

## **BILL ANALYSIS**

Senate Research Center  
80R15974 DLF-F

H.B. 3355  
By: Haggerty et al. (Brimer)  
Intergovernmental Relations  
5/17/2007  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The El Paso Firemen and Policemen Pension Fund (fund) is currently funded by an estimated amount of \$365 million. The City of El Paso and the board of trustees of the fund have agreed on a solution to resolve the issue under-funding.

H.B. 3355 amends the enabling legislation for the fund relating to the board of trustees, benefits, contributions of certain fire and police pension funds.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1.01 Amends Sections 1(a) and (b), Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, V.T.C.S.), as follows:

(a) Sets forth the composition of and the manner of selection of the members of the board of trustees (board) for the Firemen and Policemen Pension Fund for all incorporated cities and towns containing more than 550,000 inhabitants and less than 600,000 inhabitants, having a fully or partially paid fire department. Requires that three citizens of said city or town be designated by the mayor, two citizens by the city manager, three policemen elected by the members of the policemen's pension fund, and three firemen elected by the members of the firemen's pension fund. Deletes existing text relating to the designation of said members by certain other local officials, and the terms of those members.

(b) Provides that the members of the board serve four-year terms. Deletes existing text requiring certain membership terms for certain members of the board.

SECTION 1.02. Amends Section 2, Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, V.T.C.S.), to make conforming changes.

SECTION 1.03. Amends Section 3, Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, V.T.C.S.), to make conforming changes.

SECTION 1.04. Amends Section 10A, Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, V.T.C.S.), as follows:

Sec. 10A. MODIFICATION OF BENEFITS, MEMBERSHIP QUALIFICATIONS, ELIGIBILITY REQUIREMENTS AND CONTRIBUTIONS; CONDITIONS. (a) Authorizes the board of trustees, notwithstanding anything to the contrary in other parts of this Act and subject to Subsections (b) and (c) of this section, by majority vote, to make from time to time certain changes or modifications.

(b) Prohibits any changes made under Subsection (a) from being made unless all of certain conditions are sequentially complied with, including among others that the changes are approved by a qualified actuary selected by a four-fifths vote of the board; the actuary's approval is based on an actuarial finding that the change is

supported by the existing funding status of the fund; and the actuary, if an actuarial consulting firm, is established in the business of providing actuarial consulting services to pension plans and have experienced personnel able to provide the requested services.

(c) Provides that, if the board proposes to change benefits under Subdivision (1), Subsection (a) of this section the change is not effective until the change is finally approved in accordance with this subsection. Requires the board to submit the change for approval by the city's or town's governing body. Authorizes the board, if disapproved by the governing body, or if the governing body fails to act within sixty days of presentation to the governing body, by resolution passed by a majority of the whole board, plus one, to require the city's or town's governing body to hold an election, as soon as practicable, for approval of the change by the qualified voters of the city or town. Provides that any change proposed and subsequently approved by the voters under this subsection becomes effective as of the beginning of the city's or town's next fiscal year.

SECTION 1.05. Amends Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, V.T.C.S.), by adding Section 14A, as follows:

Sec. 14A. CONTRIBUTION INCREASES. (a) Sets forth the conditions under which and the manner in which the contribution rates are authorized to be changed by certain entities.

(b) Prohibits the sum of the city or town contribution rate and the member contribution rate after an increase under this section from exceeding the total contribution rate determined by the qualified actuary to be necessary to amortize the unfunded actuarial accrued liability over a 40-year period.

SECTION 1.06. (a) Defines "board of trustees" and "city or town."

(b) Requires the two citizen members of the board of trustees who are designated by the mayor of the city or town and who are serving on the board of trustees on the effective date of this article to continue to serve for the remainder of the members' four-year terms.

(c) Requires the mayor of the city or town or the mayor's authorized representative who is serving on the board of trustees on the effective date of this article to continue to serve until the mayor appoints a third citizen member under this subsection. Requires the mayor, as soon as practicable after the effective date of this article, to appoint a citizen member to serve a four-year term.

(d) Requires the chief of police or the chief's authorized representative and the chief of the fire department or the chief's authorized representative who are serving on the board of trustees on the effective date of this article to continue to serve until the city manager of the city or town appoints two citizen members to the board of trustees under this subsection. Requires the city manager, as soon as practicable after the effective date of this article, to appoint the two citizen members. Requires the city manager to designate one citizen member appointed under this subsection to serve a four-year term and, notwithstanding Section 1(b), Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes), as amended by this article, to designate one citizen member to serve a two-year term. Requires the successors of the individuals appointed under this subsection to serve four-year terms in accordance with Section 1(b), Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes), as amended by this article.

(e) Requires a member of the board of trustees elected by the members of a firemen's pension fund or the members of a policemen's pension fund and serving on the effective date of this article to continue to serve on the board for the remainder of the member's term.

SECTION 1.07. (a) Provides that this article is contingent on the deposit, not later than July 31, 2007, of at least \$100 million to a Firemen and Policemen Pension Fund by a city or town that

operates such a fund under Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, V.T.C.S.).

(b) Provides that, if no city or town described by Subsection (a) of this section makes the deposit described by that subsection on or before July 31, 2007, this article has no effect.

(c) Requires a city or town described by Subsection (a) of this section that makes the deposit described by that subsection to publish notice of the deposit in the Texas Register as soon as practicable after the date of the deposit.

SECTION 1.08. Provides that, subject to Section 1.07 of this article, this article takes effect September 1, 2007.

## ARTICLE 2. CONTINGENT PROVISIONS EFFECTIVE SEPTEMBER 1, 2009

SECTION 2.01. Reenacts Section 1(a), Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, V.T.C.S.), to make conforming changes.

SECTION 2.02. Reenacts Section 2, Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, V.T.C.S.), to make conforming changes.

SECTION 2.03. Reenacts Section 3, Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, V.T.C.S.), to make conforming changes.

SECTION 2.04. Reenacts Sections 10A(a) and (b), Chapter 101, Acts of the 43rd Legislature, 1st Called Session 1933 (Article 6243b, V.T.C.S.), to make conforming changes.

SECTION 2.05. Repealer: Section 1(b), Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, V.T.C.S.), as amended by Article 1 of this Act.

Repealer: Section 10A(c), Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, V.T.C.S.), as added by Article 1 of this Act.

Repealer: Section 14A, Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, V.T.C.S.), as added by Article 1 of this Act.

SECTION 2.06. (a) Defines "board of trustees" and "city or town."

(b) Provides that, on the effective date of this article, the term of the citizen member of the board of trustees appointed by the mayor of the city or town under Section 1.06(c) of this Act terminates and the mayor or a representative designated by the mayor is required to serve as a member of the board of trustees. Requires the two other citizen members of the board of trustees who are designated by the mayor of the city or town and who are serving on the board of trustees on the effective date of this article to continue to serve for the remainder of the members' four-year terms.

(c) Provides that, on the effective date of this article, the terms of the two citizen members of the board of trustees appointed by the city manager under Section 1.06(d) of this Act terminate and the chief of police or the chief's authorized representative and the chief of the fire department or the chief's authorized representative is required to serve as members of the board of trustees.

(d) Requires a member of the board of trustees elected by the members of a firemen's pension fund or the members of a policemen's pension fund and serving on the effective date of this article to continue to serve on the board for the remainder of the member's term.

SECTION 2.07. (a) Provides that this article takes effect only if Article 1 of this Act takes effect in accordance with Section 1.07 of this Act, and that if Article 1 of this Act does not take effect, this article has no effect.

(b) Provides that, subject to Subsection (a) of this section, this article takes effect September 1, 2009, and supersedes Article 1 of this Act unless, not later than July 31, 2009, at least \$110 million is deposited to a Firemen and Policemen Pension Fund by a city or town that operates such a fund under Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, V.T.C.S.).

(c) Provides that, if a city or town described by Subsection (b) of this section makes the deposit described by that subsection on or before July 31, 2009, this article has no effect.

(d) Requires a city or town described by Subsection (b) of this section that makes the deposit described by that subsection to publish notice of the deposit in the Texas Register as soon as practicable after the date of the deposit.