

BILL ANALYSIS

Senate Research Center
76R2746 GJH-F

S.B. 455
By: Madla
Intergovernmental Relations
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As Filed

DIGEST

Currently, under Texas law, the Government Code regulates the Police and Fire Fighter Retirement System. This bill would amend the Government Code regarding the Police and Fire Fighter Retirement System in certain municipalities to increase the maximum Backward Deferred Retirement Option Plan period, provide that death benefits be paid to a retiree's estate for retirees with no beneficiaries, increase benefits for wholly dependent orphaned children, increase spousal benefits for retirees, provide a one-time adjustment of 1 percent to 10 percent in benefits, and increase the retirement benefit formula.

PURPOSE

As proposed, S.B. 455 amends the Government Code regarding the Police and Fire Fighter Retirement System in certain municipalities to increase the maximum Backward Deferred Retirement Option Plan period, provide that death benefits be paid to a retiree's estate for retirees with no beneficiaries, increase benefits for wholly dependent orphaned children, increase spousal benefits for retirees, provide a one-time adjustment of 1 percent to 10 percent in benefits, and increase the retirement benefit formula.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.05, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to provide that an amount payable, rather than a retirement annuity, from the firefighters and police officers pension fund (fund) is exempt from garnishment, assignment, attachment, judgments, other legal process, and inheritance or other state taxes. Provides that fund assets are exempt from attachment, execution, alienation, and forced sale. Prohibits a judgment lien or abstract of judgment to be filed or perfected against the fund on fund assets. Establishes that a judgment lien or abstract of judgment filed against the fund on fund assets is void.

SECTION 2. Amends Section 2.04(a), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to require the board of trustees of firefighters and police officers pension fund (board) to elect from the trustees a presiding officer, rather than a chairman, an assistant presiding officer, rather than a vice chairman, and a secretary.

SECTION 3. Amends Section 2.06a, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to make a conforming change.

SECTION 4. Amends Section 2.07a, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to make a conforming change.

SECTION 5. Amends Section 3.01, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to establish that the board has the complete authority and power to purchase with fund assets from state licenses insurers insurance policies that provide for fund reimbursement and any trustee, officer, or employee of the board for liability imposed or damages because of certain actions or omissions committed in the trustee's, officer's, or employee's capacity as a fiduciary officer or employee of the fund, rather than of assets, and for costs and expenses incurred in defense of a claim for certain actions or omissions, as long as the insurance policy does not provide for reimbursement of a trustee, officer, or employee for liability imposed or expenses incurred because of personal dishonesty, fraud, lack

of good faith, or intentional failure to act prudently. Authorizes the board, if the insurance coverage described by Subsection (a)(5) is insufficient or is not in effect, to indemnify a person for liability, damages, and reasonable legal expenses that result from certain actions or omissions occurring in the person's capacity as a trustee, officer, or employee of the fund without regard to the time of the occurrence of the allegation or whether the person continues to serve in that capacity. Prohibits the board from indemnifying an individual because of the individual's dishonesty, fraudulent act, lack of good faith, or intentional failure to act prudently. Requires indemnification to be determined by a majority vote of trustees who are not the subject of the indemnification. Authorizes the board to adopt a policy for the presentation, approval, and payment of indemnification claims. Makes conforming changes.

SECTION 6. Amends Section 3.02(d), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.) to make a conforming change.

SECTION 7. Amends Section 3.03, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

Sec. 3.03. New heading: ORDERS FOR DISBURSEMENTS OF BENEFITS. Requires each member, retiree, and beneficiary to provide bank depository information to the board so that the board can disburse benefits by electronic transfer. Authorizes the board to reduce the benefit amount to which a retiree or beneficiary is otherwise entitled in order to reimburse the fund for an overpayment or incorrect payment of benefits to the retiree or beneficiary. Makes conforming changes.

SECTION 8. Amends Section 5.01, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by amending Subsections (d), (e), and (f), and adding Subsection (g), as follows:

(d) Requires the board to compute the retirement annuity of a member who retires after September 30, 1997, but before October 1, 1999, at a certain rate.

(e) Requires the board to compute the retirement annuity of a member who retires after September 1, 1999, at a certain rate. Sets forth the calculation to determine the retirement annuity. Prohibits a retirement annuity from exceeding, as of the date of retirement, 87 ½ percent of the member's average total salary.

(f) Requires service credit for unused sick leave to be prorated based on each full month of sick leave.

(g) Redesignates existing Subsection (f) as Subsection (g). Provides that all monthly pensions being paid by the fund to retirees who retired before October 1, 1989, are increased, effective with the first monthly payment due on or after October 1, 1999, rather than 1997. Makes conforming and nonsubstantive changes.

SECTION 9. Amends Section 5.015(b), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to provide that the Backward Deferred Retirement Option Plan (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 36, rather than 24, months, is available only to a member who takes a service retirement, and must be made at the time of application for retirement.

SECTION 10. Amends Section 5.02(a), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to delete text requiring a qualified person for a retirement annuity but who has subsequently ceased to be a member of the fund or a properly enrolled member of the fire or police department to file an application for the retirement annuity within four years after the date the person ceased to be a fund member or properly enrolled.

SECTION 11. Amends the heading of Section 5.08, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

Sec. 5.08. New heading: REASONABLE ACCOMMODATION.

SECTION 12. Amends Section 5.09, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to require the board to order an increase of all service, disability, and death benefit retirement annuities, rather than retirement annuities of all retirees and beneficiaries, due to an increase in the Consumer's Price Index for All Urban Consumers by a percentage that varies by the date of the member's service or disability retirement, rather than on the date on which the member retired, or on the date on which the member died. Makes conforming and nonsubstantive changes.

SECTION 13. Amends Section 5.11(b), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to establish that any member or beneficiary who is entitled to receive any distribution, rather than receives any distribution from any plan within the system, that is an eligible rollover distribution is entitled to have that distribution transferred directly to another eligible retirement plan under certain circumstances.

SECTION 14. Amends the heading of Section 5.12, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

Sec. 5.12. New heading: 13TH CHECK FOR RETIREES.

SECTION 15. Amends Section 5.12(b), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to establish that the 13th pension check is paid to each retiree entitled to receive an annuity in a certain month and is in a certain amount, rather than the amount of the pension check paid immediately before the disbursement of the retiree's 13th check, except the amount of any such check shall be prorated for any retiree who has been receiving an annuity for less than a year by a certain amount. Makes conforming and nonsubstantive changes.

SECTION 16. Amends the heading of Article 6, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

ARTICLE 6. New heading: BENEFICIARY'S BENEFITS

SECTION 17. Amends Section 6.01, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

Sec. 6.01. New heading: MEMBER'S BENEFICIARY AND DEPENDENT CHILD'S RIGHTS. Provides that a dependent child is entitled to receive benefits based on the service of any parent who is a member of the fund. Makes a conforming change.

SECTION 18. Amends Section 6.02, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to provide that if a member dies leaving a surviving spouse or at least one dependent child, rather than children under the age of 18 years, the surviving spouse and the children are entitled to receive an aggregate death benefit annuity from the fund in a certain amount. Prohibits the amount of the death benefit annuity computed under Subsection (a) from exceeding the service retirement annuity to which a member with the same average total salary and with 26, rather than 25, years of service credit would be entitled. Provides that if a retiree dies leaving a surviving spouse or at least one dependent child, the surviving spouse and dependent children are entitled to receive an aggregate death benefit annuity from the fund in a certain amount. Prohibits the amount of a death benefit annuity from exceeding a certain amount. Requires the board to award certain portions of the annuity to certain beneficiaries if, at the time a death benefit annuity becomes payable under Subsection (a) or (c) of this section, the deceased leaves a surviving spouse and at least one dependent child. Requires the board to award the entire annuity to the surviving spouse if there are no dependent children at the time the annuity becomes payable. Requires the board to award the entire annuity to the dependent children in equal shares, if there is more than one child. if there is not a surviving spouse at the time the annuity becomes payable. Redesignates the existing Subsection (b) as Subsection (h). Deletes existing Subsections (c) and (d) regarding the amount a surviving spouse would receive if there were no dependent children, or if there was not a surviving spouse, the amount the dependent children would receive. Requires that the death benefit annuity payable to the surviving spouse be increased as of the day no child is entitled to receive benefits to the amount the spouse would have received had there been no dependent children, if a member or retiree dies leaving a surviving spouse and at least one dependent children. Requires that the death benefit annuity payable to the dependent children be increased as of the day the surviving spouse dies to the amount the children would have received had there been no surviving spouse, if a member or retiree dies leaving a surviving spouse and at least one dependent children. Redesignates existing Subsection (e) as Subsection (k). Requires the

board to increase a death benefit annuity payable on October 1, 1999, to a dependent child or children who do not have a living parent on that date to the entire amount that would have been awarded had the retiree or member died leaving no surviving spouse if a surviving spouse is not entitled to receive benefits from the fund on October 1, 1999. Makes conforming and nonsubstantive changes.

SECTION 19. Amends Section 6.11, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to provide that if an active member dies and does not leave a beneficiary, rather than specifically a surviving spouse, a child under 18 years of age, a mentally or physically disabled child, or a dependent father or mother, the estate of the deceased member is entitled to a death benefit payment from the fund in a certain amount or a refund of the member's contributions that were picked up by the municipality, whichever amount is greater. Deletes text prohibiting the payment of the death benefit under this section if the deceased member of the fund is survived by one or more beneficiaries.

SECTION 20. Amends Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by adding Section 6.115, as follows:

Sec. 6.115. DEATH BENEFIT FOR RETIREE'S ESTATE. Provides that if a retiree dies and does not leave a beneficiary, the estate of the retiree is entitled to a death benefit payment from the fund in a certain amount.

SECTION 21. Amends Section 6.12, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

Sec. 6.12. New heading: 13TH CHECK FOR BENEFICIARIES. Requires the board, for any year in which the board authorizes disbursement of a 13th pension check to retirees under Section 5.12, to authorize disbursement of a 13th check to each beneficiary entitled to receive an annuity in the last month of the fiscal year preceding the fiscal year in which the check is disbursed. Provides that the amount of the 13th check is equal to a certain amount, except that the amount of the check shall be prorated for any beneficiary who has been receiving an annuity for less than a year. Makes conforming changes.

SECTION 22. Amends Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by adding Section 6.13, as follows:

Sec. 6.13. GUARDIANSHIP. Establishes that any benefit payable under this article to a dependent child may be paid only to a guardian if the guardian is appointed in accordance with Chapter XIII, Texas Probate Code.

SECTION 23. Amends Section 7.01(a), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to establish that all money of the fund that is paid to the treasurer of the fund is for the use of that fund.

SECTION 24. Amends Section 7.51(a), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to prohibit a member of the board, the executive director, or another employee for the fund from certain actions.

SECTION 25. Effective date: October 1, 1999.

SECTION 26. Emergency clause.