

## BILL ANALYSIS

Senate Research Center  
79R10475 HLT-F

C.S.S.B. 1372  
By: Madla  
Intergovernmental Relations  
4/21/2005  
Committee Report (Substituted)

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

The Health Fund (fund), created by the 75th Legislature, Regular Session, 1997 pursuant to Article 6243q, V.T.C.S., to benefit firefighters and police officers in San Antonio, is in danger of becoming insolvent. C.S.S.B. 1372 provides adequate funding on a long-term basis to provide financial stability for the fund. The proposed changes move contributions and benefits out of the collective bargaining process. Other changes include an increase in contributions by both the City of San Antonio and the active membership of the fund over a 15-year period to resolve the unfunded actuarial liability and an increase in the out-of-pocket expenditures by retirees since 1995. This proposed legislation also provides flexibility to the board of trustees of the fund to make changes in benefits that are actuarially sound.

### RULEMAKING AUTHORITY

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

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.02, Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997, (Article 6243q, V.T.C.S.) to redefine "active member," "beneficiary," "collective bargaining agreements," and "retiree." Defines "actuary," "master contract document," "member," "member payroll," "pension act," "retiree health plan," and "years of service."

SECTION 2. Amends Section 1.03, Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997, (Article 6243q, V.T.C.S.), as follows:

Sec. 1.03. APPLICABILITY. Provides that this Act applies to a paid fire and police department of a municipality with a population of one million or more but less than 1,175,000, according to the most recent federal census, rather than a municipality of 750,000 or more that has adopted Chapter 174 (Fire and Police Employee Relations), Local Government Code.

SECTION 3. Amends Section 2.01(b), Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), to require the board of trustees of a fund (board), on the executive director's certification that a candidate for trustee is eligible for office and is unopposed for election, to certify the candidate as elected to the board.

SECTION 4. Amends 2.03(c), Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), to require a removal election to be held 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 persons eligible to vote to elect the trustee.

SECTION 5. Amends Section 2.04(b), Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), to authorize the board in its discretion to elect other officers of the board. Authorizes but does not require, an officer to be a trustee. Deletes existing text providing that the treasurer of the municipality is the treasurer of the board.

SECTION 6. Amends Section 3.01, Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), by adding Subsections (f)-(j), as follows:

(f) Provides that the board has full discretion and authority to administer the Health Fund (fund), construe and interpret this Act, correct any defect or omission, reconcile any inconsistency, and perform all other acts necessary to carry out the purpose of this Act and administer this Act for the greatest benefit of all members. Provides that all decisions of the board are final and binding on all affected parties.

(g) Provides that a gathering of any number of trustees to investigate, research, or review prospective or current investments or otherwise attend to the trustees' fiduciary responsibilities, without formal action by the trustees, is not a deliberation or meeting under Chapter 551 (Open Meetings), Government Code, and is not required to be open to the public.

(h) Provides that the trustees, executive director, and employees of the fund are immune from liability for any action taken or omission made in good faith in the performance of their duties for the fund.

(i) Provides that information contained in a record that is in the custody of the fund concerning a member, former member, retiree, deceased retiree, beneficiary, or alternative payee is confidential under Sections 552.101 (Exception: Confidential Information), 552.102 (Exception: Personal Information), and 552.117 (Exception: Certain Addressees, Telephone Numbers, Social Security Numbers, and Personal Family Information), Government Code. Prohibits the information from being disclosed in a form that identifies a specific individual, unless the information is disclosed to certain individuals and under a subpoena.

(j) Provides that Subsection (i) of this section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member, deceased retiree, beneficiary, or alternate payee of the fund.

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

SECTION 7. Amends the heading to Article 4, Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), to read as follows:

#### ARTICLE 4. MEMBERSHIP AND CONTRIBUTIONS

SECTION 8. Amends Section 4.01, Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), as follows:

Sec. 4.01. MEMBERSHIP. Provides that a person becomes a member of the fund on the person's employment as a firefighter or police officer in a municipality to which this Act applies. Deletes existing text related to requirements for membership in the fund.

SECTION 9. Amends Section 4.02, Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), as follows:

Sec. 4.02. New heading: MEMBER CONTRIBUTIONS. (a) Requires an amount in accordance with a certain schedule to be deducted from each active member's compensation and contributed to the fund biweekly. Deletes existing text relating to contributions to the fund being determined in accordance with collective bargaining agreements.

(b) Requires a retiree who retired with less than 30 years of service, or the retiree's surviving spouse in the case of a deceased retiree, subject to Subsection (c) of this section, to be eligible for health benefits under Section 5.01 of this Act, to continue to make contributions to the fund as required by Subsection (a) of this section beginning on the date of the retiree's retirement until the total contributions made by the person equal the amount of contributions the retiree would have made if the retiree had retired with 30 years of service. Deletes

existing text related to donations made to the fund and all money received from any source for the fund.

(c) Provides that a retiree who retired under the pension act as a result of a disability, or the disability retiree's surviving spouse in the case of a deceased disability retiree, is not required to make contributions under Subsection (b) of this section for more than 10 years following the date of the disability retiree's retirement. Deletes existing text related to contracts of employment of fire fighters and police officers and the municipal contribution to paid health benefits.

(d) Requires the surviving spouse of a deceased member who died in the line of duty, as determined under the collective bargaining agreements, or was an active member at the time of death, to be eligible for health benefits under Section 5.01 of this act, to continue to make contributions to the fund as required by Subsection (a) of this section beginning on the date of the member's death until the earlier of a certain date.

(e) Provides that this section applies only to members who retire, become disabled, or die in the line of duty after October 1, 2005, and their surviving spouses.

(f) Requires persons other than active members to pay contributions required under this section on a monthly basis by payroll deduction or in cash.

(g) Provides that the municipal contributions to and health benefits paid from the fund are a part of the compensation for services rendered to a municipality to which this Act applies. Provides that this Act is considered part of the contract of employment and appointment of the firefighters and police officers of a municipality to which this Act applies.

SECTION 10. Amends Article 4, Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), by adding Sections 4.021 and 4.022, as follows:

Sec. 4.021. CONTRIBUTIONS BY A MUNICIPALITY. (a) Requires a municipality to which this Act applies to pay into the fund an amount equal to a percentage of member payroll, according to a certain schedule.

(b) Requires the payments into the fund by the municipality for each active member to be made on the same day the contributions are deducted from active member's compensation under Section 4.02(a) of this Act.

(c) Provides that the municipal contribution to and health benefits paid from the fund are part of the compensation for services rendered to the municipality. Provides that this Act is considered part of the contract of employment and appointment of the firefighter and police officers of a municipality to which this Act applies.

Sec. 4.022. UNIFORMED SERVICE. (a) Exempts a member of the fund who enters any uniformed service of the United States from certain payments and losses.

(b) Requires the member, no later than 90th day after the date of the member's reinstatement to an active status in a fire or police department, to file with the secretary of the board a written statement of intent to pay into the fund an amount equal to the amount the member would have paid if the member had remained on active status in the department during the period of the member's absence while in the uniformed service.

(c) Requires the member to make the payment described by Subsection (b) of this section in full within a time after the member's return that is equal to three times the amount of time the member was absent, except that the maximum period for payment may not exceed five years.

(d) Provides that if the member does not comply with Subsections (b) and (c) of this section, except as provided by Subsection (f) of this section, the member loses all credit toward the member's years of service for the length of time the member was engaged in active service in any uniformed service.

(e) Prohibits the amount of credit purchased under this section from exceeding the length of the active service in a uniformed service required to be credited by law.

SECTION 11. Amends Section 4.03(b), Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), to provide that this fund is intended to be a voluntary employee's beneficiary association as described by Section 501(c), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)), as amended, and the board has the discretion to take any actions necessary to ensure that the fund is classified as such.

SECTION 12. Amends Section 5.01, Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), as follows:

Sec. 5.01. RETIREMENT HEALTH BENEFITS. (a) Provides that a person is eligible to receive health and medical benefits under this Act to the same extent the person is eligible to receive health and medical benefits under the retiree health plan, subject to the terms and conditions of the retiree health plan, except as otherwise provided by this Act.

(b) Requires health and medical benefits that substantially similar to the health and medical benefits provided under the retiree plan to be provided by the fund to persons who are eligible to receive them under Subsection (a) of this section, subject to the terms and conditions of the retiree health plan, except as otherwise provided by this Act.

(c) Provides that the expiration of the terms of the collective bargaining agreements or the master contract document has no effect on the benefits provided under this Act.

(d) Authorizes the board to adjust, modify, or change benefits provided under this section if the fund's total actuarial unfunded liability, as determined by the actuary, is not increased by the adjustment, modification, or change.

(e) Requires the board to determine which persons are eligible to receive benefits under this section and which benefits the persons are eligible to receive under Subsections (a) and (b) of this section.

(f) Authorizes the board to discontinue benefits under this section for any person who does not make the contributions required by Section 4.02 of this Act.

(g) Provides that the maximum out-of-pocket (including deductible) payment for each individual each calendar year as set out in Appendix B, to the retiree health plan increases from \$700 to \$1,200. Deletes existing text relating to health benefits being required to be in accordance with the collective bargaining agreement.

SECTION 13. Amends Section 6.02, Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), as follows:

Sec. 6.02. New heading: ACCOUNTS AND FINANCIAL REPORTS. Creates a subsection from existing text. Requires the board to require that monthly financial reports showing all fund receipts and reimbursements be prepared and submitted to the board.

SECTION 14. Amends Section 6.04(c), Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), to authorize the board at its discretion, if the fund owns real estate, to establish an organization described by Section 501(c)(2) or 501(c)(25), Internal

Revenue Code of 1986 (26 U.S.C. Sections 501(c)(2) and 501(c)(25), as amended, to hold title to the real estate.

SECTION 15. Amends Section 6.05(a), Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), to authorize the board to contract for professional investment management services, financial consultants, independent auditors, third-party administrators, preferred providers, health maintenance organizations, attorneys, and actuaries.

SECTION 16. Amends Section 6.06, Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), as follows:

Sec. 6.06. New heading: INVESTMENT CONSULTANT QUALIFICATIONS. Makes conforming changes.

SECTION 17. Repealer: Section 6.01 (Retirement Health Trust for Firefighters and Police Officers), Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.).

SECTION 18. Effective date: October 1, 2005.