

BILL ANALYSIS

C.S.H.B. 752
By: Woolley
Pensions & Investments
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Houston Police Officers' Pension System (HPOPS) is a public retirement system established by Article 6243g-4. Pursuant to the mandate in this Article, HPOPS provides retirement benefits for police officers, and their beneficiaries, of the City of Houston. As of December 31, 2002, the total membership of HPOPS was 7,177, consisting of 1,865 retired members or their beneficiaries and 5,312 active police officer members.

HPOPS board and staff, as well as active police officer members, retirees, and the City of Houston, continually review the programs administered by HPOPS as well as the enabling legislation and make recommendations resulting from this process.

CSHB 752 revises the duties of the system and programs under the Houston Police Officers' Pension System. Most of the proposed changes herein result from formal agreements between the city and the board of trustees of the pension system pursuant to Section 27 of this Article. Section 27, as added by the 75th Legislature, authorizes the board of trustees to enter into agreements with the city.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 1, Article 6243g-4, Revised Statutes, the purpose of which is to include Agreements entered into by the Board of Trustees in accordance with Section 27 of this Article. Also included is a provision that allows the pension system to continue to operate even if the population of the city falls below 1.5 million.

SECTION 2. Amends Section 2, Article 6243g-4, Revised Statutes, by amending Subdivisions (1), (2), (7), (11), (14), and (23), and adding Subdivisions (4-a), (14-a), and (22-a) and renumbering Subdivision (19) as Subdivision (17-a) as follows:

(1) Technical change to the definition of "active member" to conform with the definition used in the June 2001 agreement between the City of Houston and the board of trustees. This agreement was reached in accordance with section 27 of Article 6243g-4. The main effect of the change is to recognize those police officers that elected in 1992 to remain a member of the pension system created by Article 6243h.

(2) Changes the definition of "average total direct pay" to conform with the definition used in the June 2001 agreement between the City of Houston and the board of trustees. This agreement was reached in accordance with section 27 of Article 6243g-4.

(4-a) Defines the elements of "catastrophic injury" for police officers that are

catastrophically injured while performing their duties as police officers.

(7) Alters the definition of a “dependent child” by increasing the age for a dependent child attending school on a full-time basis to age 24 from age 22.

(11) Technical correction to the definition of “former member” by changing the word “has” to “who”.

(14) Grammatical change in the definition of “member”.

(14-a) Defines “normal retirement age” to comply with the Internal Revenue Code. Normal retirement age is defined as a member who attains 20 years of service or the age at which the member first attains both the age of at least 60 and at least 10 years of service.

(17-a) Renumbers Section.

(22-a) Defines the word “survivor” to be a surviving spouse, a dependent child, or a dependent parent.

(23) Broadens the definition of “total direct pay” to include workers’ compensation claims under Section 104 (a) (1) of the Internal Revenue Code and motorcycle allowance.

SECTION 3. Amends Section 3, Article 6243g-4, Revised Statutes, by amending Subsections

(a)- (d), (f), and (g) and adding Subsection (h), as follows:

(a) Includes the statement that the pension system operates under Section 67, Article XVI, of the Texas Constitution.

(b) This subsection codifies the results of the legislatively mandated one-time election as to how board members are selected.

(c) This change clarifies the beginning and ending dates of a board member’s term of office.

(d) This change clarifies the beginning and ending dates of a retiree board member’s term of office.

(f) This subsection codifies the results of the legislatively mandated one-time election defining who is not eligible to be elected to the board.

(g) Clarifies when a newly elected board member takes the oath of office, and strengthens the fiduciary responsibility of board members’ oath of office.

(h) Adds a new subdivision that will provide that no election is required if there is only one candidate for a position of elected board member.

SECTION 4. Amends Section 4(a), Article 6243g-4, Revised Statutes, to read as follows:

(a) When elected board members are conducting pension business they are not required to report travel to the city except as required by the Texas Open Records Act.

SECTION 5. Amends Section 5, Article 6243g-4, Revised Statutes, by adding Subsections (b-1) and amending Subsection (d).

(b-1) Clarifies the duties of the pension administrator as acting under the direction of the board to administer the operations of the plan and to act as plan administrator for the purpose of

complying with Subchapter A, Chapter 804 of the Government Code (Qualified Domestic Relations Orders).

(d) Allows the board to employ more than one actuary, attorney, accountant or other professionals.

SECTION 6. Amends Section 6, Article 6243g-4, Revised Statutes, by adding Subsections (e-1) and (g), (h) and amending Subsection (f) as follows:

(e-1) The addition of this Subsection authorizes the board to sue on behalf of the pension system.

(f) The board currently has full discretion and authority to administer the pension system and to interpret Article 6243g-4. The addition allows the board to correct any defect or omission and to reconcile any inconsistency in the pension law to the greatest benefit of all members.

(g) At times the board must be provided necessary information to calculate a benefit such as a disability benefit. Often the information is in the care custody and control of a medical facility that does not have an incentive of cooperating with the board's fact-finding requirement. This new addition allows the board an avenue to compel cooperation through the use of a subpoena. A district court may order compliance.

(h) The board is not subject to Title 6, Property Code.

SECTION 7. Amends Section 7(d) and (f), Article 6243g-4, Revised Statutes, as follows:

(d) Expands the maximum number of days the board has to call a special election if a board member has been removed from office from 30 to 60 days.

(g) Strikes language regarding the removal of a board member.

SECTION 8. Amends Section 8(a), Article 6243g-4, Revised Statutes, as follows:

(a) The city deducts the active members' contribution on a bi-weekly basis. This amendment changes monthly to each payroll period and conforms to current practices.

SECTION 9. The heading to Section 9, Article 6243g-4, Revised Statutes, is amended as follows:

Sec. 9. CONTRIBUTIONS BY THE CITY

SECTION 10. Amends Section 9(a), Article 6243g-4, Revised Statutes, as follows:

(a) According to an agreement between the board and the city as allowed by Section 27 of this article, the city's contribution is fixed at \$32,645,000 for the fiscal year ending June 30, 2002, \$34,645,000 for the fiscal year ending June 30, 2003, \$36,645,000 for the fiscal year ending June 30, 2004, and for the fiscal year ending June 30, 2005 the city's contribution will be 16% of the members total direct pay. For fiscal years ending after June 30, 2005, the city's contribution rate will be the greater of 16% or the level percentage of salary payment required to amortize the unfunded actuarial liability over a constant period of 30 years.

SECTION 11. Amends Section 11(a), Article 6243g-4, Revised Statutes, as follows:

(a) This language was part of a larger addition to the article in the 74th legislature that was ultimately removed from that proposed legislation. Therefore the removal is a technical correction.

SECTION 12. Amends Section 12 by amending Subsections (a), (b), (d), (f), and (g) and by adding(h) and (i), Article 6243g-4, Revised Statutes, as follows:

- (a) Requires the city to supply necessary documentation listed to the pension system.
- (b) The multiplier for active and retired members is increased from 2.5% to 2.75% of the member's average total direct pay, if an active member, or base salary if the member retired before November 24, 1998. The pension board and the city agreed to this increase in June of 2001 by reaching an agreement in accordance with Section 27 of this article.
- (d) The insurance stipend received by retirees to defray the cost of medical insurance is increased from \$88.05 to \$150.00. The pension board and the city agreed to this increase in June of 2001 by reaching an agreement in accordance with Section 27 of this article.
- (f) The multiplier for an inactive member is increased from 2.5% to 2.75% of the member's average total direct pay for each year of the first 20 years of service. The pension board and the city agreed to this increase in June of 2001 by reaching an agreement in accordance with Section 27 of this article.
- (g) Specifies that service pensions that began before May 1, 2001 will continue to be paid in accordance with applicable prior law, subject only to the adjustments that are specifically provided by Section 12.
- (h) Specifies the periodic payments and calculation allowed to be used in the phase-down program.
- (i) States the computation of average total direct pay is to be made in compliance with board procedures.

SECTION 13. Amends Section 14, Article 6243g-4, Revised Statutes, by amending Subsections (b) – (g), (j), and (l) and adding Subsections (f-1) and (m) as follows:

- (b) Removes the word irrevocable and states that a DROP election that is made and accepted by the board may not be revoked by the member before the member's termination of employment.
- (c) A member who enters DROP cannot accrue additional service credit in computing the active member's monthly service pension, except as provided by Subsection (l) of Section 14.
- (d) This language was part of a larger addition to the article in the 76th legislature that was ultimately removed from that proposed legislation. Therefore the removal is a technical correction.
- (e) This Subsection sets the minimum interest rate of the paid to participants of the DROP to not less than zero percent.
- (f) This change allows the member, at retirement, to revoke the DROP election and receive the standard annuity that is calculated by length of service multiplied by the applicable multiplier. Members also have the choice to revoke their DROP election and Back DROP to a different date than the original DROP date. Survivors also have the same options as a member
- (f-1) Survivors have an additional option to convert the Lump Sum DROP benefit into an annuity. For survivors whose spouse were killed in the line of duty, this option gives the survivor the ability to access the entire benefit in a federal tax free status in accordance to IRC

101(h).

(g) New Subsection that will allow surviving spouses to leave their deceased spouses DROP benefit at interest with the pension system.

(j) Removes the requirement that a deceased member's survivor(s) must remove the DROP Lump Sum.

(l) Requires the DROP account of each DROP participant to be recomputed and adjusted using an increased multiplier of 2.75% of the member's average total direct pay, or base pay if applicable, for each of the member's first 20 year of service. Additionally, the board's ability to discontinue the DROP is restricted.

(m) Causes the DROP account of each DROP participant who retires after May 1, 2001, to be recomputed using the multiplier of 2.75% of average total direct pay for the first 20 years of service.

SECTION 14. Amends Section 15, Article 6243g-4, Revised Statutes, by amending Subsections (a) – (d), and adding Subsections (h) – (k) as follows:

(a) Minimum Duty-connected disability benefit is increased from 50% to 55%. The disabled member has the option of receiving the DROP balance in any manner that is approved by the board and that satisfies the requirement of Section 401 (a) (9) of the Internal Revenue Code and applicable Treasury Regulations.

(b) Members who are disabled in a non-duty connected event and who have less than 10 years of service will receive a benefit that is 27.5% of the member's average total direct pay.

(c) Increases a retired member's insurance stipend from \$88.05 to \$150 per month.

(d) Restricts a person from applying for a disability benefit after leaving employment.

(h) An additional benefit can be applied for and received by a disabled member who is attempting to retrain for a new career. The additional benefit is the difference between the disabled member's disability benefit and their average total direct pay at the time of becoming disabled.

(i) A member who suffers a catastrophic injury shall receive a monthly benefit equal to 100 percent of the member's average total direct pay determined as of the date of retirement.

(j) Allows a member who transfers to another city department and who is subsequently injured and who is performing the duties in that department to receive a proportionate non-duty-connected disability under this article.

(k) Disability payments become due the later of the first day the disabled member leaves the payroll of the city or the date the member signs the application for a disability pension.

SECTION 15. Amends Section 16 (a), (c), and (f) – (h) , Article 6243g-4, Revised Statutes, as follows:

(a) For a common-law marriage to be valid for the purpose of qualifying for a survivor benefit, a marriage declaration must be filed with the county clerk's office in the county in which the couple resides at the commencement of the marriage. The additional requirement of filing with the board is stricken.

(c) The monthly benefit may not be less than 27.5% of the member's average total direct pay for a Member's survivors, where the member is killed from any cause growing out of or in consequence of any act clearly not in the actual performance of the member's official duties and the Member has less than 10 years of service are entitled to receive an immediate benefit.

(f) Increases the surviving spouse's insurance stipend from \$88.05 to \$150.00

(g) This one time lump-sum payment of \$5,000 has already occurred and therefore is removed from the statute.

SECTION 16. Amends Article 6243g-4, Revised Statutes, by adding Section 16A as follows:

16A Provides for the designation of a beneficiary for the DROP account.

SECTION 17. Amends Section 17(h), Article 6243g-4, Revised Statutes, as follows:

(h) The system shall accept eligible rollover distributions only for the purpose of repaying contributions the member has previously withdrawn or for other purposes expressly authorized by the board's procedures.

SECTION 18. Amends Section 18, Article 6243g-4, Revised Statutes, by amending Subsections (a) and (b) and by adding Subsection (d) as follows:

(a) Clarifies how a person's years of service will be calculated.

(b) Clarifies when a person has a sufficient number of years of service to receive a retirement or enter the DROP program.

(d) During the 1980's and early 1990's the city consolidated the varied law enforcement organizations into one organization, the city police department. Individuals affected by this reorganization belonged to the municipal pension plan and were given a choice to move into the police pension plan. However, the service credit as a municipal worker was left with that plan. As a result, lawsuits ensued over the years concerning pay and other benefit issues with the exception of pension benefits, the law suits generally resulted in the employees prevailing over the city. This change allows the affected individuals the option of receiving all their service credit in the police pension or to keep the status quo.

SECTION 19. Amends Section 20, Article 6243g-4, Revised Statutes) as follows:

Sec 20. The pension system has developed educational classes for the members relative to their benefits and related financial matters. Many of these classes and seminars are funded by outside sources. This change clarifies that the system can receive donations that are specifically received for use for education programs and the related administrative expenses of the program.

SECTION 20. Amends Section 22, Article 6243g-4, Revised Statutes, as follows:

Sec 22. Clarifies that the city attorney will represent the pension system in legal matters, including litigation that is referred by the board and that the board can hire additional legal counsel.

SECTION 21. Amends Section 23, Article 6243g-4, Revised Statutes, as follows:

Sec. 23. Brings this article in compliance with Federal Law concerning military service and the members' benefits.

SECTION 22. Amends Section 25 (d) and (e), Article 6243g-4, Revised Statutes, as follows:

- (d) A technical update in compliance with the Internal Revenue Code.
- (e) Changes the phrase "affected employees" to "members".

SECTION 23. Amends Article 6243g-4, Revised Statutes, by adding Section 29 as follows:

Sec. 29. Specifically identifies the sections of the Texas Open Records Act that exempts disclosure in a form that identifies a specific individual unless the information is disclosed to the individual, the individual's attorney, guardian, executor, administrator, or conservator, or to a person with written authorization from the individual to receive the information.

SECTION 24. Repeals Sections 9(b), 15(f) and 16(d), Article 6243g-4, Revised Statutes.

SECTION 25. Effective date.

EFFECTIVE DATE

September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

In the substitute bill SECTION 3(b)(1), strikes language requiring the advice and consent of the board.

SECTION 5, Subsection (i) is deleted and Subsection (d) is added which allows the board to hire more than one actuary, attorney, accountant or other professional.

SECTION 6, Subsection (h) is added to state that the board is not subject to Title 6 of the Property Code; and in Subsection (f) states a manner in which a board member may be removed.

SECTION 12, Amends Subsections (a) and adds Subsections (h) and (i). Subsection (a) adds language requiring the city to supply specified documentation to the pension system. Subsection (h) specifies the periodic payments and calculation allowed to be used in the phase-down program. Subsection (i) states the computation of average total direct pay is to be made in compliance with board procedures.