

By: Menéndez

S.B. No. 2318

A BILL TO BE ENTITLED

AN ACT

relating to the administration of a retirement health care plan for
firefighters and police officers in certain municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.02, Chapter 1332 (S.B. 1568), Acts of
the 75th Legislature, Regular Session, 1997 (Article 6243q,
Vernon's Texas Civil Statutes), is amended by amending Subdivisions
(3), (8), and (8-a) and adding Subdivisions (4-a) and (6-b-1) to
read as follows:

(3) "Beneficiary" means a retiree, or the spouse or
other eligible dependent of a retiree, who is entitled to receive
retiree health benefits under Section 5.01 [~~5.01(a)~~] of this Act.

(4-a) "Default rate" means the actuarial assumed rate
of return as determined by the fund's actuary.

(6-b-1) "Months of service" means the number of full
months of service beginning on the date the firefighter or police
officer becomes a member of the fund until the date the firefighter
or police officer retires or otherwise terminates employment as a
firefighter or police officer, less the number of full months of
service during which the member:

(A) was engaged in active service with any
uniformed service of the United States and did not purchase credit
for that service in accordance with Section 4.023 of this Act; and

(B) took other unpaid leave, including unpaid

1 leave described by Section 4.024 of this Act, and did not purchase
2 credit for that leave in accordance with applicable law.

3 (8) "Retiree" means an individual who was a
4 firefighter or police officer who retired under the pension act
5 ~~[whose retirement date is]~~ after September 30, 1989.

6 (8-a) "Retiree health plan" means the group family
7 health plan for retirees and other beneficiaries:

8 (A) established under this Act; and

9 (B) in effect on October 1, 2025 ~~[by the~~
10 ~~collective bargaining agreements and the master contract~~
11 ~~document]~~.

12 SECTION 2. Section 1.05, Chapter 1332 (S.B. 1568), Acts of
13 the 75th Legislature, Regular Session, 1997 (Article 6243q,
14 Vernon's Texas Civil Statutes), is amended to read as follows:

15 Sec. 1.05. EXEMPTIONS. (a) The health benefits paid or
16 payable by the fund are exempt from garnishment, assignment,
17 attachment, judgments, other legal processes, and inheritance or
18 other taxes established by this state.

19 (b) Fund assets are exempt from attachment, execution,
20 alienation, and forced sale. A judgment lien or abstract of
21 judgment may not be filed or perfected against the fund on fund
22 assets. A judgment lien or abstract of judgment filed against the
23 fund on fund assets is void.

24 SECTION 3. Article 1, Chapter 1332 (S.B. 1568), Acts of the
25 75th Legislature, Regular Session, 1997 (Article 6243q, Vernon's
26 Texas Civil Statutes), is amended by adding Section 1.06 to read as
27 follows:

1 Sec. 1.06. CONSTRUCTION OF ACT. This Act does not provide
2 any benefit that is not specifically provided by this Act.

3 SECTION 4. Sections 2.01(a) and (c), Chapter 1332 (S.B.
4 1568), Acts of the 75th Legislature, Regular Session, 1997 (Article
5 6243q, Vernon's Texas Civil Statutes), are amended to read as
6 follows:

7 (a) The [~~firefighters' and police officers' retiree health~~
8 ~~care~~] fund [~~of a municipality~~] is governed by a board of trustees
9 consisting of the following nine members:

10 (1) the mayor of the municipality to which this Act
11 applies or the mayor's designee;

12 (2) two members of the [~~municipal~~] governing body of
13 the municipality to which this Act applies, appointed by that
14 governing body;

15 (3) two members of the fund who are firefighters below
16 the rank of fire chief, elected by secret ballot by a majority of
17 the votes cast by the members of the fund who are firefighters;

18 (4) two members of the fund who are police officers
19 below the rank of police chief, elected by secret ballot by a
20 majority of the votes cast by the members of the fund who are police
21 officers;

22 (5) a retiree representative of the fire department,
23 elected by secret ballot by a majority of the votes cast by the
24 retirees of the fire department who are beneficiaries of the fund
25 and the surviving spouses of deceased firefighters who are
26 beneficiaries of the fund; and

27 (6) a retiree representative of the police department,

1 elected by secret ballot by a majority of the votes cast by the
2 retirees of the police department who are beneficiaries of the fund
3 and the surviving spouses of deceased police officers who are
4 beneficiaries of the fund.

5 (c) The fund is independent of the control of the
6 municipality to which this Act applies.

7 SECTION 5. Sections 2.02(b), (c), and (d), Chapter 1332
8 (S.B. 1568), Acts of the 75th Legislature, Regular Session, 1997
9 (Article 6243q, Vernon's Texas Civil Statutes), are amended to read
10 as follows:

11 (b) The two members of the ~~[municipal]~~ governing body of the
12 municipality to which this Act applies serve on the board for the
13 term of the office to which they were elected or appointed, provided
14 that the term of the member on the board expires on the day the
15 member ceases to be a member of the governing body for any reason.

16 (c) The two members of the board ~~[fund]~~ who are firefighters
17 below the rank of fire chief serve on the board for staggered
18 four-year terms, with one member's term expiring every two years.

19 (d) The two members of the board ~~[fund]~~ who are police
20 officers below the rank of police chief serve on the board for
21 staggered four-year terms, with one member's term expiring every
22 two years.

23 SECTION 6. Section 2.04(b), Chapter 1332 (S.B. 1568), Acts
24 of the 75th Legislature, Regular Session, 1997 (Article 6243q,
25 Vernon's Texas Civil Statutes), is amended to read as follows:

26 (b) The board in its discretion may elect other officers of
27 the board. ~~[An officer may be, but is not required to be, a~~

1 ~~trustee.]~~

2 SECTION 7. Section 3.01(a), Chapter 1332 (S.B. 1568), Acts
3 of the 75th Legislature, Regular Session, 1997 (Article 6243q,
4 Vernon's Texas Civil Statutes), is amended to read as follows:

5 (a) The board has complete authority and power to:

6 (1) administer the fund for the exclusive benefit of
7 the beneficiaries of the fund;

8 (2) disburse benefits or otherwise order payments from
9 the fund;

10 (3) independently control the fund; and

11 (4) conduct all litigation on behalf of the fund.

12 SECTION 8. Section 4.02, Chapter 1332 (S.B. 1568), Acts of
13 the 75th Legislature, Regular Session, 1997 (Article 6243q,
14 Vernon's Texas Civil Statutes), is amended by amending Subsections
15 (c), (d), and (e) and adding Subsections (d-1), (d-2), (d-3), and
16 (d-4) to read as follows:

17 (c) Subject to Subsection (d-2) or (e) of this section, to
18 be eligible for health benefits under Section 5.01 of this Act, a
19 service retiree or disability retiree who retired or retires with
20 less than 360 months [~~30 years~~] of service, or the retiree's
21 surviving spouse in the case of a deceased retiree, shall continue
22 to make monthly contributions in accordance with Subsections
23 [~~Subsection~~] (d) and (d-1) of this section to the fund after the
24 date of the retiree's retirement for the lesser of:

25 (1) the period in full months preceding the date the
26 retiree becomes or would have become eligible for federal Medicare
27 coverage; or

(2) the period equal to 360 months ~~[30 years]~~ less the retiree's months ~~[years]~~ of service achieved on the date of the retiree's retirement.

(d) The monthly ~~[pension fund shall deduct the]~~ contribution amount required under Subsection (c) of this section ~~[from the monthly retirement benefit payment or death benefit payment paid to each retiree or retiree's spouse required to make the contributions, excluding payments made by the pension fund under Section 6.12 of the pension act. The pension fund shall deduct an amount equal to the retiree contribution amount applicable to the fiscal year in which the benefit payment occurs. The retiree contribution amount]~~ applicable to a fiscal year equals an ~~[the]~~ amount obtained by:

(1) multiplying the average member salary for the preceding fiscal year by a percentage equal to 100 percent plus the estimated percentage increase in the annual member payroll from the preceding fiscal year to the fiscal year as determined by the actuary;

(2) multiplying the product computed under Subdivision (1) of this subsection by the percentage applicable to the fiscal year as provided by Subsection (b) of this section; and

(3) dividing the product computed under Subdivision (2) of this subsection by 12.

(d-1) Monthly contributions under Subsection (c) of this section shall be made on or before the last day of each month during the period the contributions are required to be made, beginning on the first month immediately following the month in which the

retiree retires. Any required contribution that is not made to the fund on or before the due date shall bear interest at the default rate in effect on the first day of the month in which the contribution is due until the contribution is paid.

(d-2) Instead of the monthly contributions required under Subsection (c) of this section, a retiree, or the retiree's surviving spouse in the case of a deceased retiree, may elect to pay to the fund a lump-sum payment equal to the monthly retiree contribution amount under Subsection (d) of this section in effect on the date of the retiree's retirement multiplied by the lesser of:

(1) the number of full months in the period:

(A) beginning on the retiree's date of retirement; and

(B) ending on the date the retiree will attain or would have attained 65 years of age; or

(2) the number of full months following the date of the retiree's retirement which, when added to the retiree's months of service as of the date of retirement, equals:

(A) 360 months; or

(B) if subject to Subsection (e) of this section, 120 months.

(d-3) An election under Subsection (d-2) of this section:

(1) must be:

(A) in writing and made in the form and manner prescribed by the board; and

(B) made before making a lump-sum payment under that subsection; and

1 (2) is irrevocable.

2 (d-4) A lump-sum payment to the fund under Subsection (d-2)
3 of this section:

4 (1) must be made in full on or before the 30th day
5 after the date of the retiree's retirement; and

6 (2) is not partially or wholly refundable.

7 (e) A retiree who retired under the pension act as a result
8 of a disability, or the disability retiree's surviving spouse in
9 the case of a deceased disability retiree, is not required to make
10 contributions under Subsection (c) of this section for more than
11 120 months [~~10 years~~] following the date of the disability
12 retiree's retirement.

13 SECTION 9. Section 4.022, Chapter 1332 (S.B. 1568), Acts of
14 the 75th Legislature, Regular Session, 1997 (Article [6243q](#),
15 Vernon's Texas Civil Statutes), is amended by adding Subsection (d)
16 to read as follows:

17 (d) The increases in maximum deductibles and maximum
18 out-of-pocket payments required under Subsection (a)(2) of this
19 section are in addition to the increases required under Section
20 5.01 of this Act.

21 SECTION 10. Sections 4.023(a), (b), (c), (d), and (f),
22 Chapter 1332 (S.B. 1568), Acts of the 75th Legislature, Regular
23 Session, 1997 (Article [6243q](#), Vernon's Texas Civil Statutes), are
24 amended to read as follows:

25 (a) A member of the fund who enters any uniformed service of
26 the United States may not:

27 (1) be required to make the contributions [~~monthly~~

1 ~~payments into the fund as]~~ required by Section 4.02(a) of this Act
2 while the member is engaged in active service with the uniformed
3 service; or

4 (2) lose any seniority rights or retirement benefits
5 provided by this Act because of that service.

6 (b) A ~~[Not later than the 90th day after the date of the~~
7 ~~member's reinstatement to an active status in a fire or police~~
8 ~~department, the]~~ member may establish credit for service not
9 established during the period the member was in active service with
10 the uniformed service by paying ~~[shall file with the secretary of~~
11 ~~the board a written statement of intent to pay]~~ into the fund an
12 amount equal to the amount the member would have paid during that
13 period if the member had remained on active status in the fire or
14 police department ~~[during the period of the member's absence while~~
15 ~~in the uniformed service]~~.

16 (c) The member shall make the payment described by
17 Subsection (b) of this section in full within a period after the
18 member's return to active status in the fire or police department
19 that is equal to three times the amount of time the member was
20 engaged in active service with the uniformed service ~~[absent]~~,
21 except that the maximum period for payment may not exceed five
22 years.

23 (d) If the member does not comply with Subsections (b) and
24 (c) of this section, the member loses all credit toward the member's
25 months ~~[years]~~ of service for the length of time the member was
26 engaged in active service in any uniformed service.

27 (f) If the member complies with this section and makes all

1 required payments, a municipality to which this Act applies shall
2 make payment to the fund in an amount equal to the amount the
3 municipality would have paid if the member had remained on active
4 status in the fire or police department during the member's absence
5 while in the uniformed service.

6 SECTION 11. Article 4, Chapter 1332 (S.B. 1568), Acts of the
7 75th Legislature, Regular Session, 1997 (Article 6243q, Vernon's
8 Texas Civil Statutes), is amended by adding Sections 4.024 and
9 4.025 to read as follows:

10 Sec. 4.024. FAMILY AND MEDICAL LEAVE. (a) If a member
11 takes unpaid leave as provided by the Family and Medical Leave Act
12 of 1993 (29 U.S.C. Section 2601 et seq.), that member may elect to
13 establish credit for the leave by making voluntary member
14 contributions to the fund for the entire period the member is on
15 leave in an amount equal to the amount the member would have paid
16 had the member not taken the leave. The contributions must be paid
17 to the fund not later than the 30th day after the date the member
18 returns from that leave.

19 (b) If a member elects to make voluntary member
20 contributions under Subsection (a) of this section, the fund shall
21 notify the municipality and the municipality shall make payment to
22 the fund in an amount equal to the total municipal contribution
23 amount the municipality would have paid if the member had not taken
24 the leave, and that payment must be made not later than the 60th day
25 after the date the member returns from leave.

26 (c) If a member does not make the member contributions
27 required within the time prescribed under Subsection (a) of this

1 section, the member may not receive credit toward the member's
2 months of service for the period the member was on unpaid leave.

3 Sec. 4.025. MEMBERS WHO ARE MARRIED: CONDITIONAL WAIVER OF
4 ELIGIBILITY. (a) If spouses are formally married to each other
5 under Chapter 2, Family Code, and are both members of the fund, on
6 the retirement under the pension act of the first of the couple to
7 retire, that retiree may, not later than the 30th day after the
8 retiree's retirement date, elect to conditionally waive
9 eligibility for health and medical benefits under this Act by
10 submitting to the fund written confirmation of that election in the
11 form and manner prescribed by the board.

12 (b) Subject to Subsection (c) of this section, a retiree who
13 conditionally waives eligibility under Subsection (a) of this
14 section is not required to make contributions to the fund under
15 Section 4.02(c) of this Act following the date the election under
16 Subsection (a) of this section is submitted to and accepted by the
17 fund.

18 (c) Subject to Subsection (d) of this section, if the
19 marriage of a retiree who has conditionally waived eligibility for
20 benefits under Subsection (a) of this section is dissolved, the
21 retiree may, not later than the 30th day after the date of the
22 dissolution of the marriage, elect to reinstate eligibility for
23 health and medical benefits under this Act by submitting to the fund
24 written confirmation of the election in the form and manner
25 prescribed by the board.

26 (d) A retiree who makes an election to reinstate eligibility
27 for health and medical benefits under Subsection (c) of this

section is only eligible for those benefits if the retiree makes the monthly contributions required under Section 4.02(c) of this Act in the amount applicable under Section 4.02(d) of this Act in the fiscal year in which the contribution is made. The initial contribution is due on the last day of the month immediately following the month in which the election is submitted to and accepted by the fund.

SECTION 12. Section 5.01, Chapter 1332 (S.B. 1568), Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas Civil Statutes), is amended by amending Subsections (d) and (e) and adding Subsections (d-1), (i), (j), (k), and (l) to read as follows:

(d) Except as provided by Subsection (d-1) of this section, the [The] board as it considers appropriate may modify the retiree health plan if the modifications adopted at any regular or special meeting of the board do not, in the aggregate, increase the fund's total actuarial unfunded liability, as determined by the actuary. The board has exclusive authority to modify the retiree health plan.

(d-1) The board may modify the retiree health plan to allow a surviving spouse of a deceased retiree to continue to be eligible for coverage under the retiree health plan after the spouse's remarriage regardless of whether that modification increases the fund's total actuarial unfunded liability.

(e) The board may discontinue benefits under this section for any person who does not make the monthly contributions required by Section 4.02(c) or (e) [Section 4.02] of this Act, as applicable,

1 within the time prescribed by Section 4.02(d-1) of this Act.

2 (i) Increases in maximum deductibles and maximum
3 out-of-pocket payments required under this section are in addition
4 to the increases required under Section 4.022(a)(2) of this Act.

5 (j) The board may require the payment of a premium for
6 coverage of dependent children under the retiree health plan.

7 (k) Any person entitled to receive health and medical
8 benefits under this Act may unconditionally waive their rights to
9 receive those benefits by executing and delivering to the fund a
10 waiver of their rights in the form and manner prescribed by the
11 board. A person who waives their rights to receive benefits under
12 this subsection is no longer under any circumstances entitled to
13 receive benefits under this Act.

14 (l) Health and medical benefits provided by the fund under
15 this Act or which may be provided by the fund under this Act do not
16 constitute divisible marital property.

17 SECTION 13. Section 6.04(c), Chapter 1332 (S.B. 1568), Acts
18 of the 75th Legislature, Regular Session, 1997 (Article 6243q,
19 Vernon's Texas Civil Statutes), is amended to read as follows:

20 (c) The board may directly manage investments of the reserve
21 funds or may choose to contract for professional management
22 services. If the fund owns or anticipates owning ~~[funds own]~~ real
23 estate, the board may, at its discretion, establish an organization
24 described by Section 501(c)(2) or 501(c)(25), Internal Revenue Code
25 of 1986, as amended, to hold title to the real estate.

26 SECTION 14. Section 6.05(a), Chapter 1332 (S.B. 1568), Acts
27 of the 75th Legislature, Regular Session, 1997 (Article 6243q,

Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The board may authorize and direct one or more board members or officers of the fund to enter into contracts on behalf of the fund for the provision of professional services, including contracts with ~~[contract for]~~ professional investment managers ~~[management services]~~, financial consultants, independent auditors, third-party administrators, preferred providers, health maintenance organizations, attorneys, and actuaries. The ~~[Only the]~~ board has the exclusive power to authorize the execution of the ~~[may enter into those]~~ contracts and ~~[. The board]~~ may establish a reasonable fee for compensation under the ~~[those]~~ contracts.

SECTION 15. Section 7.01(b), Chapter 1332 (S.B. 1568), Acts of the 75th Legislature, Regular Session, 1997 (Article [6243q](#), Vernon's Texas Civil Statutes), is amended to read as follows:

(b) To implement Subsection (a) of this section and to strengthen the faith and confidence of the members and beneficiaries of the fund, the board shall develop standards of conduct and financial disclosure requirements to be observed by each member of the board ~~[trustee]~~ and by the executive director in the performance of the board members' ~~[board's]~~ and executive director's official duties.

SECTION 16. Sections 1.02(4), (6-a), and (10) and 5.01(c), Chapter 1332 (S.B. 1568), Acts of the 75th Legislature, Regular Session, 1997 (Article [6243q](#), Vernon's Texas Civil Statutes), are repealed.

SECTION 17. Section 4.02(d-2), Chapter 1332 (S.B. 1568), Acts of the 75th Legislature, Regular Session, 1997 (Article [6243q](#),

1 Vernon's Texas Civil Statutes), as added by this Act, applies only
2 to or with respect to a member who retires on or after October 1,
3 2025.

4 SECTION 18. Section 5.01(d-1), Chapter 1332 (S.B. 1568),
5 Acts of the 75th Legislature, Regular Session, 1997 (Article [6243q](#),
6 Vernon's Texas Civil Statutes), as added by this Act, applies only
7 to a surviving spouse whose remarriage occurs on or after October 1,
8 2025.

9 SECTION 19. This Act takes effect October 1, 2025.