HOUSE
RESEARCH
ORGANIZATION bill analysis | 4/8/97 | HB 1638 Kuempel

SUBJECT: Texas County and District Retirement System revisions

COMMITTEE: Pensions and Investments — favorable, without amendment

VOTE: 6 ayes — Telford, Woolley, Goolsby, Rangel, Tillery, Williams

0 nays

3 absent — Berlanga, Sadler, Serna

WITNESSES: For — Charley Wilkison, Law Enforcement Association

Against — None

On — Terry Horton and Terrence Kendall, Texas County and District Retirement System

BACKGROUND: The Texas County and District Retirement System (TCDRS) is a statewide pension system that administers retirement, disability and death benefits for employees in participating counties and political subdivisions, except cities and school districts. The 252 counties and 239 political subdivisions participating in TCDRS are separately funded in the system.

The plans are funded through employer and employee contributions that are either fixed or determined annually. TCDRS is a defined contribution plan, which means that benefits are based on contributions and investment earnings.

The nine-member TCDRS board, appointed by the governor from the TCDRS membership, invests the $6.8-billion pooled portfolio, 98 percent of which is invested in government-insured bonds.

DIGEST: HB 1638 would make a number of changes to the TCDRS including:

- eliminating the specific list of authorized investments and allowing the board of trustees to invest the funds according to the prudent person standard outlined in Art. 16, sec. 67(3), Texas Constitution, beginning September 1, 1997;

- requiring the TCDRS broad of trustees to have written investment objectives:

- specifying a 7 percent annual interest rate on members' accounts;

- allowing participating entities to adopt rules complying with IRS rules regarding contributions, benefits and service credit for employees' military service while employed by the county or district;

- requiring that county employees who receive supplemental salary contribute to the county's TCDRS plan;

- specifying that if a member dies without designating a beneficiary the annuity would be paid to the member's estate;

- allowing participating counties and districts to adopt an amortization period not to exceed 30 years;

- specifying that a subdivision's contribution rate may not be more than 11 percent;

- authorizing the TCDRS director to sign checks and make fund transfers and submit an administrative budget for board review;

- specifying that TCDRS disbursements can be made by means generally available to the banking industry (i.e., electronic transfer of funds) and eliminating the requirement that disbursements be made only by voucher;

- specifying procedures for closing accounts of members who cannot be found and reopening accounts when they are found;

- specifying that members have the right to appeal decisions to district court under administrative procedures; and

- allowing the trustees to make rules to comply with Section 401, Internal Revenue Code to maintain a qualified plan.

The bill would repeal various sections of the TCDRS statute.

The bill would take effect December 31, 1997, except for the provision changing investment criteria to prudent person standard, which would take effect September 1, 1997.

SUPPORTERS SAY:

HB 1638 would change the investment and financial structure of the TCDRS and make other revisions to ensure that the system maintains compliance with the IRS Code and retains its tax-exempt status. It would also make administrative and technical changes to conform with Government Accounting Standards Board retirement system standards and give participating districts and counties more flexibility in contribution rates and amortization periods.

The bill would change the investment standards of the pooled fund to the prudent person standard, as allowed by the Texas Constitution. Eliminating the laundry list of permissible investments now set by statute would provide the system board needed flexibility to invest in today's market. The board of trustees would still have strict fiduciary responsibility to invest the pension funds under the well-established prudent person standard. Almost all pension funds investments are governed according to the prudent person standard, which by definition prevents risky investing. Expanded investment in equity stocks would give the fund more growth potential to hedge against inflation and increased diversity. The TCDRS actuary recommended the change to prudent person investing to maximize investment returns to pay benefits; otherwise, it might be necessary for the participating entities and employees to raise their contribution levels.

The bill would make a number of administrative and accounting changes to reflect and account for the shift in the investment portfolio from almost 100 percent fixed income securities earning interest to a larger share of equity stocks that earn dividends and unrealized gains from appreciation in value. The bill allows for allocation of investment income from unrealized gains and losses to the fund from equity stocks.

The bill would also repeal various sections of the TCDRS statutes to eliminate obsolete provisions and duplication of laws.

OPPONENTS SAY:

The list of permissible investments was established to ensure that investments made by TCDRS are conservative and risk free. Allowing the trustees the broad authority to invest under the prudent person standard and eliminating the permissible list of investments would give less assurance that fund investments are secure.

NOTES:

The companion bill, SB 769 by Armbrister, has been referred to the Senate Intergovernmental Relations Committee.