

## BILL ANALYSIS

Senate Research Center

H.B. 1697  
By: Greenberg (Barrientos)  
Intergovernmental Relations  
5/10/1999  
Engrossed

### DIGEST

Currently, municipalities with populations between 460,000 and 500,000 have retirement systems in place for the employees of those municipalities. This bill would modify the statutes governing those retirement systems by providing disability benefits for off-the-job injuries or illnesses after five years of service, amending the rights of members participating in the proportionate retirement program, providing additional opportunities for voting members to fill a vacancy on the retirement systems's board of trustees, establishing lump-sum distributions to retirees without affecting base annuities, increasing the benefit multiplier from 2.6 to 2.7, and allowing additional benefit improvements contingent on increased contributions and actuarial soundness.

### PURPOSE

As proposed, H.B. 1697 revises the statutes governing municipal employees retirement systems.

### RULEMAKING AUTHORITY

Rulemaking authority is granted to a retirement board of a retirement system for municipal employees of certain municipalities in SECTIONS 3 and 7 (Sections 4(bb), and 8(f), Article 6243n, V.T.C.S. ) of this bill.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2, Article 6243n, V.T.C.S., to redefine "agency of the municipality," "beneficiary," "creditable service," "current service annuity," "designated beneficiary," "employer," "Fund No. 2," "investment manager," "malfeasance," "normal retirement age," "normal retirement date," "prior service pension," "regular full-time employee," "retired member," "retirement allowance," and "retirement system."

SECTION 2. Amends Section 3, Article 6243n, V.T.C.S., to require members of the retirement system created by this Act for a city having a population of 460,000 to 500,000 (retirement system) who retired and the beneficiaries of members who died prior to October 1, 1999, rather than September 1, 1997, to continue to receive the same retirement allowances or benefits that they were entitled to receive prior to that date, together with any benefit increases, rather than cost of living adjustments, authorized under this Act. Makes conforming changes.

SECTION 3. Amends Section 4, Article 6243n, V.T.C.S., as follows:

(a) Provides that retirement board of the retirement system (retirement board) has the power and responsibility for the proper and effective general administration, management, and operation of the retirement system for the exclusive benefit of its present and future members and their beneficiaries. Deletes existing text requiring the retirement board to be organized immediately after its members have qualified and taken the oath of office.

(b) Sets forth the composition of the retirement board. Deletes text authorizing the removal and replacement or redesignation of the place one member of the retirement board by the governing body of a municipality at any time.

(c) Requires the retirement board to appoint an active-contributory member to fill a vacancy on the retirement board for a member in the sixth through ninth places whose term on the retirement board is eliminated early if the remainder of the unexpired term is 364 days or fewer and, if 365

days or more, to fill the vacancy by a vote of the active-contributory members at a special election. Requires the retirement board to appoint a retired member of the retirement system (retired member) to fill the remainder of the unexpired term in the 10th or 11th place on the retirement board if the unexpired term is 364 days or fewer and, if 365 days or more, to fill the vacancy by voting at a special election.

(d) Makes a conforming change.

(e) Requires only one active-contributory member to be eligible for election from any one department or office or similar organizational unit that is established in the annual budget of a city or municipality (employer) and that is not a part of any other department. Makes a conforming change.

(f) Makes a conforming change.

(g) Deletes text regarding elections for place ten. Makes a conforming change.

(h) - (j) Makes a conforming change.

(k) Requires elections for places six through eleven on the retirement board to be held on certain dates. Makes conforming changes.

(l) Makes a conforming change.

(m) Requires the retirement board to approve written procedures that include comprehensive provisions prescribing the conduct of the election and early voting. Makes a conforming change.

(n) Requires each member of the retirement board to take an oath of office within a certain period. Makes conforming changes.

(o) Requires the retirement board to elect a presiding officer and an assistant presiding officer, rather than a chairman and a vice chairman, from its membership for one calendar year terms. Makes a conforming change.

(p) Requires the retirement board to hire a pension director, rather than a pension officer, as an employee of the retirement board. Requires the retirement board to establish the title and duties of the pension director. Requires the pension director to employ a staff of the retirement system, rather than a staff of the retirement board. Makes conforming changes.

(q) Makes conforming and nonsubstantive changes.

(r) Requires each employer to provide to the retirement board records that are useful for the board's administration of the retirement system or the fund containing the aggregate of the assets of the members' contributions and the city's contributions (fund). Makes a conforming change.

(s) Makes a conforming change.

(t) Requires the retirement board to order payments from the fund in accordance with this Act. Authorizes the retirement board to increase the benefits and allowances to be paid from the fund under Subsection 10 (g). Requires the retirement board to collect underpayments and refund overpayments. Makes conforming changes.

(u) Requires the retirement board to keep a record of the names and amounts paid to retired members, surviving spouses, and beneficiaries. Provides that a certified public accounting firm selected by the retirement board performs an annual independent audit of the system accounts. Makes a conforming change.

(v) - (w) Makes a conforming change.

(x) Makes a conforming and nonsubstantive change.

(y) Makes a conforming change.

(z) Makes a conforming and nonsubstantive changes.

(aa) Authorizes the retirement board to adopt policies and procedures that the retirement board considers necessary or advisable to carry out this Act. Makes conforming and nonsubstantive changes.

(bb) Requires that this Act be construed and administered in a manner that will allow the retirement system's benefit plan to be a plan qualified under Section 401(a) of the U.S. Internal Revenue Code. Authorizes the board to adopt rules that modify the plan to the extent necessary for the plan to be a qualified plan and requires the board to adopt rules to ensure that benefits paid to a retired member or to a beneficiary do not exceed certain prescribed limits. Provides that rules adopted by the retirement board are part of the plan. Authorizes the retirement board to adopt rules that establish a separate qualified excess benefit arrangement under Section 415(m) of the U.S. Internal Revenue Code, to provide any benefits that would have been provided under the qualified plan except for the prescribed limits.

(cc) Makes a conforming change.

(dd) Authorizes the retirement board to remove a retirement board member for malfeasance, after notice and a hearing, by a vote of six of its members. Makes a conforming change.

SECTION 4. Amends Section 5, Article 6243n, V.T.C.S., to alter the membership of the inactive-noncontributory members group to include those who may become entitled to benefits from the retirement system. Deletes text regarding the time frame in which an employee becomes an active-contributory member of the retirement system. Deletes text regarding members on authorized leaves of absence. Makes conforming and nonsubstantive changes.

SECTION 5. Amends Sections 6(c), (d), and (e), Article 6243n, V.T.C.S., as follows:

(c) Establishes the types of uniformed service that are required to be credited in the retirement system. Authorizes a member to use uniformed service to establish creditable service for an authorized leave of absence for military service under certain conditions. Authorizes a member to establish the credit by making periodic payments or a lump-sum payment. Sets forth the procedure for making periodic payments or a lump-sum payment. Prohibits a member's lump-sum payment contribution from exceeding the amount required under the Uniformed Services Employment and Reemployment Rights Act of 1994, if the member makes the contributions within the required time. Requires the member's employer to make contributions as though the member had continued employment at the same salary as the member's last pay period. Requires the employer's contributions to be made each pay period if the member is making periodic payments. Provides that a member accrues membership service for the pay periods in which the member makes a deposit, and that membership service credit accrues at the time of the credit. Authorizes a member to establish uniformed creditable service for specific active federal duty service for which the member must contribute a lump-sum equal to 25 percent of the estimated cost of the retirement benefits the member will be entitled to receive. Provides that the retirement board will determine the required contribution based on a specific procedure. Makes conforming changes.

(d) Authorizes the employer of a member to purchase additional creditable service for the member that is required to be credited to the member. Deletes existing text regarding a member's qualification for unreduced retirement benefits at age 55.

(e) Makes a nonsubstantive change.

SECTION 6. Amends Section 7, Article 6243n, V.T.C.S., as follows:

Sec. 7. New heading: SERVICE RETIREMENT AND WITHDRAWAL BENEFITS. (a) Entitles a member to a distribution of the member's accumulated deposits in a single lump sum under certain conditions, unless Section 8 applies, rather than Subsection (e) or Section 8 applies. Deletes text regarding the entitlement of a member to withdraw deposits after 20 years of service on attaining age 55.

(b) Provides that certain members are not entitled to a retirement allowance unless the member is eligible and participates in the proportionate retirement program under Chapter 803, Government Code.

(c) Makes a nonsubstantive change.

(d) Authorizes the retirement board to authorize once each December a cost of living adjustment (adjustment) or a lump-sum additional benefit payment that shall be paid to each retired member or beneficiary who became entitled to benefits on or before December 31 of the year before the year in which the additional payment is approved. Makes conforming and nonsubstantive changes.

(e) - (h) Makes conforming and nonsubstantive changes.

(i) Prohibits the amount of an adjustment or additional payment from exceeding an amount equal to the amount of the monthly payment being received by a member before the addition of any adjustment made during that year if the payment is an additional payment. Requires the adjustment or additional payment to be prorated for members who retired during the year in which the adjustment or additional payment is authorized. Makes conforming changes.

(j) Makes conforming changes.

(k) Requires any member to be eligible for proportionate retirement if the member qualifies for retirement by reason of creditable service attained with one or more retirement programs participating in the proportionate retirement program established by state law. Requires a member who qualifies for proportionate retirement and retires to begin receiving the retirement benefits beginning on a certain date. Deletes text regarding early retirement. Makes a conforming change.

(l) Deletes text establishing Option V and Option VI. Makes conforming changes.

(m) - (q) Makes conforming changes.

(r) Requires a member's accumulated deposits to be returned to the member or the member's beneficiary within seven years after the termination of employment by a member with less than five years of creditable service if a designation of intent to participate in proportionate retirement has not been filed with the retirement system or a prior demand for withdrawal of accumulated deposits has not been made. Makes conforming changes.

(s) - (t) Makes conforming changes.

(u) Requires a member's account to be reinstated and credited, but not refunded, and requires the member to receive a proportionate retirement allowance under certain conditions. Entitles the member to receive a proportionate retirement allowance.

(v) Requires the retirement board to consider the system's records and evidence presented by a member or beneficiary in determining if any payment is due if a demand for withdrawal of funds is made after a certain date and system records do not affirmatively establish that the accumulated deposits remain in the fund. Establishes that the member or beneficiary bears the burden of proof. Provides that a decision made by the retirement board is final.

(w) - (y) Makes conforming changes.

(z) Requires the reduced annuity of a retired member who elected the optional lifetime retirement annuity to be increased to the standard service retirement annuity that the retired member would have been entitled to receive if the retired member had not selected Option I, Option II, or Option III and if a person who is designated, in writing, by the member under Option I, II, or III predeceases the retired member. Requires the standard service retirement annuity to be adjusted as appropriate for early retirement and for postretirement increases in retirement benefits. Provides that an increase in the annuity is payable to the retired member for the remainder of the retired member's life. Sets forth the beginning date for an increase in the annuity.

(aa) - (hh) Makes conforming changes.

SECTION 7. Amends Sections 8(a) and (d)-(i), Article 6243n, V.T.C.S., as follows:

- (a) Requires a member to remain in certain categories for 90 days following termination of employment for inability to perform all employment duties.
- (d) Authorizes a member who has more than five, rather than 10, years of creditable service and who is eligible for disability requirement to apply for disability retirement if the member has become mentally or physically incapacitated for the performance of all employment duties. Makes a nonsubstantive change.
- (e) Deletes a provision which requires a disability retirement allowance to be computed without reduction for early retirement. Makes conforming changes.
- (f) Requires a member receiving a disability requirement allowance to periodically file a report with the retirement board concerning continued proof of disability. Requires the retirement board to adopt rules establishing the required supporting information to accompany the reports, the content of the reports, and deadlines for filing the reports. Requires the report to include a current statement of the member's physical or mental condition stating existence of continuing disability, signed by the member's attending physician.
- (g) Provides that the retirement board establishes the time frame in which a disabled member is required to submit the periodic report under Subsection (f). Authorizes the retirement board to require that all periodic reports be filed in the same calendar month. Authorizes the retirement board to verify all information submitted in the report. Makes conforming changes.
- (h) Requires the disability retirement allowance to discontinue if a member fails or refuses to submit to any examination by a physician appointed by the retirement board. Makes conforming changes.
- (i) Makes conforming and nonsubstantive changes.

SECTION 8. Amends Sections 9(a), (b), and (p), Article 6243n, V.T.C.S., as follows:

- (a) Prohibits the annual benefit provided to any member from exceeding the benefits allowed for a plan qualified under Section 415 of the U.S. Internal Revenue Code, rather than \$90,000.
- (b) Deletes text regarding adjustments to and limitations on the maximum benefit permitted. Makes conforming changes.
- (p) Requires a retired member's retirement allowance to be suspended if the retired member is employed by an employer for at least six months in any 12 consecutive calendar months and works, is budgeted, or is compensated for more than 29 hours in a calendar week. Makes conforming and nonsubstantive changes.

SECTION 9. Amends Section 10, Article 6243n, V.T.C.S., by amending Subsections (a) and (d) and adding Subsection (g) as follows:

- (a) Requires each active-contributory member to make deposits to the retirement system at a certain rate or at a higher contribution rate approved by a majority vote of regular full-time employee members. Requires deposits to be made by payroll deduction each pay period. Makes conforming changes.
- (d) Requires expenses for administration and operation of the retirement system that are approved by the retirement board to include annual audits by independent certified public accountants.
- (g) Authorizes the retirement board to take certain actions, if the retirement board obtains an actuarial study indicating that proposed change will not make the fund financially unsound and the proposed change is not inconsistent with the U.S. Internal Revenue Code.

SECTION 10. Amends Section 11(e), Article 6243n, V.T.C.S., to make a nonsubstantive change.

SECTION 11. Amends Sections 12(d) and (e), Article 6243n, V.T.C.S., as follows:

(d) Prohibits a municipality or its governing body from denying or abridging a vested right of any member or a right or privilege of the retirement system. Requires the retirement system to continue to be authorized by and administer this Act without regard to any action taken by the municipality or its governing body. Provides that this subsection applies notwithstanding any other provision of this Act. Deletes text regarding a highly compensated employee.

(e) Makes conforming and nonsubstantive changes.

SECTION 12. Amends Sections 13(a) and (c), Article 6243n, V.T.C.S., to make conforming changes.

SECTION 13. Provides that a retirement allowance being paid to a member who retired before October 1, 1999, or the beneficiary of a member, is changed beginning with the payments due at the end of October 1999. Establishes that this change is made to reflect the change in the benefit multiplier to 2.7 percent effective October 1, 1999. Specifies that the amount of the change for a member or a beneficiary of a member is equal to the percentage multiplied by the retirement allowance otherwise due. Provides that the percentage is equal to 3.85 percent.

SECTION 14. Repealers: Section 2(24), Article 6243n, V.T.C.S. (definition of "hospital authority"); Sections 9(c)-(o), Article 6243n, V.T.C.S. (regarding a \$90,000 maximum benefit).

SECTION 15. Effective date: October 1, 1999.

SECTION 16. Emergency clause.