

BILL ANALYSIS

C.S.H.B. 2751
By: McClendon
Pensions & Investments
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The San Antonio Fire & Police Retiree Health Care Fund was created to provide retirement health benefits to qualifying retired fire fighters, police officers and their beneficiaries. Due to the ever rising costs of health care, the Fund is insufficiently funded, with insolvency projected in 2023. The Board of the Fund has attempted to resolve the deficit but has been virtually powerless to do so, due to its lack of statutory authority to control contributions to, and benefits provided by, the Fund. As a result of nearly eight years of negotiation and study, this Bill codifies extensive changes in the management and control of the Fund while imposing contribution increases and benefit decreases that will greatly reduce the funding deficit and ensure the Fund's existence for future retired fire fighters and police officers.

This Bill is the result of a negotiated and combined effort by the Fund, the City, the Unions and the Retirees Association to ensure the Fund's ability to provide health benefits to future generations of fire fighters and police officers.

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

CSHB 2751 creates and amends defined terms used throughout the Act as well as makes technical corrections to ensure that the Act applies to the intended municipality.

This bill allows the mayor to appoint a designee to serve as Trustee in the mayor's place and limits the term of the designee to the term of the mayor. The provisions of this bill allows the mayor to remove or replace the mayoral designee at the mayor's discretion. This bill provides that the Board may certify the election of an unopposed candidate without the requirement of conducting a formal election.

This bill changes the period of time for the Board to administer a removal election from 30 days to 90 days following the certification of the removal petition. This bill eliminates the treasurer of the municipality as the treasurer of the Board and empowers the Board to elect other officers of the Fund who may be, but are not required to be, Trustees.

Provisions are made to give the Board broad discretion with respect to the administration of the Fund, and to provide clarity as to the duties of the Board regarding the Open Meetings Act and the Texas Public Information Act. CSHB 2751 gives the Board the broad power to administer the Fund and the retiree health plan, construe and interpret the Act and the retiree health plan, correct any defects or inconsistencies and perform other acts necessary to carry out the purposes of and administer the Act or the retiree health plan.

This bill clarifies that a gathering of Trustees for purposes other than formal action is not a "meeting" and therefore need not be a public meeting. CSHB 2751 provides immunity to the Trustees for all good faith actions taken by them in furtherance of their duties for the Fund.

CSHB 2751 clarifies that the information in possession of the Fund is confidential and may not be disclosed in any form that identifies a specific individual unless that disclosure is made to: the individual; an individual's spouse, attorney, guardian, executor, administrator, conservator or another person determined by the Fund's executive director or his or her designee to be acting in the interest of the individual or the individual's estate; a person with written authorization to receive the information concerning the individual; a government official acting in an official capacity; or a person or entity under subpoena.

There is an exception made in this bill regarding the disclosure of a persons identity as a member, former member, deceased member, retiree, deceased retiree, beneficiary or alternate payee of the Fund. This bill provides the terms under which a disclosure may be made without notice to the individual.

SECTION 8 includes amending language to the Article 4 heading to add further description of the content of Article 4.

Amending language is added to SECTION 9 of the substitute to redefine membership in the Fund to be consistent with the new definition of "member."

This bill provides that any new fire chief or police chief of the municipality can elect not to become a member of the Fund, however any new chief who does not make this election automatically becomes a member of the Fund.

This bill provides for mandatory contributions to the Fund and establishes the formula by which the amount of the contributions will be determined. CSHB 2751 requires contributions to be made for a period of at least 30 years (whether member or retiree or spouse of a deceased retiree) unless the retiree becomes (or would have become if he or she had not died) eligible for Medicare coverage. This bill also requires that all retiree (or retiree spouse) contributions are to be deducted from the pension benefits (or death benefits) paid by the Fire and Police Pension Fund, San Antonio. The formula by which the amount of the contributions will be determined is provided in this bill.

This bill limits the period that mandatory contributions are required to be made by a disability retiree, or spouse of a deceased disability retiree, to 10 years following the date of the disability retirement. The bill also limits some of its provisions to members who retire as a service or disability retiree after October 1, 2007 and their spouses.

This bill provides that the municipality contributions are considered part of the contract of employment between the municipality and the members.

This bill adds provisions to the current law regarding municipality contributions to the Fund, mandatory adjustments to contributions and uniformed service credit toward contributions.

CSHB 2751 provides for mandatory contributions to the Fund by the municipality. Establishes the formula by which the amount of the contributions is determined. Provides that all contributions made by the municipality are considered compensation for services rendered and that the Act is part of the contract of employment between the municipality and the fire fighters and police officers of the municipality.

This bill establishes mandatory annual increases of up to 10 percent per year if the actuarial unfunded liability of the Fund exceeds 30 years on October 1, 2017 in: (i) contributions by the municipality, members and retirees (and spouses of deceased retirees), and (ii) maximum deductibles and out-of-pocket payments required under the retiree health care plan. This bill allows the board to discontinue the mandatory increases if the actuarial unfunded liability of the Fund becomes 30 years or less. CSHB 2751 prohibits the board from making any changes in contributions provided for in the bill other than those provided for in the language of the bill.

This bill provides language to comply with federal law governing the rights of members who enter active military service. CSHB 2751 allows members to be relieved from the obligation to make contributions under the Act during the term of any service in the United States military without losing any seniority or retirement benefits. This bill requires the member to repay the

contributions lost during the term of service over a period of time not to exceed five years. For each member who repays the Fund the contributions lost during the term of military service, the municipality shall also repay the contributions that it would have made for the member. Any member who does not repay the contributions in accordance with this section shall lose credit for the term of military service.

This bill clarifies that the Board has the power to preserve the Fund's status as a voluntary employee's beneficiary association under the Internal Revenue Code.

The bill modifies the manner in which the Act addresses health and medical benefits available to beneficiaries of the Fund. CSHB 2751 provides that eligibility to receive health and medical benefits under the Act is governed by the retiree health plan (as defined under the Act) then in effect. This bill provides that health and medical benefits will be paid to eligible beneficiaries in accordance with the provisions of the retiree health plan (as defined in the Act) then in effect.

CSHB 2751 provides that subsequent changes to the collective bargaining agreements or master contract document (as defined in the Act) will not affect the retiree health plan.

Language is provided in the bill that allows the Board to modify the retiree health plan, provided that the modifications do not increase the Fund's actuarial unfunded liability.

This bill provides that the Board may discontinue benefits for any person who does not make the contributions required under the provisions of this bill.

CSHB 2751 increases the maximum deductible for each individual per year required under the retiree health plan from \$100 to \$200 (as applicable under the retiree health plan) beginning January 1, 2008. This bill increases the maximum deductible for each family per year required under the retiree health plan from \$200 to \$400 (as applicable under the retiree health plan), beginning January 1, 2008.

This bill increases the maximum out-of-pocket payment per individual required under the retiree health plan as follows: On January 1, 2008, from \$600 or \$700 (as applicable under the retiree health plan), to \$1,500; On January 1, 2009, from \$1,500 to \$1,600; On January 1, 2010, from \$1,600 to \$1,700; On January 1, 2011, from \$1,700 to \$1,800; On January 1, 2012, from \$1,800 to \$1,900. This bill provides that, commencing January 1, 2013, on January 1 of each year the Board shall increase the amount of the maximum out of pocket payments and maximum deductible payments established under subsections 5.01(f) and 5.01(g) by the annual increase in health care costs as established by an index selected by the Fund's actuary, and that the increase in any year may not exceed 8 percent.

CSHB 2751 requires that the Board shall require the preparation and submittal to the Board of monthly financial reports showing all receipts and disbursements of the Fund.

This bill makes a technical correction to include an additional Internal Revenue Code section reference.

The list of those types of service providers which the Board may engage to provide necessary services required for the Fund's efficient operation is expanded.

A technical correction is made in the bill to reflect common industry usage of the term "investment consultant" rather than "investment manager".

SECTION 19. repeals Sec. 6.01.

This bill allows the current fire chief and police chief of the municipality to elect not to be a member of the Fund if such election is made within 30 days of the effective date of this Act. A chief that does not make this election shall automatically be a member.

Language is provided in this bill that specifies that changes in contributions to the Fund implemented by the Act do not go into effect until the first payroll date (as defined under the Act) that occurs after the effective date of the Act.

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EFFECTIVE DATE

October 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute amends language of the original bill in order to provide clarity regarding the intent and purpose of the amended sections. Technical corrections are made in the substitute to reflect the changes made to the original bill.

The substitute adds “to members” at the end of the definition of “payroll date” to remove potential ambiguity as to the specific date referenced in the definition.

The substitute adds the words “or retires” after the word “retire” to include in the definition members retiring after the effective date of the Act.

Language is added in the substitute to specify that all members (as defined in the Act) are members of the Fund.

The substitute corrects the formula for determining the amount of member contributions by changing the term “annual member payroll” to the term “average member salary”.

SECTION 11 is amended by adding the word “will” between the words “that” and “occur” in order to clarify the meaning of the provision.

The substitute changes the words “a retiree who retired with” to “a service retiree or disability retiree who retired or retires with” to clarify that CSHB 2751 applies to service or disability retirees and to members who retire after the effective date of the Act. The substitute changes “becomes eligible for” to “becomes eligible for or would have become eligible for” to clarify that the duty of deceased retiree’s surviving spouse to make contributions for 30 years terminates when the deceased retiree would have become eligible for Medicare coverage.

The substitute replaces the reference to “this Act” with a reference to “the pension act” to correct the reference.

The substitute corrects the formula for determining the amount of retiree (and retiree spouse) contributions by changing “annual member payroll” to “average member salary”. The substitute corrects the formula for determining the amount of municipality contributions by changing “annual member payroll” to “average member salary”.

The substitute amends the heading to include the term “AND DEDUCTIBLES” to more adequately describe the subject matter of the section and corrects certain statutory references.

The substitute amends SECTION 14 by adding the words “retiree health plan or the” to clarify the meaning of the provision. The substitute further amends SECTION 14 by adding language to clarify that the Board may not modify the retiree health plan so long as the modifications, taken as a whole, do not increase the total actuarial unfunded liability of the Fund. Adds language providing that the Board has exclusive authority to modify the retiree health plan.

The substitute changes “increases from \$200” to “increases from \$100 or \$200, whichever is applicable” to account for Fund members whose current maximum deductible is \$100 under the retiree health plan.

The substitute changes “from \$700” to “from \$600 or \$700, whichever is applicable” to account for Fund members whose current maximum out of pocket, including deductible, payment per individual is \$600 under the retiree health plan.

SECTION 19 of the substitute removes the repealer of Section 4.01 in light of the new amendment made in SECTION 9 of CSHB 2751.