

BILL ANALYSIS

Senate Research Center

S.B. 588
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As Filed

DIGEST

Currently, the Austin Police Retirement System is governed by Article 6243n-1, V.T.C.S. The Board of Trustees of the Austin Police Retirement System authorized an actuarial study of a package of benefit improvements to see what could be financed adequately with the present financing of 9 percent of basic hourly earnings by contributing members and 18 percent of basic hourly earnings by the City of Austin. In addition, the board authorized a complete review of the governing state statute for compliance with federal law, and for clarity, consistency, and completeness. This bill will amend provisions for the amount of benefits, benefit options, and creditable service; amend provisions to assure compliance with federal laws; and amend provisions for clarity, consistency, or completeness.

PURPOSE

As proposed, S.B. 588 provides new regulations regarding participation in and benefits and administration of retirement systems for police officers in certain municipalities.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.02, Article 6243n-1, V.T.C.S., to redefine "accumulated deposits," "actuary," "average final compensation," "creditable service," "disability retirement," "fund no. 1," "fund no. 2," "investment consultant," "investment manager," "life annuity," "life annuity (modified cash refund)," "member," "police officer," "police retirement board," "board," "police retirement system," "system," "retirement," "withdrawal," and "withdrawal benefit." Defines "basic hourly earnings," "death benefit," "employment termination," "retirement annuity," "annuity," "retired member," "active service," "spouse," "survivor benefit," "vested."

SECTION 2. Amends Articles II-XIII, Article 6243n-1, V.T.C.S., as follows:

ARTICLE II

Sec. 2.01. ESTABLISHMENT AND APPLICABILITY. Provides that the retirement system for police officers of the city and the trust forming the part hereof are hereby established on the passage of this Act by the Legislature of the State of Texas. The police retirement system (system) and the related trust are placed under the management of the police retirement board (board). Makes conforming changes.

Sec. 2.02. SUCCESSOR. Makes no change.

Sec. 2.03. PURPOSE. Makes conforming changes.

ARTICLE III

Sec. 3.01. ADMINISTRATION. Makes no change.

Sec. 3.02. COMPOSITION OF BOARD. Requires the board to be composed of 11

members, four of whom are police officer members, rather than active police officer members, elected by police officer members of the system. Provides that a police officer, rather than an active employee, member who retires, except for disability retirement, will be eligible to complete the remainder of a vacant term. Requires the board to have one retired member, rather than police officer retired member, to be elected by retired members. Makes conforming and nonsubstantive changes.

Sec. 3.03. ELECTION OF POLICE OFFICER MEMBERS. Requires any police officer member, rather than active police officers of the city, to be eligible to run in the election for a position on the board. Makes conforming changes.

Sec. 3.04. OATH; COMPENSATION. Makes no change.

Sec. 3.05. CHAIR; VICE-CHAIR. Requires the pension officer of the board to appoint other necessary staff members with the approval of the board. Requires the pension officer and other employees of the system, rather than each staff member, to receive compensation as the board may fix in each annual budget or amendments thereto.

Sec. 3.06. RULES; QUORUM; REMOVAL. Requires the board to establish rules and regulations for the administration of the system, rather than fund or funds, authorized to be created by this Act and for the transaction of the board's business. Requires any member who is absent from five consecutive board meetings to be removed from the board, rather than police board.

Sec. 3.07. BOARD RECORDS. Makes no change.

Sec. 3.08. New heading: ADMINISTRATION OF POLICE RETIREMENT SYSTEM. Requires individual accounts to be maintained with each member of the system, showing the amount of the member's accumulated deposits, rather than member's deposits and the accumulated interest allocated and standing to the credit of the member. Makes conforming changes.

Sec. 3.09. ACTUARY; DUTIES. Deletes a requirement that the actuary make an actuarial investigation of the surviving spouses and recommend for adoption by the board the tables and rates required by the system. Makes conforming changes.

Sec. 3.10. INVESTMENT MANAGERS. Authorizes the board to hire an investment manager or investment managers who shall have the full authority to invest the assets and manage any portion of the portfolio of the system, rather than fund.

Sec. 3.11. INVESTMENT CONSULTANT. Makes a conforming change.

Sec. 3.12. LEGAL COUNSEL. Provides that the board has the authority to litigate all matters for and on behalf of the system. Makes a conforming change.

ARTICLE IV

Sec. 4.01. Requires any person who becomes an employee of the city or becomes an employee of the system, rather than a member of the police system's administrative staff, after the date of establishment of the police retirement system, if eligible for membership, to become a member as a condition of employment. Prohibits employees, rather than staff members, of the system from becoming members of the system if they are employees of the system who are expected to work less than a normal work week, rather than 75 percent of a normal work week, or if they are seasonal or temporary police officers or employees of the system. A full-time police officer, rather than regular full-time police officer, of the city or employee of the system eligible for membership in the system, is one whose position is classified in the annual budget, who is expected to be employed throughout the full calendar year, and whose employment is expected to continue from year to year. Deletes an exception. Sets forth requirements for membership in the system. Requires a member to cease being a

member of the system and to forfeit creditable, rather than lose membership, service if, after employment termination through dismissal, resignation, or from any other cause, including death. Requires a member to withdraw, rather than sever the member's service connection and withdraw, the member's accumulated deposits as provided under the withdrawal benefit, rather than withdrawal allowance, provisions of this Act. Provides that the interest factor is derived by adjusting and compounding the annual rates, rather than based on the compounded net annual rate, of interest that were credited to the accumulated deposits of members, where each annual rate is adjusted by dividing it by 0.75. The period for compounding the interest factor begins with the beginning of the month and year in which the member withdrew the member's accumulated deposits and ends with the beginning of the month and year payment is made to the system to reinstate service. Provides that, for purposes of this section, an eligible surviving spouse is the surviving spouse of a member who was an eligible member immediately before the time of death if the member dies before making payment to the system of the amount required by this subsection. Requires the employer, city, or system, if a member on a uniformed service leave of absence makes certain biweekly deposits during the leave of absence, to make a contribution to the system for the member each biweekly pay period. Requires the employer, if a member makes payment of the deposits after returning to the employment of the city or system, to make a single contribution for the member equal to the deposits it would have made on the member's behalf if the member had made deposits to the system during the period of the member's leave. Makes conforming and nonsubstantive changes.

ARTICLE V

Sec. 5.01. CREDITABLE SERVICE. Makes conforming changes.

Sec. 5.02. MILITARY SERVICE CREDIT. Provides that an eligible surviving spouse is the surviving spouse of a member who was an eligible member immediately before the time of death if the member dies before making payment to the system of the amount required by this section. Authorizes the percent used to calculate the amount of the required payment to be changed if the change is adopted by the board as a board rule. Makes conforming changes.

Sec. 5.03. PROBATIONARY SERVICE CREDIT. Provides that probationary service creditable in the system is any probationary service following commission date for which the member does not have creditable service. Provides that the annual rate of interest applicable for the year when payment is made is considered to be equal to the prior year's rate of interest for the purpose of making the determination. Makes conforming changes.

Sec. 5.04. CADET SERVICE CREDIT. Sets forth regulations for cadet service credit in the system.

ARTICLE VI

Sec. 6.01. New heading: SERVICE RETIREMENT BENEFITS AND INCREASES IN BENEFITS. Requires members entitled thereto, on retirement after having reached the member's normal retirement date, to receive a service, rather than normal, retirement benefit in the form of a life annuity. Requires each monthly payment of the life annuity to be equal to one-twelfth of the product of 2.88, rather than 2.8, percent of a member's average final compensation multiplied by the number of months of creditable service. Deletes further provisions regarding monthly payments of the life annuity. Authorizes the retirement benefit percent specified by this section to be changed after 1997 if certain conditions are met. Requires an annuity to be considered as a life annuity with the first monthly payment due at the end of the month immediately following the member's retirement date. Prohibits annuities already granted from being reduced below the base retirement amount granted at time of retirement. Provides that service and disability retirement annuities and survivor benefits being paid by the system to certain persons are increased beginning with the payments due at the end of September in 1995. Deletes the definition of "fund." Defines "continuity of the system." Deletes a provision relating to application of the Internal Revenue Code. Makes conforming and nonsubstantive changes.

Sec. 6.02. ELIGIBILITY FOR SERVICE REQUIREMENT. Deletes a provision authorizing a member, after age 62, to continue in the employment of the city as a police officer. Makes conforming changes.

Sec. 6.03. ANNUITY OPTIONS. Repeals Option V effective September 1, 1997, which is a level income option. Repeals Option VI effective September 1, 1997, which is a joint and 66 2/3 percent to survivor/level income option. Repeals Option VIII effective September 1, 1997, which authorizes any other form of benefit or benefits to be paid to the member or to the person or persons that the member shall designate in writing. Makes conforming changes.

Sec. 6.04. TERMINATION PRIOR TO RETIREMENT; TREATMENT OF ACCUMULATED DEPOSITS. Requires the member, on employment termination by resignation or dismissal before retirement, to receive the amount of the accumulated deposits standing to the member's credit in one lump sum, except that if such member has had at least 10 years of creditable service at the time the member separates from service, requires the member to have a right to elect to leave the member's accumulated deposits with the system and when certain conditions are met. Requires the member, when the conditions are met, to be entitled to a service retirement benefit calculated under the formula in Subsection (a) of Section 6.01 in effect on the last day of the month immediately preceding the month of the first benefit payment. Makes conforming changes.

Sec. 6.05. DEATH OF A MEMBER; TREATMENT OF ACCUMULATED DEPOSITS. Requires the lump sum to be not less than \$7,500. Requires the amount payable from Fund No. 2, when the \$7,500 minimum is payable, to be \$7,500 minus the accumulated deposits standing to the member's credit in Fund No. 1. Makes conforming changes.

Sec. 6.06. SELECTING OPTIONS; DESIGNATING BENEFICIARIES. Authorizes the surviving spouse to select the optional form of the survivor benefit in the same manner as if the member had made the selection or may select a lump sum payment. Makes conforming changes.

Sec. 6.07. RETROACTIVE DEFERRED RETIREMENT OPTION PLAN. Provides that the Retroactive Deferred Retirement Option Plan, referred to as RETRO DROP, is an option a member eligible for service retirement as defined in Section 6.02 may elect at retirement subject to the conditions of this section. Requires a member who elects RETRO DROP to receive a lump sum and a monthly retirement benefit. Sets forth procedures of RETRO DROP.

ARTICLE VII

Sec. 7.01. DISABILITY RETIREMENT. Provides that only members who are Active-Noncontributory, rather than Active-Noncontributory I, are eligible for consideration for disability retirement pursuant to this article. Authorizes a member with less than 10 years of creditable service, who has become mentally or physically incapacitated for the performance of the employment duties the member had immediately before incapacitation as a direct result of injuries sustained subsequent to the member's effective date of membership in the police retirement system, to apply for disability retirement. Makes conforming changes.

Sec. 7.02. COMPUTATION OF DISABILITY BENEFIT. Requires a member, on award of disability retirement benefits, to receive a disability retirement benefit computed in the same manner that a service retirement benefit would be computed at the member's normal retirement date, based on average final compensation and creditable service a date of disability retirement without reduction for early retirement. Makes conforming changes.

Sec. 7.03. DISABILITY BENEFIT REPORTS. Makes conforming and nonsubstantive changes.

ARTICLE VIII

Sec. 8.01. METHOD OF FINANCING. Authorizes the Active-Contributory members, upon recommendation of the board, by a majority of this voting, rather than by a majority vote in favor of an increase in contributions above six percent, to increase the rate of member deposits above six percent to whatever amount the board has recommended. Authorizes the deposit rate, if the rate for members has been increased above six percent, to be decreased if a majority of the Active-Contributory members who vote on the matter approve the decrease, rather than approve the decrease by majority vote. Makes conforming and nonsubstantive changes.

ARTICLE IX

Sec. 9.01. New heading: INVESTMENTS OF THE BOARD. Provides that no member of the board, rather than no member and no employee of the board, shall have any interest or receive any pay or emolument for the member's service. Authorizes certain benefits to be paid to a former spouse or other alternate payee under the terms of a domestic relations order, but only if the board determines that the order constitutes a qualified domestic relations order within the meaning of Chapter 804 of the Texas Government Code (referred to here as a "QDRO"). Requires benefit payments to be made to alternate payees only when and to the extent permitted by the QDRO. Requires the amount of any benefit payment under this Act made to an alternate payee under a QDRO to reduce and offset the amount otherwise payable to the member or other beneficiary under the provisions of this Act. Requires, upon the death of an alternate payee under a QDRO, the interest of the alternate payee in the benefits under this Act to cease, and thereafter, remaining benefits to be paid as if the QDRO had not existed. Makes conforming and nonsubstantive changes.

ARTICLE X

Sec. 10.01. FALSE REPORT OR STATEMENT. Makes a conforming change.

Sec. 10.02. CORRECTION OF ERRORS. Makes no change.

ARTICLE XI

Sec. 11.01. LIMITATION ON PAYMENT OF BENEFITS. Redefines "annual benefit." Deletes a provision that prohibits an annual benefit payable by the system from exceeding 100 percent of the former member's highest average annual compensation, including annual cost of living increases after separation from service. Requires actuarial equivalence, for purposes of this section, to be computed in the manner prescribed by Section 6.03, rather than Section 6.03 or 7.02, of this Act. Makes conforming and nonsubstantive changes.

ARTICLE XII

Sec. 12.01. New heading: DISTRIBUTION RULES FOR SERVICE RETIREMENT AND DEATH ANNUITY PAYMENTS. Makes conforming changes.

Sec. 12.02. DISTRIBUTION RULES FOR DISABILITY ANNUITY PAYMENTS. Makes conforming changes.

ARTICLE XIII

Sec. 13.01. TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS. Authorizes a distributee, at the time and in the manner prescribed by the board, rather than the plan administrator, to elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover, notwithstanding any provision of this Act, rather than of the plan, to the contrary that would otherwise limit a distributee's election under this section. Redefines "eligible rollover distribution" and "direct rollover."

SECTION 3. Effective date: September 1, 1997.

SECTION 4. Emergency clause.