

BILL ANALYSIS

Senate Research Center
81R31477 TJS-D

C.S.H.B. 407
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas County and District Retirement System legislation is targeted to make changes to outdated plan design provisions, processes, and funding arrangements, along with administrative and technical changes and clarifications. The bill provides for more efficient plan and operating administration, provides conformity with Internal Revenue Service qualified plan requirements in needed areas, and enables the implementation of planned technology changes to improve services provided to the system's membership. The bill makes no substantive benefit changes. The system does not receive state funds—it is funded by its member employers and their employees.

C.S.H.B. 407 amends current law relating to participation and credit in, contributions to, benefits from, and administration of the Texas County and District Retirement System.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of trustees of the Texas County and District Retirement System (board of trustees) in SECTION 2 (Section 841.006, Government Code), SECTION 3 (Section 841.0091, Government Code), SECTION 4 (Section 842.108, Government Code), SECTION 13 (Section 843.502, Government Code), SECTION 15 (Section 843.505, Government Code), SECTION 16 (Section 844.003, Government Code), SECTION 17 (Section 844.006, Government Code), SECTION 26 (Section 845.110, Government Code), and SECTION 34 (Section 845.405, Government Code) of this bill.

Rulemaking authority previously granted to the Texas County and District Retirement System is transferred to the board of trustees in SECTION 17 (Section 844.006, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 841.001, Government Code, by amending Subdivisions (1), (6), and (17) and adding Subdivision (1-a), to redefine "actuarial equivalent," "compensation," and "subdivision," and to define "accrued benefit."

SECTION 2. Amends Section 841.006, Government Code, as follows:

Sec. 841.006. EXEMPTION FROM EXECUTION. (a) Creates this subsection from existing text.

(b) Authorizes the board of trustees of the Texas County and District Retirement System (board of trustees) (TCDRS), notwithstanding Subsection (a), by rule to authorize TCERS, in accordance with a retiree's voluntary election, to deduct qualified health insurance premiums from the retirement annuity otherwise distributable to a retiree who meets any expanded eligibility provision for a similar tax exemption under subsequent federal legislation; and pay the deducted amount directly to the health plan provider, subject to the requirements of Section 402(1), Internal Revenue Code of 1986, or other applicable federal law, and the rules adopted by the board.

SECTION 3. Amends Subchapter A, Chapter 841, Government Code, by adding Section 841.0091, as follows:

Sec. 841.0091. DIVISION OF BENEFITS ON DIVORCE OF MEMBER. (a) Requires the TCDRS, on receipt of a qualified domestic relations order incident to a divorce that awards a portion of the member's accrued benefit to a former spouse of the member and that strictly follows the terms and format of the model qualified domestic relations order, as well as any other requirements, adopted by the board of trustees for this purpose, to divide the accrued benefit into two separate benefits that, in combination at the time of division, are actuarially equivalent to the undivided accrued benefit.

(b) Provides that following a division described by Subsection (a), the portion of the accrued benefit awarded the alternative payee is considered the alternative payee's sole and separate property in which the member has no interest. Requires the board of trustees by rule to define and specify the rights and responsibilities of the alternate payee and the terms and features of the benefit awarded the alternate payee under the order, but provides that in no event is the alternative payee authorized to vest in the accrued benefit before the member vests or attain greater rights than are attained by the member or the member's beneficiary.

(c) Authorizes the board of trustees, notwithstanding Section 804.101 (Termination of Interest in Public Retirement System), by rule to prescribe terms on which the interest awarded the alternate payee under a qualified domestic relations order described by this section is authorized to be transferred at the alternative payee's death.

(d) Provides that the board of trustees has sole authority and discretion to specify the terms and format that are required for a qualified domestic relations order to be acceptable for purposes of Subsection (a), require strict compliance for qualification, specify the dates on which a distribution to an alternate payee is authorized or is required to begin, and establish rules for the administration of this section.

(e) Provides that this section applies to all domestic relations orders described by this section that TCDRS first determines to be qualified on or after September 1, 2009, and to those domestic relations orders determined to be qualified before September 1, 2009, that the system further determines can be construed to allow a division described by this section without harm or injury to the member's interest awarded under the original qualified order. Prohibits the actuarial equivalent value of the accrued benefit payable to an alternative payee from being greater than the actuarial equivalent value of the accrued benefit as if there had been no division and the accrued benefit had been payable to the member in the form of an annuity.

SECTION 4. Amends Section 842.108, Government Code, as follows:

Sec. 842.108. WITHDRAWAL OF ACCUMULATED CONTRIBUTIONS. (a) Redesignates existing Subsection (b) as Subsection (a). Provides that a withdrawal cancels the person's service credit, rather than the person's credited service and service credit, attributable to service with that subdivision on the date TCDRS makes payment of any portion of the member's accumulated contributions. Deletes existing text prohibiting credited service that has been canceled from being used to determine eligibility for a later retirement unless it is reestablished under Section 803.203 (Reestablishment of Service Credit by Former Member), 843.003 (Authorization to Reestablish Service Credit Previously Forfeited), or 843.0031 (Reestablishment of Credited Service; Option to Pay Lump-Sum Amount).

(b) Redesignates existing Subsection (c) as Subsection (b). Provides that except for a membership terminated under prior law or in accordance with Section 842.109(b), rather than except for a terminated membership described by Subsection (a), interest is computed on the balance in the member's individual account in the employees saving fund on January 1 of the year of withdrawal

through the month before the month in which the withdrawal occurs, rather than in which the withdrawal occurs for a person described by Subsection (b).

(c) Redesignates existing Subsection (d) as Subsection (c). Provides that if a person eligible to receive a withdrawal or another non-periodic distribution, rather than eligible to receive a withdrawal under this section or Section 844.401 (Return of Accumulated Contributions), elects to have all or a portion of the distribution, rather than accumulated contributions, paid directly to an eligible retirement plan and specifies the plan to which the distribution is to be paid, rather than to which the contributions are to be paid, on forms approved by the board of trustees, TCDRS is required to make the payment in the form of a direct trustee-to-trustee transfer but is under no obligation to determine whether the other plan in fact is an eligible retirement plan for that purpose.

(d) Requires the board of trustees, notwithstanding Subsection (c), to adopt rules to administer this section as necessary to maintain TCDRS as a qualified plan under Section 401(a) of the Internal Revenue Code of 1986. Authorizes the rules to include the adoption of definitions and limitations relating to distributions, eligible recipients, and eligible retirement plans.

SECTION 5. Amends the heading to Section 842.110, Government Code, to read as follows:

Sec. 842.110. RESUMPTION OF SERVICES AFTER WITHDRAWAL OR RETIREMENT.

SECTION 6. Amends Sections 842.110(a) and (b), Government Code, as follows:

(a) Provides that except as provided by Subsection (b), a person who has withdrawn the person's accumulated contributions or who has retired from a participating subdivision with a service retirement annuity based on a bona fide termination of employment and with a break in service of not less than one calendar month resumes membership in TCDRS without repayment of the amount distributed or cancellation, rather than without suspension, of the person's annuity if the person becomes an employee of a participating subdivision.

(b) Provides that a person who resumes employment with the same subdivision from which the person was previously employed and does not meet the requirements of Subsection (a) is considered not to have been eligible for a withdrawal and not to have retired with respect to that subdivision. Provides that the person's membership will be restored, the person's service retirement annuity will be canceled, and the person is required to return any amounts distributed and payments received. Deletes existing text providing that the person's service retirement annuity will be discontinued, the person's membership will be restored, and the person is required to return any payments received.

SECTION 7. Amends Section 843.001, Government Code, to prohibit a member from being credited in TCDRS with more than one month of credited service for a specific calendar month, regardless of the number of employers of the member, the positions held, or the types of service.

SECTION 8. Amends the heading to Section 843.0031, Government Code, to read as follows:

Sec. 843.0031. OPTION TO PAY LUMP-SUM AMOUNT.

SECTION 9. Amends Section 843.0031(b), Government Code, to authorize a member who has withdrawn accumulated contributions from TCDRS and who subsequently resumes employment with a subdivision to at any time before retirement pay to the system a lump sum in any amount that does not exceed the actuarial present value of the additional benefits that would have been attributable to the withdrawn contributions. Prohibits any amount paid under this subsection and interest accrued on the amount from being considered in the computation of service credit, rather than credits.

SECTION 10. Amends Section 843.004, Government Code, to provide that service credit consists of allocated prior service credit, current service credit, and multiple matching credit as authorized by a participating subdivision, rather than a participating subdivision and accumulated interest under this subtitle.

SECTION 11. Amends Section 843.201, Government Code, as follows:

Sec. 843.201. SERVICE CREDIT FOR CERTAIN PUBLIC EMPLOYMENT. Authorizes the governing body of a participating subdivision by order, in accordance with rules adopted by the board of trustees, to authorize the establishment of credited service and prior service credit in TCDRS for service performed in a public hospital, utility, or other public facility or governmental function during a time the facility was operated or function was performed by a unit of government other than the subdivision and before the date that the public hospital, utility, or other public facility or governmental function was taken over by the subdivision. Deletes existing text authorizing the governing body of a participating subdivision by order, in accordance with rules adopted by the board of trustees, to authorize the establishment of credited service and prior service credit in TCDRS for service performed in a public hospital, utility, or other public facility or governmental function during a time the facility was operated or function was performed by a unit of government other than the subdivision and performed by a unit of government other than the subdivision and before the effective date of the subdivision's participation in TCDRS, if the facility was acquired or the governmental function was taken over by the subdivision before that date; or the date of acquisition of the facility or the date the governmental function was taken over, if the facility was acquired or the governmental function was taken over after the effective date of the subdivision's participation in TCDRS. Deletes existing Subsections (b) (relating to the date by which a member eligible to establish credit service and prior service credit under this section) and (c) (relating to an authorization for the governing body to limit the allocated prior service credit percentage allowable under this subchapter).

SECTION 12. Amends Section 843.401, Government Code, as follows:

Sec. 843.401. CURRENT SERVICE GENERALLY. Provides that current service is service performed by an employee of a participating subdivision while a member of TCDRS and credited as provided under this subtitle and in accordance with rules adopted by the board of trustees, rather than under this section. Deletes existing text requiring TCDRS to credit a member with one month of current service for each month for which the required contributions are made, reported, and certified by the employing subdivision.

SECTION 13. Amends Sections 843.502(a), (b), and (c), Government Code, as follows:

(a) Redefines "qualified military service" and defines "USERRA."

(b) Entitles all members of TCDRS to be credited with service for qualified military service subject to the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.) (USERRA). Provides that notwithstanding any provision of this subtitle to the contrary, contributions, benefits, credit service, and service credit for qualified military service will be provided in accordance with USERRA and Section 414(u) of the Internal Revenue Code of 1986. Authorizes the board of trustees to adopt rules for the administration of this section, including rules that modify the terms of this subtitle for the purpose of compliance with the provisions of USERRA, rather than that Act. Makes a nonsubstantive change.

(c) Authorizes an eligible member to establish credited service in TCDRS for qualified active duty military service not creditable under Subsection (b). Provides that a member eligible to establish credited service under this subsection is one who is vested, based on credit service only in this system and without regard to service that may be established under this subsection, in a service retirement annuity that may begin at the age of 60, rather than has credit service in TCDRS for a least the minimum period required to receive a service retirement annuity at the age of 60 from the subdivision from which credit under this subsection is sought. Authorizes an eligible member to establish not

more than five years of credited service under this subsection by filing an application with TCDRS. Deletes existing text authorizing the governing body of a participating subdivision also, on the terms provided by Section 844.704 (Benefits), to authorize the establishment of credited service in TCDRS for qualified active duty as military service as provided by this subsection.

SECTION 14. Amends Section 843.504, Government Code, as follows:

Sec. 843.504. NO DOUBLE CREDITING OF SERVICE. Authorizes only one month of credited service, except as provided by Chapter 803 (Proportionate Retirement Program), to be established in TCDRS for any calendar month for all service that is creditable under this subtitle. Deletes existing text prohibiting credited service, except as provided by Chapter 803, from being established under this subchapter for any month of service that is credited under another section of this subtitle or by another retirement system or program established or governed by state law.

SECTION 15. Amends Subchapter F, Chapter 843, Government Code, by adding Section 843.505, as follows:

Sec. 843.505. CREDITED SERVICE PREVIOUSLY ELIGIBLE FOR RECOGNITION UNDER PROPORTIONATE RETIREMENT PROGRAM. Authorizes the board of trustees by rule to authorize TCDRS, on application by a member and for the sole purpose of determining eligibility for retirement from this system, to recognize service performed under another system participating under Chapter 803 that would have been recognized by this system under that chapter if the service had not been canceled by a withdrawal of contributions.

SECTION 16. Amends Section 844.003, Government Code, by amending Subsections (c) and (e) and adding Subsection (f), as follows:

(c) Provides that the effective date of a member's disability retirement is the date the member designates at the time the member applies for retirement under Section 844.301 (Application for Disability Retirement), but the date is required to be the last day of a calendar month and is prohibited from preceding the later of the date the member became disabled or the date the member terminated, rather than terminates, employment with all participating subdivisions.

(e) Prohibits the effective retirement date of a member, notwithstanding Subsections (a) (relating to the effective date of a member's service retirement), (b) (relating to the date on which a member is considered to have retired if the member dies before retirement), (b-1) (relating to the date on which a vested member who has not retired before the member's required beginning date is considered to have retired), (c), and (f), from preceding the first anniversary of the effective date of participation of the subdivision. Makes a nonsubstantive change.

(f) Authorizes the board of trustees by rule to authorize a retiring member to designate an effective service or disability retirement date that is not more than six months before the date TCDRS receives the retirement application. Prohibits a rule adopted under this section from suspending another requirement provided by this section for retirement.

SECTION 17. Amends Sections 844.006(d) and (f), Government Code, as follows:

(d) Authorizes the benefit payable to a retiree who is receiving payments of a standard or optional retirement annuity to be divided by TCDRS into two annuities in accordance with the terms of a model qualified domestic relations order adopted by the board of trustees by rule. Deletes existing text authorizing the benefit payable to a retiree who is receiving payments of a retirement annuity computed on the joint lives of the retiree and the person designated as beneficiary by the retiree, if a qualified domestic relations order, as that term is defined by Section 804.001 (Definitions), so provides, to be divided by TCDRS into two annuities if the person who was designated as beneficiary by the retiree is the same person as the alternate payee; the order specifies that one of the two annuities

is payable over the remaining life of the retiree, with no payments to be made under that annuity after the death of the retiree, and the order specifies that the annuity payable to the alternate payee is payable over the remaining life of that person, with no payments to be made under that annuity after the death of the alternate payee named in the order.

(f) Provides that the board of trustees has sole authority and discretion to specify the terms and format that are required for a domestic relations order to be acceptable for purposes of this section, to require strict compliance for qualification, and to define the terms and features of the benefit awarded an alternate payee under the order. Authorizes the board, rather than TCDRS, by rule to establish requirements for forms, documentation, and procedures necessary or desirable for the administration of this section.

SECTION 18. Amends Section 844.008, Government Code, as follows:

Sec. 844.008. LIMITATION ON PAYMENT OF BENEFITS. (a) Prohibits the benefit payable to a retiree of TCDRS from exceeding the maximum benefit permitted under Section 415(b) of the Internal Revenue Code of 1986, rather than under Section 415(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(b)), as adjusted in accordance with Section 415(d) of that code. Provides that for the purposes of determining whether the benefit of a retiring member or retiree exceeds the limitations provided in this section, all defined benefit plans of the employer and of entities required to be aggregated with the employer for purposes of Section 415 of the Internal Revenue Code of 1986 are to be treated as one defined benefit plan for purposes of Section 415 of that code, rather than providing that all such plans are to be treated as one defined benefit plan and all defined contribution plans of the employer and of entities required to be aggregated with the employer for purposes of Section 415 of that code are to be treated as one defined contribution plan.

(b) Prohibits an employer from providing employee retirement benefits under a defined benefit plan, rather than from providing employee retirement or deferred benefits under a plan, other than TCDRS to the extent that the provision of the benefits when considered together with the benefits provided under TCDRS, would result in the failure of TCDRS to meet any of the limitation requirements of Section 415 of the Internal Revenue Code of 1986, rather than under Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415), and the benefits of the other plan will automatically be reduced, eliminated, or adjusted to the extent necessary to prevent failure.

SECTION 19. Amends Section 844.101, Government Code, to require an eligible member, to receive a retirement annuity for service, to apply by filing a valid application with TCDRS, rather than with TCDRS on or before the member's effective retirement date designated on the application.

SECTION 20. Amends Section 844.301(a), Government Code, to make a conforming change.

SECTION 21. Amends Section 844.404, Government Code, as follows:

Sec. 844.404. PERSON CAUSING DEATH OF MEMBER OR ANNUITANT. (a) Provides that a benefit, including any optional group term life benefit, payable on the death of a member or annuitant, is prohibited from being paid to a person convicted of causing that death but instead is payable to a person who would be entitled under this subtitle to the benefit had the convicted person predeceased the decedent.

(b) Provides that TCDRS is not required to change the recipient of benefits under this section unless it receives actual notice of the conviction of a beneficiary. Deletes existing test providing that TCDRS is not required to pay a benefit under Subsection (a) unless it receives actual notice of the conviction of the person who would have been entitled to the benefits.

(c) Provides that TCDRS is not liable for any benefit paid to a convicted person before the date the system receives actual notice of the conviction, and any payment made before that date is a complete discharge of the system's obligation with regard to that benefit payment. Provides that the convicted person holds all payments received in constructive trust for the rightful recipient.

(d) Redesignates existing Subsection (c) as Subsection (d). Requires TCDRS, if an annuity system is in pay status, to pay in a lump sum the actuarial equivalent of, rather than convert, the remainder of any annuity or payments that would otherwise have been payable to the convicted person to the person entitled to the benefit under Subsection (a) or to the decedent's estate, rather than payable throughout the life of the convicted person to an actuarially equivalent annuity payable to the decedent's estate in 60 monthly annuity payments.

(e) Redesignates existing Subsection (d) as Subsection (e). Provides that for the purposes of this section, a person has been convicted of causing the death of a member or annuitant if the person has pleaded guilty or nolo contendere to or has been found guilty by a court of competent jurisdiction of an offense at the trial of which it is established that the person's intentional, knowing, or reckless act or omission resulted in the death of a person who was a member or annuitant, regardless of whether sentence is imposed or probated.

SECTION 22. Amends Subchapter G, Chapter 844, Government Code, by adding Section 844.601, as follows:

Sec. 844.601. PLAN FUNDING BY NON-ADOPTING COUNTY. (a) Provides that this section applies only to a county that began participation in TCDRS before January 1, 1992, and has not adopted the provisions of Subchapter H (Annually Determined Contribution Rate Plan).

(b) Requires the county, except as provided by Subsections (c) and (d), to contribute to its account in the subdivision accumulation fund at the same rate of current service compensation as the employee contribution rate for the county.

(c) Requires the governing body of the county, if in any year TCDRS's actuary determines that the contributions of the county to the subdivision accumulation fund under Subsection (b) will not finance the county's obligation to the fund within the closed or open amortization period recommended by the actuary and adopted by the board of trustees for all subdivisions, to adopt an order to reduce the amortization period to the maximum period established by the board. Requires the actuary to determine appropriate remedies for review and adoption by the county. Requires an order adopted under this subsection to first be approved by the board of trustees and require a reduction in the employee contribution rate to a rate not less than four percent of current service compensation; additional employer contributions under a supplemental contribution rate as provided by Subsection (e); a reduction in the percentage for determining multiple matching credits in five percent increments for contributions made after the effective date of the reduction; or any combination of these actions.

(d) Provides that an order adopted under Subsection (c) takes effect on the first day of the calendar year that begins after the date TCDRS's actuary makes a determination described by Subsection (c).

(e) Provides that a supplemental contribution rate under this section is the rate of contribution by the county to its account in the subdivision accumulation fund, in addition to the contributions required under Subsection (b), that TCDRS' actuary determines and certifies is required to amortize the obligations of the county to the subdivision accumulation fund within the established amortization period.

(f) Prohibits a county that has not adopted the provisions of Subchapter H from adopting additional options and from increasing service credits or benefits

otherwise allowable under this subtitle except for an increase in the rate of employee contributions or an increase in the percentage of multiple matching credits to a rate or percentage that does not exceed the rate or percentage in effect on January 1, 2010.

SECTION 23. Amends Section 844.701, Government Code, as follows:

Sec. 844.701. **APPLICABILITY.** Provides that except for a county described by Section 844.601, this subchapter applies to each subdivision that participates in the retirement system. Deletes existing Subsection (a) and existing text providing that this subchapter applies to each subdivision that begins participation in TCDRS after December 31, 1991. Deletes existing Subsections (b) (relating to the governing body of any subdivision participating before January 1, 1992 by order or resolution to adopt the plan provisions of this subchapter in a certain manner) and (c) (relating to the provision that the other provisions of this subtitle apply to the plan provisions of this subchapter except as modified by this subchapter).

SECTION 24. Amends Section 844.704, Government Code, as follows:

Sec. 844.704. **BENEFITS.** (a) Requires the governing body of a subdivision to select a percentage for determining multiple matching credits of zero or any percentage that is a multiple of five percent and that does not exceed 150 percent, rather than requiring the governing body of the subdivision, on the adoption of the plan provisions of this subchapter to select a percentage for determining multiple matching credits under Section 843.402 (Current Service Credit and Multiple Matching Credit). Authorizes the governing body to later increase the percentage used in determining multiple matching credits under Section 843.402 to any percentage that is a multiple of five percent and that does not exceed 150 percent, to take effect on the next January 1 after the date the increase is adopted. Deletes existing text requiring the governing body to select a percentage of zero or any percentage that is a multiple of five percent and that does not exceed 150 percent, or it is authorized to select the multiple matching percentage that the subdivision has in effect on the date of its adoption of the plan provisions of this subchapter. Authorizes the governing body, in its order or resolution, to provide that the increased percentage will be used in determining multiple matching credits, rather than in determining multiple matching credits under Section 843.402, only for employee contributions made after the effective date of the increase of that the increased percentage will be used both prospectively and retroactively in determining the multiple matching credits for all employee contributions not otherwise matched at a higher percentage. Deletes existing text authorizing the governing body to later increase the percentage used in determining multiple matching credits under Section 843.402 to any percentage that is a multiple of five percent to take effect on the next January 1 after the date the increase is adopted, except that the sum of the percentage for current service credits under Section 843.402 and the percentage for multiple matching credits is prohibited from exceeding 250 percent. Makes conforming changes.

(b) Requires the governing body to select a percentage for determining allocated prior service credits of zero or any percentage that is a multiple of five percent. Deletes existing text requiring the governing body, on the adoption of the plan provisions of this subchapter, to select a percentage for determining allocated prior service credits under Section 843.105 (Determination of Maximum and Allocated Prior Service Credit); providing that for a subdivision that began participation before January 1, 1992, the percentage cannot be less than the percent in effect immediately before the adoption of the plan. Makes a conforming change.

(c) Requires the subdivision to provide current service credits in accordance with Section 843.402.

(d) Creates Subsection (d) from existing text. Authorizes the governing body of a subdivision, with the approval of the board of trustees, to adopt any benefit increase or additional benefit, option, right, or feature as authorized under this

subtitle. Deletes existing text authorizing the governing body of a subdivision to adopt or authorize an increase in retirement annuities under Section 844.209 (Alternative Optional Increase in Retirement Annuities), an increase in retirement annuities under Section 844.208 (Optional Increase in Retirement Annuities), the reestablishment of service credit previously forfeited under Section 843.003, the establishment of credited service for military service under Section 843.502(c), an optional service requirement eligibility provision described by Section 844.1021 (Optional Eligibility Provisions for Service Retirement), or the partial lump-sum distribution on service retirement under Section 844.009 (Partial Lump-Sum Distribution on Service Retirement).

(e) Prohibits the governing body from adopting an increase or addition to the subdivision's plan, rather than the benefits of this section, if the adoption would result in the combined rates of the subdivision's normal contributions and prior services for the first calendar year following the adoption exceeding the maximum rate prescribed by Section 844.703(c) (relating to the maximum percentage authorized for combined rates of a subdivision's normal contributions and prior service contributions), unless a waiver under that section is in effect.

(f) Requires an order or resolution, other than an order or resolution of initial participation in TCDRS and except as otherwise authorized by the board of trustees, to be filed with TCDRS not later than December 15 of the year preceding the year in which it will take effect and prohibits it from taking effect until the order or resolution is approved by the board of trustees as meeting the requirements of this section. Authorizes an order or resolution adopted after participation begins to take effect only on January 1 of a year. Deletes existing text authorizing an order or resolution, after approval by the board, to take effect only on January 1 of a year, except that an order or resolution for a subdivision that begins participation after January 1, 1992, is authorized to take effect on the date the subdivision begins participation.

SECTION 25. Amends Section 845.107, Government Code, as follows:

Sec. 845.107. New heading: AUDITS AND REVIEWS. (a) Defines "audit" and "audit working paper."

(b) Creates Subsection (b) from existing text.

(c) Authorizes the board of trustees, in addition to the financial audit required by Subsection (b) (relating to required audits of the accounts of TCDRS), to initiate or commission an audit or investigation of activities, functions, or operations of TCDRS as the board determines appropriate.

(d) Provides that audit working papers that are prepared, maintained, or assembled by TCDRS or an agent of the system are not a record of the board of trustees for purposes of Section 845.112 (Records of Board of Trustees), and are confidential and excepted from the disclosure requirements of Chapter 552 (Public Information).

(e) Provides that unless made confidential under other law, an audit report, when accepted by the board of trustees in its final form, is a record of the board and public information.

SECTION 26. Amends Section 845.110, Government Code, by adding Subsection (c), as follows:

(c) Authorizes the board of trustees, on recommendation of TCDRS's actuary, by rule to adopt a mortality basis to be used in determining actuarial equivalents. Prohibits a mortality basis adopted under this subsection from being applied in a manner that would reduce a participant's monthly benefit that has accrued before the later of the date the mortality basis is adopted or the date the mortality basis is implemented.

SECTION 27. Amends Section 845.114(a), Government Code, to redefine "participant."

SECTION 28. Amends Section 845.1151, Government Code, as follows:

Sec. 845.1151. ELECTRONIC INFORMATION. Deletes existing Subsection (a) (relating to the definition of "participant"). Makes a nonsubstantive change.

SECTION 29. Amends Section 845.305(b), Government Code, to require that all assets of the pension trust of TCDRS be credited according to the purpose for which they are held to one of certain funds, including income fund, rather than interest fund.

SECTION 30. Amends the heading to Section 845.309, Government Code, to read as follows:

Sec. 845.309. INCOME FUND.

SECTION 31. Amends Section 845.309(a), Government Code, to make a conforming change.

SECTION 32. Amends Section 845.315(a), Government Code, to require the board of trustees, as of December 31 of each year, to make certain allocations that in the aggregate equal the net investment income or loss for the year, including to the optional group term life fund, rather than the supplemental death benefits fund, interest as allowed under this subtitle on the mean amount in the optional group term life fund, rather than the supplemental death benefits fund, during that year; to the accounts of subdivisions, other than subdivisions otherwise described by this section, positive or negative amounts, rather than an amount derived by applying a positive or negative rate, as determined under rules adopted by the board prescribing the allocation methodology for the accounts, rather than as determined by the board to the January 1 balance of that year.

SECTION 33. Amends Sections 845.402(b) and (c), Government Code, as follows:

(b) Authorizes the governing body of a participating subdivision to increase the rate of its member contributions effective with the first pay period beginning in the following calendar year, rather than on the first day of any calendar year. Makes a nonsubstantive change.

(c) Authorizes the governing body of a participating subdivision to reduce the rate of its member contributions effective with the first pay period beginning in the following calendar year. Deletes existing text authorizing the governing body of a participating subdivision to reduce the rate of its member contributions effective on the first day of any calendar year if, at least 90 days before the date of the reduction, the subdivision has given written notice of the reduction to the board of trustees and if the actuary determines that the reduction would not impair the ability of the subdivision to fund all obligations against its account in the subdivision accumulation fund before the 20th anniversary of the subdivision's most recent actuarial valuation date.

SECTION 34. Amends Subchapter E, Chapter 845, Government Code, by adding Section 845.405, as follows:

Sec. 845.405. ALTERNATIVE PERIODS FOR ADMINISTRATIVE COMPLIANCE.

(a) Authorizes the board of trustees, notwithstanding any other provision of this subtitle, to authorize a subdivision to remit to TCDRS contributions, deposits, and other payments on the basis of a period that is less than a month, including a weekly, biweekly, or other semimonthly period. Requires a subdivision authorized to remit amounts more frequently than monthly to make reports and filings and perform other actions accordingly, and requires TCDRS to credit payments accordingly.

(b) Authorizes the board of trustees to make an authorization under Subsection (a) by rule applicable to all subdivisions similarly situated or by order applicable to designated subdivisions. Provides that a rule adopted under this subsection is amendable or revocable in the manner provided for adoption, amendment, or

repeal of rules generally. Provides that an order adopted under this subsection is revocable wholly or partly by subsequent board order.

(c) Requires the board of trustees, if the board adopts a rule or order under Subsection (b), to also adopt rules, applicable to a subdivision electing or designated to take actions described by this section more frequently than monthly, to alter the periods required for submission of payments and reports, including the period when a late penalty begins to accrue or is deducted from a subdivision's account in the subdivision accumulation fund, in a manner consistent with the periods provided by this subtitle.

(d) Prohibits a participant from receiving less credit service, service credit, or benefits due to an authorization under this section than the participant would have received on a monthly basis.

SECTION 35. Amends Section 845.407(a), Government Code, to require that the interest portion of the penalty be deposited by TCDRS in the distributable income account of the income fund, rather than the interest fund.

SECTION 36. Amends Sections 845.503(a) and (b), Government Code, to authorize TCDRS to reduce future payments of benefits based on the account of a member, a retiree, or other former member to recoup an amount overpaid or otherwise paid in error to or on the behalf of a participant, rather than the member, former member, retiree, annuitant, or beneficiary. Makes a conforming change.

SECTION 37. Provides that Section 844.601(b), Government Code, as added by this Act, applies only to employer contributions to TCDRS that become due on or after January 1, 2010. Provides that a county subject to Section 844.601(b), Government Code, is obligated to make employer contributions to TCDRS before January 1, 2010, at the rate in effect on August 31, 2009.

SECTION 38. (1) Repealer: Section 843.0031(a) (relating to the authorization of certain members to reestablish the forfeited service credit in the system under certain circumstances), Government Code;

(2) Repealers: Sections 843.502(d) (relating to the definition for "current service of military duty") and (e) (relating to the maximum amount of credited service that a person is authorized to receive), Government Code;

(3) Repealers: Sections 844.605 (Supplemental Contribution Rate for Certain Subdivisions), 844.606 (Optional Decrease in Credits), 844.607 (Required Decrease in Credits), 844.608 (Required Decrease in Contribution Rate), and 844.609 (Increase in Service Credits and Adoption of Benefit Options), Government Code;

(4) Repealer: Section 845.115(f) (relating to the definition of "participant"), Government Code; and

(5) Repealer: Section 95 (relating to the required years of credit service before service retirement from the system at age 60 or older), Chapter 873 (H.B. 1587), Acts of the 80th Legislature, Regular Session, 2007.

SECTION 39. (a) Effective date, except as provided by Subsection (b) of this section: January 1, 2010.

(b) Effective date, Sections 841.0091 and 844.601, Government Code, as added by this Act, Section 845.315, Government Code, as amended by this Act, and Section 37 of this Act: September 1, 2009.