

BILL ANALYSIS

Senate Research Center

S.B. 350
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State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 350 authorizes the Texas Municipal Retirement System (TMRS) to combine three internal fund accounts into a single fund account called the "Benefit Accumulation Fund."

If enacted, S.B. 350 would create cost savings for most cities that participate in TMRS. The restructuring would eliminate the leverage present in the current fund design, mitigate potential volatility in city contribution rates, reduce the need for TMRS to maintain a large contingency reserve to offset low-return ratios, and reduce unfunded actuarial accrued liabilities. Member and retiree benefits would not be affected by the restructuring.

S.B. 350 amends current law relating to the restructuring of fund obligations and accounts of the Texas Municipal Retirement System and related actuarial and accounting procedures.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the board of trustees of the Texas Municipal Retirement System is modified in SECTION 34 (Section 855.4065, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 851.001, Government Code, by amending Subdivisions (1) and (16) and by adding Subdivision (20), to redefine "accumulated contributions" and "member," and to define "individual account."

SECTION 2. Amends Section 852.103(a), Government Code, to authorize a living person who is not an employee of a participating department and who has not retired, after application, to withdraw all of the accumulated contributions credited to the person's individual account, rather than the person's individual account in the employees saving fund, and requires that the Texas Municipal Retirement System (TMRS) close the account.

SECTION 3. Amends Section 852.105(b), Government Code, to prohibit a governing body from adopting an ordinance under this section unless the actuary first determines, on the basis of mortality and other tables adopted by the board of trustees of TMRS (board of trustees), that all obligations of the municipality to the benefit accumulation fund, rather than municipality accumulation fund, including obligations proposed under the ordinance, can be funded by the municipality within its maximum contribution rate and within its amortization period.

SECTION 4. Amends Section 852.108(d), Government Code, to require that TMRS credit, rather than deposit, the contributions on receipt to the member's individual account and credit the account with interest annually at the same rate and manner as the accounts of other members are credited. Makes conforming changes.

SECTION 5. Amends Sections 852.109(b) and (d), Government Code, as follows:

(b) Makes conforming changes.

(d) Provides that the additional service retirement benefit allowable to a person to whom this section applies is, at the option of that person, either:

(1) a refund of accumulated contributions made since reemployment plus any accrued interest on the accumulated contributions allowed by the retirement system; or

(2) a benefit consisting of a basic annuity actuarially determined from the sum of the member's contributions made and accumulated since the date the person last became a member together with interest accrued on that amount since the person last became a member and an amount from the benefit accumulation fund equal to the amount of the member's contributions credited to the member's individual account since the person last became a member together with interest accrued on that amount since the person last became a member, or a greater amount authorized by the municipality under Section 855.501 (Increased Current Service Annuities). Deletes existing text providing that the additional service retirement benefit allowable to a person to whom this section applies has the option of a benefit consisting of a basic annuity actuarially determined from the sum of the member's deposits made and accumulated since the date the person last became a member together with interest accumulated on that amount since the person last became a member and an amount from the municipality accumulation fund equal to the amount of the deposits credited to the member's individual account since the person last became a member together with interest accumulated on that amount since the person last became a member, among other options.

SECTION 6. Amends Section 853.003(e), Government Code, to make a conforming change.

SECTION 7. Amends Section 853.402(c), Government Code, to make a conforming change.

SECTION 8. Amends Section 853.403(a), Government Code, to make a conforming change.

SECTION 9. Amends Section 853.404(d), Government Code, to make a conforming change.

SECTION 10. Amends Section 853.505(c), Government Code, as follows:

(c) Requires TMRS, when a person who has military service credit under Section 853.502 (Other Military Service Credit) retires and has paid for military service credit under former law, to compute an amount equal to the sum of any accumulated amount paid by the person for the military service credit under former law, plus an equal amount multiplied by the municipality's current service matching percent in effect on the date the member applied for the military service credit, rather than requiring TMRS, when a person who has military service credit under Section 853.502 retires, to transfer to the current service annuity reserve fund the accumulated amount paid by the person under Section 853.504(b) (relating to filing with TMRS a written application seeking military service credit) and an amount from the municipality account in the municipality accumulation fund equal to the accumulated amount paid by the person times the municipality's current service matching percent in effect on the date the member applies for credit under Section 853.504(b). Requires TMRS to use the sum derived from that computation, rather than the amounts, to make annuity payments to the person that are computed in the same manner as is the person's current service annuity, but prohibits the military service credit and the sum from being used in other computations, including computations of updated service credits or prior service credits. Makes a conforming change.

SECTION 11. Amends Section 853.601(a), Government Code, to make conforming changes.

SECTION 12. Amends Sections 854.002(c) and (d), Government Code, as follows:

(c) Provides that a current service annuity is actuarially determined on the date of a member's retirement from the sum of the amount credited to the member's individual

account, and an additional amount from the benefit accumulation fund, rather than the municipality accumulation fund, equal to the amount in the member's individual account or a greater amount authorized by a participating municipality under Section 855.501. Makes a conforming change.

(d) Makes conforming changes.

SECTION 13. Amends Section 854.008(b), Government Code, to make a conforming change.

SECTION 14. Amends Section 854.201(c), Government Code, to make a conforming change.

SECTION 15. Amends Section 854.202(d), Government Code, to make a conforming change.

SECTION 16. Amends Sections 854.203(f) and (g), Government Code, to make conforming changes.

SECTION 17. Amends Sections 854.309(a) and (c), Government Code, as follows:

(a) Provides that except as provided by Subsection (b), if a disability retirement annuity is discontinued under Section 854.307 (Certification of End of Disability) or the right to an annuity revoked under Section 854.306(b) (relating to a disability retiree refusing to submit to a medical examination), rather than 854.306(c), the retiree is entitled to a lump-sum payment in an amount, if any, by which the amount in the retiree's individual account at the time of disability retirement exceeds the amount of current service annuity payments made before the date the annuity was discontinued or the right to an annuity revoked. Makes a conforming change.

(c) Provides that the benefit provided by this section is payable from the benefit accumulation fund, rather than the current service annuity reserve fund.

SECTION 18. Amends Section 854.405(b), Government Code, to make a conforming change.

SECTION 19. Amends Section 854.501(a), Government Code, to make conforming and nonsubstantive changes.

SECTION 20. Amends Section 854.502, Government Code, as follows:

Sec. 854.502. REFUND OF UNRECOVERED CONTRIBUTIONS. (a) Makes conforming and nonsubstantive changes.

(b) Provides that the benefit provided by this section is payable from the benefit accumulation fund. Deletes existing text providing that the benefit provided by this section is payable from the current service annuity reserve fund and the municipality accumulation fund in the ratio that the part of the annuity that was payable from each of those funds bears to the entire benefit determined on the effective date of retirement.

SECTION 21. Amends Section 855.305(c), Government Code, as follows:

(c) Requires that all assets of TMRS be credited, according to the purpose for which they are held, to one of a list of funds, including the benefit accumulation fund. Deletes existing text relating to the employees saving fund, municipality accumulation fund, and current service annuity reserve fund. Makes nonsubstantive changes.

SECTION 22. Amends the heading to Section 855.306, Government Code, to read as follows:

Sec. 855.306. MEMBER'S INDIVIDUAL ACCOUNT

SECTION 23. Amends Section 855.306, Government Code, by amending Subsection (a) and by adding Subsection (d), as follows:

(a) Requires TMRS to establish in the participating municipality's account in the benefit accumulation fund an individual account for each person who is a member of the system through employment in that municipality. Makes conforming and nonsubstantive changes.

(d) Requires TMRS, if a retiree resumes employment under Section 854.308, to reestablish an individual account for the member in the participating municipality's account in the benefit accumulation fund and credit to that account the portion of the balance of the person's retirement reserve that is attributable to the person's prior accumulated contributions.

SECTION 24. Amends Section 855.307, Government Code, as follows:

Sec. 855.307. New heading: BENEFIT ACCUMULATION FUND: CURRENT SERVICE. (a) Makes a conforming change.

(b) Requires TMRS to pay from the account of a participating municipality in the benefit accumulation fund:

(1) all payments under annuities arising from current service credits, rather than money to the current service annuity reserve fund in accordance with Section 855.318 (Transfer of Assets on Member's Retirement or Restoration to Active Duty); and

(2) refunds to certain municipalities in accordance with Section 855.319.

(c) Makes a conforming change.

(d) Provides that the annuities payable as provided by this section are liabilities and obligations of the participating municipality for which the service was performed on which the annuities are based and are payable from the municipality's account in the benefit accumulation fund.

SECTION 25. Amends the heading to Section 855.308, Government Code, to read as follows:

Sec. 855.308. BENEFIT ACCUMULATION FUND: PRIOR SERVICE.

SECTION 26. Amends Section 855.308, Government Code, by amending Subsections (a), (b), (d), and (f) and by adding Subsection (g), as follows:

(a), (b), and (d) Makes a conforming change.

(f) Authorizes the board of trustees to proportionately reduce all payments under annuities payable under this section, at any time and for a period necessary, to prevent those payments for a year from exceeding the amount available in the participating municipality's account for prior service.

(g) Provides that the annuities payable as provided by this section are liabilities and obligations of the participating municipality for which the service was performed, or granted as the result of reinstated service previously canceled, on which the annuities are based and are payable from the municipality's account in the benefit accumulation fund.

SECTION 27. Amends Section 855.311(e), Government Code, to make a conforming change.

SECTION 28. Amends Section 855.313(d), Government Code, as follows:

(d) Deletes existing text requiring that the actuary, as soon as practicable after December 31, 1988, calculate the amount of reserves required to pay all annuities that are obligations of the supplemental disability benefits fund. Deletes existing text authorizing

the board of trustees, if the board determines, on the basis of the calculations made by the actuary, that the money to the credit of the fund is materially in excess of the amount of reserves needed to assure payment of all annuities that are obligations of the fund, direct that a portion of the excess is required to be transferred from the supplemental disability benefits fund to the municipality accumulation fund and credited to the respective accounts of the participating municipalities in such proportions as the board of trustees determines to be the ratio of their respective contributions to the total of all contributions to the supplemental disability benefits fund. Makes a conforming change.

SECTION 29. Amends Section 855.316, Government Code, as follows:

Sec. 855.316. New heading: INTEREST RATES AND CREDITING. (a) Creates this subsection from existing text. Provides that, notwithstanding any other provision to this chapter, the interest credited to a member's individual account in a calendar year may not be less than five percent, rather than five percent as allocated under Section 855.317(a) (relating to required allocations from the interest fund). Makes a conforming change.

(b) Requires the board of trustees, effective as of December 31 of each year, to credit interest on the accumulated contributions in a member's individual account as of January 1 of that year in accordance with Subsection (a) and Section 855.306.

SECTION 30. Amends Sections 855.317(a) and (b), Government Code, as follows:

(a) Deletes existing text of Subdivision (1) requiring the board of trustees, effective as of December 31 of each year, to make allocations from the interest fund that in the aggregate equal the net investment income or loss for the year to the current service annuity reserve fund, interest on the mean amount in the current service annuity reserve fund during that year. Deletes existing text of Subdivision (6) requiring the board of trustees, effective as of December 31 of each year, to make allocations from the interest fund that in the aggregate equal the net investment income or loss for the year to the employees saving fund, interest on the sum of the accumulated contributions in the employees saving fund credited on January 1 of that year to all persons who are members on December 31 of that year before any transfers for retirement effective December 31 of that year are made. Makes nonsubstantive changes.

(b) Requires the board of trustees, in making allocations under this section, without regard to the amount of net investment income or loss for the calendar year, to first allocate interest as specified in Section 855.316(a), rather than Section 855.316, to those funds or accounts referenced in Subsections (a)(1) and (2) of this section. Requires the board of trustees to then allocate the remaining net investment income or loss between the funds or accounts referenced in Subsections (a)(3) and (4) of this section in rates or amounts determined by the board in its sole discretion.

SECTION 31. Amends Section 855.319, Government Code, to make a conforming change.

SECTION 32. Amends Section 855.402(g), Government Code, to require the board of trustees, after the deductions for member contributions are paid, to record all receipts, and to deposit the receipts in the benefit accumulation fund and credit the appropriate amounts to the members' individual accounts, rather than to the credit of the employees saving fund.

SECTION 33. Amends Sections 855.405 and 855.406, Government Code, to make conforming changes.

SECTION 34. Amends Section 855.4065(a), Government Code, to authorize the board of trustees, in addition to the contributions a participating municipality is required to make under this subtitle, after consultation with the actuary, by rule to authorize a participating municipality to make lump-sum or periodic employer contributions to TMRS to be deposited in the municipality's account in the benefit accumulation fund, rather than the municipality accumulation fund.

SECTION 35. Amends Sections 855.407(d), (f), and (g), Government Code, to make conforming changes.

SECTION 36. Amends Section 855.410(a), Government Code, to require a participating municipality that fails to remit before the 16th day of the month all contributions required by this subchapter to be made and remitted to TMRS by that date to pay to TMRS, in addition to the contributions, interest on the past-due amounts at an annual rate that is the total of the system's investment return assumption, rather than the total of the rates of interest credited by TMRS to accounts in the municipality accumulation fund, for the preceding calendar year, plus two percent.

SECTION 37. Amends Section 855.501(b), Government Code, to require the governing body of a municipality electing to provide for increased reserves by ordinance to provide that for each month of current service rendered by a participating employee of the municipality after the date of its election the municipality will provide a contribution, rather than a contribution as provided by Subsection (c) (relating to the required transfer to the current service annuity reserve fund), equal to 150 or 200 percent of the member's accumulated contribution to TMRS for that month.

SECTION 38. Amends Section 855.608(c), Government Code, to make conforming changes.

SECTION 39. (1) Repealer: Section 855.309 (Current Service Annuity Reserve Fund), Government Code.

(2) Repealer: Section 855.318 (Transfer of Assets on Member's Retirement or Restoration to Active Duty), Government Code.

(3) Repealer: Sections 855.501(c) (relating to the retirement of a member covered by an increased current service annuity reserve) and (d) (relating to the transfer from the account of each municipality), Government Code.

SECTION 40. (a) Requires TMRS to:

(1) transfer the assets and liabilities of each participating municipality's members' individual accounts in the employees saving fund to the appropriate municipality's accounts in the benefit accumulation fund and dissolve the employees saving fund; and

(2) transfer the assets and, if appropriate, liabilities of the current service annuity reserve fund to the interest reserve account in the endowment fund and the benefit accumulation fund, as determined by the board of trustees in consultation with the actuary, and dissolve the current service annuity reserve fund.

(b) Provides that for purposes of clarification, as of the effective date of this Act, the municipality accumulation fund is renamed the benefit accumulation fund, and requires TMRS to transfer the assets and liabilities of the employees saving fund and the current service annuity reserve fund to the benefit accumulation fund as described by Subsection (a) of this section.

(c) Requires TMRS, in implementing Subtitle G, Title 8, Government Code, as amended by this Act, including without limitation crediting interest and conducting the actuarial valuation required by that subtitle, to make all necessary computations based on an accounting record adjusted to reflect the transfers of assets and liabilities required by Subsection (a) of this section as though the transfers had taken place on December 31, 2010.

SECTION 41. Effective date: upon passage or September 1, 2011.