

BILL ANALYSIS

S.B. 1207
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Pensions, Investments & Financial Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The San Antonio Fire and Police Pension Fund provides benefits for retired firefighters and police officers and their beneficiaries. However, provisions governing the fund are in need of technical updates, clarifications, and other revisions. S.B. 1207 seeks to address this issue by revising the provisions governing the retirement system for firefighters and police officers in a municipality with a population between 1.3 million and 1.5 million, including provisions relating to the system's board of trustees, member contributions, and eligibility for and the disbursement of certain benefits.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

S.B. 1207 amends Vernon's Texas Civil Statutes to revise provisions relating to the retirement system for firefighters and police officers in a municipality with a population between 1.3 million and 1.5 million. The bill, with respect to the board of trustees of the firefighters and police officers pension fund:

- establishes that the term of a mayor or the mayor's qualified mayoral designee on the board expires on the date the mayor ceases to be mayor of the municipality for any reason;
- establishes that the term of a member of the municipality's governing body who is on the board expires on the day the member ceases to be a member of the municipal governing body for any reason and clarifies that this provision applies to such a member who is elected or appointed; and
- provides for the manner by which the governing body fills a vacancy of the board's members that are also members of the governing body.

The bill establishes that the board has complete authority and power to disburse benefits from the fund.

S.B. 1207 repeals a provision requiring the board to issue orders for disbursements of benefits signed by the presiding officer or assistant presiding officer of the board and the secretary of the board to the appropriate persons and to keep a record of those orders. The bill clarifies that disbursements of benefits may not be made without a record vote of the board.

S.B. 1207, with respect to membership in and contributions to the fund regarding a member of the fund who enters any uniformed service of the United States:

- revises certain provisions regarding the restoration of credit not established during the period the member was engaged in active service in any uniformed service and authorizes an otherwise eligible member who does not comply with certain payment deadlines to restore credit to receive credit for uniformed service if the board determines that the member had good cause for the noncompliance; and
- entitles the survivors of a member who dies while performing qualified military service to any additional benefits, other than benefit accruals relating to the period of qualified military service, that would have been provided if the member had returned to active status in the fire or police department and then terminated employment as the result of death.

S.B. 1207, with respect to certain provisions relating to a member's eligibility for disability retirement benefits:

- revises the provisions setting out the conditions under which an applicable active member is eligible to retire and receive a regular disability retirement annuity or a catastrophic injury disability retirement annuity, including revisions specifying that an otherwise eligible member is eligible for the respective annuity only if the member establishes to the satisfaction of the board certain facts regarding the applicable member's disability and only if the applicable member is not disqualified from receiving the respective annuity because the member is on a certain indefinite suspension or is terminated by the municipality, as specified by the bill;
- authorizes the board to consider or require any evidence the board considers necessary or appropriate to make a determination concerning a regular disability retirement annuity or a catastrophic injury disability retirement annuity;
- restricts eligibility to a disability retirement annuity for a member who becomes disabled as a result of an injury sustained or disease contracted while the member is on suspension to those members who are disabled while on suspension for a specific period, including a member whose indefinite suspension is reversed or modified to a suspension for a specific period, and revises the deadline by which such a member must make up each contribution not made by the member by reason of the suspension; and
- includes a member who is terminated by the municipality among the members who are not entitled to a disability retirement annuity.

These provisions apply only to a disability retirement annuity for which an applicable application is made on or after the bill's effective date.

S.B. 1207, with respect to the calculation of the respective disability retirement benefits based on time of service, specifies that the applicable average monthly salary or average daily salary is the average monthly total salary and the average daily total salary.

S.B. 1207, with respect to the provisions governing the medical reexamination of a disability retiree and the reduction of disability retirement benefits:

- clarifies that the requirement for a disability retiree who is awarded a catastrophic injury disability annuity to undergo a medical examination is applicable only if the examination is required by the board;
- specifies that, for an applicable member who retired because of disability on or after August 30, 1971, the disability retirement annuity may not be reduced to less than a specified amount, except in the case of discontinuance of the annuity; and
- provides for the proration of fractional years with respect to computations of reductions for an applicable member who retired because of disability before August 30, 1971.

S.B. 1207, with respect to the provisions governing the reduction of an annuity based on the outside income of a retiree, authorizes the board to suspend the disability retirement annuity of a retiree who fails to provide the board with an income tax return until the retiree does so. The bill authorizes the board to restore a disability retirement annuity that has been reduced by the

board based on income received from a member's other employment and provides for the amount of the restored annuity. This provision does not require the board to allow or deny cost-of-living increases in any other circumstances.

S.B. 1207, for purposes of the provision prohibiting the accrual of a service retirement annuity, disability retirement annuity, death benefit, or any other benefit under the provisions governing the system from exceeding benefit limits applicable to the fund under the Internal Revenue Code of 1986:

- authorizes a member or former member, the member's or former member's surviving spouse or designated beneficiary, and a member's or former member's spouse or former spouse who is the alternate payee under a qualified domestic relations order, with regard to the interest of the spouse or former spouse, to elect, at the time and in the manner prescribed by the board, to have any portion of such a distributee's eligible rollover distribution paid directly to certain eligible retirement plans specified by the distributee in a direct rollover;
- increases the applicable caps on certain salary amounts that may be taken into account for purposes of the annual compensation limitation under the code, effective January 1, 2017, and clarifies that, for purposes of those applicable caps, an eligible member is any employee who first became a member before 1996 and an ineligible member is any other member;
- replaces the requirement that the caps be periodically adjusted in compliance with certain federal guidelines with a requirement that the caps be adjusted annually for cost-of-living increases as provided by the code;
- revises the date on which accrued benefits for a member under those provisions become 100 percent vested and the date on which the distribution of such benefits must begin;
- requires the distribution of benefits to conform to certain regulations under the code, including regulations governing the incidental death benefit distribution requirements;
- provides for required adjustments to the limitations on benefits imposed by certain provisions of the code to the extent permitted by cost-of-living increases announced by the U.S. secretary of the treasury; and
- specifies that such a cost-of-living increase applies to members who have terminated employment and any benefits previously denied and that benefits paid to make up for benefits previously denied are considered the delayed payment of benefits earned before retirement and not extra compensation earned after retirement.

S.B. 1207, in provisions authorizing the board to provide a 13th and 14th pension check to retirees and beneficiaries under certain circumstances, requires the check for an eligible retiree who dies before payment and has no surviving spouse or dependent child and the check for an eligible beneficiary who dies before payment to be paid to the retiree's or beneficiary's estate, as applicable. The bill revises the amount of a 13th or 14th check for beneficiaries by providing the methods for calculating the prorated amounts payable to a beneficiary of a member who died, or a retiree who retired and died, during the fiscal year preceding the fiscal year in which the check is disbursed. These provisions apply only to 13th or 14th checks disbursed on or after the bill's effective date.

S.B. 1207, with respect to the death benefit annuity for surviving spouses and children, establishes that a child who is adopted after the date of retirement of the applicable member is not entitled to a death benefit annuity and, with respect to the death benefit annuity for surviving spouses and children:

- increases from 50 to 75 the percentage of the member's average total salary to which the surviving spouse is entitled if the spouse elects that option;
- increases, beginning on September 1, 2023, the amount of an eligible annuity, that is payable on August 31, 2023, and based on the service of a member who died on or before that date but after September 1, 2005, and for which the spouse did not elect to receive a portion of the benefit in a lump-sum payment to an amount equal to 75 percent of the member's average total salary plus any applicable cost-of-living increases and clarifies

that a member's surviving spouse or dependent child is not entitled to any additional payment from that increase for the period before September 1, 2023;

- changes the method of calculating the annuity amount to which the surviving spouse and dependent children of a disability retiree are entitled from the calculation used for the surviving spouse and dependent children of a member to an amount equal to 50 percent of the retiree's average total salary as of the date of retirement; and
- clarifies that the requirement that an eligible surviving child of a deceased retiree be awarded 100 percent of an applicable annuity is the result of the surviving spouse of the deceased retiree not meeting certain eligibility requirements for an annuity on the date of the retiree's death.

Except as otherwise provided by the bill, these provisions apply only to a death benefit annuity for which an application is made on or after the bill's effective date.

S.B. 1207, with respect to the death benefit annuity for the spouse and children of a member killed in the line of duty:

- specifies that a fund member is considered to have been killed in the line of duty if the member's death directly resulted from a severe physical injury of sudden onset and of a life-ending or life-threatening nature sustained while engaging in or conducting simulated training of a law enforcement activity, fire suppression activity, rescue, hazardous material response, emergency medical services, disaster relief, or other emergency response activity;
- removes the requirement that the board consider the finding of the applicable municipality that a member was killed in the line of duty as a guideline for the board's determination in applying provisions governing such an annuity for the spouse and children of a member killed in the line of duty; and
- changes the amount of that annuity from the total salary of the member at the time of death to an amount according to a schedule of benefits based on the salary the member received during a certain period for which the member served before the date of the member's death.

These provisions apply only to a death benefit annuity for which an application is made on or after the bill's effective date.

S.B. 1207, with respect to the effect of a marriage on benefits:

- applies provisions relating to the entitlement of a surviving spouse or dependent child whose marriage terminated to 100 percent of the annuity that was in effect on the termination of benefits to a surviving spouse or dependent child whose marriage took place before October 1, 1995, and resulted in a termination of benefits under the law in effect at the time of the marriage;
- specifies that such benefits are payable from the date the marriage terminated;
- entitles such a surviving spouse or dependent child to any applicable cost-of-living increase that took place on or after the date the marriage terminated; and
- requires such a spouse or child to be living at the time of an application to be eligible for benefits.

S.B. 1207, with respect to common-law spouses as beneficiaries, clarifies that the date the declaration of an informal marriage is recorded under the applicable Family Code provision is the date of marriage for the purpose of determining whether any benefit is to be awarded to a surviving common-law spouse as a beneficiary.

S.B. 1207 removes a provision specifying that the findings of the board and all annuities granted under provisions relating to death benefit annuities to dependent parents are final on all parties unless set aside or revoked by a court of competent jurisdiction.

S.B. 1207 clarifies certain suspension rights with respect to the beneficiaries of a member who dies while on indefinite suspension that has not become final by specifying that the member's beneficiaries have the same rights as the beneficiaries of any other member only if the member's

beneficiaries provide sufficient evidence to the board to establish to the board's satisfaction that an administrative appeal of the suspension to the municipality was being actively pursued at the time of death and that the member had a reasonable chance of having the suspension reversed or modified to be a suspension for a specific period.

S.B. 1207 establishes that an indefinite suspension or a suspension for a specific period becomes final on the date any administrative appeal of the suspension to the municipality has been finally adjudicated by the municipality or, if no administrative appeal of the suspension is made, after the last day of the period for initiating an administrative appeal has elapsed.

S.B. 1207, for purposes of the provision establishing that the election by a surviving spouse to receive a lump-sum death benefit annuity payment does not affect the amount of the annuity payable to a dependent child of a deceased member, specifies that the provision applies while a death benefit annuity is payable to the surviving spouse.

S.B. 1207 sets out provisions applicable to the denial of benefits when the member's or beneficiary's death is caused by a survivor to provide that:

- a person who is the principal or an accomplice in wilfully bringing about the death of a member or beneficiary whose death would otherwise result in a benefit or benefit increase to the person is not eligible for, or entitled to, that benefit or benefit increase;
- the board must determine during a meeting of the board that a person wilfully brought about the death or was an accomplice in wilfully bringing about the death;
- such a determination is not controlled by any other finding in any other forum; and
- a benefit or benefit increase payable because of the member's or beneficiary's death must be paid as if the person who is no longer eligible for or entitled to the benefit predeceased the member or beneficiary.

S.B. 1207 repeals Section 3.03(a), Chapter 824 (S.B. 817), Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas Civil Statutes).

EFFECTIVE DATE

September 1, 2023.