

## **BILL ANALYSIS**

H.B. 3033  
By: Naishtat  
Pensions, Investments & Financial Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The City of Austin employees retirement system provides retirement and disability retirement benefits to eligible municipal employees. While the retirement system remains able to pay benefits to retirees on an ongoing basis and is not at serious risk of insolvency within the near future, interested parties citing certain records have suggested that there is a need for legislation providing a reduced retirement benefit for future employees to ensure the future health and sustainability.

H.B. 3033 seeks to address the issue of benefits for future employees, ensure the retirement system's continued compliance with applicable federal law, codify benefit changes that were previously authorized by statute, and update statutes in order to reflect the city's population growth.

### **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**

H.B. 3033 amends the law governing municipal retirement systems in certain municipalities to increase the population range defining the municipalities to which the law applies, making the law applicable to each municipality with a population of more than 760,000 and less than 860,000 rather than a population in the range between 600,000 and 700,000. The bill establishes that its provisions continue to apply to a municipality having a population covered by the specified population bracket and that a retirement system of such a municipality continues to operate regardless of any change in the municipality's population. The bill removes similar language establishing that the retirement system continues to operate regardless of a change in the city's population.

H.B. 3033 extends the period for establishing eligibility for continued receipt of retirement benefits previously earned by establishing that members of the retirement system who retired before October 1, 2011, rather than before October 1, 1999, and beneficiaries of members who died before that revised date, continue to receive the same retirement allowances or benefits to which they were previously entitled, together with any benefit increase subsequently authorized. The bill requires members of the system on or before December 31, 2011, to be enrolled as members of Group A and requires persons that first become members of the retirement system on or after January 1, 2012, to be enrolled in Group B.

H.B. 3033 defines "Group A" as the group of retirement system members that includes each member who began membership service on or after January 1, 1941, and on or before December 31, 2011, or who returned to full-time employment on or after January 1, 2012, and was previously a member of Group A, ceased to be a member of the system, received a distribution of the member's accumulated deposits, and reinstated all of the member's prior membership

service credit. The bill defines "Group B" as the group of retirement system members that includes each member who began membership service on or after January 1, 2012, or who returned to full-time employment on or after that date and was previously a member of Group A, ceased to be a member of the system, received a distribution of the member's accumulated deposits, and has not reinstated all of the member's prior membership service credit.

H.B. 3033 specifies that membership in the system consists of Groups A and B and that a member who resumes regular full-time employment is assigned to the group for which the member is qualified. The bill authorizes a person who has ceased to be a member and has received a distribution of the person's accumulated deposits to have the person's membership service reinstated on resuming employment as a regular full-time employee after redepositing the accumulated deposits that were withdrawn and applying for reinstatement of membership service in the original group in which the membership service was earned. The bill removes conditions on the duration of the reemployment and on the period for redeposit of the withdrawn deposits.

H.B. 3033 specifies that a member is not precluded from purchasing qualified military service to which the member is entitled solely because the member, before beginning a leave of absence for qualified military service, purchased creditable service for military service performed before becoming employed by the employer.

H.B. 3033 authorizes an active contributory member who is eligible for retirement to file a written application to convert to creditable service at retirement all or part of the member's sick leave accrued with the employer that is eligible for conversion and requires the application to be approved by the retirement board. The bill prohibits the member from converting sick leave for which the member is entitled to be paid by the employer and authorizes conversion of sick leave hours in pay period increments for the purpose of increasing creditable service that is used in the calculation of benefits. The bill prohibits the use of sick leave hours to reach retirement eligibility and requires both the employer and the member to make the equivalent amount of retirement contributions that would have been made had the sick hours been exercised and used as sick leave hours. The bill authorizes the purchase of nonqualified permissive creditable service by a member only within the limits and in accordance with the procedures set out by the bill's provisions. The bill excludes nonqualified permissive creditable service purchased by members of Group B from the creditable service required to qualify a member for normal or early retirement eligibility.

H.B. 3033 requires a member of Group B eligible for early retirement who retires and applies in writing for a retirement allowance to receive the early retirement annuity to which the member is entitled. The bill specifies that a member's retirement benefit, if not already nonforfeitable, becomes nonforfeitable at normal retirement age.

H.B. 3033 authorizes a member selecting Option VI, the equivalent benefit plan, to elect to receive a lump-sum payment and either a life annuity or one of several optional actuarially equivalent annuities that provide for a joint and survivor annuity or a time certain and life annuity. The bill requires the annuity requested by a member, if the member requests a lump-sum payment, to be actuarially reduced as a result of the lump-sum payment. The bill prohibits the lump-sum payment from exceeding an amount equal to the total amount of 60 monthly life annuity payments. The bill authorizes active contributory members that reach normal retirement age to elect, upon retirement, to participate in a backward deferred retirement option program (Backward DROP) that permits a minimum participation period of one month and a maximum participation period of 60 months. The bill subjects this deferred retirement option to retirement board policies issued in compliance with the law and specifies that no interest will be paid on or added to any Backward DROP payment. The bill requires the reduced annuity of a retirement member who selected the optional lifetime retirement annuity, if the person designated in writing by the member under any retirement option that includes a joint and survivor option, excluding a joint and last survivor option, predeceases the retired member, to be increased to the standard service retirement annuity that the retiree would have been entitled to receive if the retired

member had not selected any of those joint and survivor annuity options.

H.B. 3033 entitles the beneficiaries of a member, if a member dies while performing qualified military service, to any additional benefits, other than benefit accruals relating to the qualified military service, that would have been provided if the member had returned from the military leave of absence and then terminated employment on account of death.

H.B. 3033 prohibits the annual benefit provided with respect to any member from exceeding the benefits allowed for a governmental defined benefit plan qualified under certain statutory provisions, rather than for a plan qualified under other provisions of law. The bill requires the maximum annual benefits to increase each year to the extent permitted by the annual cost-of-living increase adjustments announced by the Secretary of the Treasury and requires the increased benefit limits to apply to members who have terminated employment, including members who have started to receive benefits, before the adjustment's effective date. The bill establishes that a member who retires after reaching normal retirement age and continues or resumes employment with an employer in a position that is required to participate in another retirement system maintained by the employer continues to be eligible to receive the retirement allowance from the initial retirement system.

H.B. 3033 requires the retirement board to suspend the retirement allowance of a retired member who resumes employment with an employer within the period of time prescribed by the retirement board in the board's policy or who resumes employment after retirement as a regular full-time employee of an employer. The bill requires the retirement board to suspend the retirement allowance of a retired member who resumes employment with an employer in a position that is not required to participate in another retirement system maintained by an employer, and who is not a regular full-time employee of an employer, if the member works for, or is compensated by, an employer for more than 1508 hours in any rolling 12-month period after the member resumes employment with the employer.

H.B. 3033 requires the retirement board to reinstate a member's suspended retirement allowance on application by the member when the member retires again. The bill authorizes a member whose retirement allowance is suspended through either process to apply in writing for reinstatement of the retirement allowance when the member retires again and requires the system to calculate the reinstated retirement allowance based on the member's total creditable service, reduced actuarially to reflect the gross amount of total retirement allowance paid to the member before the suspension. The bill requires the system and the employer to adopt and amend procedures for the exchange of information in order to implement provisions relating to benefit limitations.

H.B. 3033 increases the rate of both member and employer contributions to the retirement system from seven percent to eight percent of the member's base compensation, pay, or salary. The bill provides for a higher employer contribution agreed to by the employer. The bill requires, rather than authorizes, the board of each employer other than the city, if the city's governing body authorizes additional contributions to the system by the city for city employees, to increase the contributions for such employer's respective employees by the same percentage.

H.B. 3033 establishes that members of the retirement system enrolled in Group A and members enrolled in Group B have the rights and are entitled to the benefits provided by the retirement system for members of Group A and Group B, respectively, and prohibits a member from being a member of both Group A and Group B. The bill specifies that an eligible rollover distribution does not include the portion of any distribution that is not includable in gross income unless the distributee directs that the eligible rollover distribution be transferred directly to a qualified trust that is part of a defined contribution plan that agrees to separately account for the portion that is includable in gross income and the portion that is not, or to an individual retirement account or individual annuity, rather than determined without regard to the exclusion for not realized appreciation with respect to employer securities.

H.B. 3033 defines "early retirement eligible member" and "early retirement annuity" and redefines "agency of the municipality," "average final compensation," "compensation," "current service annuity," "eligible rollover distribution," "eligible retirement plan," "distributee," "life annuity," "member," "normal retirement age," "normal retirement date," "prior service," and "prior service pension."

H.B. 3033 repeals the following provisions:

- Subsection (p), Section 9, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes)
- Subsection (g), Section 10, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes)

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, October 1, 2011.