

BILL ANALYSIS

C.S.S.B. 1663
By: Huffman
Pensions
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note the important role the Teacher Retirement System of Texas (TRS) plays in delivering retirement and related benefits to TRS members and beneficiaries and contend that certain revisions to applicable state law are necessary to ensure that TRS can efficiently deliver benefits. C.S.S.B. 1663 seeks to provide for those revisions.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the board of trustees of the Teacher Retirement System of Texas in SECTION 3 and SECTION 4 of this bill.

ANALYSIS

C.S.S.B. 1663 amends the Education Code to remove the requirement that the commissioner of education certify for each year to each school district or open-enrollment charter school participating in the uniform group coverage program the amount of additional funds to which the district or school is entitled due to an increase made by H.B. No. 3343, Acts of the 77th Legislature, Regular Session, 2001, to the equalized wealth level or the guaranteed level of state and local funds per weighted student per cent of tax effort under the foundation school program. The bill instead establishes that the amount of additional funds to which the district or charter school is entitled due to increases in formula funding made by that legislation and any certain subsequent legislation is available to pay contributions under a group health coverage plan for district or school employees and revises the amount of funds a district or school may use for that purpose.

C.S.S.B. 1663 amends the Government Code to prohibit an employee of a public institution of higher education who is required to be enrolled as a student in the institution as a condition of employment from being permitted to be a member of the Teacher Retirement System of Texas (TRS) based on that student employment and to establish that compensation paid to such an employee for work performed as a student employee is not compensation subject to report and deduction for member contributions or to credit in certain benefit computations.

C.S.S.B. 1663 revises provisions relating to the transfer of a beneficial interest in a retiree's optional retirement annuity when the retiree designated a spouse as beneficiary of the annuity to either require the spouse or former spouse, as applicable, who was designated the beneficiary of the annuity to sign a notarized consent to the change or to require a court with jurisdiction over the marriage of the retiree and beneficiary to approve or order the change. The bill clarifies that the change in plan selection takes effect when TRS receives the request to change the plan,

provided that TRS subsequently receives the signed consent form or court order, as applicable. The bill grants the TRS executive director or the executive director's designee exclusive authority to determine whether the language in such a court order is sufficient to indicate that the court has approved or ordered the change in plan selection and sets out provisions relating to an appeal of such a determination.

C.S.S.B. 1663 entitles an individual designated as the beneficiary of a TRS member's optional retirement annuity after the member retires to receive, on the retiree's death, monthly payments of the survivor's portion of the retiree's optional retirement annuity for the remainder of the beneficiary's life if the retiree designated a trust as the beneficiary for the annuity at the time of retirement and the individual designated as the beneficiary after retirement is, as an alternative to being the sole beneficiary of that trust, an individual who is the sole beneficiary of that trust at the time of the retiree's death. The bill grants the TRS executive director or the executive director's designee exclusive authority to determine whether the language in a court order regarding the change of beneficiary for such an annuity after retirement when the beneficiary designated at the time of retirement is the retiree's spouse is sufficient to indicate that the court has approved or ordered the change in the designated beneficiary and sets out provisions relating to an appeal of such a determination.

C.S.S.B. 1663 requires TRS, in determining whether to reduce an optional retirement annuity amount paid to the designated beneficiary of a member who dies during a school year in which the member has performed service as if the member had retired on the last day of the month immediately preceding the month in which the member dies because of early retirement and in determining the amount of that reduction, if applicable, to make the determination as if the member had retired with an additional five years of service credit on the last day of that month preceding the month in which the member dies. The bill prohibits the additional five years of service credit used in making that determination from being used to determine the amount of the standard service benefit or whether such a benefit is authorized. These provisions apply only to benefits payable on the death of a TRS member who dies on or after the bill's effective date or before the bill's effective date if the benefits payable on the death of the member have not commenced on the bill's effective date. The bill removes language limiting the eligibility of a designated beneficiary of a retiree who dies while receiving disability retirement benefits to the beneficiary of a retiree who dies after accruing a total of at least 10 years of service credit in TRS on the date of disability retirement and receives for the duration of the disability a disability retirement annuity in an amount equal to the greater of a standard service retirement annuity or \$150 a month.

C.S.S.B. 1663 establishes that a retiree is considered to be employed by a Texas public educational institution for purposes of determining entitlement to service or disability retirement benefit payments if the retiree performs duties or provides services for or on behalf of the institution that an institution employee would otherwise perform or provide and takes one of the following actions: waives, defers, or forgoes compensation from the institution for the performance of the duties or provision of the services at any time during the 12 consecutive calendar months after the retiree's effective date of retirement; performs the duties or provides the services for or on behalf of the institution as an independent contractor at any time during the 12 consecutive calendar months after the retiree's effective date of retirement; or, as a volunteer without compensation, performs the same duties or provides the same services for an institution that the retiree performed or provided immediately before retiring and the retiree has an agreement to perform those duties or provide those services after the 12 consecutive calendar months after the retiree's effective date of retirement. These provisions apply to a TRS retiree regardless of whether the person retired from employment before, on, or after the bill's effective date.

C.S.S.B. 1663 exempts TRS from statutory provisions relating to the benefits of and restrictions on state employees working out of state to the extent the TRS board of trustees determines an exemption is necessary for the performance of fiduciary duties. In a provision effective on

passage or, if the bill does not receive the necessary vote, September 1, 2017, the bill makes all personal financial disclosures made by TRS employees relating to the TRS ethics policy confidential and excepted from state public information law.

C.S.S.B. 1663 revises a provision establishing that state open meetings law does not require the TRS board of trustees to confer with one or more employees, consultants, or legal counsel of TRS or with a third party in an open meeting if the only purpose of the conference is to receive information from or question the employees, consultants, legal counsel, or third party relating to certain investments or potential investments made by the TRS board of trustees to condition the applicability of that provision on a majority of the trustees, before conducting the closed meeting, having voted in an open meeting that deliberating or conferring in an open meeting would have a detrimental effect on the position of TRS in negotiations with third parties or put TRS at a competitive disadvantage in the market and to remove language limiting the investments or potential investments to which that provision applies to investments or potential investments in a private investment fund.

C.S.S.B. 1663 requires TRS assets to be maintained and reported in a manner that reflects the source of the assets or the purpose for which the assets are held, using appropriate ledgers and subledgers, in accordance with generally accepted accounting principles prescribed by the Governmental Accounting Standards Board or its successor and in compliance with applicable tax law and consistent with any fiduciary duty owed with respect to the trust. The bill replaces the requirement that TRS assets be credited to certain specified accounts according to the purpose for which the assets are held with an authorization that those assets be so credited in the alternative to satisfying such maintenance and reporting requirements. The bill establishes that a requirement to deposit in or transfer assets from one of the specified accounts is satisfied by maintaining and reporting the assets in accordance with those maintenance and reporting requirements.

C.S.S.B. 1663 removes the requirement that an employer pay interest to TRS on undocumented amounts when the employer fails to remit, before the seventh day after the last day of a month, all member and employer deposits and documentation of the deposits required to be remitted by the employer for the month. The bill requires an employer pay to TRS a late fee in an amount determined by TRS that is based on the size of the employer and capped at \$1,000 for each business day after the deadline that the employer fails to submit the documentation of the deposits and cumulatively caps such late fees at \$25,000 per reporting period. The bill clarifies that those late fees are creditable to the TRS interest account and authorizes TRS to establish a process for filing an appeal to reduce or waive such a late fee. The bill requires an employer who reports the employment of a retiree to TRS and fails to remit, before the 11th day after the last day of a calendar month in which a retiree is employed, the required employer deposits, required documentation of those deposits, and the certified statement of employment, to pay to TRS, in addition to the deposits, interest on the unpaid amounts at a specified annual rate compounded monthly and a late fee in an amount determined by TRS for each business day after the deadline that the employer fails to file the documentation and the certified statement. The bill requires the employer of such a retiree who performs work in the month of August to remit the deposits, documentation, and certified statement before the seventh day of September.

C.S.S.B. 1663 removes the prohibition against a TRS member who receives a refund of payments made to establish special service credit from using the installment method of payment or the payroll deduction method, as applicable, for the same service for three years after the refund date. The bill removes the prohibition against a member who requests and receives a refund of installment or payroll deduction payments from using the same method of payment for the same service for three years after the date of the refund.

C.S.S.B. 1663 authorizes TRS to provide to a member or retiree certain information that is required to be provided, distributed, or furnished to TRS members or retirees by sending the information to an email address of the member or retiree furnished to TRS by an employer

covered by TRS or by directing the member or retiree through a written notice or email to a website address to access the information. The bill authorizes TRS to provide to an active member the annual statement of the amounts of the member's accumulated contributions and total accumulated service credit on which benefits may be based by sending the information to an email address specified by the member for the purpose of receiving confidential information.

C.S.S.B. 1663 amends the Insurance Code to decrease from nine to seven the number of members composing the Retirees Advisory Committee by removing from the committee the member who is an active member of the auxiliary personnel of a school district and the member who is a retired member of such auxiliary personnel. The bill establishes that the change in committee composition does not affect the entitlement of a committee member serving immediately before the bill's effective date to continue to serve as a committee member for the remainder of the member's term.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2017.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1663 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 42.260(b) and (c), Education Code, are amended to read as follows:

(b) ~~The~~ ~~[For each year, the commissioner shall certify to each school district or participating charter school the]~~ amount of additional funds to which each school district or participating charter school ~~[the district or school]~~ is entitled due to the increases in formula funding ~~[increase]~~ made by H.B. No. 3343, Acts of the 77th Legislature, Regular Session, 2001, and any subsequent legislation amending the provisions amended by that Act that increase formula funding under Chapter 41 and this chapter to school districts and charter schools is available for purposes of Subsection (c) ~~[to:~~

~~[(1) the equalized wealth level under Section 41.002; or~~

~~[(2) the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302].~~

(c) Notwithstanding any other provision of this code, a school district or participating charter school may use the sum of the following amounts ~~[amount]~~ of funds only to pay contributions under a group health coverage plan for district or school

employees:

(1) ~~[an amount equal to 75 percent of the amount certified for the district or school under Subsection (b); or~~

~~[(2) if the following amount is less than the amount specified by Subdivision (1), the sum of:~~

~~[(A)]~~ the amount determined by multiplying the amount of \$900 or the amount specified in the General Appropriations Act for that year for purposes of the state contribution under Section 1579.251 ~~[9, Article 3.50-7]~~, Insurance Code, by the number of district or school employees who participate in a group health coverage plan provided by or through the district or school; and

~~(2) [(B)]~~ the difference between the amount necessary for the district or school to comply with Section 1581.052 ~~[3, Article 3.50-9]~~, Insurance Code, for the school year and the amount the district or school is required to use to provide health coverage under Section 1581.051, Insurance Code, ~~[2 of that article]~~ for that year.

SECTION 1. Section 822.002, Government Code, is amended.

SECTION 2. Same as engrossed version.

SECTION 2. Section 824.1012, Government Code, is amended.

SECTION 3. Same as engrossed version.

SECTION 3. Section 824.1013, Government Code, is amended.

SECTION 4. Same as engrossed version.

SECTION 4. Section 824.402, Government Code, is amended.

SECTION 5. Same as engrossed version.

SECTION 5. Section 824.503(f), Government Code, is amended.

SECTION 6. Same as engrossed version.

SECTION 6. Section 824.601, Government Code, is amended.

SECTION 7. Same as engrossed version.

SECTION 7. Section 825.208(b), Government Code, is amended.

SECTION 8. Same as engrossed version.

SECTION 8. Section 825.212, Government

SECTION 9. Same as engrossed version.

Code, is amended.

SECTION 9. Section 825.3011(b), Government Code, is amended.

SECTION 10. Same as engrossed version.

SECTION 10. Section 825.306, Government Code, is amended.

SECTION 11. Same as engrossed version.

SECTION 11. Section 825.408, Government Code, is amended.

SECTION 12. Same as engrossed version.

SECTION 12. Section 825.410(a), Government Code, is amended.

SECTION 13. Same as engrossed version.

SECTION 13. Section 825.519, Government Code, is amended.

SECTION 14. Same as engrossed version.

SECTION 14. Section 1575.402(a), Insurance Code, is amended.

SECTION 15. Same as engrossed version.

SECTION 15. Section 1575.403(b), Insurance Code, is amended.

SECTION 16. Same as engrossed version.

SECTION 16. Section 824.402, Government Code, as amended by this Act, applies only to a member of the Teacher Retirement System of Texas who dies on or after the effective date of this Act.

SECTION 17. Section 824.402, Government Code, as amended by this Act, applies only to benefits payable on the death of a member of the Teacher Retirement System of Texas who dies:

- (1) on or after the effective date of this Act; or
- (2) before the effective date of this Act if the benefits payable on the death of the member have not commenced on the effective date of this Act.

SECTION 17. Section 824.601, Government Code, as amended by this Act, applies to a retiree of the Teacher Retirement System of Texas regardless of whether the person retired from employment before, on, or after the effective date of this Act.

SECTION 18. Same as engrossed version.

SECTION 18. The changes in law made by this Act to Sections 1575.402 and 1575.403,

SECTION 19. Same as engrossed version.

Insurance Code, regarding the composition and terms of the Retirees Advisory Committee, do not affect the entitlement of a member serving on the committee immediately before the effective date of this Act to continue to serve as a member of the committee for the remainder of the member's term. As the terms of committee members expire or as vacancies occur on the committee, the Teacher Retirement System of Texas shall appoint members to the committee as necessary to comply with Sections 1575.402 and 1575.403, Insurance Code, as amended by this Act.

SECTION 19. This Act takes effect September 1, 2017, except that Section 825.212, Government Code, as amended by this Act, takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Section 825.212, Government Code, as amended by this Act, takes effect September 1, 2017.

SECTION 20. Same as engrossed version.