

## **BILL ANALYSIS**

Senate Research Center  
80R13378 KFF-F

C.S.S.B. 1778  
By: Wentworth  
Intergovernmental Relations  
4/26/2007  
Committee Report (Substituted)

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

The San Antonio Fire and Police Retiree Health Care Fund (fund) was created to provide health benefits to qualified retired fire fighters, police officers, and their beneficiaries. Due to the rising cost of health care, the fund has insufficient funds and insolvency is projected for the year 2023. The board of trustees of the fund attempted to resolve the deficit but has been powerless to do so due to the lack of statutory authority to control contributions to, and benefits provided by, the fund.

C.S.S.B. 1778 codifies extensive changes in the management and control of the fund, imposes contribution increases, and decreases the level of benefits in order to reduce the funding deficit and ensure the existence of the fund for future retired fire fighters and police officers.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to any 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.) by amending Subdivisions (1), (3), (4), and (8) and adding Subdivisions (1-a), (1-b), (6-a) through (6-e), to define "actuary," "annual member payroll," "average member salary," "master contract document," "member," "payroll date," "pension act," "pension fund," "retiree health plan," and "years of service," and to redefine "beneficiary," "collective bargaining" and "retiree." Deletes the definition of "active member."

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 1,140,000 or more but less than 1,180,000, rather than of 750,000 or more that has adopted Chapter 174 (Fire and Police Employee Relations), Local Government Code.

SECTION 3. Amends Sections 2.01(a) and (b), Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), as follows:

(a) Provides that the firefighter's and police officer's retiree health care fund (fund) of a municipality is governed by a board of trustees (board) consisting of nine members, including the mayor of the municipality, or the designee thereof, and certain other members of the fund, rather than active members of the fund.

(b) Requires the board, through its secretary, to administer the required elections of the members and retiree trustees. Requires the board to hold a runoff election between the two candidates receiving the most votes if no candidate receives a majority of the votes cast for a trustee position. Requires the 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 Section 2.02, Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), by amending Subsections (a), (c), and (d) and adding Subsection (a-1), as follows:

(a) Provides that the mayor of the municipality, or the designee thereof, serves on the board for the term of the mayor's office, subject to Subsection (a-1).

(a-1) Authorizes the mayor to remove and replace the mayor's designee at his or her discretion.

(c) and (d) Make a conforming change.

SECTION 5. Amends Sections 2.03(a) and (c), Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), as follows:

(a) Makes a conforming change.

(c) Requires 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 twenty percent of the persons eligible to vote to elect the trustee.

SECTION 6. 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, who is authorized, but not required, to be a trustee. Deletes existing text providing that the treasurer of the municipality is the treasurer of the board.

SECTION 7. Amends Section 3.01, Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), by adding Subsections (f) through (k), as follows:

(f) Provides that the board has full discretion and authority to administer the fund and the retiree health plan, construe and interpret this Act and the retiree health plan, correct any defect or omission, reconcile any inconsistency, and perform all other acts necessary to carry out the purpose of this Act and the retiree health plan and administer this Act and the retiree health plan for the greatest benefit of all members in a manner and to the extent that the board considers expedient.

(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 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 alternate payee is confidential under Chapter 552 (Public Information), Government Code. Prohibits the information from being disclosed in a form that identifies a specific individual, unless the information is disclosed to certain persons or under a subpoena.

(j) Provides that Subsection (i) 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) does not require notice to the member, retiree, beneficiary, or alternate payee.

SECTION 8. 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 9. 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 each member is a member of the fund, rather than requiring membership in the fund to be determined by the collective bargaining agreements.

SECTION 10. Amends Article 4, Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), by adding Section 4.011, as follows:

Sec. 4.011. MEMBERSHIP OF FIRE CHIEF AND CHIEF OF POLICE. Authorizes a fire chief or chief of police, not later than the 30th day after the date a fire chief or chief of police of a municipality assumes office, to make an irrevocable election to not become a member of the fund or to terminate membership in the fund by delivering written notice of such election to the secretary of the board. Provides that a fire chief or police chief who does not make such an election is considered to have chosen to become or to remain a member of the fund.

SECTION 11. 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 AND BENEFICIARY CONTRIBUTIONS. (a) Requires, subject to Section 4.022 of this Act, that a certain amount be deducted from each member's compensation and contributed to the fund on each payroll date. Sets forth criteria on which each member's contribution is required to be based.

(b) Sets forth the applicable percentage to each fiscal year for the purposes of Subsections (a)(2) and (d)(3). Deletes existing text requiring all money received from any source for the fund to be deposited in the fund at the earliest opportunity.

(c) Requires a service retiree or a disability retiree who retired or retires with less than 30 years of service, or the retiree's surviving spouse in the case of a deceased retiree, in order to be eligible for health benefits under Section 5.01 of this Act, to continue to make monthly contributions in accordance with Subsection (d) to the fund after the date of the retiree's retirement for the lesser of certain periods.

(d) Requires the pension fund to deduct the contribution required under Subsection (c) from the monthly retirement benefit payment or death benefit payment paid to each retiree or spouse thereof, who is required to make the contributions, excluding payments made by the pension fund under Section 6.12 of the pension act. Requires the pension fund to deduct a certain amount and provides the method of calculation on which to base a retiree's contribution amount.

(e) 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 (c) for more than 10 years following the date of the disability retiree's retirement.

(f) Provides that this section applies only to members who retire as a service or disability retiree after October 1, 2007, and their surviving spouses.

(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 and that this Act is considered part of the contract of employment and appointment of the firefighters and police officers of that municipality.

SECTION 12. Amends Article 4, Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), by adding Sections 4.021, 4.022, and 4.023, as follows:

Sec. 4.021. CONTRIBUTIONS BY A MUNICIPALITY. (a) Requires a municipality to which the Act applies, subject to Section 4.022, to pay into the fund on each payroll date the municipal contribution amount applicable to the fiscal year in which the payroll date occurs. Provides that the municipal contribution amount applicable to a fiscal year equals a certain amount obtained by a certain method of calculation.

(b) Makes conforming changes.

Sec. 4.022. MANDATORY ADJUSTMENTS TO RETIREE HEALTH PLAN CONTRIBUTIONS, OUT-OF-POCKET PAYMENTS, AND DEDUCTIBLES. (a) Requires the board, subject to Subsection (b) of this section and if on October 1, 2017, the actuary determines and states in the then most recent actuarial report delivered to the board that the number of years required to fully amortize the unfunded liability of the fund is more than 30 years, to modify the retiree health plan in a certain manner.

(b) Provides that the board is not required to implement additional increases under Subsection (a) if the actuary determines and states in the actuarial report delivered to the board that the number of years required to fully amortize the unfunded liability of the fund is 30 years or less.

(c) Prohibits the board, except as provided by this section, from changing the amount of contributions to the fund by a member under Section 4.02 of this Act or a municipality under Section 4.021 of this Act.

Sec. 4.023. UNIFORMED SERVICE. (a) Prohibits a member of the fund who enters any uniformed service of the United States from being required to make the monthly payments into the fund while the member is engaged in active service with the uniformed service or from losing any seniority rights or retirement benefits provided by this Act because of that service.

(b) Requires the member, not later than the 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) in full within a certain period, except that the maximum period for payment is prohibited from exceeding five years.

(d) Provides that if the member does not comply with Subsections (b) and (c), 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.

(f) Requires a municipality to which this Act applies, if the member complies with this section and makes all required payments, to make payment to the fund in an amount equal to the amount the municipality would have paid if the member had remained on active status in the department during the member's absence while in the uniformed service.

SECTION 13. Amends Section 4.03(b), Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), to make nonsubstantive changes.

SECTION 14. 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 in accordance with the provisions of the retiree health plan in effect, except as otherwise provided by this Act.

(b) Requires health and medical benefits to be provided by the fund to eligible persons in accordance with the provisions of the retiree health plan in effect, except as otherwise provided by this Act.

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

(d) Authorizes the board, as it considers appropriate, to modify the retiree health plan if the modifications adopted at any regular or special meeting of the board do not, in the aggregate, increase the fund's total actuarial unfunded liability, as determined by the actuary. Provides that the board has exclusive authority to modify the retiree health plan.

(e) Authorizes the board to discontinue benefits for any person who does not make the required contributions.

(f) Provides that, on January 1, 2008, the maximum deductible for each individual in a calendar year increases from \$100 or \$200, as applicable, to \$500, and the maximum deductible for each family in a calendar year increases from \$200 or \$400, as applicable, to \$1,000.

(g) Sets forth the date and corresponding increase for maximum out-of-pocket, including deductible, payments for each individual for certain calendar years.

(h) Requires the board, commencing on January 1, 2013, and on January 1 of each year thereafter, to increase the amount of the maximum deductible and out-of-pocket payments established under this section by a certain percentage not to exceed eight percent. Deletes existing text requiring the retirement health benefits to be determined in accordance with the collective bargaining agreements.

SECTION 15. 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. (a) Creates this subsection from existing text.

(b) Requires the board to require that monthly financial reports showing all fund receipts and disbursements be prepared and submitted to the board.

SECTION 16. Amends Section 6.04(c), Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.), as follows:

(c) Authorizes the board to directly manage investments of the reserve funds or to choose to award a contract for professional management services. Authorizes the board, if the funds own real estate, to establish an organization described by certain codes, including by Section 501(c)(2) or 501(c)(25), Internal Revenue Code of 1986, rather than 26 U.S.C. Section 501(c)(25), to hold title to the real estate.

SECTION 17. 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 certain professional services, including third-party administrators, preferred providers, and health maintenance organizations.

SECTION 18. 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. Requires the board, in appointing investment consultants, rather than investment managers, to require that the investment consultant meet certain qualifications.

SECTION 19. Repealer: Sections 4.01 (Membership) and 6.01(Treasurer's Duties), Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, V.T.C.S.).

SECTION 20. Authorizes a police chief or fire chief, not later than the 30th day after the effective date of this Act, to make an irrevocable election to not become a member of the fund or to terminate membership in the fund by delivering written notice of that election to the secretary of the board. Makes a conforming change.

SECTION 21. Makes application of this Act prospective.

SECTION 22. Effective date: October 1, 2007.