BILL ANALYSIS

Senate Research Center
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S.B. 642
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 854.203 (Optional Increase in Retirement Annuities) of the Government Code provides for cost of living adjustments (COLAs) for retirees and beneficiaries of the Texas Municipal Retirement System (TMRS). Currently, COLAs are calculated based on the level of the Consumer Price Index (CPI) when the employee retired. There are three optional increases allowed: 30 percent, 50 percent, or 70 percent of the change in CPI. Unless the ordinance that establishes the amount of the COLA is modified or repealed, it automatically repeats itself. Ultimately, this has had the effect of making the COLA a promised benefit to TMRS retirees, but these annually repeating annuity increases were never built into the funding formulas.

In 2007, TMRS actuaries started valuing the COLA as a promised benefit. As a result, the contribution rates, as well as the unfunded liabilities, of member cities have increased dramatically with each year. Mature cities with large numbers of retirees have been hit the hardest and many are looking at required rates in the mid-20 percent range. To ease the transition, TMRS is allowing an eight year phase-in of rates; however many cities still cannot afford the increase. This has resulted in cities (27 at last count) having to drop their repeating COLAs.

Under the current statutory structure, if a city that drops the COLA later wants to reinstate it, the city has to make up for past COLAs that were missed. If a city lowers its COLA to 50 percent or 30 percent of the CPI, retirees do not see an increase in their benefit until the new lower COLA exceeds the previously higher COLA. Thus, newer retirees will see an increase before longer-term retirees do.

S.B. 642 would allow TMRS member cities the option of calculating the amount of the COLA annually as an increase in the current benefit only. This would allow cities to effectively manage their retirement plans and control costs, so that they can continue to retain the COLA as an additional benefit to their retirees. Cities that want to keep their repeating COLA under the current law can do so. Under the bill, a city that wants to lower or drop the repeating COLA must give annuitants 60 days notice. While the governing body can increase pension benefits by any percent it desires, the ad hoc COLA is still capped at 70 percent of the increase in the CPI since retirement.

As proposed, S.B. 642 amends current law relating to optional annuity increases for certain retirees and beneficiaries of the Texas Municipal Retirement System.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of trustees of the Texas Municipal Retirement System in SECTION 2 (Section 854.203, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 853.404, Government Code, by amending Subsection (c), and adding Subsection (f), as follows:

(c) Authorizes the governing body of a participating municipality that adopts an ordinance under Section 854.203 (Optional Increase in Retirement Annuities) providing for increased annuities effective January 1 of a designated year to further provide in the ordinance that increases in annuities will be credited effective January 1 of each year following the designated year based on recomputations made as provided by Section 854.203(b) (relating to amount of annuity increases), rather than Section 854.203(b)(1), for each year following the initial computation, and using the fraction specified in the ordinance as required under Section 854.203(b), rather than Section 854.203(b)(2), in the recomputations.

(f) Requires the governing body of the participating municipality, if an ordinance described by Subsection (c) will cease to be in effect for a future year, or if an increase in annuities specified in an ordinance described by Subsection (c) will be changed or discontinued as provided by this section, to provide notice to members and annuitants by regular mail not later than the 60th day before the date on which the ordinance will cease to be in effect or the increase will be changed or discontinued. Requires the notice required by this subsection to be included with the annuitant's check or advice of deposit for an annuitant who receives a periodic check or advice of deposit from the retirement system by regular mail.

SECTION 2. Amends Section 854.203, Government Code, by amending Subsections (b) and (f), and adding Subsection (b-1), as follows:

(b) Provides that the amount of annuity increase under this section is computed by certain methods, including as the sum of the prior and current service annuities of the person on whose service the annuities are based on the effective date of the annuity increase multiplied by the percentage increase specified in the ordinance adopted by the governing body, except that an adjustment to an annuity after the annuity starting date for annuity increases under this subdivision may not cause an annuitant's annuity to exceed the amount that the annuitant would be entitled to had the maximum amount of the annuity increase allowed under Subdivision (1) been applied to the annuitant's annuity. Makes nonsubstantive changes.

(b-1) Provides that an increase under Subsection (b)(2) applies to all annuities for which the effective date of retirement of the person on whose service the annuity is based is at least 12 months before the effective date of the increase. Requires each distribution of a benefit under this subtitle to be determined and made in accordance with Section 401(a)(9), Internal Revenue Code of 1986, notwithstanding any other provision of this subtitle. Authorizes the board of trustees to adopt rules it considers necessary to comply with the distribution requirements.

(f) Provides that an increase granted to an annuitant under Subsection (b)(2), or the amount by which an increase under Subsection (b)(1), rather than this section, exceeds all previously granted increases to an annuitant is payable as a prior service annuity, an obligation of the municipality's account in the municipality accumulation fund, and subject to reduction under Section 855.308(f) (relating to reduction of payments under annuities payable). Makes nonsubstantive changes.

SECTION 3. Effective date: upon passage or September 1, 2011.