

BILL ANALYSIS

C.S.H.B. 3355
By: Haggerty
Pensions & Investments
Committee Report (Substituted)

BACKGROUND AND PURPOSE

This bill amends language in Article 6243b, Revised Statutes, which governs the creation and administration of certain fire and police pension funds. The changes in this bill pertain to the composition of the board of trustees of the Firemen and Policemen Pension Fund and the term of service of the board members. This bill also provides a procedure by which pension benefits may be modified and contributions to the Fund may be increased by both employees and the municipality. The provisions of the Act are contingent on the deposit of \$100 million to a Firemen and Policemen Pension Fund prior to July 31, 2007 and of \$110 million to a Firemen and Policemen Pension Fund prior to July 31, 2009.

RULEMAKING AUTHORITY

It is the committee's opinion that this Act does not expressly grant any additional rulemaking authority to any state officer, department, agency or institution.

ANALYSIS

ARTICLE I CONTINGENT PROVISIONS EFFECTIVE SEPTEMBER 1, 2007

SECTION 1.01 The Act would amend language which pertains to the composition of the board of trustees of the Firemen and Policemen Pension Fund (the "Board"). In all incorporated cities and towns containing more than 550,000 inhabitants and less than 600,000 inhabitants, the Board would consist of three (3) citizens designated by the Mayor; two (2) citizens designated by the City Manager; three (3) policemen elected by the members of the policemen's pension fund; and three (3) firemen elected by members of the firemen's pension fund. The Board would choose one member as Chairman and appoint a secretary. The Board would administer the pension fund and report annually to the governing body of the city or town regarding the condition of the fund. Specifically designated seats are deleted from the provisions, as is language that staggers terms of office. Each member of the Board would serve a four (4) year term.

SECTION 1.02. Adds a reference in Section 2, Article 6243(b) to a new Section 14A.

SECTION 1.03. Adds a reference in Section 3, Article 6243(b) to a new Section 14A.

SECTION 1.04. Language is added, and would govern the process for modifying the benefits provided under Section 10A(a)(1), Article 6243b Vernon's Texas Civil Statutes. Subsection (c) provides that in the event the Board decided to modify or change such benefits, the modification or change would have to be approved by a qualified actuary selected by a four-fifths vote of the Board; the change would have to be approved by the city or town's governing body; and if the change is disapproved by such governing body or if the governing body fails to act within 60 days, the Board, by resolution passed by a majority of the members of the whole Board plus one, may petition the governing body to hold an election on the question.

SECTION 1.05. Adds a new Section 14A that provides that a qualified actuary shall determine the total contribution rate, expressed as a percentage of wages, necessary to amortize the unfunded actuarial accrued liability over a 40-year period; and provides a mechanism for increasing contribution by both the members and the city or town.

SECTION 1.06. Provides for certain members to continue to serve on the Board until their replacements are named.

SECTION 1.07. Provides that Article 1 of the Act is contingent on the deposit, not later than July 31, 2007, of at least \$100 million to a Firemen and Policemen Pension Fund by a city or town that operates such a fund under Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes). Notice of such deposit shall be published by the city or town in the Texas Register as soon as practicable after the date of the deposit.

SECTION 1.08 Subject to Section 1.07, Article 1 of the Act takes effect September 1, 2007.

ARTICLE II CONTINGENT PROVISIONS EFFECTIVE SEPTEMBER 1, 2009

SECTION 2.01. Reenacts Section 1(a), Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes).

SECTION 2.02. Reenacts Section 2, Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes).

SECTION 2.03. Reenacts Section 3, Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes)

SECTION 2.04. Reenacts Sections 10A(a) and (b), Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes).

SECTION 2.05. Repeals the following laws:

- (1) Section 1(b), Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes), as amended by Article 1 of the Act;
- (2) Section 10A(c), Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes), as added by Article 1 of the Act; and
- (3) Section 14A, Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes), as added by Article 1 of the Act.

SECTION 2.06. Defines "board of trustees" as a board of trustees constituted under Section 1(a), Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes) and defines "city or town" as a city or town that operates a Firemen and Policemen Pension Fund under Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes).

Provides that on the effective date of Article 2, the terms of those citizen member appointees of the board of trustees, who were appointed by city manager shall terminate and reinstates the membership the police chief or his designee and the fire chief or his designee. Citizen board members designated by the mayor who are serving on the effective date of Article 2 shall continue to serve for the remainder of the members' four year terms.

A member of the board of trustees elected by the members of a fireman's pension fund or the members of a policemen's pension fund shall continue to serve for the remainder of the member's four year term.

SECTION 2.07. Subject to Section 2.07, Article 2 of the Act takes effect only if Article 1 of the Act takes effect in accordance with Section 1.07 of the Act. If Article 1 of the Act does not take effect, Article 2 has no effect.

Subject to the paragraph above, Article 2 takes effect September 1, 2009 and supersedes Article 1 of the Act unless, not later than July 31, 2009, at least \$110 million is deposited to a Firemen and Policemen Pension Fund by a city or town that operates such a fund under Chapter 101, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil Statutes). If a city or town makes the deposit described in this paragraph on or before July 31, 2009, Article 2 has no effect. Notice of such deposit shall be published by the city or town in the Texas Register as soon as practicable after the date of the deposit.

COMPARISON TO ORIGINAL

No change in Section 1.01. The substitute creates a new Section 1.02 by adding a reference to Article 6243(b) to a new Section 14A. The substitute creates a new Section 1.03 that references Article 6243(b) to a new Section 14A. Section 1.04, originally Section 2 of the bill, adds subsection (c) of Section 10A, Article 6243b, which governs the process for modifying the benefits provided under Section 10A(a)(1), Article 6243b, and eliminates the creation of subsection (d), which dealt with events related to underfunding. The substitute creates new section 1.05 that adds a new Section 14A that provides that a qualified actuary shall determine the total contribution rate and provides a mechanism for increasing contribution by the members and the city or the town. The substitute creates a new Section 1.06 that provides for certain members to continue to serve on the board of trustees until their replacements are named. The substitute creates a new section 1.07 that provides that a deposit of \$100 million into a Firemen and Policemen Pension Fund by July 31, 2007 is necessary for Article 1 of the Act to become effective.

The substitute creates Sections 2.01-- 2.04 that reenact Sections 1(a), 2, 3 and 10A(a) and (b), Article 6243b. The substitute creates a new Section 2.05 and repeals Section 1(b), 10A(c), and 14A, Article 6243b.

The substitute creates Section 2.06 that provides definitions of "board of trustees" and "city or town" and provides that upon the effective date of Article 2, the terms of certain appointed members of the board of trustees shall expire, to be replaced by the officials (or their duly authorized representatives) who appointed them.

The substitute creates Section 2.07 that provides that Article 2 does not go into effect unless Article 1 goes into effect. The effective date of Article 2 shall be September 1, 2009, and Article 2 supersedes Article 1 unless, not later than July 31, 2009, at least \$110 million is deposited into a Firemen and Policemen Fund by a city or town that operates such a fund under 6243b.

EFFECTIVE DATE

Subject to the conditions precedent set forth in Section 1.07 of the Act, Article 1 of the Act takes effect September 1, 2007. Subject to Section 2.07 of the Act, Article 2 of the Act takes effect on September 1, 2009, only if Article 1 takes effect in accordance with Section 1.07 of the Act. If Article 1 of the Act does not take effect, Article 2 has no effect.