

SUBJECT: Uniform rule on reestablishing public retirement system service credit

COMMITTEE: Pensions and Investments — favorable, without amendment

VOTE: 5 ayes — Tillery, Woolley, Salinas, Rangel, Telford

0 nays

4 absent — Crownover, George, Goodman, Williams

SENATE VOTE: On final passage, April 25 — voice vote

WITNESSES: No public hearing

BACKGROUND: Texas Constitution, art. 16, sec. 67, adopted in 1975, authorizes the Legislature to establish a system to provide retirement and disability and death benefits for public employees and elected officials.

Texas Constitution, art. 16, sec. 67(a)(2) also provides that a state employee whose service is covered by more than one state retirement system can receive a fractional benefit from each system calculated according to the benefit formula for each retirement program. Government Code, sec. 803.002 prohibits an employee participating in more than one retirement system from receiving proportionally-greater benefits from a particular system than an employee who participated in only one program.

The Proportionate Retirement Program (PRP) originally covered the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Judicial Retirement System of Texas, Plan One, the Texas County and District Retirement System, and the Texas Municipal Retirement System. In 1985, the Judicial Retirement System of Texas, Plan 2, joined the program, and the Austin Municipal Retirement System was added in 1991.

In 1997, the Legislature authorized local municipal systems to choose to participate, and the general municipal and fire and police systems of the City of El Paso elected to join the PRP.

DIGEST: SB 372 would amend Government Code, ch. 803, subchapter C to allow members of a state retirement system that participated in the PRP to reestablish service credit for previously-canceled service in another PRP.

Eligibility. SB 372 would apply to persons who wanted to reestablish prior service credit in a previously-canceled PRP so long as they were not current members of the prior program or did not have an open account with the Texas County and District Retirement System (TCDRS). The employee could apply to reestablish credit with the former PRP by filing an application and providing certification of membership in a current PRP.

Options for reestablishing service credits. An employee could reestablish service credit in a former PRP, except in county and municipal plans, by making a contribution in the amount required to reestablish service credit, plus any applicable interest and membership fees.

Options for county and municipal systems. Employees seeking to reestablish service credit with the TCERS or the Texas Municipal Retirement System (TMRS) would have three options under SB 372:

- ! Use service credit from another PRP plan to meet eligibility requirements for benefits. This option would not provide for additional retirement benefits.
- ! Pay the full amount withdrawn, plus any interest and membership fees, to restore service credit. This option would provide for additional retirement benefits.
- ! Request that the county or city authorize a one-time contribution by the retiree to pay the full amount of the contribution plus the full value of any future retirement benefit — or the actuarial present value — to reestablish the employee's service credit and increase future retirement benefits. This option, which would provide additional retirement benefits, would be done on a case-by-case basis.

Exclusions. Service credit could not be reestablished if an employee had terminated his or her membership after August 31, 1993, except under the provisions of Government Code sec. 805.002, which allows specifically for transfers of creditable service between the Employees Retirement System and the Teachers Retirement System. Employees wishing to transfer service

between those systems would have to have at least three years of creditable service in the system from which they wanted to make the transfer. SB 372 also would not allow reestablishment of service credit in another PRP for members excluded by a subdivision or municipality from participation in the El Paso Firemen and Policemen's Pension System.

The effective date would be January 1, 2002.

SUPPORTERS
SAY:

SB 372 would provide a uniform and equitable system to give public employees flexibility to change jobs and retain their pension benefits. Few employees in either the public or private sector now remain with one employer for their entire career. The bill would restore the portability of pensions intended by the 1975 constitutional amendment establishing the current public employee pension structure and would provide an incentive for people to remain in public sector positions.

The bill would allow persons who withdrew their contributions when leaving one pension plan to rectify what they may now consider an erroneous decision. They would have the option of using the service credit to qualify for retirement at an earlier age or of paying the cost of future benefits. Participation would remain optional for employees.

SB 372 would have minimal affects on the actuarial soundness of PRP systems. Municipalities in TMRS and political subdivisions in TCDRS would determine whether to allow members to reestablish service credit by returning withdrawn contributions with interest or to make a payment of the actuarial present value of additional benefits. So even this provision would have little fiscal implication for the entities or their retirement systems.

Legislation now is pending before Congress that could allow rolling over of other tax-exempt retirement plans, such as 401(k) plans, into PRP retirement accounts. Typically, employees would not have sufficient cash to make a payment of the actuarial present value of additional benefits, but proceeds in other retirement plans could be used to make a payment to reestablish service credits and secure increased retirement benefits. SB 372 could help Texas public employees take advantage of this change in the federal tax laws if it were approved by Congress.

SB 372 would provide fairness and protections for some of the smaller retirement systems by giving the ability to opt out of the program to reestablish service credits.

Requiring payment of the actuarial costs of increased benefits and other protections should limit the exposure of the El Paso Firemen and Policeman's Pension System, which is currently underfunded.

OPPONENTS
SAY:

No one knows how many employees would be eligible to participate in the program, and it remains uncertain how many of those eligible would elect to take advantage of the provisions of SB 372. So the ultimate impact on pension systems is unknown at this time.