

BILL ANALYSIS

Senate Research Center
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H.B. 1822
By: Kuempel (Armbrister)
State Affairs
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Engrossed

DIGEST AND PURPOSE

Currently, the Texas Municipal Retirement System (TMRS) is administered in accordance with Title 8G of the Texas Government Code. H.B. 1822 enables TMRS to conform to federal law, eliminates the current investment list and adds prudence standards found in the Texas Constitution and trust law, increases the death benefit for retirees, and makes a number of administrative changes. H.B. 1822 repeals Section 855.302, Government Code.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of trustees of the Texas Municipal Retirement System in SECTION 1 (Section 851.001(6), Government Code), SECTION 4 (Section 852.103(b), Government Code), SECTION 6 (Section 852.110, Government Code), and SECTION 10 (Section 854.003, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 851.001(6), Government Code, by redefining “compensation.”

SECTION 2. Amends Section 851.002, Government Code, to provide that the assets of the Texas Municipal Retirement System (TMRS) are held in trust for the exclusive benefit of certain persons, and may not be diverted. Prohibits TMRS from applying a forfeiture to increase a benefit that any person would otherwise receive under this subtitle.

SECTION 3. Amends the heading of Section 852.103, Government Code, to read as follows:

Sec. 852.103. WITHDRAWAL OF CONTRIBUTIONS; ROLLOVER
DISTRIBUTIONS.

SECTION 4. Amends Section 852.103(b), Government Code, to require TMRS to permit the distributee of an eligible rollover distribution to elect to have the distribution paid directly to an eligible retirement plan specified by the distributee in the form of a direct trustee-to-trustee transfer, in accordance with certain law. Authorizes the board of trustees of TMRS to adopt rules to implement this section. Deletes text relating to payments to and from a retirement plan.

SECTION 5. Amends Section 852.104, Government Code, by adding Subsection (e), to provide that a member of TMRS is not absent from service during any leave of absence granted by the employing municipality under certain federal law to the extent that the leave does not exceed 12 weeks in duration.

SECTION 6. Amends Section 852.110, Government Code, by adding text to Subsection (a), redesignating a portion of Subsection (b) as (a), deleting the existing text of Subsections (c), (d), (e), and a portion of (f), and redesignating the remaining portion of Subsection (f) as a portion of (b), as follows:

(a) Requires TMRS, under rules adopted by the TMRS board of trustees (board of trustees), to correct an error in current service performed, or current service credit that should have been

received, not more than four years before the date that a certain application for the correction is received by TMRS. Deletes text relating to rectifying a reporting error causing a person to not receive appropriate credit.

(b) Requires TMRS to correct an error in prior service credit if TMRS receives the person's written application for the correction not later than the fourth anniversary of the later of the date the municipality began participation in, or the person first became a member of, TMRS, rather than within four years after the same date.

SECTION 7. Amends Section 853.305, Government Code, by adding Subsection (g), to provide that an ordinance adopted under this section applies to the granting of restricted prior service credit to a certain member at any time on or after the effective date of the ordinance.

SECTION 8. Amends Section 853.502(b), Government Code, by amending the criteria in Subdivisions (1) and (2) that a person must meet in order to be eligible to establish certain credit for military service, as follows:

(1) Requires a person to apply for reemployment with the municipality not later than the 90th day after the date the person was released from active duty or discharged, rather than within 90 days of such action.

(2) Decreases from ten to five the number of years of credited service in TMRS an applicant must have, and makes an identical decrease in the number of years that such a person must have been an employee of one or more participating municipalities.

Makes conforming and nonsubstantive changes.

SECTION 9. Amends Section 853.504(b), Government Code, by deleting language requiring an eligible member seeking military service credit to deposit a certain amount to the member's individual account with TMRS. Makes a nonsubstantive change.

SECTION 10. Amends Section 854.003, Government Code, by deleting existing Subsections (d)-(g), creating a new Subsection (d), redesignating Subsection (h) as Subsection (e), and amending certain references, as follows:

(a) Makes a conforming change.

(b) Makes a conforming change.

(c) Requires a certain deadline to be on the last day of a calendar month. Makes a conforming change.

(d) Requires each distribution of a benefit under this subtitle to be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code of 1986, including certain provisions and amendments, notwithstanding any other provisions of this subtitle. Authorizes the board of trustees to adopt rules it determines necessary to comply with the distribution requirements, including rules under which a person is considered to have retired as a result of those requirements.

(e) Redesignated from existing Subsection (h).

SECTION 11. Amends Section 854.006(d), Government Code, by replacing a reference to Option 1, 2, or 5A as defined by Section 123.3, Title 34, Texas Administrative Code, with a reference to Section 854.104(c)(1), (2), or (5). Prohibits the maximum portion of the benefit payable to the alternate payee from exceeding 75 percent of a benefit provided under Section 854.104(c)(5), rather than 66-2/3

percent of an Option 5A benefit. Makes conforming changes.

SECTION 12. Amends Section 854.101, Government Code, as follows:

Sec. 854.101. APPLICATION FOR SERVICE RETIREMENT. Authorizes a member to apply for service retirement by filing a retirement application with the board of trustees not later than the date specified by the member for retirement, rather than not less than 30 days, or if the member has not previously selected an optional service retirement annuity under Section 854.105, not earlier than the 90th day before that date, rather than more than 90 days before the date the member wishes to retire.

SECTION 13. Amends Section 854.301(b), Government Code, by prohibiting an application for a disability retirement annuity from being filed later than the date specified by the member for retirement or earlier than the 90th day before that date, rather than prohibiting such an application from being made less than 30 nor more than 90 days before the date the member wishes to retire.

SECTION 14. Amends Section 854.408(a), Government Code, by deleting language providing that the remainder of 60 monthly payments of a standard occupational disability retirement annuity is payable to the retiree's beneficiary if the retiree dies before the 60 monthly payments have been made.

SECTION 15. Amends Section 854.410(c), Government Code, by authorizing an eligible person to select an optional annuity under Section 854.104(c), rather than an optional annuity that makes certain specified provisions.

SECTION 16. Amends Section 854.604, Government Code, by increasing a lump-sum supplemental death benefit payable from the fund under certain circumstances from \$5,000 to \$7,500.

SECTION 17. Amends Section 855.301(a), Government Code, by deleting Subdivisions (1)-(6) and amending, as follows:

(a) Requires the board of trustees to invest and reinvest the assets of TMRS without distinction as to their source in accordance with Section 67, Article XVI, Texas Constitution. Defines "security" for the purposes of the investment authority of the board of trustees under Section 67, Article XVI, Texas Constitution.

SECTION 18. Amends Section 855.303, Government Code, as follows:

Sec. 855.303. New heading: PRUDENCE REGARDING INVESTMENTS. In addition to an existing requirement that the board of trustees exercise judgment and care in making investments, requires a determination of whether the board of trustees has exercised prudence in an investment decision to be made by considering the investment of all of the assets of the trust over which the board of trustees has management and control, rather than by considering the prudence of a single investment.

SECTION 19. Amends Section 855.306(a), Government Code, by deleting Subdivision (4), to make a conforming change.

SECTION 20. Amends Section 855.604, Government Code, by authorizing a pension system for municipal employees to merge into TMRS only on conditions that the board of trustees in its sole discretion determines in an individual case are consistent with the fiduciary responsibilities of the board of trustees, rather than under terms adopted by the board of trustees and the trustees of the other system.

SECTION 21. Amends Section 855.608, Government Code, by amending Subsections (a), (c), and (d) and adding Subsection (e), as follows:

(a) Amended to provide that a certain existing separate fund is created outside TMRS trust fund.

(c) Requires certain money to be paid, rather than transferred, to the separate fund created by this section from the contributions that otherwise would be deposited in the municipality accumulation fund account of the municipality that employed the member. Requires the monthly amount to pay benefits under this section to be paid not later than the 15th day before a certain date, rather than transferred at least 15 days before that date, when feasible. Makes conforming and nonsubstantive changes.

(d) Requires the full benefits arrangement to be administered as an unfunded governmental excess benefit arrangement, rather than a governmental excess benefit arrangement. Provides that benefits under this section are unassignable and are exempt from execution, garnishment, attachment, and state and local taxation to the same extent as provided by Section 851.006. Provides that contributions to this arrangement are not held in trust and prohibits such contributions from being commingled with other TMRS assets.

(e) Authorizes TMRS to transfer amounts among accounts and funds to balance the accounts and funds affected by the arrangement required by this section.

SECTION 22. Makes application of Section 854.604, Government Code, as amended by this Act, prospective.

SECTION 23. Repealer: Section 855.302 (Restrictions on Investments), Government Code.

SECTION 24. Effective date: January 1, 2004.