BILL ANALYSIS

C.S.H.B. 3356
By: Callegari
Pensions
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that public retirement systems throughout Texas are supported in part by public funds and must be accountable to taxpayers. The parties further contend that it is in the public's best interest to ensure that these systems are adequately funded to ensure their viability. C.S.H.B. 3356 seeks to make public retirement systems transparent and actuarially sound by enacting additional provisions applicable to certain actuarially funded systems.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the State Pension Review Board in SECTION 3 and the governing body of a specified public retirement system in SECTION 4 of this bill.

ANALYSIS

C.S.H.B. 3356 amends the Government Code to require the governing body of certain public retirement systems to adopt a funding policy designed to achieve and maintain a minimum funded ratio of 100 percent. The bill requires such policy to follow guidelines for actuarial soundness adopted by the board and, at a minimum, to provide for contributions that are sufficient to pay normal cost and to amortize any unfunded actuarial accrued liabilities that exist over a period not to exceed 25 years or, if the system has no unfunded actuarial accrued liabilities, sufficient to pay the full normal cost.

C.S.H.B. 3356 requires the governing body of a public retirement system, if the governing body receives an actuarial valuation indicating that system funding is insufficient to meet the requirements of the funding policy, to notify the State Pension Review Board and the governing body of the plan sponsor of the determination in writing not later than the 30th day after the date the valuation is received. The bill grants the system, following notice to the board and the plan sponsor, a period of six fiscal years to regain compliance with the policy's minimum funding requirements without further reporting requirements. The bill requires the governing body of a public retirement system that has not received a valuation indicating that the system is compliant with the requirements of the funding policy by the end of the sixth fiscal year to prepare a written corrective action plan detailing actions to be taken by the system and plan sponsor to ensure that the system's amortization period does not exceed 25 years.

C.S.H.B. 3356 requires the plan to be signed by the system's governing body and the governing body of the plan sponsor, to be submitted to the State Pension Review Board not later than the 180th day after the end of the system's six fiscal year period, and to be updated and resubmitted to the board every three years until the system receives an actuarial valuation indicating that the system funding meets the funding policy requirements. The bill requires the board to post on its Internet website a copy of each corrective action plan received and authorizes the board to adopt rules to implement the requirements of the bill's provisions relating to the funding policy.

C.S.H.B. 3356 prohibits a new monetary benefit payable by a retirement system from being established and the determination of the amount of a monetary benefit from the system from being increased if, as a result of the action, the time required to amortize the system's unfunded actuarial liabilities would be increased to a period that exceeds 25 years by one or more years, as determined by an actuarial valuation. The bill establishes that the plan sponsoring entity contributions and employee contributions to a public retirement system, as applicable, should be made at regular intervals and should be sufficient to comply with the funding policy. The bill requires the allocation of the normal cost portion of contributions to be level or declining as a percentage of payroll over all generations of employees of the sponsoring entity, calculated according to applicable actuarial standards.

C.S.H.B. 3356 requires the governing body of a public retirement system with total assets the book value of which, as of the last day of the preceding fiscal year, is greater than or equal to $100 million to conduct or arrange to have conducted at reasonable intervals an actuarial experience study in which actuarial assumptions are reviewed in light of relevant experience factors, important trends, and economic projections with the purpose of determining whether actuarial assumptions require adjustment and a study of the system's assets and liabilities for use in reviewing asset allocations.

C.S.H.B. 3356 requires the governing body of a public retirement system to adopt ethical standards and conflict-of-interest policies and requires the policies to include a provision requiring trustees to report any potential conflicts of interest and to be consistent with and not less restrictive than statutory provisions relating to a public retirement system's fiduciary responsibility. The bill requires the governing body of a public retirement system to which these additional provisions relating to system funding policies, prohibitions against actions increasing an amortization period, contributions requirements, other study and report requirements, and ethical standards and conflict of interest policies apply to adopt rules or procedures necessary to implement those provisions as soon as practicable after the bill's effective date, but not later than January 1, 2014.

C.S.H.B. 3356 exempts a defined contribution plan, as defined by the bill, a retirement system that is organized under the Texas Local Fire Fighters Retirement Act for a fire department consisting exclusively of volunteers, as defined by that act, the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas County and District Retirement System, the Texas Municipal Retirement System, and the Judicial Retirement System of Texas Plan Two from the bill's additional provisions relating to system funding policies, prohibitions against actions increasing an amortization period, contributions requirements, other study and report requirements, and ethical standards and conflict of interest provisions.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3356 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 802.001, Government Code, is amended by adding Subdivision (1-a) to read as follows: <u>(1-a) "Defined contribution plan" means a plan provided by the governing body of a</u>	SECTION 1. Section 802.001, Government Code, is amended by adding Subdivision (1-a) to read as follows: <u>(1-a) "Defined contribution plan" means a plan provided by the governing body of a</u>

public retirement system in which contributions are made to the individual account of an officer or employee during the officer's or employee's service or employment, and any benefit on death, disability, or retirement consists solely of contributions and investment income, if any, including interest, dividends, and capital gains. A defined contribution plan is not actuarially funded and does not guarantee a specific monthly benefit. The term includes a plan described by Section 401(a), 401(k), 403(b), or 457, Internal Revenue Code of 1986.	public retirement system that provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and any income, expenses, gains and losses, and forfeitures of accounts of other participants that may be allocated to the participant's account.
SECTION 2. Section 802.002, Government Code, is amended.	SECTION 2. Same as introduced version.
SECTION 3. Section 802.1012(e), Government Code, is amended to read as follows: (e) Before beginning an audit under this section, the independent actuary must meet with the manager of the pension fund for the public retirement system to discuss the appropriate assumptions to use in conducting the audit, and the governing body of the public retirement system must expressly approve, in writing, the assumptions to be considered. At a minimum, the independent actuary and the manager shall consider, and the governing body shall review, assumptions relating to long-term returns on investments, salary growth, inflation, mortality tables, age of eligibility, and any anticipated changes in the covered population of members.	No equivalent provision.
SECTION 4. Chapter 802, Government Code, is amended by adding Subchapter E to read as follows: SUBCHAPTER E. ADDITIONAL PROVISIONS APPLICABLE TO CERTAIN ACTUARIALLY FUNDED PUBLIC RETIREMENT SYSTEMS Sec. 802.401. FUNDING POLICY. (a) The public retirement system shall achieve and maintain a minimum funded ratio of 100 percent no later than the public retirement system's fiscal year beginning in 2045. Any unfunded liability generated after fiscal year 2045 must be amortized	SECTION 3. Chapter 802, Government Code, is amended by adding Subchapter E to read as follows: SUBCHAPTER E. ADDITIONAL PROVISIONS APPLICABLE TO CERTAIN ACTUARIALLY FUNDED PUBLIC RETIREMENT SYSTEMS Sec. 802.401. FUNDING POLICY. (a) The governing body of a public retirement system shall adopt a funding policy designed to achieve and maintain a minimum funded ratio of 100 percent.

over a closed period no greater than 15 years.

The policy must follow guidelines for actuarial soundness adopted by the board. At a minimum, the funding policy must provide for contributions that are sufficient to pay normal cost and to amortize any unfunded actuarial accrued liabilities that exist over a period not to exceed 25 years. If a public retirement system has no unfunded actuarial accrued liabilities, contributions must be sufficient to pay the full normal cost.

(b) A funding policy based on a total contribution amount that can be shown to meet or exceed the minimum funding requirements of Subsection (a) meets the requirements of this section.

(c) If the governing body of a public retirement system receives an actuarial valuation conducted in accordance with Section 802.101 indicating that system funding is insufficient to meet the requirements of the funding policy adopted in accordance with Subsection (a), the governing body shall notify the board and the governing body of the plan sponsor of the determination in writing not later than the 30th day after the date the valuation is received.

(d) Following notice to the board and the plan sponsor, the public retirement system is granted a period of six fiscal years to regain compliance with Subsection (a) without further reporting requirements. If by the expiration of the sixth fiscal year, the system has not received a valuation indicating that the system is compliant with the requirements of the funding policy adopted in accordance with Subsection (a), the governing body of the public retirement system shall prepare a written corrective action plan detailing actions to be taken by the public retirement system and plan sponsor to ensure that the amortization period of the public retirement system does not exceed 25 years. The corrective action plan must be signed by the governing body of the public retirement system and by the governing body of the plan sponsor and must be submitted to the board not later than the 180th day after the expiration of the retirement system's six fiscal year period to regain compliance.

(e) The corrective action plan must be

	updated and resubmitted to the board every three years until the public retirement system receives an actuarial valuation conducted in accordance with Section 802.101 indicating that the system funding meets the requirements of the funding policy adopted in accordance with Subsection (a). (f) The board shall publish on its Internet website a copy of each corrective action plan received. The board may adopt rules to implement the requirements of this section.
	Sec. 802.402. ACTION INCREASING AMORTIZATION PERIOD. A new monetary benefit payable by the retirement system may not be established, and the determination of the amount of a monetary benefit from the system may not be increased, if, as a result of the action, the time required to amortize the unfunded actuarial liabilities of the retirement system would be increased to a period that exceeds 25 years by one or more years, as determined by an actuarial valuation.
Sec. 802.402. CONTRIBUTIONS. (a) In any year or other applicable funding cycle in which contributions to a public retirement system fall below normal cost, the governing body of the public retirement system shall promptly prepare a report containing an analysis of the effect the underfunding is reasonably projected to have on the system and shall distribute the report to all plan members and beneficiaries, the plan sponsoring entity, and the board.	Sec. 802.403. CONTRIBUTIONS. (a) The plan sponsoring entity contributions and employee contributions to a public retirement system, as applicable, should be made at regular intervals and should be sufficient to comply with the funding policy established by Section 802.401.
(b) The allocation of the normal cost portion of contributions under this section must be level or declining as a percentage of payroll over all generations of employees of the sponsoring entity, calculated according to applicable actuarial standards.	(b) The allocation of the normal cost portion of contributions under this section must be level or declining as a percentage of payroll over all generations of employees of the sponsoring entity, calculated according to applicable actuarial standards.
Sec. 802.403. ADDITIONAL STUDIES AND REPORTS.(a) Except as provided by Subsection (b), this section applies only to a public retirement system with total assets the book value of which, as of the last day of the preceding fiscal year, is at least $100 million. (b) This section does not apply to the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the	Sec. 802.404. ADDITIONAL STUDIES AND REPORTS. (a) Except as otherwise provided by this chapter, this section applies only to a public retirement system with total assets the book value of which, as of the last day of the preceding fiscal year, is greater than or equal to $100 million.

Texas County and District Retirement System, the Texas Municipal Retirement System, or the Judicial Retirement System of Texas Plan Two.

(c) In addition to the requirements of Subchapter B, the governing body of a public retirement system to which this subchapter applies shall, at reasonable intervals, conduct or arrange to have conducted:

(1) an actuarial experience study in which actuarial assumptions are reviewed in light of relevant experience factors, important trends, and economic projections with the purpose of determining whether actuarial assumptions require adjustment; and

(2) a study of the public retirement system's assets and liabilities for use in reviewing asset allocations.

Sec. 802.406. ETHICAL STANDARDS. The governing body of a public retirement system shall adopt ethical standards and conflict-of-interest policies. Policies adopted under this section must be consistent with and not less restrictive than Section 802.203 or any applicable law governing the fiduciary duties of the governing body.

SECTION 5. The governing body of a public retirement system to which Subchapter E, Chapter 802, Government Code, as added by this Act, applies shall adopt rules or procedures necessary to implement that subchapter as soon as practicable after the effective date of this Act, but not later than January 1, 2014.

SECTION 6. This Act takes effect September 1, 2013.

(b) In addition to the requirements of Subchapter B, the governing body of a public retirement system to which this subchapter applies shall, at reasonable intervals, conduct or arrange to have conducted:

(1) an actuarial experience study in which actuarial assumptions are reviewed in light of relevant experience factors, important trends, and economic projections with the purpose of determining whether actuarial assumptions require adjustment; and

(2) a study of the public retirement system's assets and liabilities for use in reviewing asset allocations.

Sec. 802.406. ETHICAL STANDARDS. The governing body of a public retirement system shall adopt ethical standards and conflict-of-interest policies. Policies adopted under this section must include a provision requiring trustees to report any potential conflicts of interest and must be consistent with and not less restrictive than Section 802.203.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.