HOUSE
RESEARCH
ORGANIZATION bill analysis 5/9/2005

HB 2747
McClendon
(CSHB 2747 by Eiland)

SUBJECT: San Antonio firefighters and police officers retiree health fund

COMMITTEE: Pensions and Investments — committee substitute recommended

VOTE: 7 ayes — Eiland, Flynn, Griggs, Krusee, McClendon, Rodriguez, Straus

0 nays

WITNESSES: For — Mike Higgins, Texas State Association of Fire Fighters; Christopher A. Steele, San Antonio Professional Firefighters Association; Paul M. Villarreal, Fire and Police Retiree Health Care Fund, San Antonio; (*Registered, but did not testify:* Frank Burney, Fire and Police Retiree Health Care Fund, San Antonio; Wayne DeLanghe, San Antonio Fire Fighters Local 624; Feliciano Rendon, San Antonio Police Officers Association; Teddy Stewart, President, San Antonio Police Officers Association)

Against — Ben Gorzell, Jr., Erik Walsh, City of San Antonio

On — Mark Fenlaw, Fire and Police Retiree Health Care Fund, San Antonio

BACKGROUND: The Retirement Health Trust for Firefighters and Police Officers was established in statute (Vernon's, Art. 5243q) in 1989 to provide health care benefits for retired San Antonio firefighters and police officers. In 1997, the statute was revised to authorize the Fire and Police Retiree Healthcare Fund to administer a plan in which active employees pre-pay retirement health costs through payroll contributions. The fund is governed by a nine-member board, and contributions and benefits are determined in accordance with collective bargaining agreements.

DIGEST: CSHB 2747 would eliminate statutory provisions making fund contributions and benefits subject to collective bargaining agreements and establish specific contribution amounts for fund members and the city of San Antonio. These amounts would increase incrementally between September 2005 and September 2019. Member contributions would increase from $36.99 biweekly in 2005 to $199.11 in 2019. The city of San Antonio's contribution would increase from 11.24 percent of payroll in 2005 to 21.04 percent of payroll in 2019.

Members who retired with less than 30 years of service, or their surviving spouses, would have to continue contributing to the fund until their total contributions were equivalent to those that would have been made with 30 years of service. Beginning January 1, 2006, the maximum out-of-pocket payment (including deductible) for retirees would increase from $700 to $1,200.

The board would have authority to determine eligibility for retiree health benefits and could adjust, modify or change these benefits if the fund's total actuarial unfunded liability, as determined by the fund's actuary, was not increased by the adjustment, modification or change. The board also would have authority to contract with third-party administrators, preferred providers, and health maintenance organizations.

The board would have full discretion and authority to administer the fund, construe and interpret statutory provisions, correct defects or omissions, reconcile inconsistencies, and perform all other acts necessary to administer the fund. All decisions of the board would be final and binding on all affected parties. A gathering of any number of trustees to investigate, research, or review prospective or current investments or otherwise attend to the trustees' fiduciary responsibilities, without formal action by the trustees, would not be considered deliberations or meetings and would not be subject to state open meetings laws. The fund would be governed by state confidentiality laws regarding information contained in records of fund participants. The board would elect its officers, who would not have to be trustees.

Surviving spouses would continue contributing to the fund for periods specified in the bill in order to qualify for health insurance. Members serving active military duty would not have to make monthly payments while serving active duty or lose seniority or retirement benefits as a result of this service, but the member would have to make up missed payments after returning to active duty as a firefighter or police officer.

The bill would take effect October 1, 2005.

SUPPORTERS SAY:

CSHB 2747 would help ensure the long-term financial stability of a health insurance trust that provides health benefits for retired San Antonio firefighters and police. Without legislative action on this issue, the fund could be depleted in 20 years and unable to provide health care coverage for its members.

The city of San Antonio and the firefighter and police unions have long recognized the obligation to provide medical coverage for the health needs of public safety officials and their families due to the hazardous nature of their employment. Many studies have shown that fire fighters and police officers face increased medical needs in retirement as a result of the stress of these jobs. San Antonio is the only city in Texas, and one of the few cities in the nation, to provide for future retiree health costs through employee contributions, in much the same way as a traditional pension is funded by active employees.

In 1997, when the Health Fund was established in statute, contributions and benefits were expected to be addressed through collective bargaining. At that time, it was assumed that contribution rates agreed on as part of collective bargaining would be sufficient to provide health care security for retirees and their beneficiaries.

These assumptions were wrong. For more than four years, the Health Fund board has researched and investigated the fund's financial stability. Information from four independent actuarial studies suggests the fund will be broke in the year 2027 unless immediate action is taken.

The health care needs of first responders are of primary importance and should not be left to the collective bargaining process, which has not provided a solution to this funding dilemma. Benefits and contributions should be established in statute to ensure that the fund will continue to provide coverage to retirees, who have contributed to the fund throughout their active employment. The board would have the flexibility to make changes to plan benefits and contributions if necessary to ensure financial soundness.

Increased contributions would be phased in over a 15-year period, which should provide adequate time for planning for the effect of increased contributions by all parties. The funding mechanism of contributions of 2/3 by the city of San Antonio and 1/3 by members is consistent with current provisions agreed on through collective bargaining. Retired members would make concessions by increasing their out-of-pocket expenditures by $500 per year.

OPPONENTS SAY:

CSHB 2747 would take away the flexibility to negotiate health care benefits as part of collective bargaining agreements and would establish in statute contribution rates that would cost the city of San Antonio an estimated $329.1 million over 15 years. The bill would lock in today's level of health benefits by funding coverage through phased-in contributions set in statute that could not readily be adjusted to reflect changes in the health insurance market.

The city of San Antonio is committed to providing health insurance benefits for its retired firefighters and police officers, but benefits and contributions should be negotiated locally by the city and unions, not established in statute by the Legislature. This is a critical element of collective bargaining that should not be taken out of the hands of the parties involved.

San Antonio's pre-funded health insurance arrangement is unique in Texas, even in the country. Most cities fund retiree health insurance on a pay-as-you-go basis and include these costs as part of annual budgets. San Antonio should not be punished for taking the lead in adopting an innovative pre-funded system by treating the plan like a traditional pension fund, which amortizes future costs over a 30-year period. The health insurance market is changing rapidly, and all employers are struggling to keep up with health care costs. The financial soundness of the fund should be viewed in shorter terms, such as four- or five-year periods, rather than over 30 years. The fund does not have a short-term financing problem. In 2004, it had $127.6 million in assets, with contributions of $18.6 million and benefit payments of $10.2 million. These are sufficient to continue to provide benefits to retirees without major changes to the plan.

The proposed legislation is not consistent with previously agreed cost-sharing principles under current collective bargaining agreements. The legislation phases in costs that ultimately would require the city to make 80 percent of contributions, while active employees make 20 percent of contributions.

NOTES: The committee substitute revised contribution rates to reflect the most recent actuarial study that was completed at the end of fiscal 2004 and made revisions to provisions regarding confidentiality requirements.