

## **BILL ANALYSIS**

Senate Research Center  
2001S0567/2

C.S.S.B. 522  
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Intergovernmental Relations  
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Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Currently, the Texas Municipal Retirement System provides retirement benefits for municipal employees. C.S.S.B. 522 changes vesting requirements for members from 10 to five years, creates new benefit options for retirees, members, and beneficiaries, grants additional authority for investments, and makes administrative changes. These amendments respond to the changing needs of retirees and city workers.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the board of trustees of the Texas Municipal Retirement System in SECTIONS 11, 25 and 26 (Sections 854.008, 855.3011 and 855.608, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 851.001, Government Code, to define “beneficiary,” “director,” and “vested member.”

SECTION 2. Amends Section 852.106, Government Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Provides that, except as provided by this section, a person who is elected to public office is not an employee eligible for membership in the retirement system. Deletes language regarding a person’s ineligibility for membership.

(e) Authorizes a person to simultaneously be a member of this retirement system and another state or local retirement system authorized or established under Section 67, Article XVI (State and Local Retirement Systems), Texas Constitution. Authorizes a person to receive a benefit from this system only to the extent that the amount of the benefit is computed solely with respect to the member’s compensation and accumulated contributions as those terms are defined in this subtitle. Prohibits service credited with or allowed by another retirement system from being counted for purposes of retirement eligibility in this retirement system except in accordance with the provisions of the proportionate retirement program described by Chapter 803.

SECTION 3. Amends Section 852.108(g), Government Code, to authorize a person’s beneficiary or the executor or administrator of a person’s estate, if a person with credited service under this section dies before a payment under Subsection (i) is made, to elect payment as provided by Section 854.105, rather than Section 854.105(c).

SECTION 4. Amends Section 852.109(c), Government Code, to make a conforming change.

SECTION 5. Amends Section 853.105(f), Government Code, to provide that if a person retires under this subtitle on a date other than December 31, interest on a prior service credit is earned for the partial year in which the retirement occurs, prorated from January 1 of the year in which the retirement occurs

to the effective date of the retirement.

SECTION 6. Amends Sections 853.304(b), (c), and (d), Government Code, as follows:

(b) Requires the retirement system, after it receives a copy of a municipality's ordinance described by Subsection (a), to furnish to the municipality a report containing the names of employees who, according to the retirement system's records, are eligible to receive prior service credit for probationary employment. Deletes text regarding a member's claim to prior service credit.

(c) Requires the municipality, after it receives a report under Subsection (b), rather than after a member has filed a statement of prior service under this section, to verify the information in the report, rather than the prior service claimed, and to certify to the retirement system, rather than board of trustees, the number of months of probationary employment to which each employee listed on the report appears to be entitled, rather than the creditable prior service (not exceeding six months) approved, and the average monthly compensation paid to the member during the period of probationary employment.

(d) Requires that the certification by the municipality be received by the retirement system not later than the first anniversary of the effective date of the ordinance allowing the credit. Requires the board of trustees appointed under this subtitle to administer the retirement system (board) to determine the prior service credit allowable to the member in the manner provided in Section 852.105 after receiving the certification from the municipality described by Subsection (c). Makes a conforming change.

SECTION 7. Amends Section 853.402, Government Code, to make conforming changes to Subsection (f) and to add Subsection (g), to require that an individual's updated service compensation, if, before January 1, 1999, the person terminated employment with a participating municipality without applying for retirement or a refund of accumulated contributions and the person did not perform credited service in each of the 36 months described by Subsection (b)(1), be computed as the average monthly compensation for the number of months for credited service performed during the 36-month period ending with the last month of the calendar year of the member's most recent service.

SECTION 8. Amends Section 854.002(d), Government Code, to provide that a person will receive from the retirement system, instead of an annuity, a single payment equal to the sum of certain elements if on the date of that person's retirement that sum is \$10,000, rather than \$5,000, or less.

SECTION 9. Amends Section 854.003, Government Code, by amending Subsection (b) and adding Subsection (h), as follows:

(b) Provides that if a member dies before retirement and an annuity becomes payable under Section 854.105, the member is considered to have retired on the last day of the month immediately preceding the month in which death occurred, except as provided by Subsection (h). Deletes language related to a valid optional retirement annuity selection on file with the retirement system.

(h) Authorizes a person who is eligible to receive an annuity under Subsection (b) and is the member's surviving spouse, by notifying the system not later than the 180th day after the date of the member's death, to elect to leave the member's accumulated contributions on deposit with the retirement system until the date the member would have been eligible for service retirement. Provides that if a surviving spouse makes such election the deceased member is considered to have retired on the last day of the month in which the member would have attained an age for service retirement eligibility. Provides that an election under this subsection is revocable before the payment of the first annuity payment by filing a written application approved by the board to receive the member's accumulated contributions.

SECTION 10. Amends Section 854.007, Government Code, to require the retirement system to reduce the amount of the benefit to comply with Section 415, Internal Revenue Code of 1986, and its subsequent amendments, and the regulations adopted under that section, if the amount of a benefit payment under this subtitle would exceed the limitations provided by that section. Deletes Subsections (a)-(m), which: define certain terms; relate to benefits payments exceeding limitations; provide that a benefit is adjusted to a certain annuity; provide a limit for an annual benefit payable by the retirement system; provide a limit for payment of benefits beginning before a member attains age 62; provide a limit if the payment of a benefit begins after the member attains age 65; provide guidelines for determining actuarial equivalence; set forth limits to which certain subsections do not apply; provide a purpose for which this section may not be applied; authorize the board by rule to eliminate all or any portion of the limitations if certain conditions are met; prohibit an employer from certain actions; authorize the annual benefit payable by the retirement system to be increased under certain conditions; and prohibit the limitations provided by this section from being applied in certain cases.

SECTION 11. Amends Section 854.008, Government Code, by amending Subsection (a), and adding Subsections (f) and (g), as follows:

(a) Authorizes the board of trustees to adopt rules to allow the beneficiary of a deceased member who at the time of death was eligible for service retirement but had not retired to make the same election that the member could have made under this section at the time of retirement.

(f) Provides that if a benefit payable under this section is subject to a domestic relations order that the retirement system determines is qualified under Section 804.003, the alternate payee under that order is authorized to elect to receive a partial lump-sum distribution under Subsection (g).

(g) Requires that a partial lump-sum distribution under Subsection (f) be paid as a single payment, payable at the same time as the first monthly annuity payment paid to the alternative payee, and requires that it be deducted from the sum used in computing the alternate payee's annuity. Requires that the amount of the lump-sum distribution be equal to the monthly payments, excluding any distributive benefit payments that the alternate payee would otherwise have received, during certain periods after the effective date of the member's retirement.

SECTION 12. Amends Section 854.102, Government Code, by adding Subsection (h), to provide that a member is eligible to retire and receive a service retirement annuity if the member is at least 60 years old and has at least five years of credited service in the retirement system that is performed for one or more municipalities to which the five-year vesting provision under section 854.205 applies.

SECTION 13. Amends Section 854.103(b), Government Code, by deleting language regarding the death of a retiree before 60 monthly payments have been made.

SECTION 14. Amends Section 854.104, Government Code, to amend Subsection (c) and add Subsections (h) through (j), as follows:

(c) Authorizes an eligible person to select an optional annuity that makes certain provisions, including that after the retiree's death, three-fourths, rather than two-thirds, of the reduced annuity is payable throughout the life of a person designated by the retiree; or if the retiree dies before 60 monthly payments have been made, the remainder of the 60 payments are payable to the retiree's beneficiary or, if one does not exist, to the retiree's estate. Deletes language providing that the annuity is payable only during the retiree's lifetime.

(h) Limits the applicability of Subsection (i) to a person who retired before September 1, 1997, and who elected, at retirement, to receive a reduced annuity that is payable until the death of the last to die of the retiree and a person designated as a beneficiary under Subsection (e).

(i) Authorizes the retiree and the beneficiary described in Subsection (h), if both are alive, to jointly elect in the manner provided by Subsection (j) to modify the annuity being received. Sets forth provisions for an annuity modified under this subsection.

(j) Requires the retiree and beneficiary, in making the election under Subsection (i), to execute and acknowledge, as provided by this subsection, a form stating that they are requesting a modification under Subsection (i) and that they understand certain consequences of the modification. Sets forth requirements for the form.

SECTION 15. Amends Section 854.105, Government Code, as follows:

(a) Authorizes a vested member, rather than a member who is eligible for service retirement, to, while continuing to perform service for a participating municipality or after terminating any service, file with the board, on a form prescribed by the board, a selection of an optional service retirement annuity available under Section 854.104 and a designation of beneficiary or a designation of beneficiary without selecting a retirement option. Deletes language related to an annuity payable on the member's retirement.

(b) Authorizes a member to change a selection of an optional annuity or a designation of beneficiary at any time before the member's retirement or death in the same manner that the original selection or, rather than and, designation was, rather than were, made.

(c) Authorizes the beneficiary designated under Subsection (a), if a member eligible under this section to select an optional service retirement annuity dies before retirement without having made a selection, to select an optional annuity in the same manner as if the member had made the selection, subject only to the requirements of the Internal Revenue Code of 1986, and its subsequent amendments, as to the length of time over which the payments can be made.

(d) Authorizes the member's surviving spouse, if a beneficiary has not been designated under Subsection (a), to elect to receive a refund of the member's accumulated contributions or an optional annuity in the same manner as if the member had made the selection. Deletes the word "select."

(e) Authorizes the member's surviving children jointly, if a beneficiary has not been designated under Subsection (a) and no surviving spouse exists, to elect to receive a refund or an optional annuity.

(f) Authorizes the last person designated by the member as a beneficiary on a form filed with the retirement system, if there is no surviving spouse or child, and no beneficiary designated under Subsection (a) exists, to elect to receive a refund or an optional annuity.

(g) Makes provisions for cases in which there is not a person who is eligible to make a selection under Subsections (c)-(f).

SECTION 16. Amends Section 854.106(a), Government Code, to make a conforming change.

SECTION 17. Amends Chapter 854B, Government Code, by adding Sections 854.107 and 854.108, as follows:

Sec. 854.107. DESIGNATION OF BENEFICIARY AFTER RETIREMENT UNDER STRAIGHT LIFE OR GUARANTEED TERM ANNUITY. (a) Provides that this section applies only to a retiree who marries after the date of the person's retirement and who at the time of retirement selected either of two types of retirement annuities.

(b) Authorizes a retiree described under Subsection (a) to replace the annuity by

selecting an optional retirement annuity under Section 854.104(c)(1), (2), or (5), and by designating the person's spouse as beneficiary in the same manner as an annuity selection and provides that designation of beneficiary may be made before retirement.

(c) Requires that the selection under Subsection (b) be filed with the retirement system before the first anniversary of the date of the marriage unless the postretirement marriage occurred before January 1, 2002, in which case the selection is required to be filed with the retirement system before January 1, 2003.

(d) Limits to one the number of times a person is authorized to make a postretirement designation of a beneficiary under this section.

(e) Requires the retirement system to adjust the monthly payments of the annuity under the option selected to an actuarial equivalent amount of the annuity being paid immediately before the change in benefit option and beneficiary selection.

(f) Provides that the selection of an optional annuity and designation of a beneficiary under this section is not effective if the retiree or beneficiary dies before the date the change is to take effect.

Sec. 854.108. DESIGNATION OF BENEFICIARY AFTER RETIREMENT UNDER JOINT AND SURVIVOR ANNUITY. (a) Sets forth criteria for retirees to be affected by this section. Makes conforming changes.

SECTION 18. Amends Section 854.202, Government Code, by adding Subsection (j) to set forth eligibility requirements for a member to retire and receive a service retirement annuity.

SECTION 19. Amends Chapter 854C, Government Code, by adding Section 854.205, as follows:

Sec. 854.205. FIVE-YEAR VESTING. (a) Provides that this section applies to each municipality unless the municipality's governing board files with the board before December 31, 2001, an election to not provide for five-year vesting. Authorizes a governing board that elects to not provide five-year vesting to revoke that election by sending notice to the board to provide for five-year vesting.

(b) Authorizes a member, after December 31, 2001, to terminate covered employment and remain eligible to retire and receive a service retirement annuity at any time after the member attains an applicable age as provided by law if the member has at least five years of credited service performed for one or more municipalities to which the five-year vesting provision under this section applies.

SECTION 20. Amends Section 854.304(c), Government Code, to delete text to make a conforming change.

SECTION 21. Amends Section 854.305(c), Government Code, to authorize an eligible person to select an optional annuity under Section 854.104(c). Deletes text regarding provisions of an optional annuity.

SECTION 22. Amends Section 854.605, Government Code, by adding Subsection (c) to provide that if a member or retiree who has designated a beneficiary to receive supplemental death benefits under Section 854.603 or Section 854.604 subsequently designates a different beneficiary to receive other benefits under this subtitle in the event of the death of the member or retiree, the supplemental death benefits are required to be paid to the subsequently designated beneficiary unless the member or retiree contemporaneously or subsequently designates another beneficiary to receive the supplemental death benefit.

SECTION 23. Amends Section 855.201, Government Code, as follows:

Sec. 855.201. New heading: EXECUTIVE DIRECTOR. Requires the board to appoint an executive director, rather than a director. Makes conforming changes.

SECTION 24. Amends Section 855.301, Government Code, by adding Subsection (c) to authorize the board of trustees, in the exercise of its discretion to manage the assets of the retirement system, to select one or more commercial banks or other entities experienced in short-term cash management to invest the system's cash balances through its short-term investment fund or funds and in such short-term securities as the board of trustees determines and as authorized by this section.

SECTION 25. Amends Chapter 855D, Government Code, by adding Section 855.3011, as follows:

Sec. 855.3011. SECURITIES LENDING. (a) Authorizes the board, in the exercise of its discretion to manage the assets of the retirement system, to select a person, including a commercial bank or depository trust company, to lend retirement system securities as provided by this section and rules adopted by the board.

(b) Sets forth requirements for a person to be eligible to lend securities under this section.

SECTION 26. Amends Chapter 855G, Government Code, by adding Section 855.608, as follows:

Sec. 855.608. FULL BENEFIT ARRANGEMENT. (a) Creates a separate fund for the payment of benefits under Section 415(m) of the Internal Revenue Code of 1986, and its subsequent amendments, solely for the purpose of providing benefits to participants equal to the amount by which the participant's annual benefit otherwise payable under this subtitle exceeds the limitation on benefits imposed by Section 415, Internal Revenue Code of 1986, and its subsequent amendments.

(b) Requires the board to administer this section. Provides that the board, except as otherwise set forth in this section, has the same rights, duties, and responsibilities concerning the full benefits arrangement as it has for the trust fund.

(c) Requires that money for the payment of benefits to a participant under this section be transferred to the separate fund created by this section from the municipality accumulation fund account of the municipality that employed the member. Requires, if the benefit is payable as a result of service with more than one participating municipality, there to be transferred from the municipality accumulation fund account of each such municipality the amount chargeable to that municipality for the member. Requires that the monthly amount to pay benefits under this section be transferred at least 15 days before the date of a monthly payment to a person receiving annuity benefits under this section.

(d) Requires that the full benefits arrangement be administered as a governmental excess benefit arrangement. Authorizes the board to adopt rules for the efficient administration of this section and to maintain compliance with Section 415(m), Internal Revenue Code of 1986, and its subsequent amendments.

SECTION 27. Repealer: Section 854.204 (Optional Benefit for Designated Beneficiary of Vested Employee), Government Code.

SECTION 28. (a) Effective date: January 1, 2002, except as provided by Subsection (b) of this section.

(b) Makes Section 854.205, Government Code, as added by this Act, effective

September 1, 2001.

**SUMMARY OF COMMITTEE CHANGES**

Differs from the original as follows:

Inserts new SECTION 2 relating to an exception of a public official and renumbers subsequent SECTIONS 2 through 22 as SECTIONS 3 through 23.

SECTION 11. Inserts the amendment of Subsection (a), including granting rulemaking authority to the board of trustees.

SECTION 19. Replaces, in Section 854.205(b), “60 years of age” with “an applicable age as provided by law.”

Inserts new SECTION 24 relating to the board’s authorization to select a bank and renumbers subsequent SECTIONS 23 through 26 as SECTIONS 25 through 28.

SECTION 26. Inserts a sentence regarding a benefit payable as a result of service with more than one municipality into proposed Section 855.608(c).