

BILL ANALYSIS

Senate Research Center
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H.B. 3532
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Engrossed

DIGEST

Currently, the Houston Municipal Employees Pension System provides retirement, death, and disability benefits for eligible City of Houston employees, with the exception of police officers and firefighters. Pension members participate in either Group A or Group B programs, with participants who joined after September 1, 1981, required to join Group B. The Group A program requires members to contribute an average of four percent of their monthly salary into the Pension System. The Group B program is noncontributory. The City of Houston contributes to both programs. H.B. 3532 would revise the administration of, benefits from, and participation in the Houston Municipal Employees Pension System.

PURPOSE

As proposed, H.B. 3532 revises the administration of, benefits from, and participation in the Houston Municipal Employees Pension System.

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 2, Article 6243g, V.T.C.S., by amending Subdivisions (b), (f), (g), (j), and (l), and adding Subdivisions (m) and (n), to redefine "member," "separation from service," "employee," "previous service," and "pension fund." Defines "effective retirement date." Defines "military service."

SECTION 2. Amends Section 3, Article 6243g, V.T.C.S., as follows:

- (a) Provides that a person who becomes an employee on or after September 1, 1999, becomes a Group A member of the municipal pension system for employees of cities of 1,500,000 or more (pension system) as a condition of employment except as otherwise provided by this section or Section 4 of this Act. Deletes text requiring disability and benefit provisions of Sections 11 through 16 of this Act to apply to Group A members.
- (b) Requires any person who becomes an employee after September 1, 1981, and before September 1, 1999, to automatically become a Group B member of the pension system as a condition of employment except as otherwise provided by this section or Section 4 of this Act. Deletes text except as expressly stated otherwise, the eligibility and benefit provisions of Sections 22 through 31, inclusive, shall apply to such Group B members. Makes conforming changes.
- (c) Requires an elected official who is first elected after September 1, 1981, and before September 1, 1999, to become a Group B member and receive credit for all previous service, except as otherwise provided by this Act. Entitles an elected official who is first elected on or after September 1, 1999, to become a Group A member and to receive credit for all previous service on the same conditions as reemployed Group A members, except as otherwise provided under this Act.

SECTION 3. Amends Section 3A(a), Article 6243g, V.T.C.S., to make a conforming change.

SECTION 4. Amends Section 3B(a), Article 6243g, V.T.C.S., to authorize each member of the pension system as an employee or elected official of a city to which this Act applies to make a one-time,

irrevocable election on a date determined by the Pension Board of the pension system of retirement and disability plans for employees of cities coming within this Act (board). Deletes text regarding membership. Makes conforming changes.

SECTION 5. Amends Section 5, Article 6243g, V.T.C.S., by amending Subsections (d) and (h) and adding Subsections (m), (n), and (o), as follows:

(d) Requires the board to elect from the elected members of the board a Chairman, Vice-Chairman and Secretary, in each odd-numbered year. Provides that any person who serves on the board's administrative staff is a member of Group A, rather than entitled to join the system as a Group B member. Deletes text regarding membership annually.

(h) Requires the board to have the authority to institute, conduct, and maintain legal action in the name of the board on behalf of the pension system.

(m) Authorizes the board by resolution to make the implementation of a provision of this Act contingent on receipt of a favorable private letter ruling or favorable determination letter from the Internal Revenue Service, if the board determines that the action is in the best interest of the pension system.

(n) Provides that a member is subject to the schedule of benefits and provisions in effect at the time of the member's separation from service, except as otherwise provided by this Act, after separation from service and retirement.

(o) Provides that a person receiving or eligible for a survivor benefit under this Act is subject to the schedule of benefits and provisions in effect at the time of separation from service of the deceased participant for whom the person is claiming survivor status, except as expressly provided otherwise in this Act.

SECTION 6. Amends Section 7, Article 6243g, V.T.C.S., to require each Group A member of the pension system to make periodic contributions during employment in an amount determined by the board and expressed as a percentage of salary, rather than four percent. Requires contributions to be deducted by the employer, rather than the city, from the salary of each such member and paid to the pension system for deposit in the Pension Fund consisting of the contributions made by the city, contributions made by any member of Group A, and any income derived from investments made from those contributions, which are held in trust for the sole benefit of the members of the pension system (pension fund). Makes conforming changes.

SECTION 7. Amends Sections 7A(a), (b), and (c), Article 6243g, V.T.C.S., to require the employer to pick up the contributions required by Group A members of Section 7 of this Act for all salaries earned after December 31, 1987. Requires an accounting of member contributions picked up by the employer to be maintained, rather than credited to the individual account of the member, and the contributions to be treated for all other purposes as if the amount were a part of the member's salary and had been deducted as provided by Section 7 of this Act. Makes a conforming changes.

SECTION 8. Amends Section 8(b), Article 6243g, V.T.C.S., to provide that the city's contribution rate, when added to any contributions with respect to a qualified governmental excess benefit arrangement maintained in accordance with Section 31D of this Act, may not be an amount less than the greater of 10 percent of the salaries paid to members or two times the contribution rate of Group A members, notwithstanding any other provision of this Act.

SECTION 9. Amends Section 9, Article 6243g, V.T.C.S., to authorize the board to distribute a supplemental payment to all retirees, survivors, or Deferred Retirement Option Plan (DROP) participants if the pension system is fully funded, the pension system has met the actuarial investment assumption for the previous fiscal year, and the issuance of the supplemental check will not cause the city's contribution rate to increase. Makes conforming changes.

SECTION 10. Amends Sections 11(a) and (b), Article 6243g, V.T.C.S., effective September 1, 1999, to require certain members of the system to be eligible for a normal retirement pension. Requires the amount of the monthly pension for each Group A member to equal the member's average monthly salary multiplied by two and one-quarter percent for each year of the member's first 20 years of credited service

and two and three-quarters percent for each additional year, prorated to the nearest 12th of a year, of credited service of the member.

SECTION 11. Amends Sections 11(a) and (b), Article 6243g, V.T.C.S., effective August 1, 2000, to require any member of the system who has completed five or more years of credited service and attained 62 years of age or a combination of years of age and years of credited service equal to the number 70 to be eligible for a normal retirement pension. Requires the amount of the monthly pension for each Group A member to equal the member's average monthly salary multiplied by two and one-half percent for each year of the member's first 20 years of credited service and three and one-quarter percent for each additional year, prorated to the nearest 12th of a year, of credited service. Deletes text regarding certain years of credited service. Makes conforming and nonsubstantive changes.

SECTION 12. Amends Section 11(g), Article 6243g, V.T.C.S., to require pensions for all members, rather than only Group A members, retirees, or their survivors to be adjusted annually upward by three and one-half percent, not compounded.

SECTION 13. Amends Section 12, Article 6243g, V.T.C.S., to require any member who has completed five, rather than 10, or more years of service and who becomes totally disabled for further duty to be retired for "ordinary disability" and requires the member to receive a monthly pension computed in accordance with Section 11(b) for Group A members and Section 24 for Group B members. Describes "service disability." Redefines "totally disabled." Requires a person retired for disability under this Act or a person receiving survivor benefits as a disabled child under this Act to file an annual report of employment activities and earnings with the board. Requires the board to establish the form of the report and the time for filing the report. Prohibits a disability pension recipient whose disability does not cease after the recipient reaches the date on which the recipient is eligible to retire under Section 11(A) or 65 years of age from being required to submit the annual affidavit of employment activities and earnings. Requires a person receiving survivor benefits as a disabled child under this Act to be subject to re-examination by the board and to submit to further examination as the board may require. Requires the result of an examination, physician report, or employment activities and earning report to be considered by the board in determining whether the benefits shall be continued, increased if less than the maximum provided, decreased, or discontinued. Authorizes the board to reduce, suspend, or entirely discontinue all benefits to a person receiving benefits under this Act who, after notice from the board, fails to appear for a required examination, fails to file an employment activities and earnings report, or files a materially false or misleading employment activities and earnings report or examination result or report, as determined by the board. Requires a person to be an employee or a former employee whose separation from service, other than by indefinite suspension, occurred by a certain date in order for that person to apply for a disability pension. Deletes text regarding members receiving a disability pension being required to submit a sworn affidavit stating the member's earnings. Deletes text regarding the failure to submit a sworn affidavit of earnings. Deletes text requiring the system to reclassify a disability pension as a service pension under certain conditions. Deletes text requiring the board to order pension payments stopped if a member has recovered so that in the opinion of the board he is able to perform the usual and customary duties formerly handled by him for the city, and is reinstated or tendered reinstatement to that position. Makes conforming and nonsubstantive changes.

SECTION 14. Amends Section 13, Article 6243g, V.T.C.S., effective September 1, 1999, to require the board to order paid monthly allowances under this section if any member shall die from any cause directly resulting from a specific incident in the performance of the person's duty. Provides that certain surviving spouses of a member who dies are entitled to a sum equal to 85 percent of the retirement benefits that the deceased member would have been entitled to had he or she been totally disabled at the time of his or her retirement or death. Provides that certain surviving spouses are entitled to 100 percent of the deceased member's final average salary. Provides that certain surviving spouses of a member who dies are entitled to a sum equal to 85 percent of the retirement benefits being received at the time of the retiree's death, if the surviving spouse married the decedent before the decedent terminated employment. Requires each dependent child, if there is a surviving spouse to receive a certain death benefit, with a proportionate reduction in the percentage of benefit payable to the surviving spouse until no benefit is payable to a dependent child. Requires each dependent child to receive a death benefit equal to 50 percent, rather than 20 percent, of what the surviving spouse benefit would have been had there been a surviving spouse to a maximum of 100 percent of the benefit, rather than 40 percent for all dependent children, if there is no surviving spouse. Requires benefits payable to each dependent child to be paid if the child is 21, rather than 18, or permanently and totally disabled because of illness, injury, or retardation that began before the death of the member and before the child reached 18 years of age. Deletes the requirement that a child

must be a full-time student and younger than 23 years of age and unmarried for benefits to be payable. Makes conforming and nonsubstantive changes.

SECTION 15. Amends Section 13, Article 6243g, V.T.C.S., effective August 1, 2001, to provide that certain spouses are entitled to 100 percent of the retirement benefits that the deceased member would have been entitled to had he or she been totally disabled at the time of retirement or death. Provides that certain spouses are entitled to 100 percent of the deceased member's final average salary. Provides that certain spouses are entitled to 100 percent of the retirement benefits being received at the time of the retiree's death, if the surviving spouse married the decedent before the decedent terminated employment. Makes conforming and nonsubstantive changes.

SECTION 16. Amends Section 14, Article 6243g, V.T.C.S., to prohibit a member from being paid any pension if the member's employment by the city is terminated for other than a service disability, rather than a total and permanent disability, prior to having completed five, rather than 10, years of service with the city. Makes conforming and nonsubstantive changes.

SECTION 17. Amends Section 15, Article 6243g, V.T.C.S., to delete text authorizing credit for previous service. Makes conforming and nonsubstantive changes.

SECTION 18. Amends Section 16, Article 6243g, V.T.C.S., to provide that no credit shall be allowed for the period of interruption, if there were interruptions of service of more than three months, except as otherwise expressly provided in this Act. Authorizes a member whose employment is terminated for a reason other than death or receipt of a retirement or disability pension after the completion of five years of creditable service to elect to receive a deferred retirement benefit that begins on the effective retirement date. Requires the amount of monthly benefit to be computed in the same manner as for a service retirement benefit, but based on average monthly salary and creditable service as of the date of separation from service and subject to the provisions of this Act in effect on the date of separation from service. Requires a certain portion of certain members' pensions to be calculated on the basis of the schedule of benefits for members that was in effect at the time the member terminated employment attributable to that period of credited service, rather than when the election was made. Requires any retirement, disability, or survivor benefit payable to be computed under this subdivision for all previous periods of credited service without giving effect to Subdivision (1) of this subsection, if a member has more than two years of continuous credited service following the date of reemployment. Requires any retirement, disability, or survivor benefit payable to be computed on the basis of the schedule of benefits for members that was in effect at the time of the member's previous separation from service, if a member has two years or less of continuous credited service following the date of reemployment. Requires a retiree who is reemployed by the city and becomes a member to cease receiving a pension under this Act on reemployment. Requires benefits payable to be computed as set forth in Subsections (f)(1) and (2) of this section, on subsequent separation. Deletes text setting forth certain conditions when certain members are eligible for refunds of all eligible payments made by him to the fund by way of salary deductions. Makes conforming and nonsubstantive changes.

SECTION 19. Amends Section 20, Article 6243g, V.T.C.S., to authorize a pensioner, survivor, or dependent to deduct from his pension an amount required by law or a voluntary amount authorized by law and the board, rather than the monthly premium cost of the city's group hospitalization and life insurance plan.

SECTION 20. Amends Section 21, Article 6243g, V.T.C.S., to set forth certain situations in which a member is required to receive credited service for military service. Sets forth certain conditions in which any member who has military service and is not eligible to claim the service under Subsection (b) may receive credited service for the military service on proper action by the board. Deletes text concerning a member who engages in active military duty and returns to employment by the city within a certain time period.

SECTION 21. Amends Section 22(a), Article 6243g, V.T.C.S., to make conforming and nonsubstantive changes.

SECTION 22. Amends Section 24, Article 6243g, V.T.C.S., effective August 1, 2000, to require the amount of the normal pension payable to a retired Group B member to equal the member's average monthly salary multiplied by one and three-quarters percent, rather than one and one half percent, for each of the member's first 10 years of credited service; two percent, rather than one and three-quarters percent,

for each 10 years; and two and one-half percent for each additional year.

SECTION 23. Amends Section 30, Article 6243g, V.T.C.S., to make conforming and nonsubstantive changes.

SECTION 24. Amends Section 31A(a), Article 6243g, V.T.C.S., to make a nonsubstantive change.

SECTION 25. Amends Section 31B(a), (c), (d), (e), and (h), Article 6243g, V.T.C.S., to define “DROP entry date” and “DROP election date.” Authorizes a person who is eligible to receive a normal retirement pension under this Act and who has been separated from service within the last 30 days and has not otherwise applied for a benefit to file with the system an election to participate in the DROP and receive a DROP benefit. Provides that the period of a member’s DROP participation ceases when the member terminates employment. Sets forth the member’s DROP entry date. Provides that an election to participate in the DROP is irrevocable, except that any active member who elected to participate in the DROP before a certain date may make a one-time revocation of an election, in a manner determined by the board. Provides that credits to a member’s DROP account consist of a monthly amount equal to the member’s normal accrued monthly retirement based on the member’s credited service and average monthly salary as of the DROP entry date and the applicable provisions of this Act, adjusted for cost-of-living adjustments that would apply if the member’s DROP entry date had been the person’s date of eligibility for a normal retirement benefit. Provides that the accumulation period for credit to a member’s DROP account includes each month beginning with the member’s DROP entry date through the date the DROP member terminates active service with the city. Prohibits credits from being made to a member’s DROP account for a certain period, except that interest at a rate determined by the board may be paid on the remaining amount in a person’s DROP account after the person terminates active service. Makes conforming and nonsubstantive changes.

SECTION 26. Amends Section 31C(e), Article 6243g, V.T.C.S., to make conforming changes.

SECTION 27. Amends Section 33, Article 6243g, V.T.C.S., to prohibit the terms of this Act from applying to any city operating a municipal employees pension program under the terms and provisions of its charter, unless a city’s municipal employees are already covered by this Act.

SECTION 28. Repealers: Section 25, Article 6243g, V.T.C.S. (Disability eligibility); Section 26, Article 6243g, V.T.C.S. (Disability pension amount and duration); Section 27, Article 6243g, V.T.C.S. (Disability review); and Section 31, Article 6243g, V.T.C.S. (Postretirement adjustments).

SECTION 29. Effective date: September 1, 1999, except as otherwise expressly provided by this Act.

SECTION 30. Emergency clause.