

BILL ANALYSIS

Senate Research Center
81R17262 TJS-F

H.B. 2796
By: Strama (Watson)
State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of this legislation is to reflect the agreement between the City of Austin (city) and the Austin Police Association (APA) for funding of the Austin Police Retirement System (APRS) in order to cover the costs of APRS' participation in the statewide proportionate retirement program and to ensure satisfaction of technical retirement plan qualification requirements under section 401(a) the Internal Revenue Code.

Specifically, this legislation facilitates the consolidation of the city's law enforcement functions of the Public Safety and Emergency Management Department (PSEM) into the Austin Police Department (APD), as agreed to by the city and APA through the meet and confer process, by arranging for funding to APRS for the cost of participating in the statewide proportionate retirement program (PRP). The city desired consolidation of the PSEM employees into APD and worked with the APA through meet and confer to implement such consolidation. However, without PRP participation by APRS, the retirement benefits of the PSEM employees would have been adversely impacted by the consolidation. APRS has already elected to participate in PRP, which ensures protection of the PSEM retirement benefits.

H.B. 2796 amends current law relating to participation in, contributions to, and the benefits and administration of retirement systems for police officers in certain municipalities.

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 6.01(f), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, V.T.C.S.), as follows:

(f) Prohibits the compensation of each noneligible member taken into account under this Act, for purposes of this section, from exceeding \$200,000, rather than \$150,000, per calendar year, indexed pursuant to Section 401(a)(17) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). Provides that the \$200,000 limit, rather than the \$150,000 limit, does not apply to an eligible member.

SECTION 2. Amends Section 8.01(a), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, V.T.C.S.), as follows:

(a)(1) Creates this subdivision from existing text. Requires that deposits by the members to the police retirement system be made at a rate of at least six percent of the basic hourly earnings of each member.

(2) Creates this subdivision from existing text. Requires the City of Austin (city) to contribute amounts equal to 18 percent of the basic hourly earnings of each member employed by the city for all periods on or before September 30, 2010, subject to the additional amounts as provided by Subdivision (3) of this subsection. Requires the city to contribute amounts equal to 19 percent of the basic hourly earnings of each member employed by the city for all periods after September 30, 2010, subject to additional amounts as provided by Subdivision (3)

of this subsection. Authorizes the city council to also authorize the city to make additional contributions to the police retirement system in whatever amount the city council may determine.

(3) Requires the city to contribute amounts in addition to the amounts described by Subdivision (2) of this subsection as required by Section 803.101(h) (relating to the requirement that the governing body of a municipality that finances a proportionate retirement program to make certain payments to the retirement system), Government Code, to fund the additional liabilities incurred by the police retirement system as a result of participating in the proportionate retirement program. Provides that the rate at which the city is required to contribute additional amounts under this subdivision is equal to 0.25 percent of the basic hourly earnings of each member employed by the city for all periods from January 4, 2009, through September 30, 2009. Provides that the rate at which the city is required to contribute additional amounts under this subdivision is equal to 0.63 percent of the basic hourly earnings of each member employed by the city for all periods after September 30, 2009, subject to adjustment under Subdivision (4) of this subsection.

(4) Requires the additional contribution rate under Subdivision (3) of this section to increase or decrease as considered necessary by the actuary for the police retirement system after each five-year period of participation by the system in the proportionate retirement program in order to update the amount necessary to fund the additional liabilities incurred by the system as a result of participating in the proportionate retirement program and of the consolidation of the city's public safety and emergency management department with the police department on January 4, 2009. Requires the system's actuary to perform an experience study that is required to be the basis for a contribution rate adjustment under this subdivision. Provides that the effective date of the initial contribution rate adjustment under this subdivision is October 1, 2015. Provides that each later contribution rate adjustment under this subdivision takes effect October 1 of every fifth year after the effective date of the initial contribution rate adjustment. Requires the system's actuary to present to the police retirement board the experience study on which any contribution rate adjustment under this subdivision is based not later than 45 days before the effective date of the adjustment, and the city's actuary is required to have the opportunity to review and comment on the study. Prohibits an adjustment in the additional contribution rate under this subdivision from causing the additional contribution rate under Subdivision (3) of this subsection to be less than zero.

SECTION 3. Amends Section 11.01, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, V.T.C.S.), as follows:

Sec. 11.01. LIMITATION ON PAYMENT OF BENEFITS. (a) Creates this subdivision from existing text. Requires the police retirement system, if the amount of any benefit payment otherwise due under this Act or the total payments due under this Act and any other qualified defined benefit plan maintained by this city would exceed the limitations provided by Section 415(b), Internal Revenue Code of 1986, as amended, and the regulations adopted under that section, to reduce the amount of the benefit paid under this Act as required to comply with that section. Requires the annual additions under this Act, if the annual additions that would otherwise be allocated under this Act, or the total annual additions under this Act and any other qualified plan maintained by the city would exceed the limits under Section 415(c), Internal Revenue Code of 1986, to be reduced to the extent required to comply with Section 415(c), Internal Revenue Code of 1986.

(b) Provides that for purposes of determining if the benefits or annual additions satisfy the limits provided by Subsection (a) of this section, the compensation to be used is wages within the meaning of Section 3401(a), Internal Revenue Code of 1986, plus amounts deferred at the election of the member that would be included in wages if not deferred under the rules of Section 402(e)(3), 125(a), 132(f)(4), 457(b), 402(h)(1)(B), or 402(k), Internal Revenue Code of 1986.

Provides that however, any rules that would limit the remuneration included in wages based on the nature or location of the employment or the services performed are disregarded for purposes of determining compensation. Provides that, in addition, any wages paid after a severance from employment are not included as compensation for purposes of this subsection unless the payment is for regular pay as described in 26 C.F.R. Section 1.415(c)-2(e)(3)(ii) and is made by the later of two and one-half months after the severance from employment or the end of the calendar year that includes the date of severance from employment. Requires the amount, if excess annual additions are made to any member's account despite the efforts of the board of trustees, to be treated in accordance with 26 C.F.R. Section 1.402(g)-1(e)(2) or (3).

(c) Provides that the applicable mortality table for purposes of adjusting a benefit due to the limitations provided under Section 415(b)(2)(B) or (D), Internal Revenue Code of 1986, is the table prescribed by Revenue Ruling 2001-62.

SECTION 4. Amends Sections 13.01(b)(2) and (3), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, V.T.C.S.), to redefine "eligible retirement plan" and "distributee."

SECTION 5. Effective date: September 1, 2009.