitant.

C.S.S.B. 1664 authorizes a person who receives an annuity from ERS to, on a printed or electronic form filed with ERS, authorize ERS to deduct from the person's monthly annuity payment the amount of a contribution to the state employee charitable campaign in the manner and for the same purposes for which a state employee may authorize deductions to that campaign under provisions of law relating to charitable contributions from state officers and employees. The bill requires such an authorization to direct the board of trustees of ERS to deposit the deducted funds with the comptroller for distribution in the same manner in which a state employee's deduction is distributed and establishes that the authorization remains in effect for a maximum of one campaign year unless the person revokes the authorization by giving notice to the board of trustees. The bill authorizes the board of trustees to adopt rules to administer the authorization and requires any rules so adopted to be consistent with the comptroller's rules related to the state employee charitable campaign.

C.S.S.B. 1664 requires the board of trustees and the state employee charitable campaign policy committee to coordinate responsibility for the administration of charitable deductions from annuity payments to the state employee charitable campaign and authorizes the committee to approve a budget that includes funding for as many of the expenses incurred by ERS associated with the implementation and administration of annuitants' participation in the state employee charitable campaign as is practicable, including notification of annuitants.

C.S.S.B. 1664 requires the board of trustees to charge an administrative fee to cover any costs not paid under the committee's approved budget to the charitable organizations participating in the state employee charitable campaign in the same proportion that the contributions to that charitable organization bear to the total of contributions in that campaign. The bill requires the

board of trustees to determine the most efficient and effective method of collecting the administrative fee and to adopt rules for the implementation of the fee. The bill authorizes the board of trustees and the committee, if necessary, to make the annuity deduction authorization available in stages to subgroups of ERS's annuity recipients as money becomes available to cover the related expenses.

C.S.S.B. 1664 changes a condition under which an ERS member who was not a member on the date hired, who was hired on or after September 1, 2009, and who has ERS service credit is eligible to retire and receive a service retirement annuity by increasing from a minimum of 5 years to a minimum of 10 years the member's required service credit in the employee class, provided the sum of the member's age and amount of service credit equals or exceeds the number 80.

C.S.S.B. 1664 establishes that an actuarial reduction for certain peace officers in ERS is in addition to any other actuarial reduction required by law. The bill includes policies adopted by the ERS board of trustees as authority under which certain entities serving as custodian or custodians of ERS securities, as selected by ERS, lend the securities. The bill, in a provision setting out eligibility requirements for a bank or brokerage firm to lend such securities, requires a bank or brokerage firm to require any securities broker or dealer to whom it lends ERS securities to deliver to and maintain with the securities lending agent, as alternative to the custodian, certain collateral in a certain amount. The bill specifies that collateral in the form of United States government securities are securities that are obligations of the United States or agencies or instrumentalities of the United States and changes the collateral amount from an amount equal to not less than 100 percent of the market value, from time to time, of the loaned securities to an amount equal to but not less than 100 percent of the market value, from time to time, as determined by ERS, of the loaned securities.

C.S.S.B. 1664 adds temporary provisions, set to expire September 1, 2012, to exempt an applicable member's contribution to ERS, if the state contribution to ERS or the law enforcement and custodial officer supplemental retirement fund is computed using a percentage less than 6.5 percent or 0.5 percent, respectively, for the state fiscal year beginning September 1, 2011, from being required to be computed using a percentage equal to the percentage used to compute the state contribution for that biennium.

C.S.S.B. 1664 prohibits any benefits, funds, or account balances payable on the death of a member or annuitant of the Judicial Retirement System of Texas Plans One or Two from being paid to a person convicted of or adjudicated as having caused that death and instead makes such benefits, funds, or account balances payable as if the convicted person had predeceased the decedent. The bill authorizes a person who becomes eligible to select death or survivor benefits to select benefits as if the person were the designated beneficiary and requires the retirement system to reduce any annuity computed in part on the age of the convicted or adjudicated person to a lump sum equal to the present value of the remainder of the annuity. The bill makes the reduced amount payable to a person entitled to receive the benefit.

C.S.S.B. 1664 exempts such retirement system from being required to change the recipient of any such benefits, funds, or account balances unless it receives actual notice of the conviction or adjudication of a beneficiary but authorizes the retirement system to delay payment of any benefits, funds, or account balances payable on the death of a member or annuitant pending the results of a criminal investigation or civil proceeding and other legal proceedings relating to the cause of death. The bill establishes that, for purposes of these provisions, a person has been convicted of or adjudicated as having caused the death of a member or annuitant if the person pleads guilty or nolo contendere to, or is found guilty by a court or jury in a criminal proceeding of, causing the death of the member or annuitant, regardless of whether sentence is imposed or probated, and no appeal of the conviction is pending and the time provided for appeal has expired or the person is found liable by a court or jury in a civil proceeding for causing the death of the member or annuitant and no appeal of the judgment is pending and the time provided for

appeal has expired.

C.S.S.B. 1664 amends the Insurance Code to redefine "dependent" with respect to an individual eligible to participate in the state employees group benefits program by increasing from 25 years of age to 26 years of age the maximum age of the individual's unmarried child; by limiting the age of the individual's ward to 26 years of age or younger; by requiring the individual's child of any age who the ERS board of trustees determines lives with or has the child's care provided by the individual on a regular basis to be mentally incapacitated, rather than mentally retarded, to the extent that the child is dependent on the individual for care or support, as determined by the board of trustees; and by increasing the minimum age of such a child from 25 years of age to 26 years of age, provided the child was enrolled as a participant in the health benefits coverage under the group benefits program on the date of the child attaining that minimum age.

C.S.S.B. 1664 establishes that it is intended that the provisions of the Texas Employees Group Benefits Act be construed and administered in a manner that coverages under the group benefits program will be considered in compliance with applicable federal law. The bill authorizes the ERS board of trustees to adopt rules that modify the coverage provided under the program by adding, deleting, or changing a provision of the program, including rules that modify eligibility and enrollment requirements and the benefits available under the program.

C.S.S.B. 1664 applies similar changes made by the bill with regard to a beneficiary of an ERS member or annuitant causing the death of that member or annuitant to Insurance Code provisions relating to a beneficiary of a participant or another beneficiary of a participant in the state employees group benefits program causing the death of that participant or beneficiary.

C.S.S.B. 1664 requires the ERS board of trustees to develop a plan for providing under any health benefit plan provided under the group benefits program tobacco cessation coverage for participants, including coverage for prescription drugs that aid participants in ceasing the use of tobacco products. The bill requires the board of trustees to assess each participant in a health benefit plan provided under the group benefits program who uses one or more tobacco products a tobacco user premium differential, to be paid in monthly installments, and requires the board of trustees to determine the amount of the monthly installments. The bill requires the board of trustees, if the General Appropriations Act for a state fiscal biennium sets the amount of the monthly installments for that biennium, to assess the premium differential during that biennium in the amount prescribed by the General Appropriations Act.

C.S.S.B. 1664 requires the board of trustees to assess each employer whose employees participate in the group benefits program an employer enrollment fee in an amount not to exceed a percentage of the employer's total payroll, as determined by the General Appropriations Act, and requires the board of trustees to deposit the enrollment fees to the credit of the employees life, accident, and health insurance and benefits fund to be used for the purposes specified by provisions of law relating to the fund.

C.S.S.B. 1664 prohibits a state contribution from being made for or used to pay a tobacco user premium differential or from being made for coverages under the Texas Employees Group Benefits Act selected by an individual who receives a state contribution for coverages under a group benefits program provided by another state health plan, in addition to a program provided by an institution of higher education.

C.S.S.B. 1664 authorizes the board of trustees, in cooperation with the comptroller of public accounts and the state employee charitable campaign policy committee, to adopt rules to implement the bill's provisions relating to charitable deductions from an ERS annuity and coordination of such deductions with the committee. The bill requires the board of trustees by rule to designate the start date on which such annuity deductions begin.

C.S.S.B. 1664 requires the board of trustees to develop and fully implement the plan for

providing tobacco cessation coverage and to implement the tobacco user premium differential not later than January 1, 2012. The bill establishes that, to the extent of any conflict, its provisions prevail over another act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 1664 contains a provision not included in the original changing the time frame in which the Employees Retirement System of Texas (ERS) is required to provide to the comptroller of public accounts, for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, certain identification information of each member, retiree, and beneficiary from ERS records.

C.S.S.B. 1664 contains a provision not included in the original establishing that, to the extent of any conflict, the bill's provisions prevail over another act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.