

BILL ANALYSIS

Senate Research Center
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S.B. 708
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DIGEST AND PURPOSE

Under current law, the Fire and Police Fund has been established to provide retirement security (including line of duty deaths and disability) for members of the police and fire departments in San Antonio and their beneficiaries. As proposed, S.B. 708 provides greater retirement benefits to such public safety employees by providing: cost of living increases for retirees, faster vesting of retirement benefits at a younger age, an additional distribution of funds in the event the investment returns for the Fund exceed certain parameters, a lump sum payment option to the surviving spouse of active duty members of the Fund, and additional technical corrections to make the Act more clear to members.

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(18), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.) to redefine “years of service.”

SECTION 2. Amends Article 1, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.) by adding Section 1.07, as follows:

Sec. 1.07. CONSTRUCTION OF ACT. Provides that this Act does not provide any benefit that is not specifically provided by this act.

SECTION 3. Amends Section 2.03(e), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to delete text concerning the category for which the trustee was removed.

SECTION 4. Amends Section 3.02, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by adding Subsection (e) as follows:

(e) Provides that a person’s failure to give truthful information to the board of trustees (board) in an application or in testimony at a hearing may result in a referral for criminal investigation.

SECTION 5. Amends Section 4.01, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to provide that a person is eligible to become a member of the fund as a condition of continued employment two months after the person has received state certification as a fire fighter or police offer, completed all other requirements for membership in the fund, and met certain other stated requirements. Deletes text concerning a person having served eight months as a fire fighter, police officer, or trainee of such. Deletes existing Subsection (b) concerning persons appointed and enrolled in classified positions who had been barred from entry in the fund because of age requirements. Deletes existing Subsection (c) referring to existing Subsection (b). Deletes existing Subsection (d)

regarding persons who became members of the Texas Municipal Retirement System on or before October 15, 1990. Deletes existing Subsection (e) referring to existing Subsections (b) and (d).

SECTION 6. Amends Section 4.04(a), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to delete text concerning the percentage of a member's total salary deducted from the total salary of each fire fighter and police officer in the employment of a municipality to which this Act applies.

SECTION 7. Amends Section 5.01, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by amending Subsections (e) and (g) and adding new Subsection (f), as follows:

(e) Requires the board to compute the retirement annuity of a member who retires after September 30, 1999, but before October 1, 2001, at a certain rate.

(f) Requires the board to compute the retirement annuity of a member who retires after September 30, 2001, at a certain rate. Makes conforming changes.

(g) Makes a conforming change.

SECTION 8. Amends Sections 5.015(d) and (e), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

(d) Requires the member's retirement annuity to be computed in the manner provided by Section 5.01 (rather than 5.01(c) or (d)) of this Act, with exception. Deletes phrase "as applicable." Provides that, solely for purposes of computing the member's monthly pension under this subsection, the member's retirement date is the members Back DROP retirement date, which is the member's actual retirement date less the amount of time for any service in excess of 34 (rather than 35) years of service, any service given for sick leave unused on the date of actual retirement, and any service in excess of 20 years but not in excess of the amount permitted under Subsection (b)(1) of this section that the member elects for computing the amount of the lump-sum payment.

(e) Makes conforming changes.

SECTION 9. Amends Section 5.07(b), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to prohibit the disability retirement annuity from being decreased below an amount based on 2.25 (rather than two) percent of the retiree's average total salary computed at the time of retirement under Section 5.04 of this Act for each year of service in the department.

SECTION 10. Section 5.09(a), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to require that, if the member's service retirement, disability retirement, or death before retirement occurred on or after August 30, 1971, but before October 1, 1991 (rather than 1989), the annuity be increased according to certain new guidelines. Deletes text regarding current guidelines. Makes conforming changes.

SECTION 11. Amends Section 5.11, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to redesignate as Section 5.10 and to amend as follows:

Sec. 5.10. COORDINATION WITH FEDERAL LAW. Requires that, if the total benefits under this fund and the benefits and contributions to which any member is entitled under any other qualified defined benefit plan maintained by the municipality that employs the member would otherwise exceed the applicable limits under Section 415 of the code, the benefits the member would otherwise receive from the fund be reduced to the extent necessary to enable

the benefits to comply with Section 415 of the code. Provides the accrued benefits under this Act become 100 percent vested for a member on the earlier termination or partial termination of the pension plan created by this Act, if it affects the member.

SECTION 12. Amends Section 5.12, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to redesignate as Section 5.11 and to amend as follows:

Sec. 5.11. 13TH CHECK FOR RETIREES. Makes a conforming change. Requires the 13th check to be paid as the board directs.

SECTION 13. Amends Article 5, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by adding Section 5.12, as follows:

Sec. 5.12. 14TH CHECK FOR RETIREES. (a) Defines “annual investment yield.”

(b) Makes conforming changes regarding the 14th pension check.

(c) Makes conforming changes. Provides that, except as provided by Subsection (d) of this section, the check is in an amount equal to the amount of the annuity payment made in the last month of the preceding fiscal year.

(d) Makes conforming changes.

(e) Makes conforming changes.

SECTION 14. Amends Section 6.02, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.) as follows:

(a) Provides that, subject to Section 6.03 of this Act and the provisions of this section (rather than Subsections (h), (i), (j), (k), and (l) of this section), if a member dies leaving a surviving spouse or at least one dependent child, the surviving spouse and the children are entitled to receive from the fund an aggregate death benefit annuity, computed and payable from the date of the member’s death. Authorizes the surviving spouse to elect the annuity in an amount that is equal to either 50 percent of the member’s average total salary or the same percentage of the members average total salary that the member would have been entitled to receive as a retirement annuity if the member could have retired on the date of death.

(b) Prohibits the amount of a death benefit annuity computed under Subsection (a) of this section from exceeding the service retirement annuity to which a member with the same average total salary with 27 (rather than 26) years of service credit would be entitled.

(c) Makes a conforming change. Deletes text regarding surviving spouses and dependent children receiving an aggregate death annuity. 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 from the fund an aggregate death benefit annuity, computed and payable from the date of the member’s death, in an amount that is equal to the lesser of two stated options.

Redesignates Subsections (e) - (i) as Subsections (d) - (j).

(j) Authorizes any death benefit annuity paid under this subsection to any mentally or physically disabled child to, at the discretion of the board, be reduced to the extent of any state pension or aid, including Medicaid, or any state-funded assistance received by the child, regardless of whether the funds were made available to the state by the

federal government.

(k) Makes a nonsubstantive change.

(l) Provides that a former spouse of a deceased member or retiree who is not the spouse of the member or retiree on the date of death of the member or retiree is not entitled to a benefit under this section.

SECTION 15. Amends Section 6.03(c), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to provide that a death benefit annuity computed under this subsection is divided in the manner described by Section 6.02 (rather than 6.02(a)), of this Act and is subject to the same cost-of-living adjustments that apply to pensions for service retirement.

SECTION 16. Amends Section 6.04, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to delete existing Subsection (a) regarding whether a surviving spouse remarries or a dependent child marries before October 1, 1995. Makes conforming changes.

SECTION 17. Amends Section 6.09(a), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to make a conforming change.

SECTION 18. 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 AND 14TH CHECKS FOR BENEFICIARIES. Makes conforming changes.

SECTION 19. Amends Article 6, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by adding Section 6.14 as follows:

Sec. 6.14. LUMP-SUM PAYMENT ELECTION FOR SURVIVING SPOUSES. (a) Provides that a surviving spouse of a member who is entitled to receive a death benefit under Section 6.02 of this Act may elect to receive a portion of the benefit in a lump-sum payment under this section.

(b) Authorizes the lump-sum payment to be elected only by a surviving spouse on certain conditions.

(c) Prohibits the surviving spouse from electing a lump-sum payment under this section if a member is killed in the line of duty and the deceased member's surviving spouse is entitled to a death benefit annuity under Section 6.03 of this Act.

(d) Provides that the lump-sum payment is computed according to a certain stated formula.

(e) Provides that the annuity used to compute the lump-sum payment is determined in the manner provided by Section 5.01(f) of this Act for retired members, using certain stated factors.

(f) Requires the surviving spouse to elect the number of months used in computing the lump-sum payment. Prohibits the number of months from exceeding the lesser of either the number of months of service credit in excess of 20 years that the deceased member has on the date of death or 36 months.

(g) Provides that, except as provided by Subsection (h) of this section, in determining the annuity under Subsection (e) of this section, the deceased member's service credit

is computed as provided by Section 5.01(g) of this Act, less the number of months elected by the surviving spouse under Subsection (f) of this section and any service credit for unused sick leave to which the member would have been entitled.

(h) Provides that, in determining the annuity under Subsection (e) of this section for a surviving spouse whose death benefit annuity is limited by Section 6.02(b) of this Act, the deceased member's service credit is 27 years, less the number of months elected by the surviving spouse under Subsection (f) of this section.

(i) Provides that, if a surviving spouse elects to receive a lump-sum payment under this section, the total death benefit annuity payable to the surviving spouse under Section 6.02 of this Act is reduced as provided by Subsection (j) of this section. Provides that the lump-sum election does not affect the amount of a death benefit annuity payable to a dependent child of a deceased member under Section 6.02 of this Act.

(j) Provides that the reduced annuity is determined in the manner provided by Section 5.01(f) of this Act for retired members, using certain stated factors.

(k) Provides that, except as provided by Subsection (l) of this section, in determining the reduced annuity under Subsection (j) of this section, the deceased member's service credit is computed as provided by Section 5.01(g) of this Act, less the number of months elected by the surviving spouse under Subsection (f) of this section.

(l) Provides in determining the reduced annuity under Subsection (j) of this section for a surviving spouse whose death benefit annuity is limited by Section 6.02(b) of this Act, the deceased member's service credit is 27 years, less the number of months elected by the surviving spouse under Subsection (f) of this section.

SECTION 20. Amends Section 8.02(1), (3), and (5), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to redefine "excess benefit participant," "maximum benefit," and "unrestricted benefit."

SECTION 21. Amends Sections 8.03(b) and (c), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to make conforming changes.

SECTION 22. Repealer: Section 5.10, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.) (Increase in existing retirement annuities).

SECTION 23. Effective date: October 1, 2001.