

## BILL ANALYSIS

Senate Research Center

H.B. 1318  
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Intergovernmental Relations  
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Engrossed

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, members of police retirement systems have their accounts credited with interest at a rate of five percent annually. The interest credited only benefits a member who terminates covered employment and withdraws his or her deposits prior to retirement.

H.B. 1318 makes changes to the Austin Police Retirement System, including reducing the amortization period of the system's unfunded actuarial liabilities and thus strengthening the system, increasing lump sum death benefit payments, crediting interest on members' contributions, and making administrative changes.

### RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the police retirement board in SECTION 6 (Article 6243n-1, V.T.C.S.) of this bill.

Rulemaking authority previously granted to the police retirement board is modified in SECTION 6 (Article 6243n-1, V.T.C.S.) of this bill.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.02(1), Chapter 452, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, V.T.C.S.), to redefine "accumulated deposits."

SECTION 2. Amends Article III, Chapter 452, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, V.T.C.S.), by adding Sections 3.13 and 3.14, as follows:

Sec. 3.13. REIMBURSEMENT OF LEGAL EXPENSES OF BOARD MEMBER OR EMPLOYEE OF SYSTEM. (a) Authorizes the police retirement board (board) to reimburse a board member or an employee of the police retirement system for liability imposed as damages because of an alleged act, error, or omission committed in the person's capacity as a fiduciary or co-fiduciary of assets of the system or as an employee of the system and for costs and expenses incurred by the person in defense of a claim of an alleged act, error, or omission, or purchase from an insurer authorized to engage in business in this state one or more insurance policies that provide for that reimbursement.

(b) Prohibits the board from providing reimbursement under this section, and from purchasing an insurance policy under this section that would provide reimbursement, of a board member or employee of the police retirement system for liability imposed or expenses incurred because of the person's personal dishonesty, fraudulent breach of trust, lack of good faith, intentional fraud or deception, or intentional failure to act prudently.

(c) Requires the cost of reimbursement or an insurance policy purchased under this section to be paid from the assets of the police retirement system.

Sec. 3.14. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS, RETIREES, ANNUITANTS, OR BENEFICIARIES. (a) Provides that information contained in records that are in the custody of the police retirement system concerning an individual member, retiree, annuitant, or beneficiary is confidential under Section

552.101, Government Code, and may be disclosed in a form identifiable with a specific individual only under certain circumstances.

(b) Provides that this section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member or retiree, or beneficiary of the police retirement system.

(c) Authorizes a determination and disclosure under Subsection (a) to be made without notice to the individual member, retiree, annuitant, or beneficiary.

(d) Requires a covered entity to ensure that the authorization for a disclosure complies with all of the privacy rule's applicable requirements, standards, and implementation specifications relating to authorizations for uses and disclosures of protected health information if a disclosure under Subsection (a) is a disclosure of protected health information by a covered entity, as those terms are defined by the privacy rule of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E.

SECTION 3. Amends Section 4.01(f)(1), Chapter 452, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, V.T.C.S.), as follows:

(1) Provides that the interest factor of money in the police retirement system is eight percent per year for the period that begins with the beginning of the month and year in which the member withdrew the member's accumulated deposits and ends with the beginning of the month and year payment is made to the system to reinstate the service. Deletes existing text providing that the factor of money in the police retirement system is derived by adjusting and compounding the annual rates of interest that were credited to the accumulated deposits of members, where each annual rate is adjusted by dividing it by 0.75. Deletes existing text providing that the period for compounding the interest factor begins with the beginning of the month and year in which the member withdrew the member's accumulated deposits and ends with the beginning of the month and year payment is made to the system to reinstate the service. Deletes existing text providing that the annual rate of interest applicable for the year when payment is made is considered to be equal to the prior year's rate of interest for the purpose of making the determination.

SECTION 4. Amends Section 5.03(a), Chapter 452, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, V.T.C.S.), to amend the interest calculation for the purchase of creditable service for probationary service as provided under this section.

SECTION 5. Amends Section 5.04(c), Chapter 452, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, V.T.C.S.), to amend the interest calculation for the purchase of creditable service for cadet service as provided under this section.

SECTION 6. Amends Section 5.05, Chapter 452, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, V.T.C.S.), by amending Subsections (a) and (c) and adding Subsection (f), as follows:

(a) Authorizes the board by rule to provide that a deceased member's designated beneficiary if there is no surviving spouse to establish creditable service by depositing with the retirement system the actuarial present value, at the time of deposit, of the additional life annuity (modified cash refund) defined in Section 6.01 of this Act that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees. Authorizes the police retirement board to also by rule provide that a member or eligible surviving spouse of a member, or a deceased member's designated beneficiary if there is no surviving spouse, may establish creditable service by depositing with the retirement system the actuarial present value, at the time of deposit, of the additional deferred life annuity (modified cash refund) that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended

by the retirement system's actuary and adopted by the board of trustees. Defines "deferred life annuity (modified cash refund)."

(c) Prohibits the board from adopting a rule authorizing the purchase of credit under this section unless the board has obtained an actuarial study indicating that adoption of the rule will not cause the amortization period for the retirement system's unfunded actuarial accrued liability to exceed the maximum amortization period adopted by the Governmental Accounting Standards Board. Deletes existing text prohibiting the board from adopting a rule authorizing the purchase of credit under this section unless the board has obtained an actuarial study indicating that adoption of the rule will not make the retirement system financially unsound and that, after adoption of the rule, the retirement system's unfunded actuarial liability can be amortized within the maximum amortization period adopted by the Governmental Accounting Standards Board.

(f)(1) Authorizes a member, at the time a member establishes creditable service for a deferred retirement date under this section, to file with the board the member's written statement either selecting one of the optional benefits authorized by this Act and designating the beneficiary of the option if one is selected or stating that the member has been afforded an opportunity to select an option but does not desire to do so. Provides that an option selection becomes effective at the member's date of deferred retirement. Provides that the member retains the right to make a final selection until the date of deferred retirement. Provides that the final selection is binding on all parties.

(2) Provides that a member's survivor benefit is calculated as if the member had retired on the date of deferred retirement under the optional benefit selected and died the next day if the member dies before the date of deferred retirement but after filing the written statement selecting one of the optional benefits.

(3) Authorizes a surviving spouse of a member, in the event a member who is eligible for a deferred retirement dies before the deferred retirement date without making a written selection of an option listed in Section 6.03 of this Act and the member has a spouse surviving, to select the optional form of a survivor benefit in the same manner as if the member had made the selection on the member's scheduled date of deferred retirement or to select a lump-sum payment equal to the accumulated deposits standing to the member's credit in Fund No. 1 plus an equivalent amount from Fund No. 2. Entitles the member's beneficiary or, if no beneficiary exists, the executor or administrator of the member's estate, if the member does not have a surviving spouse, to select either an Option V survivor benefit (15-Year Certain and Life Annuity), effective on the member's scheduled date of deferred retirement, or a lump-sum payment equal to the accumulated deposits standing to the member's credit in Fund No. 1 plus an equivalent amount from Fund No. 2.

(4) Provides that an additional sum of \$10,000 is payable as a death benefit to the member's beneficiary or, if no beneficiary exists, to the member's estate when monthly survivor benefits are payable as a result of the death of a member before the member's deferred retirement date.

SECTION 7. Amends Sections 6.05(a) and (c), Chapter 452, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, V.T.C.S.), as follows:

(a) Prohibits a lump sum payment in the event of a member's death from being less than \$10,000, rather than \$7,500. Provides that the amount payable from Fund No. 2 is \$10,000, rather than \$7,500, minus the accumulated deposits standing to the member's credit in Fund No. 1 when the \$10,000 minimum is payable. Makes a conforming change.

(c) Makes a conforming change.

SECTION 8. Amends Section 6.06(a)(4), Chapter 452, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, V.T.S.C.S.), to make a conforming change.

SECTION 9. Amends Section 7.01(a), Chapter 452, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, V.T.C.S.), as follows:

(a) Provides that only members who are classified as Active-Contributory or Inactive-Contributory, rather than Active-Contributory, Active-Noncontributory, or Inactive-Contributory, pursuant to Subsection (e) of Section 4.01 of this Act, or who are approved for extended disability retirement eligibility under this subsection, are eligible for consideration for disability retirement pursuant to this article. Authorizes a member to be approved by the board for extended disability retirement eligibility only if that member applies in writing to the board for extended eligibility on a date not earlier than the 30th day before and not later than the 30th day after the date of becoming an Active-Noncontributory member, setting forth the reason why the member should be granted the extended eligibility, if the board, in its sole discretion, approves the application for extended eligibility, and on the terms the board determines to be appropriate.

SECTION 10. Amends Article XIII, Chapter 452, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, V.T.C.S.), by adding Section 13.02, as follows:

Sec. 13.02. MANDATORY DISTRIBUTIONS PROHIBITED. Prohibits a member or former member who has separated from service from being required to receive an eligible rollover distribution, as defined in Section 13.01(b)(1) of this Act, without the member's consent unless the member or former member is at least 70-1/2 years of age.

SECTION 11. Effective date: September 1, 2007.