

BILL ANALYSIS

Senate Research Center
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S.B. 812
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 812 seeks to address the growing concern over municipal employees who wish to return to work within the same municipality after retirement. The bill addresses the need to balance the fairness of how pensions are paid out to retirees who return to work from the municipality they retired from against the health and longevity of the Texas Municipal Retirement System (TMRS) fund.

Under Texas law, a person cannot retire from a municipality participating in TMRS and be rehired by the same municipality without a suspension of their retirement benefits. This leads to unintended consequences of penalizing retirees who wish to return to work for the same municipality. First, these retirees have contributed considerable time and money into TMRS and their benefits have already vested. Second, when the individual leaves the municipality they take with them years, and sometimes decades, of institutional knowledge that will be lost.

Under the Government Code, a person may retire from one municipality and then be rehired by a different municipality without suspending any pension payments. However, a person cannot retire from a municipality and then later be rehired without total suspension of benefits. A person who is rehired by the municipality must open a second TMRS account. A person may be rehired by a separate municipality and still receive pension benefits from the former municipality without any suspension of benefits.

S.B. 812 would allow retired municipal employees to return to work within the same municipality without completely losing their already vested pension payments for the duration of their reemployment. This bill would allow return-to-work retirees to have their vested pension payments accumulate in an account during their re-employment. At the termination of re-employment, the retired employee would be entitled to a lump sum payment of the accumulated benefits.

As proposed, S.B. 812 amends current law relating to the service retirement benefits of certain retirees who resume employment within the Texas Municipal Retirement System.

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 852.108, Government Code, by amending Subsections (b), (d), (e), (f), (h), and (i) and adding Subsections (a-1), (b-1), (b-2), and (f-1), as follows:

(a-1) Provides that except as provided by Subsection (a) (relating to a municipality for which a person was performing creditable service at the time of the person's retirement), this section applies only to a person who:

(1) has retired with a service retirement benefit under this subtitle;

(2) has been separated from service with the person's reemploying municipality for at least 12 months; and

(3) returns to service with the reemploying municipality after the separation described by Subdivision (2).

(b) Provides that except as provided by Section 852.1085 (Resumption of Service with Same Employer by Certain Retirees), a person to whom this section applies, rather than who has retired with a service retirement benefit under this subtitle and later becomes an employee of the person's reemploying municipality, also resumes the person's most recent membership in, rather than becomes a member of, the Texas Municipal Retirement System (retirement system) on the date of employment, but credits and benefits allowable to the person under this subtitle are limited as provided by this section.

(b-1) Requires the retirement system to reactivate the same individual member account in the employees saving fund that the person contributed to before the person retired.

(b-2) Requires the person, on the date of a person's reemployment, to choose whether to resume making member contributions to the person's individual member account. Requires a person who resumes making contributions to earn additional service credit.

(d) Requires the retirement system to deposit the contributions on receipt in the member's reactivated individual account, rather than in an individual account for the member, in the employees saving fund and to credit the account with interest annually at the same rate and manner as the accounts of other members are credited.

(e) Entitles a person described by Subsection (a-1), rather than Subsection (b), after termination of employment with the reemploying municipality and after filing of an application for resumption of retirement with the board of trustees of the retirement system, to receive future payments of the suspended annuity, as provided by Subsections (f) and (f-1) or Subsection (h), rather than as provided by Subsection (f), and to the additional benefits as provided by Subsections (g) and (i), rather than as provided by Subsections (g), (h), and (i).

(f) Requires that monthly payments of a suspended annuity be recomputed to reflect:

(1) the amount of the original service retirement annuity;

(2) any additional service credit earned by the person during the period of reemployment;

(3) the sum of any contributions made by the person during the period of reemployment to the person's individual account in the employees saving fund and interest accrued on the accumulated contributions allowed by the retirement system;

(4) one of the following amounts from the municipality accumulation fund, as applicable:

(A) an amount equal to the amount under Subdivision (3) if the person elected to resume making contributions under Subsection (b-2);

(B) an amount equal to the amount under Subdivision (3) based on the contributions that would have been made by the person if the person had elected to resume making contributions under Subsection (b-2); or

(C) a greater amount than the amount under Paragraph (A) or (B) if authorized by the reemploying municipality under Section 855.501 (Increased Current Service Annuities); and

(5) a reduction for any service retirement annuity payments received by the person before the person's reemployment.

(f-1) Creates this subsection from existing text. Requires that the payments as recomputed be resumed in the month following the month in which employment is terminated with the reemploying municipality, without any other change in the amount except for any increase allowed under Section 854.203 (Optional Increase in Retirement Annuities) or the duration of or another condition pertaining to the suspended benefit.

(h) Authorizes a person to whom this section applies, instead of a resumption of recomputed benefits under Subsection (f), to elect to resume the suspended annuity payments in the month following the month in which employment is terminated with the reemploying municipality in the amount provided before the reemployment without any change in the amount except for any increase allowed under Section 854.203 and, at the option of that person, to receive either, rather than providing 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) 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; or

(B) a greater amount authorized by the municipality under Section 855.501.

(i) Provides that the additional benefit described by Subsection (h)(1) or (2), rather than Subsection (h), is payable as a standard service retirement benefit or, at the election of the member, any optional benefit authorized under this subtitle that is the actuarial equivalent of the standard retirement benefit.

SECTION 2. (a) Provides that the changes in law made by this Act to Section 852.108, Government Code, apply only to the following:

(1) a person who resumes employment on or after the effective date of this Act with the same municipality the person was employed by before retiring from service; and

(2) a person who resumed employment before the effective date of this Act with the same municipality the person was employed by before retiring from service and who is in that employment on the effective date of this Act.

(b) Authorizes a person described by Subsection (a)(2) of this section to elect under Section 852.108(b-2), Government Code, as added by this Act, whether to resume making contributions and earn additional service credit for the months of reemployment that occur on and after the effective date of this Act.

(c) Provides that the changes in law made by this Act to Section 852.108, Government Code, do not apply to a person to whom Section 852.1085, Government Code, applies.

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