

## **BILL ANALYSIS**

C.S.H.B. 3898  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Concerns have been raised in recent years regarding the ability of public retirement systems to pay their long-term obligations. State law governing funding soundness restoration plans requires public retirement systems and their associated governmental entities to adopt a remediation plan if existing liabilities cannot be paid off within 40 years. However, it has been suggested that the remediation requirements for plans facing serious funding shortfalls operate independently from more recent funding policy mandates and do not align with pension funding guidelines of the State Pension Review Board. C.S.H.B. 3898 seeks to remedy this situation by more closely aligning existing mandates and reporting requirements for these systems with current industry practices to ensure the long-term financial health of Texas' public retirement systems.

### **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 State Pension Review Board in SECTIONS 2, 3, and 4 of this bill.

### **ANALYSIS**

C.S.H.B. 3898 amends the Government Code to revise provisions providing for the development of a funding policy for a public retirement system. The bill does the following:

- requires the governing body of a system to timely revise the system's policy to reflect any significant changes to the policy, including changes required as a result of formulating and implementing a funding soundness restoration plan;
- requires the governing body of a system that is not a statewide retirement system to develop and adopt its policy, and make those timely revisions to the policy, jointly with its associated governmental entity;
- requires the governing body of a system to post a copy of the most recent edition of the policy on a publicly available website;
- requires the policy to outline any automatic contribution or benefit changes designed to prevent having to formulate a revised funding soundness restoration plan; and
- authorizes the State Pension Review Board (PRB) to adopt rules necessary to implement the provisions.

C.S.H.B. 3898 makes, with respect to funding soundness restoration plans for certain public retirement systems, including those of a municipality with a population of 500,000 or more that on January 1, 2007, have a single unitary public retirement system for employees of all departments of the municipality, the following revisions:

- reduces from 40 years to 30 years the maximum period of time by which the public retirement system's actual contributions must be sufficient to amortize the unfunded actuarial accrued liability as determined by an actuarial valuation, the receipt of which triggers the requirement for the system to notify the applicable associated governmental entity in writing of the insufficient contributions;
- revises the requirements for the governing body of a public retirement system and of the associated governmental entity, in accordance with the system's governing statutes, to formulate a funding soundness restoration plan by requiring such a plan to be developed by or jointly with the governing body of the respective associated governmental entity, as applicable, if the system's actuarial valuation shows that the system's expected funding period:
  - has exceeded 30 years for three consecutive annual actuarial valuations, or two consecutive annual actuarial valuations in the case of a system that conducts the valuations every two or three years; or
  - effective September 1, 2025:
    - exceeds 40 years; or
    - exceeds 30 years and the funded ratio of the system is less than 65 percent; and
- revises requirements for a funding soundness restoration plan to be designed to achieve a contribution rate that will be sufficient to amortize the unfunded actuarial accrued liability within 40 years not later than the 10th anniversary of the date on which the final version of a plan is agreed to by requiring the contribution rate to amortize the liability within 30 years not later than the later of:
  - the second anniversary of the valuation date stated in the actuarial valuation that required formulation of the plan; or
  - September 1, 2025.

C.S.H.B. 3898 provides the following regarding a funding soundness restoration plan:

- a plan must be based on certain approved actions, as applicable, agreed to be taken by the respective system and entity before the plan was adopted; and
- a plan must be adopted at open meetings of the respective governing bodies of the applicable governing body of a public retirement system and the associated governmental entity, in accordance with the system's governing statutes, not later than the second anniversary of the date the applicable actuarial valuation was adopted by the applicable governing body.

C.S.H.B. 3898 requires the respective entities that have an existing funding soundness restoration plan to formulate a revised plan if the applicable system becomes subject to the funding soundness restoration plan before the 10th anniversary of the date by which the plan was designed to have achieved the desired contribution rate. The bill exempts the respective entities from that requirement under certain conditions.

C.S.H.B. 3898 requires a revised funding soundness restoration plan to be, as follows:

- developed by the respective entities in accordance with the system's governing statute;
- designed to achieve a contribution rate that will be sufficient to amortize the unfunded actuarial accrued liability within 25 years not later than the second anniversary of the valuation date stated in the actuarial valuation that required formulation of the revised plan;
- based on certain approved actions, as applicable, agreed to be taken by the respective entities before the plan was adopted; and
- adopted at an open meeting of the respective governing bodies not later than the second anniversary of the date the applicable actuarial valuation was adopted by the applicable governing body.

C.S.H.B. 3898 prohibits a funding soundness restoration plan, including a revised plan, from including actions that are subject to future approval by the respective entities. The bill authorizes

a system, not later than the 90th day after the date on which the plan is adopted by the applicable governing body, to submit to the PRB an actuarial valuation that shows the combined aspect of all changes to a funding soundness restoration plan adopted under the bill's provisions. If a system does not provide an actuarial valuation to the PRB, the PRB may request that the system provide a separate analysis of the combined impact of all changes to a funding soundness restoration plan not later than the 90th day after the date the PRB makes the request. The bill provides for the required contents of the actuarial valuation or separate analysis. The bill authorizes the respective associated governmental entity to pay all or part of the costs of the separate analysis, as applicable, and requires the public retirement system to pay any costs for the analysis not paid by the entity.

C.S.H.B. 3898 requires a public retirement system, the governing body of a public retirement system, and the associated governmental entity, in accordance with the system's governing statute, required to formulate a funding soundness restoration plan, including a revised plan, to provide a report to the PRB on progress made by the respective entities in formulating the plan, including a draft of any plan and a description of any changes under consideration for inclusion in a plan, not later than the first anniversary of the date of the actuarial valuation that required formulation of the plan and each subsequent six-month period until the plan is submitted to the board.

C.S.H.B. 3898 changes the deadline by which each public retirement system, each governing body of each public retirement system, and each associated governmental entity, in accordance with the system's governing statute, that formulates a funding soundness restoration plan must submit a copy of that plan to the PRB from not later than the 31st day after the date on which the plan is formulated to not later than the 31st day after the date on which the plan is adopted by the respective entities. The bill removes the requirement for the entities to submit a copy of any change to the plan.

C.S.H.B. 3898 authorizes the PRB to adopt rules as necessary to implement the bill's provisions relating to funding soundness restoration plans.

C.S.H.B. 3898 amends the Texas Local Fire Fighters Retirement Act, Vernon's Texas Civil Statutes, to apply to a retirement system established under that act the bill's provisions relating to funding policies for a public retirement system and to the funding soundness restoration plan of certain public retirement systems.

C.S.H.B. 3898 sets out conditions under which a funding soundness restoration plan formulated or revised before the bill's effective date must be formulated as required by the bill's provisions.

#### **EFFECTIVE DATE**

September 1, 2021.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3898 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 includes a provision absent from the original that makes the bill's provisions relating to funding policies for a public retirement system and to the funding soundness restoration plan of certain public retirement systems applicable to a retirement system established under the Texas Local Fire Fighters Retirement Act.

The substitute includes a requirement for the governing body of a public retirement system and an associated governmental entity to post, jointly, if applicable, a copy of the most recent edition

of the written funding policy on a publicly available website. The substitute does not include the original's requirement for those entities to submit a copy of the policy and each change to the policy to each active member and annuitant of the system.

The substitute does not include the original's revision to the requirement for a system's actual contributions to be sufficient to fully fund the system's unfunded actuarial accrued liability within 30 years by requiring the contributions instead to be sufficient to amortize the unfunded actuarial accrued liability.

The substitute includes an exemption absent from the original for an applicable governing body from requirements regarding a funding soundness restoration plan if the system is adhering to an existing funding soundness restoration plan that was formulated before September 1, 2025.

The substitute does not include the original's requirement for a funding soundness restoration plan and a revised funding soundness restoration plan to contain an aggregate analysis showing the combined anticipated impact of all changes agreed to be made under a funding soundness restoration plan.

The substitute includes the following authorizations, which are absent from the original:

- an authorization for a system to submit by a specified deadline to the PRB an actuarial valuation that shows the combined impact of all changes to an adopted funding soundness restoration plan, including a revised funding soundness restoration plan; and
- an authorization for the PRB, if a system does not timely submit the actuarial valuation, to request that the system provide a separate analysis of the combined impact of all changes to an adopted funding soundness restoration plan adopted by a specified deadline.

The substitute includes a requirement absent from the original for an actuarial valuation or separate analysis to include a description of all methods used to perform the analysis, which must comply with actuarial standards of practice.

The substitute includes procedural provisions absent from the original establishing conditions under which a funding soundness restoration plan formulated or revised before the bill's effective date must be formulated as required by the bill's provisions.