

- SUBJECT:** Authorizing single employer benefit plans to offer combined benefits
- COMMITTEE:** Pensions and Investments — committee substitute recommended
- VOTE:** 7 ayes — Eiland, Flynn, McClendon, Griggs, Krusee, Rodriguez, Straus
0 nays
- WITNESSES:** For — Charles Anderson, City of Irving Supplemental Benefit Plan;
LaShon Ross, City of Plano.

Against — None

On — Gary W. Anderson, Texas Municipal Retirement System
- BACKGROUND:** Texas Constitution, Art. 16, sec. 67(a)(2) forbids a person from receiving benefits from more than one public retirement system for the same service. An attorney general's opinion (GA-0221) issued in 2004 found that the city of Houston's pension system, established under V.T.C.S, art. 6243h, and a supplemental public retirement system established by the city under Government Code, sec 810.001 are both systems of retirement benefits for the purposes of Texas Constitution, Art. 16, sec. 67.
- DIGEST:** CSHB 3200 would amend Government Code, sec. 810.001 to specify that a single governmental employer that did not participate in Social Security was not considered to be permitting a person who was a public employee, officer, or retiree of that employer to be receiving benefits from more than one system or retirement program if the employer participated in the Texas Municipal Retirement System (TMRS) or the Texas County and District Retirement System (TCDRS) and also offered one or more supplemental plans established before January 1, 2005.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005. Acts and proceedings related to supplemental plans that were conducted before the bill's effective date could not be considered invalid.

**SUPPORTERS
SAY:**

CSHB 3200 would establish in statute that cities do not violate the Texas constitution if they participate in TMRS or TCDRS and also sponsor supplemental retirement plans. In the late 1970s and early 1980s, Plano, Irving, and a number of other Texas cities decided to withdraw from the federal Social Security system because of concerns about solvency, and instead began to issue their own supplemental plans that offered many of the same benefits. While the practice was prohibited in 1983, these plans were allowed to continue, and many of these cities now have 20-year-old plans that support hundreds of retirees.

A recent attorney general's opinion challenged the constitutionality of the City of Houston's efforts to establish a separate public retirement system so that employees could be compensated for unused sick and annual leave. This has raised concerns about the constitutionality of the supplemental plans offered by Plano and other Texas cities. CSHB 3200 would make it clear in statute that these cities are not violating the Texas constitution by offering their supplemental pension plans along with participation in TMRS or TCDRS.

**OPPONENTS
SAY:**

CSHB 3200 might not clearly resolve the constitutional issue raised by the attorney general's opinion. If a practice is unconstitutional, the adoption of a statute authorizing the practice would not necessarily resolve the constitutional issue.

NOTES:

The original bill would have amended Government Code, sec. 810, to specify that an employer that participated in a benefit plan in lieu of social security was eligible for participation in a public retirement system. The committee substitute altered the language in the original version of the bill to apply to the actions of a single governmental employer rather the person receiving benefits from that employer.