

BILL ANALYSIS

Senate Research Center
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DIGEST AND PURPOSE

Currently, the Texas Municipal Retirement System (TMRS) is administered in accordance with Title 8G of the Texas Government Code. As proposed, S.B. 993 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. S.B. 993 repeals Sections 852.108(c)-(i), 852.109(f), and 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 10 (Section 852.110, Government Code), and SECTION 14 (Section 854.003, Government Code).

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, Government Code, by replacing the text of Subsection (b), 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.

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 the heading of Section 852.108, Government Code, to read as follows:

Sec. 852.108. RESUMPTION OF SERVICE; RETIREMENT CANCELED.

SECTION 7. Amends Sections 852.108(a) and (b), Government Code, as follows:

(a) Provides that in this section and in Section 852.109, a person’s reemploying municipality is the municipality for which the person most recently performed, rather than was performing, credible service immediately before the effective date, rather than at

the time, of the person's retirement under this subtitle.

(b) Provides that a person who has retired with a service retirement benefit under this subtitle and later becomes an employee of the person's reemploying municipality is considered not to have retired, and requires TMRS to reinstate the person's membership in the system. Deletes language providing that such a person becomes a member of the system on the date of employment, but credits and benefits allowable to the person are limited.

SECTION 8. Amends the heading to Section 852.109, Government Code, to read as follows:

Sec. 852.109. RESUMPTION OF SERVICE BY RETIREE; BENEFITS NOT AFFECTED.

SECTION 9. Amends Sections 852.109(a) and (e), Government Code, as follows:

(a) Deletes language requiring a person to begin to receive a retirement benefit in order to resume membership in TMRS without suspension of the person's retirement annuity.

(e) Deletes language prohibiting a certain first payment from being made if the person has resumed employment that would result in suspension of a benefit.

SECTION 10. Amends Section 852.110, Government Code, by deleting existing Subsections (a)-(e) and (g); by creating a new Subsection (a) from existing Subsection (b) and new text; and creating a new Subsection (b) from existing Subsection (f), 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.

(b) Requires TMRS to correct an error in prior service credit if TMRS receives the person's written application for the correction no 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.

SECTION 11. 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 12. 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 the number of years of credited service in TMRS an applicant must have from ten to five, 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 13. 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 14. 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 15. 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 16. 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 17. 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 18. 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 19. 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 20. 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 21. 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 22. 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 23. Amends Section 855.306(a), Government Code, by deleting Subdivision (4), to make a conforming change.

SECTION 24. 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 25. 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 26. (a) Requires TMRS to resume payments of each annuity suspended under former Section 852.108(c), repealed by this Act, for a retiree employed by a reemploying municipality, as that term is defined by Section 852.108(a), Government Code.

(b) Makes application of Section 854.604, Government Code, as amended by this Act, prospective.

SECTION 27. Repealer: Sections 852.108(c)-(i) (pertaining to the payment of benefits to a person reemployed by a municipality), 852.109(f) (authorizing a person to apply for the resumption of a suspended annuity), and 855.302 (Restrictions on Investments), Government Code.

SECTION 28. Effective date: January 1, 2004.