

BILL ANALYSIS

C.S.H.B. 2821
By: Flynn
Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Municipal Retirement System (TMRS) is a statewide system established in the 1940s to provide cities in Texas voluntary access to retirement, disability, and death benefits for their employees. Each participating city chooses a plan of benefits from the various options available under TMRS. The plan of benefits selected is funded separately for each city through a combination of employee contributions, actuarially determined employer contributions, and investment income. It has been suggested that administrative and operational improvements will allow the TMRS to run more efficiently and effectively. C.S.H.B. 2821 seeks to address this issue by updating, clarifying, and revising provisions relating to credit in, benefits from, and administration of TMRS.

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 Texas Municipal Retirement System in SECTIONS 4, 16, 17, and 23 of this bill.

ANALYSIS

C.S.H.B. 2821 amends the Government Code to update, clarify, and revise provisions relating to credit in, benefits from, and administration of the Texas Municipal Retirement System (TMRS). The bill revises provisions relating to amortization periods to specify that the maximum period is 30 years. The bill authorizes the board of trustees of TMRS to take the following actions, after consultation with the actuary, by rule or by adopted funding policy:

- change the period for amortizing a municipality's unfunded actuarial accrued liabilities from an open period to a closed period or from a closed period to an open period;
- decrease or increase the amortization period, provided the amortization period may not exceed 30 years; and
- set different amortization periods for unfunded actuarial accrued liabilities arising from different types of events giving rise to liabilities and ladder the amortization of the liabilities.

C.S.H.B. 2821 authorizes the board to provide for a board-initiated phase-in of a municipal contribution rate increase or amortization period increase and authorizes a municipality to decline such an increase.

C.S.H.B. 2821 exempts the board of trustees, director, members of an advisory committee or medical board appointed by the board of trustees, and staff of TMRS from liability for any action

taken or omission made or suffered by them in good faith in the performance of any duty in connection with any program, system, or benefit administered by TMRS.

C.S.H.B. 2821 authorizes the board to adopt rules necessary or desirable to implement provisions relating to a member's service that is creditable in TMRS and specifies member creditable service entitlements under TMRS relating to excluded prior service credit. The bill changes from the board of trustees of TMRS to TMRS the entity required to determine a member's creditable service in TMRS. The bill sets the minimum percentage a municipality may apply against the base credit in computing a prior service credit at 10 percent. The bill requires the governing body of a municipality to adopt by ordinance a zero percent prior service credit if, before joining TMRS, the municipality provided retirement benefits to its employees that were funded partly or wholly by the municipality. Prior service credit so adopted is excluded prior service credit. The bill sets out the circumstances under which an employee is only entitled to an excluded prior service credit.

C.S.H.B. 2821 authorizes TMRS to recalculate updated service credit for purposes of determining a member's retirement annuity under the following circumstances:

- the member reestablishes previously canceled credited service and retires in the same calendar year; and
- any municipality for which the member performed creditable service adopts an applicable ordinance authorizing updated service credits with an effective date of January 1 of the same calendar year.

C.S.H.B. 2821 requires a member, beginning January 1, 2022, in order to be eligible to receive an updated service credit from such a municipality, to be a contributing employee of the municipality on January 1 of the year immediately preceding the January 1 on which the updated service credits will take effect.

C.S.H.B. 2821 updates occupational disability provisions relating to application for disability annuities and standard occupational disability annuities. The bill authorizes TMRS to require a disability retiree who is younger than 60 years of age to undergo a medical examination and provide current medical and other relevant information reaffirming the status of the retiree as meeting the eligibility requirements for certification of occupational disability, sets out provisions establishing effects of this requirement, and establishes that the suspension of a disability retirement benefit under these provisions does not suspend payment of a benefit to an alternate payee under a qualified domestic relations order.

C.S.H.B. 2821 authorizes the board to adopt rules necessary or desirable to implement statutory provisions relating to optional disability retirement benefits under TMRS.

C.S.H.B. 2821 authorizes the board to adopt rules necessary or desirable to implement provisions relating to board meetings and revises provisions relating to the following:

- the frequency of meetings held by the board;
- the applicability of state open meetings law to certain board activities;
- the authority of the board to hold an open or closed meeting by telephone conference call, videoconference, or other similar telecommunication method and to use such methods to establish a quorum, to vote, or for any other meeting purpose; and
- requirements and prohibitions for a meeting held by such methods.

C.S.H.B. 2821 authorizes the board of trustees to initiate or commission an audit or investigation of activities, functions, or operations of TMRS as the board determines appropriate. The bill sets out confidentiality provisions relating to certain audit working papers and audit reports and

TMRS participant information. The bill includes the delivery of information electronically by TMRS among the procedures for which the board may adopt rules and provides for electronic delivery of applicable information to members and retirees.

C.S.H.B. 2821 removes the requirement for the attorney appointed by the board of trustees to represent TMRS in all litigation and authorizes the board, the executive director of TMRS, or the director's designee to instead employ or obtain the services of other attorneys or outside legal counsel to represent TMRS in litigation or advise TMRS on fiduciary or legal matters. The bill replaces the TMRS board of trustees with TMRS as the entity subject to certain requirements and actions.

C.S.H.B. 2821 applies to a retiree regardless of when the person retired.

C.S.H.B. 2821 repeals a provision excepting a person employed by the Texas Municipal League (TML) for the first time who is engaged in lobbying activities from the standing conferred on the TML as a municipality for purposes of statutory provisions relating to TMRS.

C.S.H.B. 2821 repeals the following provisions of the Government Code:

- Section 852.005(b)
- Section 853.105(b)
- Sections 854.408(c) and (d)
- Section 854.410(f)

EFFECTIVE DATE

January 1, 2020.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2821 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include a requirement for the board of trustees to adopt rules necessary to implement provisions relating to a member's service that is creditable in TMRS but includes an authorization for the board to adopt rules necessary or desirable to implement those provisions.

The substitute includes in the provisions authorizing the board to adopt rules necessary to implement provisions regarding the optional disability retirement annuities and regarding board of trustees meetings the authorization for the board also to adopt rules desirable for such implementation.

The substitute revises the bill provision regarding the requirement that the municipality adopt, by ordinance, a zero percent prior service credit if, before joining the retirement system the municipality provided retirement benefits to its employees that were funded partly or wholly by the municipality to clarify that the prior service credit adopted under the provision is excluded prior service credit.

The substitute specifies that the municipality to which the bill's provisions relating to prior service credit for service of an employee of a nonparticipating department apply is a participating municipality.

The substitute includes a provision postponing until January 1, 2022, the requirement that a member, to be eligible to receive an updated service credit from an applicable municipality, be a

contributing employee of the municipality on an applicable date as prescribed by statute.

The substitute does not include the specification that the occupational disability retirement annuity that may not be suspended after the date the disability retiree attains 60 years of age is a standard occupational disability retirement annuity.

The substitute does not include the explicit prohibition against suspending a disability retiree benefit payable to an alternate payee under a qualified domestic relations order but clarifies that a suspension of a benefit with regards to a disability retiree does not suspend payment of a benefit to such an alternate payee.

The substitute, with respect to the provision excepting disclosure of participant information to a spouse or former spouse of a participant from the general prohibition against such disclosure, does not include a provision changing the reference from member accounts, benefits, or other amounts payable by TMRS in which a spouse or former spouse of a participant has an interest to a reference to participant accounts, benefits, or other amounts payable by TMRS.

The substitute repeals a provision excepting a person employed by the TML for the first time who is engaged in lobbying activities from the standing conferred on the TML as a municipality for purposes of statutory provisions relating to TMRS.