

## **BILL ANALYSIS**

S.B. 1088  
By: Madla  
Pensions & Investments  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Fire and Police Pension Fund, San Antonio, is a system established to provide retirement, disability, and death benefits to fire fighters, police officers, and their beneficiaries. The plan is funded through a combination of employee and city contributions as a set percentage of compensation.

As proposed, S.B. 1088 clarifies administrative provisions and allows the use of a participant's salary beyond 34 years of service for the purposes of a Back Deferred Retirement Option Plan (DROP) benefit calculation. In addition, S.B. 1088 increases the Cost of Living Adjustment to 100 percent for those who retired between October 1, 1991 and September 30, 1993 and increases the services allowed in determining the spousal Back DROP lump-sum from 27 to 30 years. Finally, S.B. 1088 guarantees no less than five years of pension payments less the number of DROP participation years and benefits received.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **ANALYSIS**

SECTION 1. Amends Section 2.01(b), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to require the board of trustees of a firefighters and police officers pension fund of a municipality (board), if a candidate for trustee is unopposed in an election, to certify the candidate as elected to the board on the executive director's certification that the candidate is eligible and is unopposed.

SECTION 2. Amends Sections 2.03(d) and (e), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

(d) Requires a removal election under this section to be held and completed within 90 days, rather than 30 days, after the date the board certifies that a proper petition for a removal election has been signed by at least 20 percent of the membership from which the trustee was elected.

(e) Requires the board, on the date the board enters an order under Subsection (d) of this section, to call a special election to fill the vacancy for the unexpired term of the trustee who was removed. Deletes existing text related to when the special election is to be held.

SECTION 3. Amends Section 3.01, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by adding Subsections (f)-(j), as follows:

(f) Provides that the attendance by any number of the trustees at a conference or gathering to research prospective investments or review current ones, to attend professional training, or otherwise attend to their fiduciary responsibilities, during which no formal discussion of public business takes place and no formal action is taken, is not a deliberation or meeting within the meaning of Chapter 551 (Open Meetings), Government Code, and is not required to be open to the public.

(g) Provides that a trustee of the firefighters and police officers pension of a municipality (fund) is immune from liability for an action or omission made by the trustee in the performance of the trustee's official duties for the fund that is made in good faith.

(h) Provides that the records that are in the custody of the board concerning certain individuals are not public information under Chapter 552 (Public Information), Government Code, and prohibits them from being disclosed in a form identifiable to a specific individual unless the information is disclosed to certain individuals and under certain conditions.

(i) Provides that Subsection (h) of this section does not prevent the disclosure of the status or identity of an individual in a certain regard.

(j) Provides that a determination and disclosure under Subsection (h) of this section does not require notice to the individual member, retiree, beneficiary, or alternate payee.

SECTION 4. Amends Section 3.03, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by adding Subsection (e), to authorize the board to pay for the cost of counseling for members of the fund regarding retirement matters.

SECTION 5. Amends Section 5.015, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by amending Subsections (d) and (e) and adding Subsections (d-1) and (e-1), as follows:

(d) Requires the amount of a lump-sum payment to which a member making a Back DROP election is entitled to be computed in the manner provided by this subsection and Subsection (d-1). Requires the member's retirement annuity to be computed in the manner provided by Section 5.01 of this Act, except that the amount of service credit and average total salary used in making the computation is to be determined in accordance with this subsection. Requires the member's average total salary for purposes of this subsection to be computed based on the member's Back DROP retirement date, which is the member's actual retirement date less the amount of time the member elects under Subsection (b)(1) of this section. Requires the member's service credit, for the purposes of this subsection, to be the member's service credit determined in accordance with Section 5.01(g) of this Act less the amount of time for certain service credits. Deletes existing text related to the retirement date and a member's computed retirement annuity. Makes nonsubstantive changes.

(d-1) Requires the member's retirement annuity as computed under Subsection (d) of this section to be divided by 12 to compute the member's monthly pension to be used to compute the lump-sum payment. Provides that the member's monthly pension multiplied by the number of full months elected by the member under Subsection (b)(1) of this section is the amount of the lump-sum payment to which the member is entitled.

(e) Requires the member's retirement annuity, for the purposes of computing the monthly pension of a member making a Back DROP election, to be computed in the manner provided by Section 5.01 of this Act, with certain amended exceptions.

(e-1) Prohibits the annuity computed under Subsection (e) of this section from exceeding the applicable limitations provided by Section 5.01 of this Act.

SECTION 6. Amends Section 5.09(a), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to require the annuity, if the member's service retirement, disability retirement, or death before retirement occurred on or after August 30, 1971, but before October 1, 1993, rather than 1991, to be increased under certain circumstances.

SECTION 7. Amends Section 6.02, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by amending Subsection (g) and adding Subsections (m) and (n), as follows:

(g) Provides that a surviving spouse of a retiree who was not married to the retiree until after the retiree's retirement is entitled to receive only the benefits, if any, provided under Subsection (m) of this section and Section 6.08 of this Act.

(m) Authorizes a service retiree who marries after the date of retirement, subject to Subsection (n), to elect to receive a reduced annuity during the retiree's lifetime and provide for a death benefit annuity to the retiree's surviving spouse. Requires the amount of the reduced annuity and spousal death benefit to be determined by the fund's actuary and to be actuarially equivalent to the annuity the retiree was receiving immediately before the election under this subsection. Authorizes an election made under this subsection to be canceled by the retiree before the retiree's death on the divorce of the retiree or the death of the retiree's spouse. Requires the retiree, after the election is canceled, to be entitled to receive the same annuity to which the retiree would have been entitled if the election had not been made. Provides that a retiree who cancels an election under this subsection is not entitled to any additional benefits for the period of time before the cancellation. Requires the board to adopt policies and procedures governing elections and cancellation of elections under this subsection. Requires an election or cancellation of an election made under this subsection to be made in accordance with the board's policies and procedures.

(n) Prohibits a retiree from making an election under Subsection (m) of this section at a time in which there are one or more dependent children of the retiree who would be entitled to a death benefit under this section on the death of the retiree.

SECTION 8. Amends Section 6.08, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by amending Subsection (b) and adding Subsection (c), as follows:

(b) Makes a nonsubstantive change.

(c) Provides that a surviving spouse is not entitled to a lump-sum death benefit under this section if the surviving spouse is entitled to an annuity under Section 6.02(m) of this Act.

SECTION 9. Amends Section 6.11, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

Sec. 6.11. DEATH BENEFIT FOR ACTIVE MEMBER'S ESTATE. Provides that the estate of a deceased member, if an active member dies and does not leave a beneficiary, is entitled to a death benefit payment from the fund in an amount equal to the greater of certain values. Makes a nonsubstantive change.

SECTION 10. Amends Section 6.115, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

Sec. 6.115. DEATH BENEFIT FOR RETIREE'S ESTATE. Provides that the estate of the retiree is entitled to a death benefit payment from the fund in an amount equal to five times the amount of the annuity awarded by the board effective on the retiree's date of retirement, rather than contributions that were picked up by the municipality, less any retirement or disability annuity and any lump sum under Section 5.015 of this Act paid to the retiree, if a retiree dies and does not leave a beneficiary.

SECTION 11. Amends Sections 6.14(h) and (l), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

(h) Provides that in determining the annuity under Subsection (e) of this section for a surviving spouse whose death benefit annuity is limited by Section 6.02(b) of this Act, the deceased member's service credit is the lesser of a credit as determined by a specific formula, or 27 years.

(l) Makes a conforming change.

SECTION 12. Amends Section 7.06, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

Sec. 7.06. New heading: INVESTMENT CONSULTANT QUALIFICATIONS. Makes conforming changes.

SECTION 13. Repealer: Sections 2.04(b) and 7.01, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.) (Police and Fire Fighter Retirement System in Municipalities of 750,000 to 1,000,000).

SECTION 14. Effective date.

**EFFECTIVE DATE**

October 1, 2005