

## **BILL ANALYSIS**

Senate Research Center  
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H.B. 1173  
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Intergovernmental Relations  
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Engrossed

### **DIGEST**

Currently, Article 6243e.2(1), V.T.C.S. (Firefighters' relief and retirement fund in municipalities of at least 1,600,000 population) governs the firefighters' relief and retirement fund in municipalities of at least 1,600,000. According to the 1990 Census of Population and Housing, Houston is the only city that meets such a population requirement. This bill would increase the benefits firefighters or their beneficiaries are entitled to receive, and would change the operation of the board of trustees of the firefighters' relief and retirement fund.

### **PURPOSE**

As proposed, H.B.1173 increases benefits for firefighters or their beneficiaries, and changes the operation of the Firefighters' Relief and Retirement Fund Board of Trustees.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Firefighters' Relief and Retirement Fund Board of Trustees in SECTION 9 (Section 10A(c), V.T.C.S.) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 1(11), Article 6243e.2(1), V.T.C.S., to redefine "firefighter."

SECTION 2. Amends Section 2(1), Article 6243e.2(1), V.T.C.S., to require a municipality to allow municipal employees who are trustees of the Firefighters' Relief and Retirement Fund Board of Trustees (board) to promptly attend all board and committee meetings. Requires each board trustee who is an employee of the municipality to provide the municipality with reasonable notice of the trustee's required attendance at regularly scheduled board and committee meetings. Requires the municipality to allow board trustees the time required to travel to and attend educational workshops and legislative hearings and meetings regarding proposed amendments to this article, if attendance is consistent with a board trustee's duty to the board. Prohibits the municipality from using the trustee's attendance or travel related to attendance described by this subsection to reduce or withhold the wages that the trustee would otherwise earn. Authorizes the board to reimburse from the fund the municipality for costs incurred by the municipality for allowing a trustee's attendance under this subsection.

SECTION 3. Amends Section 3, Article 6243e.2(1), V.T.C.S., by adding Subsections (h) and (i), as follows:

(h) Authorizes the board to purchase with board funds a life insurance policy from an insurer licensed to do business in this state to cover the amount of lump-sum death benefits that may become payable to a member's eligible survivor or estate. Prohibits the amount payable under a policy under this subsection on the death of one member from exceeding the amount of the lump-sum death benefits payable under this article. Requires the board to be the policyholder of any life insurance purchased under this subsection and to use any proceeds received from the insurer to satisfy any lump-sum death benefits owed under this article.

(i) Authorizes the board to pay with fund assets the reasonable expenses incurred in providing annual or semiannual meetings of retired members, spouses of retired members, and eligible survivors that facilitate communication regarding benefits paid under this article, if the expenses do not materially affect the total assets of the fund. Authorizes reasonable expenses to include the purchase of items or services necessary to promote and facilitate these meetings.

SECTION 4. Amends Section 4, Article 6243e.2(1), V.T.C.S., to delete existing Subsections (d) and (f) regarding benefits. Makes a conforming change.

SECTION 5. Amends Section 5, Article 6243e.2(1), V.T.C.S., to provide that an election to participate in the Deferred Retirement Option Plan (DROP), once approved by the board, is irrevocable, except as provided by Subsection (1), rather than (n), of this section. Prohibits subsequent deductions from the member's salary under Section 13(c) of this article from being credited to the member's DROP account and from increasing any benefit payable from the fund for the member's service, if a DROP participant remains in active service after the seventh, rather than fifth, anniversary of the effective date of the member's DROP election. Requires an election by a member concerning single lump-sum, rather than installment, or partial payments as provided by Subsection (e) or (f) to satisfy certain requirements. Provides that a member who has made a DROP election is not classified as retired, eligible to be paid, or eligible to accrue or to receive any benefit that is accrued or received by a member who has terminated active service or by the eligible survivors of deceased members, unless the member who has made the DROP election has terminated active service. Redesignates existing Subsections (h)-(p) as Subsections (g)-(o). Deletes text regarding a member's DROP account, and provisions of Subsections (h) and (i). Makes conforming changes.

SECTION 6. Amends Section 6(d), Article 6243e.2(1), V.T.C.S., to provide that the pension amount that shall be used to determine the death benefit payable with respect to that member, if a full-time active member with at least six years of service becomes disabled or dies from heart or lung disease or cancer and the amount of the disability benefit is presumed to constitute unless the presumption is rebutted. Authorizes the on-duty disability presumption to be rebutted only by clean and convincing evidence.

SECTION 7. Amends Section 7(e), Article 6243e.2(1), V.T.C.S., to entitle a member's eligible survivors to a one-time \$5,000 death benefit, payable as a lump-sum, if the member is not survived by an eligible spouse, an eligible child, or an eligible parent, the \$5,000 death benefit shall be divided equally among the eligible parents of the deceased member, or the deceased member's estate.

SECTION 8. Amends Section 10, Article 6243e.2(1), V.T.C.S., to authorize the benefits provided by this article to be increased if a member of the American Academy of Actuaries determines that the increase cannot reasonably be viewed as posing a material risk of jeopardizing the fund's ability to pay any existing benefit, or the State Pension Review Board approved the determination by the actuary selected by the board that the increase cannot reasonably be viewed as posing a material risk of jeopardizing the fund's ability to pay any existing benefit. Deletes text regarding approval from being unreasonably withheld.

SECTION 9. Amends Article 6243e.2(1), V.T.C.S., by adding Sections 10A and 10B, as follows:

Sec. 10A. ANNUAL SUPPLEMENTAL BENEFIT FOR CERTAIN RETIRED MEMBERS AND ELIGIBLE SURVIVORS. Requires the board to pay supplemental benefits under this section to retired members, not including deferred retirees, and to eligible survivors, not including survivors of deferred retirees, if the requirements of Subsection (b) of this section are met. Requires the board to pay the supplemental benefits in January following a fiscal year of the fund in which the requirements of Subsection (b) of this section are met. Requires the board to pay supplemental benefits under this section, if the fund actuary determines that, as of the end of any fund fiscal year, certain conditions exist. Authorizes the board to adopt rules and procedures to govern the payment of benefits under this section and to establish a minimum income level consistent with the national poverty level set by the United States Department of Health and Human Services. Requires the board to determine an aggregate supplemental benefit amount that may not exceed the lesser of certain conditions. Requires the board to determine the amount of a lump-sum payment for each retired member or eligible survivor, based on the aggregate supplemental benefit amount determined under Subsection (d) of this section. Requires the total number of years since the commencement date of each retired member's or eligible survivor's annual retirement or survivor benefit to be divided by the total number of years since the commencement date of all retired members' and eligible survivors' annual retirement or survivor benefit to establish a payment percentage for each retired member and eligible survivor, in determining the lump-sum payment amount. Requires the payment percentage of each retired member and eligible survivor to be multiplied by the aggregate supplemental benefit less the total amount of any payments made under Subsection (i) of this section. Provides that the product of the computation under Subsection (g) of this section determines the lump-sum payment to the retired member or eligible survivor unless the lump-sum payment plus the annual retirement benefit

is less than the minimum income level established by the board. Entitles the retired member or eligible survivor to receive an additional payment from the amount determined under Subsection (d) of this section that will cause the recipient to meet but not exceed the minimum income level, if the lump-sum payment plus the annual retirement benefit is less than the minimum income level established by the board. Provides that the benefits commencement date for a retired member or the eligible survivor of a retired member is the first day on which the retired member most recently began receiving pension benefits from the fund. Provides that the benefits commencement date for an eligible survivor or an active member is the first day of receipt of benefits as an eligible survivor. Provides that notwithstanding any other provision of this section, if more than one eligible survivor is to receive a supplemental benefit as a result of one deceased person under this section, certain conditions must exist.

Sec. 10B. ADDITIONAL LUMP-SUM RETIREMENT OR DEATH BENEFIT. Requires the board to pay certain people a \$4,000 lump-sum payment from the fund, in addition to any other benefits, as soon as administratively practicable after the date of the person's retirement, if the person's retirement occurs or occurred after June 30, 1998. Requires the board to pay a \$4,000 lump-sum payment from the fund, in addition to any other benefits, to an eligible survivor of a member who meets certain conditions. Provides that the amount of each survivor's benefit is determined in the same manner as payment of death benefits is determined under Section 7(e) of this article, if more than one eligible survivor of one deceased member exists. Requires the board to make payments under Subsection (b) of this section as soon as administratively practicable after the date of death of the member of whom each recipient is an eligible survivor.

SECTION 10. Amends Sections 13(b) and (h), Article 6243e.2(1), V.T.C.S., to require each applicant to be provided written notice that a copy of the results of the examination will be forwarded to the board for the purpose of determining whether the applicant has a preexisting condition that would be relevant to any determination under Section 6 of this article, if at the time that physical examinations are administered on behalf of the municipality. Authorizes the board to require additional physical examinations if necessary in determining the presence or absence of any preexisting condition. Deletes text regarding the board establishing eligibility requirements for membership. Makes a conforming change.

SECTION 11. Effective date: November 1, 1999.

SECTION 12. Emergency clause.