

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1102
By: Armbrister
State Affairs
4-14-97
Committee Report (Substituted)

DIGEST

Currently, the Employees Retirement System provides retirement benefits for state employees, elected state officials, and members of the judiciary. The Employees Retirement System Board and staff continually review the programs administered and make recommendations. This bill revises regulations for purchase or repurchase of service credit, establishment of a permanent rate increase for the computation of employee class service retirement benefits, clarification that the portfolio concept is authorized in making investment decisions, establishes the "rule of 80," creates an excess benefits arrangement, increases annuities for certain persons, and clarifies that the Employees Retirement System Board holds deferred compensation funds in trust.

PURPOSE

As proposed, C.S.S.B. 1102 revises regulations for purchase or repurchase of service credit, establishment of a permanent rate increase for the computation of employee class service retirement benefits, clarification that the portfolio concept is authorized in making investment decisions, establishes the "rule of 80," creates an excess benefits arrangement, increases annuities for certain persons, and clarifies that the Employees Retirement System Board holds deferred compensation funds in trust.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Board of Trustees of the Employees Retirement System in SECTION 3 (Section 813.104, Government Code), SECTION 21 (Section 815.5072(f), Government Code), SECTION 31 (Section 833.105(a), Government Code), SECTION 36 (Section 838.105(a), Government Code), SECTION 53 (Section 11(d), Article 3.50-2, Insurance Code), and to the University of Texas Medical Branch in SECTION 9 (Section 813.056(a), Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 805.002(g), Government Code, to provide an exception in making an election by a beneficiary under the Employees Retirement System and the Teacher Retirement System.

SECTION 2. Amends Sections 811.001(8) and (9), Government Code, to redefine "custodial officer" and "law enforcement officer."

SECTION 3. Amends Section 813.104, Government Code, to authorize the board of trustees of the Employees Retirement System (trustees) to adopt rules for procedures for making installment payments to establish or reestablish credit in the retirement system. Deletes existing Subsections (a)-(c) and Subsection (g). Makes conforming changes.

SECTION 4. Amends Section 813.106, Government Code, to require the state to make contributions established under only Section 813.104 in an amount provided by Section 813.202(c), Government Code, rather than 813.202(e).

SECTION 5. Amends Section 813.202, Government Code, to delete Subsection (b) as an exception to this section. Deletes existing Subsections (b) and (d). Sets forth requirement of the state's

contribution in this section. Makes conforming changes.

SECTION 6. Amends Section 813.301(b), Government Code, to authorize a member to establish one month of service credit for each month or fraction of a month of duty, but not more than 60 months of service credit for military service.

SECTION 7. Amends Section 813.402, Government Code, to delete the word "contributing member" which authorizes any member to establish service credit. Makes a conforming change.

SECTION 8. Amends Section 813.504, Government Code, to authorize a member of the employee class to reestablish service credit previously cancelled in the retirement system if at least six months have elapsed since the end of the month in which the cancellation became effective. Sets forth requirements for reestablishing service credit.

SECTION 9. Amends Sections 813.506(a) and (c), Government Code, to require the managed health care unit of the University of Texas Medical Branch, by rule, to adopt certain standards.

SECTION 10. Amends Section 813.509(a), Government Code, to provide that sick leave is credited one month for each fraction of days or hours remaining after division of the total hours of accumulated sick leave by 160. Deletes a provision regarding increments of less than 20 days.

SECTION 11. Amends Chapter 813F, Government Code, by adding Section 813.511, as follows:

Sec. 813.511. SERVICE CREDIT FOR CERTAIN GOVERNMENTAL SERVICE. Sets forth requirements for establishing service credit for certain governmental service.

SECTION 12. Amends Section 814.005(a), Government Code, to require the Employees Retirement System (retirement system) to give effect as a waiver to a full or partial disclaimer executed in accordance with Section 37A, Probate Code, unless the benefit is a lifetime annuity.

SECTION 13. Section 814.104, Government Code, to provide eligibility to retire and receive a service retirement annuity if a person is at least 50 years old but less than 60 years old and the sum of the member's age and amount of service credit equals the number 80. Deletes eligibility provisions. Deletes a provision regarding State Purchasing and General Services Commission Capital Area Security Force.

SECTION 14. Amends Section 814.105, Government Code, by adding Subsection (c), to set forth requirements of percentages used to compute benefits.

SECTION 15. Amends Section 814.1081(a), Government Code, to delete a provision regarding beneficiaries. Sets forth requirements for changing an optional annuity selection to the selection of standard service.

SECTION 16. Amends Section 815.003(d), Government Code, to require elections to be held before August 31, rather than August 1, of each odd-numbered year.

SECTION 17. Amends Chapter 815B, Government Code, by adding Section 815.106, as follows:

Sec. 815.106. INFORMATION TO LEGISLATURE. Sets forth requirements and prohibitions in making recommendations to the legislature regarding the retirement system.

SECTION 18. Amends Section 815.303(b), Government Code, to require a bank or brokerage firm to execute an indemnifying agreement which indemnifies the retirement system against loss resulting from borrower default.

SECTION 19. Amends Section 815.307, Government Code, to set forth the duty of care for the retirement system in investing the assets of the retirement system. Deletes existing Section

815.307, Government Code.

SECTION 20. Amends Section 815.403(a), Government Code, to make a conforming change.

SECTION 21. Amends Chapter 815F, Government Code, by adding Section 815.5072, as follows:

Sec. 815.5072. EXCESS BENEFIT ARRANGEMENT. Sets forth requirements of unfunded excess benefit arrangements.

SECTION 22. Amends Section 815.510(a), Government Code, to delete a provision regarding the current book value of a trust fund.

SECTION 23. Amends Chapter 815F, Government Code, by adding Section 815.512, as follows:

Sec. 815.512. PROTECTION FROM DOUBLE OR MULTIPLE LIABILITY. Sets forth provisions regarding protection of the retirement system from double or multiple liability.

SECTION 24. Sets forth requirements regarding annuities.

SECTION 25. Requires the trustees to authorize a supplemental payment under Section 814.603(d), Government Code, to be made in the fiscal year beginning September 1, 1997, if the conditions required by that subsection are met.

SECTION 26. Amends Section 830.002(c), Government Code, to make conforming changes.

SECTION 27. Amends Section 830.004, Government Code, by adding Subsection (c), to set forth requirements of excess benefit arrangements.

SECTION 28. Amends Section 830.006, Government Code, to delete Subsection (c). Makes conforming changes.

SECTION 29. Amends Section 830.101(b), Government Code, to make a conforming change.

SECTION 30. Amends Section 833.103(d), Government Code, to authorize a member to establish one month of service credit for each month or fraction of a month of duty, but not more than 48 months of service credit.

SECTION 31. Amends Section 833.105, Government Code, to authorize the board of trustees to adopt rules regarding installment payments. Deletes existing Subsection (a). Sets forth requirements for the rules adopted under this section. Deletes existing Subsections (b), (c), and (e). Makes conforming changes.

SECTION 32. Amends Chapter 834A, Government Code, by adding Section 834.005, as follows:

Sec. 834.005. DISCLAIMER OF BENEFITS. Requires the retirement system to give full or partial disclaimer of benefits executed in accordance with Section 37A, Probate Code, unless the benefit to be disclaimed is a lifetime annuity.

SECTION 33. Amends Section 834.101(a), Government Code, to delete provisions regarding eligibility.

SECTION 34. Amends Section 834.302, Government Code, to provide that if a selection cannot be made effective the member's designated beneficiary, rather than surviving spouse, may select a plan. Makes conforming changes.

- SECTION 35. Amends Section 838.103(d), Government Code, to make conforming changes.
- SECTION 36. Amends Section 838.105, Government Code, to make conforming changes.
- SECTION 37. Amends Chapter 839A, Government Code, to make conforming changes.
- SECTION 38. Amends Section 839.101(a), Government Code, to make conforming changes.
- SECTION 39. Amends Section 839.302, Government Code, to make conforming changes.
- SECTION 40. Amends Section 840.3012(b), Government Code, to make conforming changes.
- SECTION 41. Amends Section 840.303, Government Code, to make conforming changes.
- SECTION 42. Amends Section 609.009, Government Code, as follows:
- Sec. 609.009. New heading: TRUST FOR 457 PLAN. Provides that an employee's deferred amounts and investment income are held in trust in accordance with Section 457, Internal Revenue Code. Provides that custodial accounts and contracts are treated as trusts. Provides that a trust does not have to be established before January 1, 1999, for a 457 plan in existence on August 20, 1996. Deletes a provision regarding disbursements of income.
- SECTION 43. Amends Sections 609.502(a) and (b), Government Code, to make conforming changes.
- SECTION 44. Amends Section 609.509(b), Government Code, to make a conforming change.
- SECTION 45. Amends Section 609.512(b), Government Code, to make a conforming change.
- SECTION 46. Amends Sections 3(a)(2) and (9), Article 3.50-2, Insurance Code, to redefine "annuitant" and "qualified carrier."
- SECTION 47. Amends Section 4B(e), Article 3.50-2, Insurance Code, to delete text regarding delegation of duties of a trustee. Makes a conforming change.
- SECTION 48. Amends Section 4C(a), Article 3.50-2, Insurance Code, to delete text regarding school district employees. Makes a conforming change.
- SECTION 49. Amends Sections 5(b) and (h)-(j), Article 3.50-2, Insurance Code, to provide selections of a carrier to the commissioner of insurance, rather than the State Board of Insurance. Authorizes a trustee to contract with one or more firms to administer plans of coverage, rather than claims arising from the coverage. Prohibits a trustee from contracting or providing for certain plans of converge. Deletes text regarding a trustee providing coverage with a health maintenance organization or providing coverage directly from the fund. Makes conforming and nonsubstantive changes.
- SECTION 50. Amends Section 5A(a), Article 3.50-2, Insurance Code, to delete text regarding basic coverage.
- SECTION 51. Amends Section 9, Article 3.50-2, Insurance Code, to make conforming changes.
- SECTION 52. Amends Section 10(b), Article 3.50-2, Insurance Code, to require policies, certificates of coverage, evidence of coverage, agreements with plan administrators, or any other coverages established under this Act to not be subject to a regulatory fee, or surcharge, including premium or maintenance taxes or fees.
- SECTION 53. Amends Section 11, Article 3.50-2, Insurance Code, by adding Subsection (d),

to authorize the trustees to adopt rules regarding payment of accelerated life insurance benefits. Sets forth requirements of the payments.

SECTION 54. Amends Section 12, Article 3.50-2, Insurance Code, by adding Subsection (e), to make a conforming change.

SECTION 55. Amends Sections 13(b) and (c), Article 3.50-2, Insurance Code, to make conforming changes.

SECTION 56. Amends Section 13A(f), Article 3.50-2, Insurance Code, to prohibit certain persons from participating in any, rather than a health maintenance organization or being insured under any insurance or benefits plan.

SECTION 57. Amends Sections 15(b), (c), and (d), Article 3.50-2, Insurance Code, to set forth requirements regarding contributions to the cost of each employee's individual and dependent group coverages. Deletes text regarding the effective date, appropriations and the state, Requires money allocated by the state, rather than allocated and appropriated, including institutions of higher education, to be paid to the trustee. Requires the trustee to certify to institutions of higher education participating in the program established under this Act who provide contributions for their employees' individual and dependent coverages, proportionate amounts required, rather than needed, to pay their respective contributions. Makes conforming changes.

SECTION 58. Amends Sections 18(a) and (b), Article 3.50-2, Insurance Code, to provide that the group benefits advisory group is composed of 26, rather than 27, voting members. Requires appointees to be appointed by the governing body of the agency or institution, rather than the trustees.

SECTION 59. Amends Section 19(a), Article 3.50-2, Insurance Code, to provide an exception that a foster child is eligible for health insurance coverage only if the child is not covered by another governmental health program.

SECTION 60. Repealers: Sections 803.403, 813.105, 833.106, 838.103(i), 838.106, Government Code (Public retirement systems) and Section 5(e), Texas Employees Uniform Group Insurance Benefits Act, Article 3.50-2, Insurance Code (Authority to establish group coverages).

SECTION 61. (a) Makes application of this Act prospective.

(b) Requires the Texas Higher Education Coordinating Board to transfer all property to the Employees Retirement System of Texas on the effective date of this Act.

SECTION 62. Effective date: September 1, 1997.

SECTION 63. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 2.

Amends Sections 811.001(8), Government Code, to redefine "custodial officer."

SECTION 8.

Amends Section 813.504, Government Code, to authorize a member of the employee class to reestablish service credit previously cancelled in the retirement system if at least six months have elapsed since the end of the month in which the cancellation became effective. Sets forth requirements for reestablishing service credit.

SECTION 9.

Amends Section 813.506(a) and (c), Government Code, to require the managed health care unit of the University of Texas Medical Branch, by rule, to adopt certain standards.

SECTION 11.

Amends Chapter 813F, Government Code, by adding Section 813.511, to set forth requirements for establishing service credit for certain governmental service.

SECTION 13.

Amends Section 814.104, Government Code, to provide eligibility to retire and receive a service retirement annuity if a person is at least 50 years old but less than 60 years old and the sum of the member's age and amount of service credit equals the number 80. Deletes eligibility provisions.

SECTION 15.

Amends Section 814.1081(a), Government Code, to delete a provision regarding beneficiaries. Sets forth requirements for changing an optional annuity selection to the selection of standard service.

SECTION 21.

Amends Chapter 815F, Government Code, by adding Section 815.5072, to set forth requirements of unfunded excess benefit arrangements.

SECTION 22.

Amends Section 815.510(a), Government Code, to delete a provision regarding the current book value of a trust fund.

SECTION 24.

Amends Chapter 815F, Government Code, by adding Section 815.512, to set forth provisions regarding protection of the retirement system from double or multiple liability.

SECTION 25.

Requires the trustees to authorize a supplemental payment under Section 814.603(d), Government Code, to be made in the fiscal year beginning September 1, 1997, if the conditions required by that subsection are met.

SECTION 26.

Amends Section 830.002(c), Government Code, to make conforming changes.

SECTION 27.

Amends Section 830.004, Government Code, by adding Subsection (c), to set forth requirements of excess benefit arrangements.

SECTION 28.

Amends Section 830.006, Government Code, to delete Subsection (c). Makes conforming changes.

SECTION 29.

Amends Section 830.101(b), Government Code, to make a conforming change.

SECTION 38.

Deletes proposed SECTION 38.

SECTION 46.

Amends Sections 3(a)(2) and (9), Article 3.50-2, Insurance Code, to redefine "annuitant" and "qualified carrier."

SECTION 47.

Amends Section 4B(e), Article 3.50-2, Insurance Code, to delete text regarding delegation of duties of a trustee. Makes a conforming change.

SECTION 48.

Deletes proposed SECTION 48.

SECTION 52.

Amends Section 10(b), Article 3.50-2, Insurance Code, to require policies, certificates of coverage, evidence of coverage, agreements with plan administrators, or any other coverages established under this Act to not be subject to a regulatory fee, or surcharge, including premium or maintenance taxes or fees.

SECTION 55.

Amends Sections 13(b) and (c), Article 3.50-2, Insurance Code, to make conforming changes.

SECTION 58.

Amends Sections 18(a) and (b), Article 3.50-2, Insurance Code, to provide that the group benefits advisory group is composed of 26, rather than 27, voting members. Requires appointees to be appointed by the governing body of the agency or institution, rather than the trustees.

SECTION 61.

Amends SECTION 61, to require the Texas Higher Education Coordinating Board to transfer all property to the Employees Retirement System of Texas by the effective date of this Act.