

## **BILL ANALYSIS**

C.S.H.B. 2796

By: Strama

Pensions, Investments & Financial Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The City of Austin desires a consolidation of Public Safety and Emergency Management Department (PSEM) employees into the Austin Police Department (APD) and has worked with the Austin Police Association (APA) through a meet and confer process to implement the consolidation. The retirement benefits of the PSEM employees would have been adversely impacted by the consolidation without the statewide proportionate retirement program's participation in the Austin Police Retirement System (APRS). APRS already has elected to participate in the proportionate retirement program, which ensures protection of the PSEM retirement benefits.

C.S.H.B. 2796 facilitates the consolidation of the City of Austin's law enforcement functions of PSEM into APD, which has been 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. The bill provides an initial increase in the funding from the city to APRS from a contribution rate of 18 percent of payroll to 18.25 percent of payroll. As of January 10, 2009, the contribution rate will increase to 18.63 percent. The bill provides that every five years an actuarial study will be performed to adjust the rate based on costs related to actual plan experience with participation in the proportionate retirement program, and the city will contribute an additional one percent effective January 10, 2010. There are no fiscal implications on the state level, and the city has already agreed to the additional funding to APRS. The retirement plans of other Texas cities will not be impacted by the bill.

C.S.H.B. 2796 reflects the agreement between the City of Austin and APA for funding of APRS in order to cover the costs of APRS participation in the statewide proportionate retirement program and to ensure the satisfaction of technical retirement plan qualification requirements under the federal Internal Revenue Code. The City of Austin, APA, the Austin Police Retired Officers Association, and APRS are all in support of the bill and have provided letters of support, or in the case of the Austin City Council, a resolution of support.

### **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**

C.S.H.B. 2796 amends Section 6.01(f), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991, to raise the cap on compensation of each noneligible member taken into account by a police officer retirement system in a municipality having a population of more than 600,000 and less than 700,000, for purposes of determining retirement benefits and benefit increases from \$150,000 to \$200,000 per calendar year, indexed pursuant to the federal Internal Revenue Code of 1986. The bill specifies that the \$200,000 limit does not apply to an eligible member.

C.S.H.B. 2796 amends Section 8.01(a), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991, to maintain the existing level of the city's contributions to the police retirement system at an amount 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, and to increase the city's required level of contribution to an amount equal to 19 percent of the basic hourly earnings of each member employed by the city for all periods after September 30, 2010. The bill requires the city to contribute amounts, in addition to the specified percentage of the basic hourly earnings of each member as required by the proportionate retirement program, to fund the additional liabilities incurred by the police retirement system as a result of participating in the proportionate retirement program. The bill sets the rate of this additional required contribution at 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, and increases that rate 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 the bill's provisions. The bill requires the additional contribution rate 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. The bill requires the system's actuary to perform an experience study that shall be the basis for a contribution rate adjustment. The bill establishes that the effective date of this initial contribution rate adjustment is October 1, 2015, and each later contribution rate adjustment takes effect October 1 of every fifth year after the effective date of the initial contribution rate adjustment. The bill requires the system's actuary to present to the police retirement board the experience study on which any contribution rate adjustment is based not later than 45 days before the effective date of the adjustment and requires the city's actuary to have the opportunity to review and comment on the study. The bill prohibits an adjustment in the additional contribution rate from causing the additional contribution rate to be less than zero.

C.S.H.B. 2796 amends Section 11.01, Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991, to require the police retirement system, if the total payments due under the provisions of this bill and any other qualified defined benefit plan maintained by a city would exceed the limitations provided by the federal Internal Revenue Code of 1986, to reduce the amount of a benefit paid under the bill's provisions as required to comply with the Internal Revenue Code. The bill requires the annual additions to be reduced to the extent necessary to comply with the Internal Revenue Code if the annual additions that would otherwise be allocated or the total annual additions and any other qualified plan maintained by the city would exceed the limits of the Internal Revenue Code. The bill establishes that, for purposes of determining whether the benefits or annual additions satisfy such limits, the compensation to be used is wages within the meaning of the Internal Revenue Code, plus amounts deferred at the election of the member that would be included in wages if not deferred under the applicable rules of the Internal Revenue Code. The bill, however, sets forth that 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. The bill establishes that any wages paid after a severance from employment are not included as compensation unless the payment is for regular pay as described in the Code of Federal Regulations 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. The bill requires an amount to be treated in accordance with the Code of Federal Regulations if excess annual additions are made to any member's account despite the efforts of the board of trustees. The bill designates the table prescribed by Revenue Ruling 2001-62 as the applicable mortality table for purposes of adjusting a benefit due to the limitations provided by the federal Internal Revenue Code of 1986.

C.S.H.B. 2796 amends Sections 13.01(b)(2) and (3), Chapter 452 (S.B. 738), Acts of the 72nd Legislature, Regular Session, 1991, to redefine "eligible retirement plan" to accommodate the changes made by the bill's provisions, to apply the term to a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, and to establish that in the case of an eligible rollover distribution to a non-spouse beneficiary, an eligible retirement plan includes only an individual retirement account or individual retirement annuity. The bill redefines "distributee" to reflect the bill's provisions.

**EFFECTIVE DATE**

September 1, 2009.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 2796 differs from the original by prohibiting an adjustment in an additional contribution rate from causing the additional contribution rate, rather than causing the percentage rate of the additional contribution rate, from being less than zero. The substitute differs from the original by establishing that the definition of an "eligible retirement plan" applies to, rather than includes as in the original, a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order.