HOUSE RESEARCH ORGANIZATION bill analysis — 5/4/1999 — HB 2405 Kuempel (CSHB 2405 by Greenberg)

SUBJECT: Texas County And District Retirement System benefit enhancements

COMMITTEE: Pensions and Investments — committee substitute recommended

VOTE: 7 ayes — Greenberg, Tillery, Bonnen, Clark, George, Rangel, Williams

0 nays

2 absent — Salinas, Telford

WITNESSES: None

BACKGROUND: The Texas County and District Retirement System (TCDRS) is the retirement system for employees of counties and of political subdivisions that include special districts. The system provides retirement annuities, disability benefits, and other benefits.

TCDRS administers a fixed-rate plan and an annually determined contribution rate (ADCR) plan. Most subdivisions are enrolled in the ADCR plan, which requires a fixed contribution rate from members based on a fixed designated integer. The system determines the contribution rate of a participating subdivision, which, for the purpose of contributions, means a group of counties. The system actuary determines the rate, which the system may raise under certain conditions.

DIGEST: CSHB 2405 would amend the Government Code by changing several provisions related to TCDRS benefits and administration.

CSHB 2405 would allow TCDRS plans to elect to waive the current state cap on employer contributions, which limits the employer rate to 11 percent of the covered employee payroll. A subdivision that waived the 11 percent cap could adopt an employer rate exceeding 11 percent or could choose to contribute supplementary lump-sum deposits to help fund any allowable level of benefits.

The bill would require subdivisions with an ADCR plan to contribute at a specific rate in all future years consistent with the actuary's recommendations and with the approval of the TCDRS board of trustees. The subdivision could make a supplementary lump-sum deposit to fund any allowable level of benefits. A subdivision could not terminate participation in TCDRS if it had any outstanding liabilities resulting from the participation of current or former employees. The bill also would amend allocation of the assets of a subdivision's account with respect to the enrollment of new members and significant reductions in the number of contributing members.

The bill would create a single Survivor Annuity Death Benefit (SADB) to consolidate the existing Vested Survivor Death Benefit Plan and Deferred Service Retirement Plan. The SADB would be paid to the designated beneficiary of any TCDRS member with four or more years of credited service at the time of the member's death, regardless of age. The SADB would be optional for fixed-rate plans and automatically would replace current death benefits in ADCR plans.

After December 31, 1999, the bill would restrict use of the optional "rule of 75" and "rule of 80" retirement standards for new members to those who had satisfied their plan's vesting standard, which would have to be eight to ten years, depending on the subdivision. Under these rules, a member is vested and eligible for full retirement benefits if the member's age and years of credited service add up to 75 or 80. The eligibility provisions would apply to any TCDRS member who had no service credit as of December 31, 1999, in a subdivision that previously had adopted either rule.

The bill would simplify provisions for establishing length-of-service credit for active-duty military service performed during any period. Service credit would be recognized in two categories: service established under the federal Uniform Service Employment and Re-Employment Rights Act (USERRA) and non-USERRA service. (USERRA is a federal program that allows a member to establish TCDRS service credit at no cost or to establish active-duty military service if the member applied for re-employment with the same subdivision within 90 days of military discharge.) TCDRS credit also could be established under USERRA if the member had been honorably discharged and returned to employment on or after December 12, 1994.

Non-USERRA credit would be granted to members of active-duty military service that did not result in a break in subdivision employment. No monetary credit would be granted for military service and there would be no member cost to establish the credit. Length of service would be granted for any period in which military service was performed. The bill also would consolidate military service credit provisions to conform to changes in federal law.

The bill would prohibit credit for service in the Legislature from being established in TDCRS if the service were credited by another retirement system or program established or governed by state law.

The bill would allow for prorated interest credits up to the time of withdrawal for members who refunded their accounts before December 31 of each year.

The bill would allow ADCR subdivisions to grant cost-of-living increases to retirees in specified uniform percentages without regard to length of retirement or inflation indexes. The bill also would allow electronic filing of retirement plan documents.

The bill would impose a penalty of up to $500 plus interest on any subdivision that failed to submit its monthly report and member/employer deposits by the 15th day after the end of the reporting month. It also would make other conforming technical changes and would amend references to repealed law.

CSHB 2405 would take effect December 31, 1999, exception for the sections dealing with the reinstatement of terminated persons, lump-sum payments, repeals of several provisions to make conforming changes, and the enacting provision, all of which would take effect September 1, 1999.

SUPPORTERS SAY:

CSHB 2405 is a cleanup bill for the Texas County and District Retirement System. The bill would enhance members' benefits and would give the system and member subdivisions greater flexibility in service delivery.

By removing the current state cap on employer contributions, a system member would stand to receive greater benefits, either through increased annuities and benefits or reduced contribution levels, if the participating subdivision chose to raise its contribution levels. The provision for supplementary lump-sum payments would provide a significant option for members who would prefer to have ready cash in hand.

Restricting the rule-of-75 and rule-of-80 retirement standards would close a loophole that allowed members with four or more years of credited service to maintain their personal deposits indefinitely after ending employment with the subdivision. These employees could retire at advanced ages with small amounts of service. CSHB 2405 would change this to ensure that a retiring member would have to have contributed to the system for a reasonable period. Any service annuity would be earned and not a handout at the expense of the system and its members.

CSHB 2405 would strengthen the system by allowing TCDRS to assess a penalty on any subdivision that failed to submit its monthly report. Often, this failure increases the probability of a federal tax audit, which can penalize members. The simplified Survivor Annuity Death Benefit plan would reduce the system's administrative costs and promote enhanced service delivery to the members. Similarly, the electronic filing system added by the bill would cut down on costs while making service delivery more efficient.

The changes proposed by CSHB 2405 would have no anticipated fiscal implication to the state.

OPPONENTS SAY:

Although none of the financing arrangements would be actuarially unsound as a result of the bill's changes, some of the provisions that call for increased system spending would add actuarial costs to the system.

NOTES:

The committee substitute amended the original bill by adding a provision that would prohibit credit for service in the Legislature from being established in TDCRS if the service was credited by another retirement system or program.

The companion bill, SB 1129 by Armbrister, passed the Senate on April 15 and was reported favorably by the House Pensions and Investments Committee on April 26, making it eligible to be considered in lieu of HB 2402.