

## **BILL ANALYSIS**

Senate Research Center  
76R5287 GCH-F

S.B. 1542  
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Intergovernmental Relations  
4/12/1999  
As Filed

### **DIGEST**

Police officers pension systems in cities of 1,200,000 or more population are created by Articles 6243g-1 and 6243g-3, V.T.C.S.; therefore the City of Houston is the only municipality impacted by the articles. S.B. 1542 would establish membership and credit in and benefits and administration of public retirement systems for police officers in certain municipalities.

### **PURPOSE**

As proposed, S.B. 1542 establishes membership and credit in and benefits and administration of public retirement systems for police officers in certain municipalities.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the board of trustees of a pension system in SECTION 1 (Section 5, Article 6243g-4, V.T.C.S.) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 109, V.T.C.S., by adding Article 6243g-4, as follows:

#### Art. 6243g-4. POLICE OFFICERS PENSION SYSTEM IN CERTAIN MUNICIPALITIES

Sec. 1. PURPOSE. Provides that the purpose of this article is to restate and amend the provisions of former law governing a police officers pension system in certain cities.

Sec. 2. DEFINITIONS. Defines "active member," "average total direct pay," "base salary," "board," "code," "dependent," "dependent child," "dependent parent," "DROP," "employee," "former member," "fund," "inactive member," "member," "normal retirement date," "pension," "pension system," "school," "retired member," "separation from service," "service," "surviving spouse," and "total direct pay."

Sec. 3. PENSION BOARD. Provides that the board of trustees of the pension system continues to be responsible for the general administration, management, and operation of the pension system and its assets. Sets forth the seven members of which the board is composed. Requires the terms of office of this section to be three years, with one board member being elected every year at an election held by the board in December. Requires the board to hold an election within 60 days of a vacancy of an active member. Requires the active members to elect an active member to serve for the remainder of the term of a vacant position or for a full term if the board member that caused the vacancy would have ended in that year. Sets forth the parameters regarding the terms of each board member and provisions regarding a vacancy. Provides that a board member vacates the member's seat if the member is removed or ceases to meet the qualifications for the seat. Establishes that an officer or employee of certain organizations or pension systems is ineligible to become a member of the board. Requires each board member, within 30 days of appointment or election, to take an oath of office regarding the administration of duties.

Sec. 4. BOARD MEMBER LEAVE AND COMPENSATION. Entitles board members who are employees of the city's police department to leave from their employer to attend to the official business of the pension system. Authorizes the pension system to adequately compensate the city for loss of service of the member, regarding withholding any portion of the salary of a member conducting official business of the pension system. Authorizes the board, by an affirmative vote

of at least four members, to elect to reimburse members who are not employees of the city for serving time in an official capacity. Prohibits the amount of reimbursement from exceeding \$350 a month for each affected board member.

**Sec. 5. OFFICERS; MEETINGS; EMPLOYEES.** Requires the board to annually elect from its active and retired membership a chairman, a vice chairman, and a secretary. Authorizes the board to hire one or more employees whose positions and salaries shall be set by the board and who shall keep all records of and perform all of the clerical services for the pension system. Authorizes the board to employ certain managers to manage or advise the board regarding management and investment of the fund. Authorizes the professional services to include certain conditions regarding investments. Authorizes the board to employ an actuary, legal counsel, an accountant, or other professional and pay the compensation for these services from the fund. Requires the board to hold regular monthly meetings at the time and place it designates by resolution. Requires the board to hold a designated regular monthly meeting. Authorizes certain members to call a special meeting of the board. Entitles each member to one vote. Sets forth requirements for notice of meetings to board members. Requires the board to keep accurate minutes of its meetings and records of its proceedings.

**Sec. 6. GENERAL POWERS AND DUTIES.** Requires the board to retain control over all money collected or to be collected for the pension system; to keep separate from all other funds all money for the use and benefit of the system; to keep a record of all claims, receipts, and disbursements in one or more books maintained for that purpose. Requires the board to establish the policies and procedures for disbursements from the fund that it considers appropriate. Authorizes the board to reimburse a board member, officer, or employee of the board for certain expenses incurred while acting as a fiduciary or co-fiduciary of assets of the fund. Provides that no reimbursement may be provided for expenses incurred because of certain dishonest, fraudulent, or other such intentions. Requires the cost of reimbursement or insurance coverage purchased to be paid from money in the fund. Requires the board to administer the pension system consistent with the applicable provisions of the code. Establishes that the board is vested with the power to adopt for the administration of the pension system written rules and guidelines to ensure that the pension system and the fund meet the qualification requirements and rulings issued under the code and that are applicable to governmental plans. Provides that the board has full discretion and authority to administer the pension system, to construe and interpret this article, and to do all other acts necessary to carry out the purpose of this article. Establishes that all decisions of the board are final and binding on all affected parties.

**Sec. 7. REMOVAL OF BOARD MEMBER.** Sets forth provisions regarding the removal of a board member. Sets forth requirements for the request and expediting of a review, as well as procedures regarding reinstatement of the board member or upholding the decision from the review. Requires a replacement election to be held not later than the 30th day after the date of the preceding election. Provides that during the period beginning on the date of the board vote to remove a board member and ending on the date the board member is reinstated under this section, the person's privileges as a board member are suspended.

**Sec. 8. CONTRIBUTIONS BY MEMBERS.** Requires each active member of the pension system to pay a certain amount into the system each month, and requires the city to deduct and pay to the pension the amount from each member's salary. Prohibits a person from being required or permitted to make any payments into the pension system after the person separates from service, providing certain exceptions regarding repayments. Provides that this article does not increase or decrease the contribution obligation of any member that arose before September 1, 1999, or give rise to any claim for refund for any contributions made before that date.

**Sec. 9. MONTHLY PAYMENT BY CITY.** Sets forth conditions regarding contributions the city shall make to the fund after each payroll period during certain fiscal years. Requires the city to contribute to the fund each month an amount equal to the aggregate payments the city would have paid during that month to members who have separated from service for certain pay to which the member was previously entitled. Prohibits members from no longer receiving these payments directly. Sets forth requirements for the governing body of a city by ordinance or resolution regarding the pick up, by the city, of required contributions by active members.

Sec. 10. INVESTMENT OF SURPLUS. Requires the board to invest the surplus funds in a certain manner, if the board finds that a surplus of funds exists in an amount exceeding the current demands on the pension system. Authorizes the board to select an investment manager or investment advisor if the board determines the service is desirable. Requires selection of managers or advisors to be made from firms that have made presentations in person or in writing to the board. Authorizes the board to terminate a contract with an investment advisor at any time. Authorizes the board to terminate a contract with an investment manager on notice the board considers appropriate. Prohibits a contract from requiring the pension system to pay a penalty for early termination. Requires the costs of the advisory or management advice to be paid from the fund.

Sec. 11. SERVICE CREDIT. Entitles a member who returns to service after an interruption to credit for the previous service to a certain extent. Sets forth provisions regarding payments and contributions with respect to a member who is retiring or entering Deferred retirement option plan (DROP). Prohibits the previous period of service from being counted, if a member has withdrawn the contributions made during any period of service, unless the contributions are repaid to the pension system. Prohibits a member from having any service credited for certain pay or leave until the date the member retires or enters DROP. Requires the board to determine the prior service to be credited to each employee of the police department who becomes an active member of the pension system. Requires the board to rely on the personnel records of the city or the police department in determining prior service credit.

Sec. 12. RETIREMENT; AMOUNT OF PENSION; ANNUAL ADJUSTMENTS. Sets forth provisions regarding a monthly service pension for members who separate from service with respect to a certain number of years of service served. Requires members, including DROP participants, that begin to receive a monthly payment to also receive a one-time lump-sum payment of \$5,000 at the same time the first monthly pension payment is made.

Sec. 13. RESUMPTION OF SERVICE AS DEPARTMENT HEAD AFTER RETIREMENT. Requires the pension system to suspend all pension payments to a retired member who has separated from service and is subsequently appointed as the department head of the police department. Establishes that the suspension of payments begins on the effective date of the person's appointment. Sets forth provisions regarding pension benefits for the department head. Provides that the department head retains credit for all previous service and acquires credit for the subsequent service unless the department head is or becomes a DROP participant. Requires pension benefits, once the department head again separates from service, to resume based on both periods of service.

Sec. 14. DEFERRED RETIREMENT OPTION PLAN. Sets forth provisions regarding DROP.

Sec. 15. DISABILITY BENEFITS. Sets forth duty-connected disability pension requirements regarding an active member who becomes totally and permanently, or partially incapacitated for the performance of the member's duties as a result of a bodily injury received in or illness caused by the performance of those duties.

Sec. 16. RIGHTS OF SURVIVORS. Sets forth provisions for certain individuals regarding entitlement to service or disability pension in cases of the retired or active members death.

Sec. 17. TERMINATION OF EMPLOYMENT; REFUNDS; REEMPLOYMENT. Sets forth provisions regarding a person's rights to a refund in cases of voluntary or involuntary separation from service.

Sec. 18. EMPLOYMENT BY ANOTHER DEPARTMENT. Prohibits credit from being allowed to any person for service with any department in the city other than the police department. Sets forth certain conditions regarding the determination of whether a person has a sufficient number of years to receive a retirement pension. Provides conditions by which a former member of the pension system shall be permitted to repay withdrawn contributions and restore service credit previously earned with the pension system, even if the former member is not reemployed by the police department.

Sec. 19. PERSONS REJOINING OR TRANSFERRED BY CITY; SERVICE CREDIT;

**DOUBLE BENEFITS; RETURN TO SERVICE.** Sets forth provisions for an employee of the city who has retired or has been transferred by action of a city to a classified position in the department regarding the person's pension benefits.

Sec. 20. **DONATIONS.** Authorizes the pension system to accept gifts and donations, and the gifts and donations shall be added to the fund for the use of the pension system.

Sec. 21. **DETERMINATION OF BENEFITS; PROVISION OF INFORMATION.** Authorizes the board to require certain individuals or entities to furnish information the board requires for the determination of benefits. Provides that if a person or entity does not cooperate in the furnishings or obtaining of required information, the board may withhold payment of the pension or other benefits dependant on the information.

Sec. 22. **LEGAL ADVICE.** Requires the city attorney of the city to handle all legal matters for the pension system that are referred by the board without additional compensation for the service. Authorizes the board, if necessary, to employ outside legal counsel to the exclusion of, or to assist, the city attorney and pay reasonable compensation for the service from the fund.

Sec. 23. **MEMBERS IN MILITARY SERVICE.** Sets forth provisions regarding members of the pension system in active service in a uniformed service.

Sec. 24. **ACTIONS FOR FUNDS MISAPPLIED.** Authorizes the board to recover by civil action from certain offending individuals, any money paid out or obtained from the fund through various negative avenues, and to institute, conduct, and maintain the action in the name of the board for the use and benefit of the fund. Requires payments due on behalf of or in certain cases to a dependant child. Authorizes the board to request a court of competent jurisdiction to appoint a person to receive and administer the payments due to any dependant child or person under a disability.

Sec. 25. **FEDERAL TAX QUALIFICATION OF FUND.** Sets forth provisions regarding a federal tax qualification of the fund intended for the exclusive benefit of the members and the member's survivors.

Sec. 26. **EXCESS BENEFIT PLAN.** Establishes that a separate, nonqualified, unfunded excess benefit plan is created outside the fund. Defines "excess benefit plan" or "plan," "qualified plan," "maximum benefit," "excess benefit participant," and "unrestricted benefit." Entitles an excess benefit participant who is receiving benefits from the pension system to a monthly benefit under this excess benefit plan in a set forth amount. Provides that if a spouse, dependent child, or dependent parent is entitled to certain death benefits after the death of an excess benefit participant, the surviving individual is entitled to a monthly benefit. Sets forth conditions under which the excess benefits are paid. Requires the board to administer the plan, and the board's designee to also carry out the business of the board with respect to the plan. Establishes the right, duties, and responsibilities of the board and the board's designee. Provides that certain individuals selected to perform services for the fund also shall perform services for the plan, but the fees may not be paid for by the fund. Sets forth requirements regarding contributions and payments by the board regarding the plan. Provides that employer contributions required to be made to the pension system and any other qualified plan shall be divided into those contributions required to pay retirement benefits and those contributions paid into and accumulated to pay the maximum benefits permitted. Prohibits employer contributions from being commingled with money of the fund forming part of the pension system or any other qualified plan.

Sec. 27. **AGREEMENT TO CHANGE BENEFITS.** Provides that the board or board's designee is responsible for representing the interests of the pension system and all pension issues and benefits or its members and beneficiaries. Authorizes the board to enter into a written agreement with the city on behalf of the pension system and members and beneficiaries if the agreement is approved by the board and signed by the mayor and the board or the board's designee. Sets forth conditions regarding an increase of a pension benefit or allowance.

Sec. 28. **NONALIENATION AND NONASSIGNMENT OF BENEFITS.** Prohibits certain conditions regarding funds held by the pension system for its disbursement by the board. Provides that no part of the funds or any claim to the funds may be directly or indirectly assigned or

transferred, and any attempt to do so will be void. Requires funds to be sacredly held, kept, and disbursed for the purposes provided, except for certain conditions regarding insurance costs. Provides that this section does not prevent the division of the benefits accrued to be a qualified domestic relations order and the payment of a share of a retired member's benefits or contributions to an alternate payee in accordance with the order.

SECTION 2. Repealer: Article 6243g-1, V.T.C.S. (regarding police officer pension system in cities of 1,200,000 or more) and Article 6243g-3, V.T.C.S. (regarding police officer retirement plans in certain cities).

SECTION 3. Effective date: September 1, 1999.

SECTION 4. Emergency clause.