

BILL ANALYSIS

S.B. 1444
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Pensions, Investments & Financial Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Local leaders indicate that the City of Austin Employees' Retirement System (COAERS) amortization period of 34 years places it outside the Pension Review Board's funding guidelines. State law requires retirement systems that are outside the guidelines for three consecutive years to develop a funding soundness restoration plan with the plan sponsor. Currently, COAERS is on a trajectory to trigger the restoration plan requirements in 2024. S.B. 1444 seeks to provide a proactive and agreed-upon comprehensive framework between COAERS and its plan sponsor, the City of Austin, to ensure the long-term financial stability of the system. Among other provisions, the bill increases the member contribution rate from 8 percent to 10 percent over two years, establishes an actuarially determined employer contribution with limits on the maximum employer contributions, provides for risk-sharing valuation studies to determine the system's unfunded actuarial accrued liability, establishes a process for future cost-of-living adjustments that adheres to actuarial guidelines and receives approval by the system's board of trustees and the city, provides more balanced representation on the board, and reduces financial risk and mitigates financial losses by restructuring the conditions associated with service purchases, military service purchases, and sick leave conversions.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1444 amends Vernon's Texas Civil Statutes to revise provisions governing the retirement system for employees in a city having a population of more than 760,000 and less than 860,000. With respect to the system's retirement board of trustees, the bill does the following:

- requires the members in place three to have experience in the field of securities investment, pension administration, pension law, or governmental finance;
- replaces the active-contributory member elected to place six with the city's director of finance or the director's designee; and
- changes the terms of remaining active-contributory members elected to places seven through nine.

The bill expressly does not affect the term of a member appointed or elected under provisions as they existed before the bill's effective date and serving on the board on that date. When the terms of the members serving in place six and place seven whose terms expire in December 2023, the resulting vacancy in place six is filled by the city's director of finance of the director's

designee and the resulting vacancy in place seven is filled by election for the active-contributory members.

S.B. 1444 replaces the requirement for the retirement board's actuary to make an actuarial investigation of the mortality, service, and compensation experience of the retirement system's annuitants and make a valuation of the assets and liabilities of the system's funds from time to time on the advice of the actuary and the direction of the board with a requirement for the actuary to make such an investigation and valuation at least once every five years. The bill requires the retirement board, at least once every five years, to cause the system's actuary to conduct an experience study to review the actuarial assumptions and methods adopted by the board for the purposes of determining the system's actuarial liabilities and actuarially determined contribution rates. The bill sets out provisions that do the following with respect to such a study:

- requires the system to notify the city at the beginning of an upcoming experience study;
- authorizes the city to do the following:
 - conduct a separate experience study using an actuary chosen by the city, which must be complete not later than the 91st day after the date the system notified the city of the system's intent to conduct an experience study;
 - have the city's actuary review the experience study prepared by the system's actuary, which must be complete not later than the 31st day after the date the preliminary results of the experience study are presented to the retirement board;
 - or
 - accept the experience study prepared by the system's actuary;
- if the city chooses to have the city's own experience study performed or to have the city's actuary review the system's experience study, requires the system's actuary and the city's actuary to determine what the hypothetical employer contribution rate would be using the proposed actuarial assumptions from the experience studies and data from the most recent actuarial valuation;
- provides a process for determining assumptions based on the difference between the hypothetical employer contribution rates determined by the system's actuary and the city's actuary, including a the use of an independent third-party actuary to opine on the differences in the assumptions made and actuarial methods used by the system's and city's actuaries and procedures following the board's adoption of actuarial assumptions or methods contrary to the third-party actuary's findings; and
- requires the system and the city to follow that process for an experience study with respect to a change to actuarial assumptions or methods proposed by the board that is not in connection with an experience study.

S.B. 1444 changes the interest rate assumed to have been earned by the retirement system's trust fund for any period, for purposes of determining the amount of interest a person seeking to reinstate service after ceasing to be a member and withdrawing the person's deposits must pay to the system, from a rate equal to the interest rate credited for that period to the accumulated deposits of members, divided by 0.75, to a rate equal to the actuarial assumed rate of return in effect on the date of purchase. This provision takes effect January 1, 2024, and applies only to a person who applies to reinstate membership service on or after the bill's effective date.

S.B. 1444 requires the retirement board, subject to provisions governing the retirement system, and the board's administrative rules and regulations, to establish time frames during which a member must act to ensure that the purchase of creditable service or the conversion of sick leave to creditable service coincides with the member's retirement. The bill, effective January 1, 2024, further revises provisions regarding a member's creditable service in the following manner:

- changes when a member may purchase noncontributory creditable service from any time before the member's actual retirement date to at the time of retirement;
- with respect to an active contributory member who is eligible for retirement and applying to convert all or part of the member's sick leave to creditable service, changes who must make the equivalent amount of retirement contributions that would have been made had sick hours been exercised and used as sick leave hours from both the employer and the

member to only the member and requires the employer's cost for sick leave conversions to be funded through the contribution rates; and

- specifies that the time at which a member may purchase nonqualified permissive creditable service is at retirement.

S.B. 1444, effective January 1, 2024, revises the method for a member to establish uniformed creditable service for active federal duty service in the U.S. armed forces, other than service as a student at a service academy, as a member of the reserves, or any continuous active military service lasting less than 90 days, performed before the first day of employment of the member's most recent membership in the retirement system or its predecessor system. In doing so, the bill replaces the requirement that the member contribute a lump-sum payment equal to 25 percent of the estimated cost of the retirement benefits the member will be entitled to receive with a requirement that the member contribute at retirement a lump-sum payment equal to the full actuarial cost of the additional creditable service, as determined by the retirement board acting on the advice of the actuary.

S.B. 1444 repeals provisions relating to service retirement and withdrawal benefits with respect to a cost-of-living adjustment and lump-sum additional benefit payment that do the following:

- authorizes the retirement board once each December to authorize the adjustment and additional payment;
- requires the board to make a separate determination before December 31 of each year as to whether to authorize the payment of the adjustment or additional payment;
- requires any determination to authorize the payment of any adjustment or additional payment to be based on the ability of the fund to pay the amount and prohibits the determination from being based on the individual needs of any particular retired members or beneficiaries;
- establishes certain requirements and restrictions on the amount of the adjustment or additional payment; and
- requires the adjustment or additional payment to be in addition to the benefits to which a retired member or beneficiary is otherwise entitled.

The bill, in a provision requiring the system's actuary to certify that it is demonstrable that the fund has and likely will continue to have the ability to pay the amount of cost-of-living adjustment or additional payment after all other fund obligations have been paid before such an adjustment or additional payment may be provided, does the following:

- removes the specification that the fund have the ability to pay such an amount out of its realized income;
- removes the requirement that the actuary recommend such an adjustment or additional payment to the retirement board and instead requires the retirement board and the governing body of the city to approve the adjustment or additional payment;
- requires provisions governing the system to be amended to provide for the adjustment or additional payment; and
- specifies that such an adjustment or additional payment may be provided to retirees, beneficiaries, or other payees.

S.B. 1444 changes the contribution rate of each active-contributory member of the retirement system from a rate equal to eight percent of the member's base compensation, pay, or salary, exclusive of overtime, incentive, or terminal pay or at a higher contribution rate approved by a majority vote of regular full-time employee members to a rate equal to the following:

- beginning with the first pay period of:
 - the 2024 calendar year, nine percent of the member's base pay, exclusive of overtime, incentive, or terminal pay; and
 - the 2025 calendar year, 10 percent of the member's base pay, exclusive of overtime, incentive, or terminal pay; or
- the member contribution rate otherwise prescribed in provisions relating to member contributions.

The bill replaces the authorization for regular full-time employee members to increase by majority vote each member's contribution above eight percent or above the higher rate in effect and approved by the majority vote in whatever amount the system recommends with an authorization for the contribution rate of active-contributory members to be increased by majority vote to a rate above 10 percent or a higher rate than the rate that was in effect at the time of the election.

S.B. 1444 removes the requirement that each employer contribute amounts equal to eight percent of the compensation, pay, or salary of each active-contributory member and each inactive-contributory member employed by the employer, exclusive of overtime, incentive, or terminal pay, or a higher contribution rate agreed by the employer. The bill instead sets out the following provisions regarding employer contributions:

- beginning with the first pay period of calendar year 2024, and before the first pay period of the following calendar year, requires the employer to contribute an amount equal to the sum of the following:
 - the employer contribution rate, as determined in the initial risk sharing valuation study required by the bill as of December 31, 2022, multiplied by the pensionable payroll for the applicable pay period; and
 - 1/26 of the city's legacy contribution amount for the 2024 calendar year, as determined and adjusted in the study; and
- beginning with the first pay period of calendar year 2025, and for each subsequent calendar year, requires the employer to contribute an amount equal to the sum of the following:
 - the employer's contribution rate for the applicable calendar year, as determined in a subsequent risk sharing valuation study conducted and adjusted as required by the bill, as applicable, multiplied by the pensionable payroll for the applicable pay period; and
 - 1/26 of the city's legacy contribution amount for the applicable calendar year, as determined and adjusted in the initial risk sharing valuation study.

If the employer elects to change the employer's payroll period to a period other than a biweekly payroll period, the fractional amounts of the employer's legacy contribution must be adjusted such that the employer's calendar year contribution equals the contribution required by the bill for the applicable calendar year. The bill defines "pensionable payroll" as the aggregate basic hourly earnings of all active-contributory members for a calendar year or pay period, as applicable.

S.B. 1444 requires the retirement system's actuary to prepare an initial risk sharing valuation study as of December 31, 2022, and requires the system to cause the system's actuary to prepare a subsequent risk sharing valuation study for each calendar year beginning with January 1, 2024. The bill sets out requirements for each such study, including the following:

- with respect to the initial study, requirements relating compliance with requirements applicable to subsequent studies, actuarial assumptions, projecting the corridor midpoint, and including a schedule of city legacy contribution amounts and requirements for employer contributions beginning with calendar year 2024; and
- with respect to a subsequent study, requirements relating to the date of the study, calculating the system's unfunded actuarial liability, calculating the estimated employer contribution rate for the following calendar year, determining the employer and member contribution rates for the following calendar year, and the use of certain assumptions and methods adopted by the board and consistency with actuarial standards of practice and certain other principles.

The bill authorizes the board, by rule, to adopt actuarial principles other than those required by the bill, provided that they are consistent with actuarial standards of practice, are approved by the system's actuary, and do not operate to change the city legacy contribution amount.

S.B. 1444 authorizes the city to contribute an amount in addition to the scheduled city legacy contribution amounts to reduce the number or amount of scheduled future city legacy

contribution payments and, if the city does so, requires the system's actuary to create a new schedule of city legacy contribution amounts that reflects payment of the additional contribution. The bill authorizes the city and the retirement board to agree on a written transition plan for resetting the corridor midpoint, member contribution rates, or employer contribution rates if at any time the system's funded ratio, defined by the bill as the ratio of the actuarial value of assets divided by the actuarial accrued liability, is equal to or greater than 100 percent or for any calendar year after the payoff year of the legacy liability. The bill establishes that, if the funded ratio is equal to or greater than 100 percent, all existing liability layers, including the legacy liability, are considered fully amortized and paid and the city legacy contribution amount may no longer be included in the employer contribution.

S.B. 1444 sets out provisions providing for adjustments to the employer contribution rate based on whether the estimated contribution rate is lower than the corridor midpoint, equal to or greater than the corridor midpoint, or greater than the corridor maximum, and the bill defines "corridor midpoint" as the projected employer contribution rate specified for each calendar year for 30 years as provided by the initial study, rounded to the nearest hundredths decimal place.

S.B. 1444 makes its provisions relating to creditable service applicable to a person who retires on or after the bill's effective date.

S.B. 1444 repeals Sections 7(d), (e), (f), (g), (i), and (j), Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes).

EFFECTIVE DATE

Except as otherwise provided, September 1, 2023.