

BILL ANALYSIS

C.S.H.B. 2802

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Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The 2025 State Pension Review Board (PRB) guide submitted to the 89th Texas Legislature indicates that, as of December 2023, the Austin Firefighters Retirement Fund had an unfunded actuarial accrued liability of approximately \$210 million with an amortization period of 48.6 years. Pension funds are required by state law to be fully funded in 30 years or less. The bill author has informed the committee that the fund has been on the PRB's funding soundness watch list for two consecutive years and, in 2025, the fund is expected to trigger the PRB requirement to develop a mandatory funding restoration plan in collaboration with the City of Austin. The bill author has further informed the committee that, without changes to the benefit structure of the fund, both the fund's board of trustees and the City of Austin agree that the unfunded liability will continue to grow. C.S.H.B. 2802 seeks to restore the financial health of the fund and improve the fund's governance structure.

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

C.S.H.B. 2802 amends Chapter 183 (S.B. 598), Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes) to revise provisions governing the firefighters relief and retirement fund in a municipality with a population of more than 950,000 and less than 1,050,000. The bill authorizes the board of trustees of the firefighters relief and retirement fund to by rule adopt a name under which the fund may operate other than the name prescribed in law. The bill requires its provisions to be construed, and the fund to be administered, in a manner that maintains the qualified status of the fund under the federal Internal Revenue Code.

Administration of the Fund

C.S.H.B. 2802 revises the composition of the fund's board of trustees as follows:

- provides for the inclusion of a member of the municipality's governing body designated by the municipality's mayor as an alternative to the mayor;
- replaces the city treasurer or the person who performs the duty of city treasurer, as applicable, with the municipality's chief financial officer or a person designated by the chief financial officer;

- increases from three to four the board of trustees members to be selected by vote of the applicable firefighters and retirees; and
- includes one member of the public selected and appointed by the municipality's governing body in accordance with the bill's provisions.

The bill authorizes the board of trustees by rule to specify the number of elected members who must be firefighters or retirees.

C.S.H.B. 2802 establishes the following:

- the change in the composition of the board of trustees does not affect the term of a board member elected under provisions governing the board of trustees, as those provisions existed immediately before the bill's effective date, and serving on the board of trustees on the bill's effective date; and
- when the term of a board member elected under provisions governing the board of trustees, as those provisions existed immediately before the bill's effective date, who has a term that expires in December 2025, expires:
 - the resulting vacancy and the new position must be filled by election of the members of the fund in accordance with provisions governing the board of trustees, as amended by the bill, by an election held in November 2025;
 - the candidate who receives the highest number of votes in the election serves a four-year term, ending in December 2029; and
 - the candidate who receives the second highest number of votes in the election serves an initial three-year term, ending in December 2028.

As soon as practicable after September 1, 2025, the municipality's governing body must appoint a public member to the board of trustees in accordance with the bill to serve a term beginning January 1, 2026.

C.S.H.B. 2802 sets out the following eligibility criteria for a person to serve as public member on the board of trustees:

- the person must be a qualified voter, be and have been a resident of the municipality for the five-year period preceding the date of the appointment, and have demonstrated experience in the field of finance or investments; and
- may not be a current or former employee or officer of the municipality, a current or former employee of the fund or a current or former member of the board of trustees, or a current or former member or beneficiary of the fund.

The bill establishes that the public board of trustees member holds office for a term of four years and serves during the term for which the member was appointed and until the member's successor is selected and has qualified, unless a vacancy results because of death, resignation, or removal. A vacancy on the board of trustees in the public member position must be filled in the same manner as the original appointment.

C.S.H.B. 2802 changes the method by which an election for the board of trustees' elected members is held by removing the specification that the secret ballot is written, authorizing elections to be conducted by electronic means, and requiring elections to use a method determined by the board. The bill changes the method by which such elected members are nominated by giving the board of trustees the authority to approve any other method not specified in law, including by electronic means, and by removing the specification that nominations are made to the fund's office. The bill increases from three to four years the length of an elected member's term and clarifies to whom a prohibition against using fund assets to pay for campaign expenses applies.

C.S.H.B. 2802 removes the mayor as the presiding officer and the city treasurer as the secretary-treasurer of the board of trustees. Instead, the bill requires the board of trustees to elect annually from its membership a chair to serve as the presiding officer and a vice-chair to serve as the alternate presiding officer who must preside in the absence or disability of the chair. The bill changes the frequency with which the board of trustees must hold regular meetings from monthly meetings to meetings not fewer than four times each calendar year.

C.S.H.B. 2802 revises the requirement for the board of trustees to keep a record of all claims, receipts, and disbursements and make disbursements only on vouchers signed by such persons as the board designates by resolution by removing the specifications that the disbursements are made only on signed vouchers and are made by resolution. The bill includes among the matters the board of trustees is authorized to hear and determine any other determinations related to the administration of the fund and requires all determinations made by the board to be final and binding. The bill changes from the fund's administrator to the fund's executive director the individual who determines to whom information contained in records in the fund's custody concerning an individual member, retiree, annuitant, or beneficiary may be disclosed.

C.S.H.B. 2802 requires the board of trustees, at least once every five years, to have the board's actuary conduct an experience study to review the actuarial assumptions and methods adopted by the board for purposes of determining the actuarial liabilities and actuarially determined contribution rates of the fund. The bill requires the fund to notify the municipality at the beginning of an upcoming experience study by the board's actuary. In connection with the fund's experience study, the bill authorizes the municipality to do the following:

- conduct a separate experience study using an actuary chosen by the municipality;
- have the municipality's actuary review the experience study prepared by the board's actuary; or
- accept the experience study prepared by the board's actuary.

The bill establishes the following with respect to an experience study:

- if the municipality chooses to have a separate experience study performed using an actuary chosen by the municipality, the municipality must complete the study not later than three months after the date the fund notified the municipality of its intent to conduct an experience study;
- if the municipality chooses to have the municipality's actuary review the experience study prepared by the board's actuary, the municipality must complete the review not later than one month after the date the preliminary results of the experience study are presented to the board of trustees;
- if the municipality chooses to have a separate experience study performed or to have the municipality's actuary review the fund's experience study, the board's actuary and the municipality's actuary must determine what the hypothetical municipal contribution rate would be using the proposed actuarial assumptions from the experience studies and data from the most recent actuarial valuation;
- if the difference between the hypothetical municipal contribution rates determined by the board's actuary and the municipality's actuary is less than or equal to two percent of pensionable payroll, no further action is needed and the board must use the experience study performed by the board's actuary in determining assumptions;
- if the difference between the hypothetical municipal contribution rates determined by the board's actuary and the municipality's actuary is greater than two percent of pensionable payroll, the board's actuary and the municipality's actuary have not more than 20 days after the date of determination to reconcile the difference in actuarial assumptions or methods causing the different hypothetical municipal contribution rates and:
 - if, as a result of the reconciliation efforts under the bill's provisions, the difference between the municipal contribution rates determined by the board's actuary and the municipality's actuary is reduced to less than or equal to two percentage points, then no further action is needed and the board must use the experience study performed by the board's actuary in determining actuarial assumptions; or
 - if, after 20 business days, the board's actuary and the municipality's actuary are not able to reach a reconciliation that reduces the difference in the hypothetical municipal contribution rates to an amount less than or equal to two percentage points, an independent third-party actuary must be retained to opine on the differences in the assumptions made and actuarial methods used by the board's actuary and the municipality's actuary;

- such a retained independent third-party actuary must be chosen by the municipality from a list of three actuarial firms provided by the fund;
- if a third-party actuary is retained, the third-party actuary's findings will be presented to the board along with the experience study conducted by the board's actuary and, if applicable, the municipality's actuary;
- if the board adopts actuarial assumptions or methods contrary to the independent third-party actuary's findings:
 - the fund must provide a formal letter to the governing body of the municipality and to the State Pension Review Board (PRB) describing the rationale for the board's action; and
 - the board's actuary and executive director must be made available at the request of the municipality's governing body or the PRB to present in person the rationale for the board's action; and
- if the board proposes a change to actuarial assumptions or methods that is not in connection with an experience study conducted under the bill's provisions, the fund and the municipality must follow the same process prescribed in those provisions with respect to an experience study in connection with the proposed change.

Fund Membership and Service Credit

C.S.H.B. 2802 changes the general requirement that a person who begins service as a firefighter in the municipality and who is not ineligible for membership in the fund becomes a member of the fund from the person's appointment being conditioned on that membership to the person's employment being conditioned on that membership. The bill requires each member to be a group A member or group B member and establishes that a member of the fund is either a group A member or a group B member as follows:

- a member is a group A member if the member was a retiree on December 31, 2025, employed by the municipality as a firefighter on that date, or terminated from employment with the municipality as a firefighter on or before that date and has at least 10 years of accumulated service credit and has not withdrawn or refunded the member's accumulated contributions; and
- a member is a group B member if the member became employed by the municipality as a firefighter on or after January 1, 2026, or otherwise does not satisfy the requirements of a group A member.

C.S.H.B. 2802, with respect to the service credit of a fund member who leaves employment with the fire department and performs active duty service in the armed forces or the armed forces reserves of the United States or their auxiliaries, requires the member and the municipality, for military service credit related to military service performed on or after January 1, 2026, to each deposit to the fund an amount equal to the sum of contributions that would have been contributed to the fund by the member and the municipality, respectively, if the member had remained in active employment with the fire department during the period the claimed military service was performed. The bill requires payments of contributions required for military service credit to be made in accordance with the applicable requirements of the federal Internal Revenue Code and the federal Uniformed Services Employment and Reemployment Rights Act of 1994. The bill authorizes the board of trustees to adopt rules relating to such payments as the board considers necessary for the administration of provisions governing the fund relating to military service credit.

Service Retirement Benefits

C.S.H.B. 2802 limits the applicability of the computation of a member's average monthly salary in current law to a group A member and establishes that a group B member's average monthly salary is computed as the average of the member's compensation for the 60 months of highest compensation during the group B member's credited service.

C.S.H.B. 2802 revises the provisions establishing the normal service retirement annuity benefit for a fund member who retires on or after January 1, 1995, by limiting the applicability of the provisions to a group A member, removing that retirement date, and changing the monthly payment from a payment that is equal to three percent of the member's average monthly compensation multiplied by the member's number of years of service credit and any fraction of a year of service credit to a payment that is equal to 3.3 percent of such compensation multiplied in the same manner. The bill establishes that the normal service retirement annuity of a group B member is a monthly payment that is equal to three percent of the member's average monthly compensation multiplied by the member's number of years of service credit and any fraction of a year of service credit. The bill repeals provisions requiring the board's actuary to take into consideration whether the fund has a certain sufficient amount of reserves in determining whether to approve an approved increase in the factor used to determine a member's service retirement annuity and provisions establishing the service retirement annuity of a person who retired before January 1, 1995.

C.S.H.B. 2802 limits the applicability of provisions relating to early retirement to a group A member and revises the method for determining when the retirement annuity of a member eligible for early retirement qualifies for a cost-of-living adjustment (COLA). The bill establishes that a group B member is not eligible for early retirement under such provisions.

Disability Retirement Benefits

C.S.H.B. 2802 removes from the conditions under which a firefighter is eligible to retire and receive a disability retirement annuity the option for the board of trustees to determine that, although no application for retirement has been filed, retirement is for the good of the fire department. The bill subjects the amount of disability retirement benefit payable to a member eligible for that benefit to provisions providing for a COLA. With respect to a retiree who, during the first two and one-half years of disability retirement, recovers to the extent that the person is able to perform the duties of the person's job as a firefighter, removes an authorization for the board of trustees to restore the person to active service at not less than the same rank the person held at the time of disability retirement. The bill specifies that the board's authority to terminate the retirement benefit of such a recovered retiree applies to the retiree's disability retirement benefit.

Survivor's Benefits

C.S.H.B. 2802 specifies that the entitlement of a surviving spouse of a firefighter who dies before retirement to receive an immediate monthly benefit applies regardless of whether the firefighter is a group A or group B member.

C.S.H.B. 2802 limits the applicability of provisions entitling the surviving spouse of a deceased retiree to an immediate monthly benefit on the retiree's death to group A members and removes as a method for satisfying eligibility criteria for that benefit the surviving spouse marrying the retiree after the retiree's retirement and being married to the retiree for at least 24 consecutive months.. The bill also limits to group A members the applicability of provisions establishing that an immediate monthly benefit is payable to the surviving spouse of a former firefighter who, before termination of employment with the fire department, had accumulated at least 10 years of service credit in the fund and had made required contributions to the fund for a period of at least 10 years and who did not withdraw the member's contributions from the fund at the time of or after the termination of employment.

C.S.H.B. 2802 specifies that the entitlement to a benefit for a member's surviving dependent children on the member's death if there is no surviving spouse applies to a member who at the time of the member's death was a firefighter, regardless of whether the member is a group A or group B member, or a retired group A member. The bill limits the applicability of a provision establishing that a benefit is payable to a member's surviving dependent children on the

member's death if there is a surviving spouse to a member who was a firefighter or a retired group A member. The bill also limits the applicability of a provision entitling a member's surviving parents to a monthly benefit if the deceased member leaves no surviving spouse, no surviving designated beneficiary, and no surviving children to a member who was a retired group A member. The bill limits the applicability of provisions providing for benefits payable to a surviving beneficiary of a member on the member's death to group A members.

C.S.H.B. 2802 repeals provisions providing for an increase in survivor's benefits on the affirmative vote of a majority of the board of trustees members.

Deferred Retirement Option Plan (DROP)

C.S.H.B. 2802 clarifies the period during which certain amounts are credited to a member's DROP account and changes from monthly to yearly the frequency with which interest must be credited to a member's DROP account during the member's DROP period. The bill changes the rate at which additional member contributions must be credited to the member's DROP account from a rate above 13.70 percent, as provided by a majority vote of fund members, to a rate of 18.70 percent or an increased rate as provided by the bill. The bill establishes that, for a group B member, the amount of the additional contributions that must be credited to a member's DROP account is 50 percent of the contributions and requires amount's in such a member's DROP account to be credited with interest at a rate of four percent. The bill clarifies that, for a group A member, the amount of additional contributions that must be credited to a member's DROP account is 100 percent of contributions and that rate at which interest is credited to such a member's DROP account is five percent.

C.S.H.B. 2802 requires amounts held in a member's DROP account after the DROP period to be credited with interest as follows:

- if the member is a group A member, for each period before January 1, 2026, at the end of each calendar month at a rate equal to one-twelfth of five percent or, on or after January 1, 2026, on December 31 of each calendar year at a rate equal to five percent; or
- if the member is a group B member, on December 31 of each calendar year at a rate equal to four percent, if the fund's annual investment return for the preceding calendar year is greater than zero percent, or two percent, if the fund's annual investment return for the preceding calendar year is equal to or less than zero percent.

C.S.H.B. 2802 removes the requirement that the amount credited monthly to a member's DROP account be increased as a result of any increase in the formula used in computing service retirement benefits that occurs after the effective date of the member's election to participate in the DROP but before the effective date of the member's retirement. The bill replaces the requirement that the amount credited monthly to a member's DROP account be increased by any annual COLAs that occurs between the effective date of the member's election to participate in the DROP and the effective date of the member's retirement but only as to amounts credited to the member's DROP account after a COLA with a requirement the amount credited to a group A member's DROP account be increased by any COLA that occurs during the member's DROP period, including adjustments granted before January 1, 2026, and clarifies that this requirement is inapplicable to a group B member.

C.S.H.B. 2802 revises provisions relating to the authorization of a member who is eligible for normal service retirement or early retirement and who terminates or has terminated active service as a firefighter to establish a DROP account as follows:

- limits the applicability of those provisions to a group A member;
- specifies that the manner in which interest must be credited to the member's DROP account is in accordance with provisions relating to credits to a member's DROP account during the DROP period as amended by the bill and the bill's provisions relating to interest credited after the DROP period, as applicable; and

- changes from not more than seven years before the effective date of the person's retirement to not more than seven years before the actual date of the member's retirement from the fire department the period during which the board must cause certain amounts to be credited to the member's DROP account.

C.S.H.B. 2802, with respect to a DROP participant who the board of trustees determines would have been eligible for disability retirement but for participation in the DROP, specifies that the service retirement annuity that the board must pay to the member is as calculated by provisions relating to credits to a member's DROP account during the DROP period, as amended by the bill, and that a distribution of the DROP account that the board must pay to the member is a distribution that has accumulated as of the date of termination of employment.

C.S.H.B. 2802 removes the prohibition on the retirement benefit payable to a DROP participant from increasing as a result of any increase in the formula used in computing service retirement benefits that occurs after the effective date of the member's election to participate in the DROP. The bill replaces the requirement that a retirement benefit payable to a DROP participant be increased by any annual COLA that occurs between the effective date of the member's election to participate in the DROP and the effective date of the member's retirement with a requirement that a retirement benefit payable to a DROP participant who is a group A member be increased by any COLA that occurs during the member's DROP period, including adjustments granted before January 1, 2026, and clarifies that this requirement is inapplicable to a group B member.

C.S.H.B. 2802 revises the authorization for the board to reduce the interest paid on DROP accounts or take other action that would reduce the future credits to DROP accounts and to terminate the deferred retirement option plan for all members who have not established a DROP account by doing the following:

- removing as a condition on that authority that board's actuary certify to the board that DROP participation is resulting in a significant actuarial loss to the fund;
- specifying that the purpose of such authorized action is to maintain the actuarial soundness of the fund; and
- with respect to the authorization to reduce interest or take other action that would reduce future credits, removing the specification that the reduction applies only to DROP accounts that are established after the effective date of the action by the board.

Miscellaneous Provisions Regarding Benefits, Including Cost-of-Living Adjustments

C.S.H.B. 2802 changes the effective date of a person's vested accrued benefit that may not be reduced from September 1, 1995, to September 1, 2025.

C.S.H.B. 2802 revises provisions providing for a COLA and other adjustments as follows:

- replaces the entitlement of a person receiving a retirement or survivor's benefit to an annual COLA of that person's benefit with an authorization for the board of trustees to approve a COLA for eligible retirees who were group A members and for beneficiaries of group A members entitled to survivor benefits;
- clarifies the amount of a COLA that the board may approve and prohibits an approved COLA from taking effect earlier than January 1 of the calendar year following the date of approval;
- replaces the multiplier used to determine the COLA amount from the applicable percentage increase in the Consumer Price Index for All Urban Consumers as determined by the U.S. Department of Labor to 1.5 percent;
- replaces the method by which a COLA reduction is determined from an amount the board's actuary determines is necessary to maintain the fund's financial stability to an amount that the board's actuary determines is necessary to comply with limitations of provisions governing the fund applicable to COLAs, as amended by the bill, and prohibits the adjustment from being reduced to an amount that is less than zero;
- prohibits the board from approving a COLA for a calendar year:

- unless the board's actuary certifies the following:
 - that the amortization period of the fund as a whole, after taking the COLA into account, will not exceed 25 years for COLA beginning in years 2026 through 2035, 20 years for COLA beginning in calendar years 2036 through 2040, or 15 years for COLA beginning in calendar year 2041 or a subsequent calendar year; and
 - that the funded ratio for any year during the remainder of the amortization period of the fund as a whole or for 10 years, whichever is greater, after taking the COLA into account, is 80 percent or more for a COLA payable beginning in calendar years 2026 through 2040, 85 percent or more for a COLA payable beginning in calendar years 2041 through 2045, or 90 percent or more for a COLA beginning in calendar year 2046 or a subsequent calendar year;
- that begins on the second January 1 following a calendar year in which the annual investment return as reported in the fund's annual report for the calendar year is less than zero or the five-year investment return as reported in the fund's annual report for the calendar year is less than the fund's assumed rate of return used in the actuarial valuation for the calendar year; or
- in which the estimated municipal contribution rate, after taking the COLA into account, would exceed four percent above the corridor midpoint;
- requires the board's actuary to do the following with respect to such certifications:
 - use the actuarial valuation dated as of the second December 31 preceding the calendar year in which the COLA is to take effect, including the unfunded actuarial accrued liability, amortization period, and funded ratio as of that December 31; and
 - make the required certifications not later than October 31 of the calendar year immediately preceding the calendar year in which the COLA is to take effect; and
- authorizes the municipality's governing body to approve a COLA for any calendar year in which a COLA may not otherwise be granted due to the limitations in law, as amended by the bill, in a manner and in an amount determined by the governing body based on a recommendation from the board.

C.S.H.B. 2802, for each calendar year beginning on or after January 1, 2027, makes a retiree who is a group A member or a beneficiary who is receiving survivor benefits after the death of a group A member ineligible for a COLA until January 1 of the calendar year immediately following the later of the year in which the member or beneficiary, as applicable, attains 67 years of age or that is the fifth anniversary of the member's actual date of retirement from the fire department. For each calendar year beginning on or after January 1, 2027, the bill makes a retiree who is a group A member who is receiving an early retirement annuity benefit ineligible for a COLA until January 1 of the calendar year immediately following the year in which the member attains 69 years of age. The bill requires the retirement annuity of a retiree who is a group B member or the survivor benefit of a beneficiary who is receiving survivor benefits after the death of a group B member to be increased by the group B COLA percentage each year on a compounding basis beginning on January 1 of the calendar year immediately following the later of the year:

- in which the member or beneficiary, as applicable, attains 67 years of age;
- that is the fifth anniversary of the member's actual date of retirement from the fire department; or
- if applicable, in which the member's DROP account is fully distributed.

C.S.H.B. 2802 removes the provision establishing that an optional retirement annuity is payable throughout the life of a retiree. The bill revises the authorization for the board of trustees by rule to provide that an optional retirement annuity is payable after a member's death throughout the life of a person designated by the member by specifying that such an annuity includes an annuity providing that, if a retiree dies before a fixed number of monthly annuity payments are made,

the remaining number of payments are payable to the retiree's designated beneficiary or, if a designated beneficiary does not exist, to the retiree's estate. The bill additionally authorizes the board of trustees to provide for other forms of optional retirement annuities, including an optional retirement annuity that is payable as follows:

- throughout the life of a retiree who is a group A member with no survivor benefit;
- with a partial lump-sum option for a member who does not elect to participate in the DROP; or
- as an optional joint and survivor benefit for a group B member.

The bill limits the applicability of a provision requiring consent of a member's spouse to a group A member with respect to an election of an optional retirement annuity that, on the member's death, is payable to the member's spouse in an amount that is less than 75 percent of the annuity that is payable during the joint lives of the member and the member's spouse.

C.S.H.B. 2802 authorizes benefits payable under the fund, including service retirement benefits, disability retirement benefits, survivor benefits, or DROP account benefits, or a withdrawal of contributions, to be paid to a former spouse or other alternate payee under the terms of a domestic relations order, but only if the fund determines that the order constitutes a qualified domestic relations order. The bill establishes the following:

- an alternate payee will receive a full distribution of any portion of a member's DROP account awarded to the alternate payee pursuant to a qualified domestic relations order as soon as administratively practicable after the alternate payee is first entitled to distribution of such amounts as determined by the fund; and
- on the death of an alternate payee under a qualified domestic relations order, the interest of the alternate payee in the benefits ends and remaining benefits must be paid as if the qualified domestic relations order had not existed.

Collection of Contributions, Interest, and Investment of Assets

C.S.H.B. 2802 revises provisions relating to the amounts each applicable municipality must contribute to the fund as follows:

- requires the municipality, for all pay periods beginning on or after January 1, 2026, the amount determined in accordance with the bill's provisions, as applicable;
- sets out the formulas for calculating the amounts the municipality must contribute for each pay period that begins on or after January 1, 2026, and before January 1, 2027, and each pay period that begins on or after January 1, 2027; and
- if the municipality elects to change the municipality's payroll period to a period other than a biweekly payroll period or for any calendar year that has more than 26 pay periods, authorizes the fractional amounts of the applicable municipal legacy contribution to be appropriately adjusted such that the municipality's municipal legacy contribution for such calendar year equals the applicable contribution.

C.S.H.B. 2802 revises provisions relating to the amounts each applicable member must contribute to the fund as follows:

- removes provisions requiring each firefighter to pay into the fund each month a specified percentage of the firefighter's compensation for that month according to a certain schedule;
- removes the authorization for members to increase each firefighter's contribution above 13.70 percent by majority vote to any percentage recommended by a majority vote of the board of trustees;
- requires each firefighter who is a member of the fund to pay into the fund an amount equal to 18.70 percent of the firefighter's compensation for the first pay period of the municipality beginning on or after September 30, 2016, and all subsequent pay periods of the municipality thereafter; and

- authorizes such firefighters, by a majority vote, to voluntarily increase the firefighter contribution to a rate that is higher than that 18.70 rate and recommended by a majority vote of the board of trustees.

C.S.H.B. 2802 makes applicable to a group A member provisions providing for annual credits of five percent interest on individual accounts of firefighters and former firefighters who have not retired and a prohibition against the fund paying interest on certain contributions that is more than five calendar years after the date of termination of employment. The bill sets those provisions to expire on December 31, 2025. The bill establishes that, beginning January 1, 2026, a group A member is not entitled to interest on amounts credited to the member's individual account and establishes that a group B member is not entitled to interest on amounts credited to the member's individual account for any period.

C.S.H.B. 2802 requires the fund to cause the board's actuary to prepare an initial risk sharing valuation study that is dated as of December 31, 2024, in accordance with the bill and requires the fund to cause the board's actuary to prepare a subsequent risk sharing valuation study that is dated as of December 31 of each calendar year beginning with the 2025 calendar year in accordance with the bill and actuarial standards of practice. The bill sets out requirements for each such study, including the following:

- with respect to the initial study, requirements relating to compliance with requirements applicable to subsequent studies, certain actuarial assumptions, the projection of the corridor midpoint, a schedule of municipal legacy contribution amounts, and the municipal contribution rate for certain calendar years; and
- with respect to a subsequent study, requirements relating to the date of the study, the calculation of the fund's unfunded actuarial liability as of the last day of the applicable calendar year and the estimated municipal contribution rate for the following calendar year, the determination of the municipal and firefighter contribution rates for the following calendar year, and the use of certain assumptions and methods adopted by the board and, if applicable, consistent with actuarial standards of practice and certain prescribed principles.

The bill authorizes the municipality to contribute an amount in addition to the scheduled municipal legacy contribution amounts to reduce the number or amount of scheduled future municipal legacy contribution payments and, if the municipality does so, requires the board's actuary to create a new schedule of municipal legacy contribution amounts that reflects payment of the additional contribution. The bill authorizes the municipality and board of trustees to agree on a written transition plan for resetting the corridor midpoint, firefighter contribution rate, or municipal contribution rate if at any time the fund's funded ratio is equal to or greater than 100 percent or for any calendar year after the payoff year of the legacy liability. 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 board's actuary, and do not operate to change the municipal legacy contribution amount.

C.S.H.B. 2802 provides for adjustments to the municipal contribution rate if the estimated municipal contribution rate is lower than the corridor midpoint for the calendar year beginning January 1, 2026, and for each subsequent calendar year as follows:

- if the funded ratio is less than 90 percent, the corridor midpoint is the municipal contribution rate for the applicable year; or
- if the funded ratio is 90 percent or greater, the estimated municipal contribution rate is the municipal contribution rate for the applicable year.

The bill prohibits the municipal contribution rate from being lower than the minimum municipal contribution rate. 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 municipal legacy contribution amount may no longer be included in the municipal contribution.

C.S.H.B. 2802 provides for adjustments to the municipal contribution rate if the estimated municipal contribution rate is equal to or greater than the corridor midpoint for the calendar year beginning January 1, 2026, and for each subsequent calendar year as follows:

- if the estimated municipal contribution rate is also less than or equal to the maximum municipal contribution rate for the corresponding calendar year, the municipal contribution rate is the estimated municipal contribution rate; or
- if the estimated municipal contribution rate is also greater than the maximum municipal contribution rate for the corresponding calendar year, the municipal contribution rate is the maximum municipal contribution rate.

C.S.H.B. 2802 provides for adjustments to firefighter contributions rates if the estimated municipal contribution rate applicable in a calendar year is greater than the maximum municipal contribution rate. Under such a scenario, the bill establishes that the firefighter contribution rate will increase by an amount equal to the difference between the estimated municipal contribution rate and the maximum municipal contribution rate. However, the bill prohibits the firefighter contribution rate from being increased by more than two percentage points under these provisions. If the estimated municipal contribution rate is more than two percentage points greater than the maximum municipal contribution rate, the municipality and the board of trustees must enter into discussions to determine additional funding solutions.

C.S.H.B. 2802 revises a provision authorizing the board of trustees to adopt an amendment to the board's written investment policy regarding the investment of fund assets by an affirmative vote of the board by removing the specification that the vote is of a majority of the members and the specification that the vote is at not fewer than three regular meetings of the board.

Definitions

C.S.H.B. 2802 defines the following terms for purposes of provisions governing the fund:

- "actuarial accrued liability" as the portion of the actuarial present value of projected benefits of the fund attributed to past periods of member service based on the cost method used in an initial or subsequent risk sharing valuation study under the bill's provisions, as applicable;
- "actuarial value of assets" as the value of the fund's assets as calculated using the asset smoothing method used in an initial or subsequent risk sharing valuation study under the bill's provisions, as applicable;
- "adjustment factor" as the assumed rate of return for the fund adopted by the board less two percentage points;
- "amortization period" as the period necessary to fully pay a liability layer or, if referring to the amortization period of the fund as a whole, the number of years incorporated in a weighted average amortization factor for the sum of the legacy liability and all liability layers as determined in each annual actuarial valuation of assets and liabilities of the fund;
- "amortization rate" as, for a given calendar year, the percentage rate determined by:
 - adding the scheduled amortization payments required to pay off the then-existing liability layers;
 - subtracting the municipal legacy contribution amount for the same calendar year, as determined in an initial or subsequent risk sharing valuation study under the bill's provisions, as applicable, from the sum of the scheduled amortization payments required to pay off the then-existing liability layers; and
 - dividing that difference by the projected pensionable payroll for the same calendar year;
- "annual investment return" as the annual money-weighted rate of return, net of investment expenses, reported by the fund in the annual report for a given calendar year;
- "corridor" as the range of municipal contribution rates that are equal to or greater than the minimum municipal contribution rate and equal to or less than the maximum municipal contribution rate;

- "corridor margin" as five percentage points;
- "corridor midpoint" as the projected municipal contribution rate specified for each calendar year for 30 years as provided by the initial risk sharing valuation study under the bill's provisions, rounded to the nearest hundredths decimal place;
- "DROP" as the deferred retirement option plan;
- "DROP participant" as a member who is participating in the DROP;
- "DROP period" as the period between the effective date of a member's election to participate in DROP and the actual date of the member's retirement from the fire department, subject to the seven-year limitation;
- "employer normal cost rate" as, for a given calendar year, the normal cost rate minus the applicable firefighter contribution rate;
- "estimated municipal contribution rate" as, for a given calendar year, a municipal contribution rate equal to the sum of the municipal normal cost rate and the amortization rate of the liability layers, as applicable, excluding the legacy liability layer, and before certain adjustments provided under the bill's provisions;
- "five-year investment return" as the average money-weighted rate of return of the fund, based on a rolling five-year basis and net of investment expenses, for the applicable five-year period;
- "funded ratio" as the ratio of the actuarial value of assets divided by the actuarial accrued liability;
- "group A member" as a member included in group A membership;
- "group B cost-of-living adjustment percentage" as a percentage that may not be less than zero or more than two percent and, except as provided by that prohibition, is equal to the fund's five-year investment return minus the adjustment factor, and multiplied by 50 percent;
- "group B member" as a member included in group B membership;
- "legacy liability" as the unfunded actuarial accrued liability determined as of December 31, 2024, and for each subsequent calendar year, adjusted as follows:
 - reduced by the municipal legacy contribution amount for the calendar year allocated to the amortization of the legacy liability; and
 - adjusted by the assumed rate of return adopted by the board of trustees for the calendar year ending December 31, 2024;
- "level percent of payroll method" as the amortization method that defines the amount of a liability layer recognized each calendar year as a level percent of pensionable payroll until the amount of the liability layer remaining is reduced to zero;
- "liability gain layer" as a liability layer that decreases the unfunded actuarial accrued liability;
- "liability layer" as the legacy liability established in the initial risk sharing valuation study or, for calendar years after December 31, 2024, the amount that the fund's unfunded actuarial accrued liability increases or decreases, as applicable, due to the unanticipated change for the calendar year as determined in each subsequent risk sharing valuation study;
- "liability loss layer," which includes the legacy liability for purposes of the bill, as a liability layer that increases the unfunded actuarial accrued liability;
- "maximum municipal contribution rate" as, for a given calendar year, the rate equal to the corridor midpoint plus the corridor margin;
- "minimum municipal contribution rate" as, for a given calendar year, the rate equal to the corridor midpoint minus the corridor margin;
- "municipal contribution rate" as, for a given calendar year, a percentage rate equal to the sum of the employer normal cost rate and the amortization rate, as adjusted under certain of the bill's provisions, if applicable;
- "municipal legacy contribution amount" as, for each calendar year, a predetermined payment amount expressed in dollars in accordance with a payment schedule amortizing the legacy liability for the calendar year ending December 31, 2024, that is included in the initial risk sharing valuation study;

- "normal cost rate" as, for a given calendar year, the salary weighted average of the individual normal cost rates determined for the current active member population, plus the assumed administrative expenses determined in the most recent actuarial experience study;
- "payoff year" as the year a liability layer is fully amortized under the amortization period;
- "pensionable payroll" as the compensation of all members in active service for a calendar year or pay period, as applicable;
- "projected pensionable payroll" as the estimated pensionable payroll for the calendar year beginning 12 months after the date of an initial or subsequent risk sharing valuation study, as applicable, at the time of calculation by:
 - projecting the prior calendar year's pensionable payroll forward two years using the current payroll growth rate assumption adopted by the board of trustees; and
 - adjusting, if necessary, for changes in population or other known factors, provided those factors would have a material impact on the calculation, as determined by the board of trustees;
- "unanticipated change" as, with respect to the unfunded actuarial accrued liability in each subsequent risk sharing valuation study, the difference between the remaining balance of all then-existing liability layers as of the date of the risk sharing valuation study that were created before the date of the study and the actual unfunded actuarial accrued liability as of the date of the study; and
- "unfunded actuarial accrued liability" as the difference between the actuarial accrued liability and the actuarial value of assets.

Repealed Provisions

C.S.H.B. 2802 repeals the following provisions of Chapter 183 (S.B. 598), Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes):

- Sections 5.04(b-1) and (c);
- Section 7.07;
- Section 8.05(b); and
- Sections 9.04(a-4), (b), and (b-1).

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2802 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes definitions absent from the introduced for the terms "adjustment factor," "annual investment return," "DROP," "DROP participant," "DROP period," "employer normal cost rate," "five-year investment return," "group B cost-of-living adjustment percentage," "municipal contribution rate," and "municipal legacy contribution amount." The substitute omits definitions included in the introduced for the terms "city," "city contribution rate," "city legacy contribution amount," "city normal cost rate," "estimated city contribution rate," "employer," "group B retiree," "life annuity," "market value of assets," and "qualified domestic relations order." Whereas the introduced defined "corridor midpoint" as the projected city contribution rate specified for each calendar year for 25 years as provided by the initial risk sharing valuation study rounded to the nearest hundredths decimal place, the substitute increases that number of years to 30.

The substitute includes the following provisions absent from the introduced:

- an authorization for the board by rule to adopt another name for the fund; and
- a requirement for the provisions governing the fund to be construed and the fund to be administered in a manner that maintains the qualified status of the fund under federal law.

While both the introduced and substitute revise the composition of the board, the versions differ in the following ways:

- the introduced replaced the mayor with a member of the city council designated by the mayor, whereas the substitute instead provides for the inclusion of a member of the municipality's governing body designated by the mayor as an alternative to the mayor;
- the substitute increases from three to four the members to be selected by vote of the applicable firefighters and retirees, whereas the introduced did not;
- the introduced included two qualified voters of the city who meet certain criteria, with the city council and the board each appointing one such member to serve a three-year term, whereas the substitute instead includes one member of the public who meets substantially similar criteria selected and appointed by the governing body of the municipality to serve a four-year term; and
- the substitute includes an authorization for the board by rule to specify the number of elected members who must be firefighters or retirees, whereas the introduced did not.

The substitute includes provisions absent from the introduced relating to the following:

- the implementation of changes to the board's composition in accordance with the bill and the terms and appointment of applicable board members;
- filling a vacancy on the board in the public member position; and
- the method by which an election for the board's elected members is held, the method for nominating those members, the duration of such a member's term, and the prohibited use of fund assets for campaign expenses.

While both the introduced and substitute revise provisions relating to the officers of the board by removing the mayor and city treasurer as officers, the substitute requires the board to annually elect from its membership a chair to serve as the presiding officer and a vice chair to serve as the alternate presiding officer, whereas the introduced provided for certain designations for officer positions.

The substitute includes provisions absent from the introduced that relate to the following:

- the requirement for the board of trustees to keep a record of all claims, receipts, and disbursements and make disbursements only on vouchers signed by such persons as the board designates by resolution;
- the board's authority to hear and determine matters related to the administration of the fund and the binding nature of the board's determinations;
- the individual who determines to whom information contained in records in the fund's custody concerning an individual member, retiree, annuitant, or beneficiary may be disclosed;
- the service credit of a member who leaves employment with the fire department and performs military service and the payment of contributions for military service credit; and
- the determination of the average monthly salary of a group A member and group B member.

While both the introduced and the substitute provide for membership as a group A member or a group B member, the versions differ as follows:

- the substitute includes provisions absent from the introduced requiring each member of the fund to be a group A member or group B member; and
- the introduced included definitions for the terms "group A member" and "group B member" as members who were initially hired by the city as a firefighter prior to

January 1, 2026, or on or after that date, respectively, whereas the substitute includes provisions absent from the introduced setting out alternative criteria for membership in each group.

While both the introduced and substitute revise provisions relating to the normal service retirement benefit, the versions differ as follows:

- the introduced removed provisions authorizing a change to the three percent factor used to determine a retiree's service retirement annuity, whereas the substitute does not; and
- the substitute repeals a provision establishing that the service retirement annuity of a person who retired before January 1, 1995, is a monthly payment based on the benefit formula in effect at the time of the person's retirement, whereas the introduced did not.

The substitute omits provisions included in the introduced that relate to the following:

- the applicability of a provision authorizing certain members to terminate employment and later retire and receive a service retirement benefit if the member would have otherwise accumulated at least 25 years of service credit to a group A member;
- a requirement for the board to adopt policies under which a group B firefighter who is leaving active service may elect to accept an actuarially reduced life annuity benefit upon retirement to provide a joint survivor benefit for the member's surviving spouse; and
- a requirement for a joint survivor benefit to be an optional retirement annuity that is certified by the board's actuary to be the actuarial equivalent of the normal service retirement benefit and is payable throughout the retiree's life.

The substitute includes provisions absent from the introduced that relate to the following:

- the board's authority to determine a firefighter's eligibility for retirement and a disability retirement annuity if no application has been filed;
- the applicability of provisions providing for a COLA to the amount of disability retirement benefit payable to a member eligible for that benefit;
- the board's authority to restore a person to active service for a retiree who recovers during the first 2.5 years of disability retirement; and
- the applicability of the entitlement to certain benefits for a surviving spouse of a firefighter who dies before retirement, the surviving spouse of a former firefighter, surviving dependent children, and dependent parents.

While both the introduced and substitute revise provisions relating to an immediate monthly benefit for a retiree's surviving spouse, the versions differ as follows:

- the introduced provided an entitlement for a group B retiree's surviving spouse, whereas the substitute limits the applicability of the entitlement to the surviving spouse of a group A member; and
- the substitute removes as a method for satisfying eligibility criteria for that benefit the spouse marrying the retiree after the retiree's retirement and being married to the retiree for at least 24 consecutive months, whereas the introduced did not.

While both the introduced and substitute revise provisions relating to credits to a member's DROP account, the versions differ as follows:

- the substitute clarifies the period during which certain amounts are credited to a member's DROP account and changes the frequency with which interest must be credited to a member's DROP account, whereas the introduced did not;
- the substitute establishes that, for a group B member, the amount of the additional contributions that must be credited to a members DROP account is 50 percent of the contributions, whereas the introduced did not;
- the introduced required amounts held in a group B member's DROP account to be credited at the end of each calendar month with interest at a rate equal to one-twelfth of three percent until the member's retirement, whereas the substitute requires amounts held

in a group B member's DROP account to be credited with interest on an annual basis at a rate equal to four percent;

- the substitute sets out provisions providing for interest credited after the DROP period, whereas the introduced did not;
- the substitute replaces the COLAs to which provisions providing for adjustments to credits to a member's DROP account apply from a COLA that occurs between the effective date of the member's DROP election and the effective date of the member's retirement to a COLA that occurs during the member's DROP period, including adjustments granted before January 1, 2026, whereas the introduced did not;
- the substitute changes the manner in which interest must be credited to the DROP account of a member who establishes the account at retirement, whereas the introduced did not;
- the substitute includes a provision absent from the introduced relating to the subsequent disability of a DROP participant, whereas the introduced did not;
- the substitute replaces the requirement that a retirement benefit payable to a DROP participant be increased by any annual COLA that occurs between the effective date of a member's election to participate in the DROP and the effective date of the member's retirement with a requirement that a retirement benefit payable to a DROP participant who is a group A member be increased by any COLA that occurs during the member's DROP period, including adjustments granted before January 1, 2026, whereas the introduced did not;
- the substitute revises the authorization for the board to reduce the interest paid on DROP accounts or take other action that would reduce the future credits to DROP accounts and to terminate the deferred retirement option plan for all members who have not established a DROP account, whereas the introduced did not; and
- with respect to distributions from a member's DROP account, the substitute repeals a provision requiring a member's DROP account balance to be credited at the end of each calendar month with interest at a rate equal to one-twelfth of five percent, whereas the introduced made that provision applicable to a group A member and required the DROP account balance of a group B member to be credited at the end of each calendar month with interest at a certain rate, but only if the return on investment of all assets held by the fund was greater than zero for the preceding calendar year.

The substitute includes a provision absent from the introduced changing the effective date of a person's vested accrued benefit that may not be reduced from September 1, 1995, to September 1, 2025.

While both the introduced and substitute replace the entitlement of a person receiving a retirement or survivor's benefit to an annual COLA with an authorization for the board to approve a COLA, the introduced authorized the board to approve a COLA for retirees and persons receiving survivor benefits, whereas the substitute authorizes the board to approve a COLA for eligible retirees who were group A members and beneficiaries entitled to survivor benefits after the death of a group A member. The substitute replaces the multiplier used to determine the COLA amount and prohibits the COLA from being reduced to an amount that is less than zero, whereas the introduced does not. Both the introduced and the substitute set out conditions on the board's approval of a COLA based on certain certifications by the board's actuary, but each version's conditions contain certain differences with respect to the actuary's findings and periods considered.

The substitute includes provisions absent from the introduced that relate to the following:

- the eligibility for and provision of a COLA for certain group A and group B members and survivors;
- the board's authority to provide different forms of an optional retirement annuity;
- benefits payable to alternate payees under a qualified domestic relations order;

- the expiration of provisions requiring the fund to credit interest on December 31 of each year to the account of each firefighter and of each former firefighter and prohibiting the fund from paying interest on a firefighter's or former firefighter's contributions for any period that is more than five calendar years after the date of termination of employment; and
- the establishment that beginning January 1, 2026, a group A member is not entitled to interest on amounts credited to the member's individual account and that a group B member is not entitled to interest on amounts credited to the member's individual account for any period.

The substitute omits the following provisions from the introduced:

- a provision limiting to a group A member the applicability of a requirement, at the same time that the member makes an election to participate in the DROP, to agree in writing to terminate service with the fire department on a date not later than the seventh anniversary of the date of the election and a requirement for a group B member, at the same time that the member makes an election to participate in the DROP, to agree in writing to terminate service with the fire department on a date not later than the fifth anniversary of the effective date of the election;
- provisions establishing the following with respect to an optional retirement annuity:
 - if a group B member is married, spousal consent is required for the member to select a retirement annuity that provides the member's spouse with any benefit less than the joint survivor benefit upon the member's death;
 - spousal consent is not required if it is established to the satisfaction of the board that the required consent cannot be obtained because there is no spouse, the spouse cannot be located, or other circumstances exist as prescribed by U.S. Treasury regulations;
 - the option election or beneficiary designation made by a member and consented to by the member's spouse may be revoked by the member in writing without consent of the spouse at any time before retirement;
 - the number of revocations is not limited;
 - a former spouse's waiver or consent is not binding on a new spouse;
 - an option selection becomes effective on the member's actual retirement date; and
 - the member retains the right to change the option selected or the beneficiary designated until the member's actual retirement date; and
- a requirement for the fund, for group B members, to credit interest on December 31 of each year to the individual account of each firefighter, and of each former firefighter, who has not retired in a certain amount and a prohibition against the fund paying interest on a firefighter's or former firefighter's contributions for part of a year or for any period that is more than five calendar years after the date of termination of employment.

Both the introduced and the substitute revise municipal contributions. However, the introduced removed the authorization for the municipality's governing body to authorize the municipality to contribute a portion of the contribution required for each firefighter, whereas the substitute does not.

The substitute changes the bill's effective date from January 1, 2026, as in the introduced, to September 1, 2025.