

BILL ANALYSIS

Senate Research Center
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S.B. 790
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DIGEST AND PURPOSE

The 76th Legislature enacted legislation regarding the Austin Firefighters Relief and Retirement Fund. The legislation amended the fund's deferred retirement option plans, extended benefits to surviving spouses and dependent children, and created a permanent cost-of-living allowance fund. The fund has recommended additional amendments to enhance the benefits of firefighters. As proposed, S.B. 790 sets forth legislation to improve the benefits available to firefighters.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the firefighters relief and retirement fund board of trustees in SECTION 10 (Section 9.10, Article 9, Chapter 183, Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.1, V.T.C.S.)) of this bill .

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 2, Chapter 183, Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.1, V.T.C.S.), by adding Section 2.15, as follows:

Sec. 2.15. GIFT, GRANT, OR BEQUEST. Authorizes the firefighters relief and retirement fund board of trustees (board of trustees) to accept for the use and benefit of the fund a gift, grant, or bequest of money or securities from any source.

SECTION 2. Amends Section 5.04(b), Chapter 183, Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.1, V.T.C.S.), to authorize a three percent factor used in this section to be changed to some other percent if the change applies only to firefighters who begin service with the fire department after the change becomes effective and members who retire under Section 5.06 of this Act after the change becomes effective.

SECTION 3. Amends Section 5.06(b), Chapter 183, Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.1, V.T.C.S.), to provide that the retirement benefit payable to a member on retirement under this section is the service retirement benefit described by Section 5.04 of this Act, computed on the basis of the formula in effect at the time of the member's retirement under this Act (rather than at the time the member terminated employment with the fire department).

SECTION 4. Amends Section 7.06, Chapter 183, Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.1, V.T.C.S.), as follows:

Sec. 7.06. New heading: PAYMENTS TO DEPENDENT PARENTS. Provides that, if a deceased member leaves no surviving spouse, no surviving designated beneficiary, and no surviving children entitled to receive a benefit under this Act but is survived by one or more dependent parents, the dependent parent, or one of the surviving parents designated by the board of trustees, is entitled to receive a monthly benefit payment equal to the monthly amount that would have been payable to a surviving spouse of the deceased.

SECTION 5. Amends Article 7, Chapter 183, Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.1, V.T.C.S.), by adding Section 7.09, as follows:

Sec. 7.09. SURVIVING BENEFICIARY OF CERTAIN UNMARRIED MEMBERS. (a) Provides that, on the death of a retiree or of a member who is eligible for retirement but has not retired, a benefit is payable under this section under certain conditions.

(b) Provides that the benefit payable under this section is an immediate monthly benefit from the fund of 75 percent of the amount of the retirement benefit that was being paid to the retiree or normal service retirement benefit that the member would have received if the member had retired on the date of death.

(c) Requires that, if the designated beneficiary of a retiree or member is 10 or more years younger than the retiree or member at the time of the retiree's or member's death, the amount of the benefit payable under Subsection (b) of this section be reduced to the actuarial equivalent of the benefit that would have been payable if the beneficiary and the retiree or member were the same age.

SECTION 6. Amends Section 8.02, Chapter 183, Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.1, V.T.C.S.), to require the member, at the same time that a member makes an election to participate in the DROP, to agree in writing to terminate service with the fire department on a date not later than the seventh (rather than the fifth) anniversary of the effective date of the election under this section.

SECTION 7. Amends Section 8.06(c) and (d), Chapter 183, Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.1, V.T.C.S.), as follows:

(c) Requires the board of trustees, if a member elects to participate in the DROP account maintained within the fund for the benefit of that person, to credit an amount equal to the credits that the member's DROP account would have received, including interest, if the member had established the DROP account after becoming eligible for service retirement, but not more than seven (rather than five) years before the effective date of the person's retirement.

(d) Makes conforming changes regarding a surviving spouse making an election to participate in the DROP.

SECTION 8. Amends Section 9.03, Chapter 183, Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.1, V.T.C.S.), to require the board of trustees, if the amount of any benefit payment under this Act would exceed the limitations provided by Section 415 of the Internal Revenue Code of 1986, and the regulations adopted under that section, to reduce the amount of the benefit as needed to comply with that section. Deletes text defining "compensation," and "highest average." Deletes existing Subsections (d) - (j). Redesignates Subsection (k) as Subsection (b).

SECTION 9. Amends Section 9.04(b), Chapter 183, Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.1, V.T.C.S.), to prohibit, if an adjustment under Subsection (a) of this section would exceed one percent (rather than one-half) of a person's benefit, the portion of the adjustment that exceeds one percent of the benefit from being made under this section except under certain conditions.

SECTION 10. Amends Article 9, Chapter 183, Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.1, V.T.C.S.), by adding Section 9.10, as follows:

Sec. 9.10. OPTIONAL RETIREMENT ANNUITY. (a) Defines the term "optional retirement annuity." Provides that an optional retirement annuity is payable throughout the life

of the retiree.

(b) Authorizes a member who retires to elect, instead of the annuity payable under Section 5.04 of this Act, an optional retirement annuity approved by the board of trustees under this section.

(c) Provides that the survivor's benefits provided under Article 7 of this Act are not payable on the death of a retiree who elects an optional retirement annuity under this section.

(d) Authorizes the board of trustees by rule to provide that an optional retirement annuity is payable after a member's death throughout the life of a person designated by the member; or if the retiree dies before a fixed number of monthly annuity payments are made, the remaining number of payments are payable to the retiree's designated beneficiary or, if none exists, to the retiree's estate.

(e) Requires a member, to elect an optional retirement annuity, to make the election and designate a beneficiary on a form prescribed by the board of trustees. Requires the member to file the form with the board on or before the effective date of the member's retirement.

(f) Requires the spouse, except as provided by Subsections (g), (h), and (i) of this section, if a member elects an optional retirement annuity that, on the member's death, pays to the member's spouse an amount that is less than 75 percent of the annuity that is payable during the joint lives of the member and the member's spouse, to consent to the election. Requires the spouse's consent to be in writing and witnessed by an officer or employee of the fund or acknowledged by a notary public

(g) Authorizes the consent required under Subsection (f) of this section, if a member's spouse has been adjudicated incompetent, to be given by the spouse's guardian.

(h) Authorizes the consent required under Subsection (f) of this section, if a physician determines that a member's spouse is not mentally capable of managing the spouse's affairs, to be given by the member if the member would be qualified to serve as a guardian of the spouse and the board of trustees determines that a guardianship of the estate is not necessary.

(i) Provides that spousal consent under Subsection (f) of this section is not required under certain stated conditions.

SECTION 11. Effective date: September 1, 2001.