

## **BILL ANALYSIS**

Senate Research Center  
76R11930 GCH-F

H.B. 3531  
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Engrossed

### **DIGEST**

Currently, Texas law provides that a person receiving benefits from a city pension plan in certain large municipalities is not eligible to receive a pension from another city pension system. Retired police officers and firefighters from the City of Houston interested in providing their services to the city in a municipal position, are deterred. In addition, elected officials and appointed executive officers are subject to term limits which restrict their opportunity to accrue meaningful pension benefits under the current plan, causing the city difficulty in attracting qualified personnel to serve in executive positions. H.B. 3531 would create an executive official pension plan to provide eligible executive officials affected by term limits with an incentive to serve in a public position and receive retirement benefits for their service, and would remove eligibility restriction to allow persons receiving pension benefits from a municipal pension system to become eligible to become members of another pension system. H.B. 3531 would also authorize the municipal pension board to establish a proportionate retirement program to allow an employee to use combined credited service in the participating retirement systems.

### **PURPOSE**

As proposed, H.B. 3531 sets forth provisions regarding membership, credit, benefits, and administration of retirement systems for officers and employees of certain municipalities.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the municipal pension board SECTION 4 (Section 33A(l), Article 6243g, V.T.C.S.) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 4, Article 6243g, V.T.C.S., to delete text regarding persons drawing a pension from any system.

SECTION 2. Amends Chapter 358, Article 6243g, V.T.C.S., by adding Section 16B, as follows:

Sec. 16B. TRANSFER OF MEMBERSHIP. (a) Authorizes the pension board of the pension system of retirement and disability plans for employees of cities of 1,500,000 or more (board) to authorize a person who is a member of the pension system of retirement and disability plans for employees of cities of 1,500,000 or more (pension system) as previously authorized by this Act, who is in a position covered by another retirement system to which the city contributes, and who has not begun to receive payment of benefits from the pension system to make a one-time irrevocable election, on a date and in a manner to be established by the board, to cease to be a member of the pension system and, for future service only, become a member of the retirement system governed by Article 6243e.2(1) or 6243g-3, V.T.C.S.; Article 6243g-1, V.T.C.S.; or a successor statute to any of those laws.

(b) Provides that a person who does not make an election to cease membership in the pension system under Subsection (a) of this section remains a member of the pension system as authorized under this Act.

(c) Provides that a person who makes an election to cease membership in the pension system is considered to have separated from service on the date of the election established by the board, for purposes of this Act.

SECTION 3. Amends Chapter 358, Article 6243g, V.T.C.S., by adding Section 22A, as follows:

Sec. 22A. GROUP C MEMBERSHIP, SERVICE REQUIREMENTS, AND BENEFITS. (a) Provides that a Group C member is subject to the same provisions that are applicable to Group A members under this Act except as otherwise specifically provided by this section.

(b) Defines “credited service,” “effective date of participation,” and “executive official.”

(c) Provides that all executive officials are members of Group C, except that an executive official may elect not to participate in Group C by making the election in writing on a form provided by and filed with the pension system no later than the 30th day after the date the executive official becomes eligible to participate in Group C. Provides that the election is effective retroactive to the first day of the executive official’s eligibility. Provides that an election not to participate is irrevocable and constitutes a waiver of all benefits provided by the plan. Requires an executive official who elects not to participate in Group C to participate in Group A or Group B under this Act, as applicable.

(d) Provides that a Group C member who separates from service for any reason other than death or retirement is eligible to receive a refund of the member’s Group C contributions from the plan. Requires the distribution to be made in the form and at the time prescribed by the board. Provides that a member who receives a refund of the member’s contribution from the plan under this subsection forfeits the member’s credited service, and all rights to benefits under the plan and membership in the plan terminate.

(e) Provides that credited service accrues only beginning on the date the member’s most recent eligibility as an executive official began, if an executive official who has terminated membership in Group C under Subsection (d) subsequently becomes eligible for membership in the plan under Subsection (c).

(f) Authorizes a person who receives a refund under Subsection (d) and is reemployed and resumes membership under this Act to restore the credited service forfeited under Subsection (d) by filing a written election form with the board after the reemployment and repaying the amount of the member’s contributions previously withdrawn under Subsection (d) within the earlier of five years after the date of the member’s election or 60 days after the date of the member’s separation from service, with interest on that amount at the rate of six percent. Prohibits credited service from being restored until complete repayment is made to the fund.

(g) Requires a Group C member to receive twice the number of actual years of credited service in Group C solely for the purpose of fulfilling the eligibility requirements for a normal retirement pension in Group C as provided by Subsection (h). Requires the actual years of credited service in Group C to be used, for all other computations under this Act.

(h) Provides that a Group C member who ceases to be an executive official is eligible for a normal retirement pension when the official separates from service and fulfills the requirement for age and years of credited service applicable to Group A members for a normal retirement pension under Section 11 of this Act, or attains 65 years of age with any amount of credited service.

(i) Provides that the amount of the monthly pension for each Group C member equals the member’s average monthly salary multiplied by two times the percentage accrual rate in effect for Group A members and by the member’s actual years of credited service in Group C. Requires the member’s average monthly salary to be computed by adding together the 78 highest biweekly salaries paid to a member during the member’s period of credited service and dividing the sum by 36, or, if the member has less than 78 total biweekly salaries, by multiplying 26 times the average of all of the member’s biweekly salaries and dividing by 12, for purposes of this subsection. Prohibits, however, a Group C member’s pension from being more than 80 percent of the member’s average monthly salary and from being less than the greater of \$8 a month for each year of credited service or a total of \$100 a month.

(j) Provides that any previous service of a Group C member in Group A or Group B is governed by the applicable Group A or Group B provisions of this Act and may not be credited to Group C. Prohibits Group C service from being credited to Group A or Group B.

(k) Provides that this section applies to a plan member only while the individual is an eligible executive official, except as provided by Subsection (j). Requires an individual who ceases to be an executive official and transfers to a municipal position covered by Group A to participate in Group A but does not forfeit Group C service and remains eligible for normal retirement for Group C service as provided under Subsection (h) of this section.

SECTION 4. Amends Chapter 358, Article 6243g, V.T.C.S., by adding Section 33A, as follows:

Sec. 33A. PROPORTIONATE RETIREMENT PROGRAM WITH PARTICIPATING RETIREMENT SYSTEMS. (a) Authorizes the board to establish a program of proportionate retirement benefits subject to the requirements of this section.

(b) Defines “combined service credit,” “eligible participant,” “maximum benefit,” “participating retirement system,” and “service credit.”

(c) Provides that participation by the pension system in the proportionate retirement program is voluntary. Authorizes the board to elect to participate in the proportionate retirement program by adopting a resolution to that effect. Requires the board to notify the other participating retirement systems of election, on adoption. Provides that the effective date of participation in the proportionate retirement program for which an election is made is the first day of the third month after the month in which notice is given. Authorizes participation in the proportionate retirement program by the pension system to be terminated by board resolutions for any reason, except that the proportionate retirement program will be continued by the pension system for eligible participants who are actively employed at the time of the termination and remain actively employed without a break in service. Requires the board to notify the other participating retirement systems of the termination, on adoption of a resolution of termination. Provides that the effective date of termination from the proportionate retirement program is the first day of the month following the month in which notice is given.

(d) Provides that an eligible participant’s combined service credit is usable solely for determining eligibility for service retirement benefits. Provides that the amount of a benefit payable by the pension system is determined according to and in the manner prescribed by the statutes and rules governing the pension system and is based solely on an eligible participant’s service credit in the pension system and allowable maximum benefit. Provides that the pension system has sole responsibility and discretion to determine the eligibility of eligible participants for benefits.

(e) Provides that a person who withdraws pension contributions from a participating retirement system ceases to be a member of that participating retirement system. Authorizes membership and service credit for which contributions were withdrawn or otherwise forfeited to be reestablished under the statutes and rules governing that system. Requires all service in a participating retirement system for which the person withdrew contributions or that was otherwise forfeited to be reinstated in accordance with the statutes and rules applicable to that system, to be counted as combined service credit. Provides that a lump-sum distribution is governed by the statutes and rules applicable to the particular retirement system.

(f) Provides that a person who has service credit in another participating retirement system for which the person is receiving or may become eligible to receive a benefit from the other system is not eligible to vote in a board election or hold a position on the board.

(g) Requires the board to make determinations regarding an eligible participant’s combined service credit based on complete and certified records of a participating retirement system, including the pension system, and of the city.

(h) Provides that the provisions of Sections 15 and 16 of this Act pertaining to interruption of service and termination of employment do not apply to an eligible participant to the extent the participant is absent from service covered by the pension system during a period for which the participant earns credit in another participating retirement system for service performed for the city in an amount sufficient to meet the length-of-service requirement, using combined service credit, for a retirement benefit from the participating retirement system.

(i) Authorizes a proportionate retirement benefit to be paid by the pension system under the

proportionate retirement program to an eligible participant who fulfills the requirements for receiving a proportionate retirement benefit in the pension system using combined service credit only if the participant is eligible to receive and has applied for proportionate retirements benefits from the applicable other participating retirement systems. Prohibits an eligible participant from becoming eligible to begin receiving a proportionate retirement benefit from the pension system while employed in a position covered by the pension system.

(j) Provides that the pension system is governed solely by its own statutory provisions, policies, and procedures relating to disability benefit determinations for members who apply for a disability pension from the pension system, except that if an eligible participant has combined service credit from any other participating retirement system in addition to this system, files for a disability pension for the first time as a member of the other participating retirement system, is otherwise eligible for a disability retirement benefit in both participating retirement systems, and receives a determination from the board of trustees of the other participating pension system that the person has a disability that is of a type recognized by the pension system, and the other participating retirement system grants the disability pension, the pension system shall pay the proportionate amount of benefit attributable to the service credited under the pension system, based on the schedule of benefits in effect for the pension system at the time the eligible participant ceased membership in the pension system. Require the pension system to pay only the ordinary disability benefit amount, if the disability is determined to be service-related. Provides that the board has the right to require examinations, reports, and any other information as provided by this Act for the administration and payment of disability benefits and the right to reduce, suspend, or terminate a benefit accordingly. Provides that the benefit allowed under this subsection is payable only if the other participating retirement systems authorize and pay a disability benefit under the same circumstances as provided by this subsection. Provides that a person who is receiving a disability benefit from a participating retirement system is not eligible for a disability pension under this Act except as provided by this subsection.

(k) Provides that creditable military service, if any, will be credited in the pension system only as provided by this Act and only if the service is not credited in any other participating retirement system.

(l) Authorizes the board to adopt rules and policies for implementing and administering the proportionate retirement program.

(m) Prohibits a person from becoming eligible to receive a benefit under this section that is greater than the benefit the person would otherwise receive under this Act if this section did not apply. Requires a benefit otherwise payable under Section 13(b) of this Act on behalf of a person who has used combined service credit to qualify for benefits from at least one participating retirement system to instead be computed and payable as provided by Section 13(a) of this Act.

SECTION 5. Effective date: September 1, 1999.

SECTION 6. Emergency clause.