

BILL ANALYSIS

Senate Research Center

S.B. 1628
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State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Legislature enacts regulations that control the operation of a pension fund established to provide for the protection of pensions in a municipality for fire fighters, police officers, and their beneficiaries because of the hazardous nature of the professions. The fund needs to be amended for funds dispersed, cost-of-living adjustments, and other eligibility requirements.

S.B. 1628 modifies the terms of the existing pension fund that is codified as Article 6243o (Police and Fire Fighter Retirement System in Municipalities of 750,000 to 1,000,000), V.T.C.S. The San Antonio Fire and Police Pension Fund (fund) was created to provide retirement and disability annuities to qualifying fire fighters, police officers, and their surviving spouses or children. The changes proposed in this bill are the result of a two-year process of public input and financial analysis to provide targeted benefits to those members who need it during this time of financial instability while maintaining the actuarial stability of the fund.

This legislation clarifies and defines certain terms used throughout the fund. Alternate payees are given authority to appear before the board of trustees (board) to contest an application for membership or grant of annuity with the same rights as a member or beneficiary of the fund. The alternate payee would also be subject to the same information requirements and annuity reduction provisions. Fire and police chiefs may make an irrevocable election not to become a member of the fund if certain specified procedures are followed. Members employed for a probationary period have the option to purchase service credits for each month of the probationary period up to 10 months.

This bill also amends the qualified amounts dispersed and accumulated in the fund. The cost-of-living adjustment for certain members would be changed, and the amount received by surviving spouses and children is augmented. The timing requirements for certain payments and eligibility requirements for surviving spouses are also amended.

S.B. 1628 amends the regulations governing the pension retirement system in certain municipalities for fire fighters and police.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.02, Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by adding Subdivisions (1-a), (4-b), (4-c), (11-a), (12-b), and (12-c) and amending Subdivisions (11) and (12-a), as follows:

(1-a) Defines "alternate payee."

(4-b) Defines "class."

(4-c) Defines "class graduation date."

(11) Redefines "member" to mean a fire fighter or police officer who has become a member of the fund as provided by Section 4.01(a) (relating to a person who is a member

of the fund) or 4.011 of this Act and has not retired, died, or forfeited the person's interest in the fund.

(11-a) Defines "member buyback contribution amount."

(12-a) Defines "probationary period."

(12-b) Defines "qualified funds."

(12-c) Creates this subdivision from existing text.

SECTION 2. Amends Section 3.02(c), Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to authorize any contributing member of the fund who is in good standing in the fire or police department to appear in person or by attorney to contest the application for membership participation in the fund or for an annuity or benefit by any person claiming to be entitled to an annuity or benefit, either as a member, beneficiary, or alternate payee. Makes a nonsubstantive change.

SECTION 3. Amends Sections 3.03(c) and (d), Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to make conforming and nonsubstantive changes.

SECTION 4. Amends Article 4, Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by adding Section 4.011, as follows:

Sec. 4.011. MEMBERSHIP OF FIRE CHIEF AND POLICE CHIEF. (a) Authorizes the fire chief or police chief, subject to Subsection (d) of this section, not later than the 30th day after the date a fire chief or a police chief of a municipality to which this Act applies assumes office, to make an irrevocable election to not become a member of the fund.

(b) Requires that an election under this section be made by delivering written notice of the election to the secretary of the board of trustees (board).

(c) Provides that a fire chief or police chief who does not make an election under this section becomes a member of the fund.

(d) Prohibits a fire chief or police chief who was a member of the fund at any time during the two years preceding the date the fire chief or police chief assumes office from making an election under this section.

SECTION 5. Amends Section 5.01, Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by amending Subsection (g) and adding Subsections (k), (l), and (m), as follows:

(g) Provides that a member's service credit under this section includes any service credit purchased in accordance with Subsections (k)-(m) of this section.

(k) Authorizes a member employed for a probationary period by a municipality to which this Act applies to elect to purchase one month of service credit for each full month in the member's probationary period, up to a maximum of 10 months. Requires the member, for each month of service credit the member elects to purchase, to pay to the fund, on or before September 30, 2010, an amount equal to the sum of the member buyback contribution amount for the member and interest on the amount determined under Subdivision (l) of this subsection at the rate of eight percent per annum, compounded annually, calculated for the period beginning on the first day after the class graduation date for the member's class and ending on the earlier of December 31, 2009, or the date the fund receives the payment required under this subsection.

(l) Prohibits a member from electing to purchase a partial month of service credit under Subsection (k) of this section. Provides that a member is not required to elect to purchase

more than one month of service credit under Subsection (k) of this section. Authorizes a member to make the payment required under Subsection (k) of this section only with qualified funds. Requires a member to make an election under Subsection (k) of this section on or before December 31, 2009, in accordance with policies and procedures adopted by the board.

(m) Provides that an election under Subsection (k) of this section is void unless the member makes the full required payment before the earlier of the date of the member's retirement or the date of the member's death. Requires that the fund, if a member makes only partial payment before the earlier of the date of the member's retirement or the date of the member's death, refund all payments received, without interest, to the member, if the member is alive, or to the member's estate, if the member is dead. Requires that the fund refund payment under this subsection not later than the 60th day after the date of the member's retirement or the date of the member's death, as applicable.

SECTION 6. Amends Section 5.015(b), Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to provide that the Back DROP election results in a lump-sum payment for a number of full months of service elected by the member that does not exceed the lesser of the number of months of service credit the member has in excess of 20 years or 60, rather than 48, months.

SECTION 7. Amends Section 5.03(a-1), Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to provide that an active member of the fund is eligible to retire and receive a catastrophic injury disability retirement annuity if the member is not on indefinite suspension as described in Subsection (d) (relating to the ineligibility for a disability retirement annuity of a member of the fund who is on indefinite suspension), rather than Subsection (e) (relating to a member of the fund who applies for disability), of this section.

SECTION 8. Amends Section 5.07(a), Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to require the board to require each disability retiree retiring after August 29, 1979, to provide the board annually not later than May 1 of each year with a true and complete copy of the retiree's income tax return for the previous year, except for a retiree who is 65 years of age or older as of December 31 of the previous year.

SECTION 9. Amends Section 5.09, Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires that the annuity, if the member's service retirement, disability retirement, or death before retirement occurred on or after August 30, 1971, but before October 1, 1999, rather than 1997, be increased by a certain amount. Makes a conforming change.

(a-1) Provides that the cost of living increases described by this section do not apply to an annuity payable under Section 6.02(g-3) of this Act until the annuity becomes effective.

SECTION 10. Amends Section 6.02, Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by amending Subsections (d), (g), and (g-1) and adding Subsections (d-1), (d-2), and (g-3), as follows:

(d) Requires the board, subject to Subsection (d-2) of this section, if, at the time a death benefit annuity becomes payable under Subsection (a) (relating to a death benefit annuity for the surviving spouse and the children) or (c) (relating to a death benefit annuity for the surviving spouse) of this section, the deceased member or retiree leaves a surviving spouse and at least one dependent child, to award:

(1) 75 percent, rather than one-half, of the annuity to the surviving spouse; and

(2) 25 percent, rather than one-half, of the annuity to the dependent child or children. Makes a nonsubstantive change.

(d-1) Provides that the allocation of an annuity under Subsection (d) of this section is effective as to all annuities payable by the fund as of October 1, 2009, that are payable in part to a surviving spouse and in part to one or more surviving children. Provides that this subsection applies only to benefits payable by the fund after September 30, 2009, and does not affect benefits paid or payable by the fund before October 1, 2009.

(d-2) Requires that the dependent child or children, if, at the time a death benefit annuity becomes payable under Subsection (a) or (c) of this section, a deceased member or retiree leaves a surviving spouse who is not entitled to an annuity on the date of death under Subsection (g-1) of this section and one or more dependent children, be awarded 100 percent of the death benefit annuity until the annuity to the surviving spouse becomes effective under Subsection (g-3) of this section.

(g) Provides that a surviving spouse of a retiree whose status as a surviving spouse resulted from a marriage after the date of the retirement of the retiree is entitled to receive only the benefits, if any, provided under Subsection (g-1) of this section or Section 6.08 (Lump-Sum Death Benefit) of this Act. Deletes text providing that a surviving spouse of a retiree who was not married to the retiree until after the retiree's retirement is entitled to receive only the benefits, if any, provided under Subsection (g-1) of this section or Section 6.08 (Lump-Sum Death Benefit) of this Act.

(g-1) Entitles a surviving spouse of a retiree whose status as a surviving spouse resulted from a marriage after the date of the retirement of the retiree, subject to Subsection (g-3) of this section, to receive the entire death benefit of a surviving spouse in this section if the surviving spouse was married to the retiree for a period of at least the five consecutive years preceding the date of the retiree's death. Deletes text entitling a surviving spouse of a retiree who was not married to the retiree until after the date of the retiree's retirement, subject to Subsection (g-3) of this section, to receive the entire death benefit of a surviving spouse in this section if the surviving spouse was married to the retiree for a period of at least the five consecutive years preceding the date of the retiree's death. Makes conforming changes.

(g-3) Provides that the death benefit to which a surviving spouse is entitled under Subsection (g-1) of this section as a result of a retiree's death that occurs on or after October 1, 2009, is payable by the fund on the date of the retiree's death if the surviving spouse is 55 years of age or older on the date of the retiree's death. Requires that the annuity, if the surviving spouse is not 55 years of age or older on the date of the retiree's death, be payable by the fund on the date the surviving spouse reaches age 55. Provides that a surviving spouse who is not 55 years of age or older on the date of the retiree's death is not entitled to benefits from the fund during the period beginning on the date of the retiree's death and ending on the date the surviving spouse reaches age 55.

SECTION 11. Amends Section 6.06, Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

Sec. 6.06. COMMON-LAW MARRIAGES. Provides that common-law marriages are not recognized under this Act and benefits are prohibited from being conferred on common-law spouses as beneficiaries unless a declaration of informal marriage was made and recorded under Sections 2.402 (Declaration and Registration of Informal Marriage) and 2.404 (Recording of Declaration of Informal Marriage), rather than Section 1.92 (Declaration and Registration of Informal Marriage), Family Code, and their subsequent amendments, or any successor statutes, before the member's death. Makes nonsubstantive changes.

SECTION 12. Amends Section 6.08(a), Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to entitle a surviving spouse of a retiree whose status as such resulted from any marriage after the date of the retirement of the retiree and who has been married to the retiree for a period of less than the five consecutive years, rather than at least the 2-1/2 but less than the five consecutive years, preceding the date of the retiree's death, except as provided by Subsection (b) (relating to a surviving spouse not being entitled to a lump-

sum death benefit if a child is entitled to receive benefits) of this section, to a lump-sum death benefit because of the retiree's death in the amount of \$15,000, rather than \$2,500.

SECTION 13. Amends Section 6.14(f), Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to prohibit the number of months computing the lump-sum payment from exceeding the lesser of the number of months of service credit in excess of 20 years that the deceased member has on the date of death or 60, rather than 48, months.

SECTION 14. Repealer: Section 4.01(c) (relating to a fire fighter or police officer of a municipality being prohibited from being presumed from the serving of the full probationary period), Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.).

SECTION 15. Effective date: October 1, 2009.