

BILL ANALYSIS

Senate Research Center

S.B. 1568
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As Filed

DIGEST

Currently, the San Antonio Fire and Police Retiree Health Fund was created by the 1988-1989 contract. The fire and police associations and the city staff of San Antonio negotiated a savings plan which would cover the cost of health care for fire and police officers who retired after October 1, 1989. Employees who retired prior to this date would be covered by an existing system. City staff currently administers the trust, therefore the money in the trust is treated as city funds. State law prohibits the investment of city funds in equities, which limits the return potential of the Retiree Health Fund. The Retiree Health Fund has averaged less than 3.9 percent in returns within the eight years it has existed. The Fire and Police Pension Fund has averaged over 13 percent over the last 10 years. S.B. 1568 would create an administrative board composed of elected active and retired fire and police members as well as city council representatives for the retiree health care trust in order to permit the moneys in the trust to be invested in a diversified portfolio similar to pension funds.

PURPOSE

As proposed, S.B. 1568 outlines provisions regarding a health trust for firefighters and police officers of certain municipalities.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1.01. PURPOSE. Provides that the purpose of a fund established by this Act is to provide health care benefits for persons who retired on or after October 1, 1989, from a municipal fire or police department to which this Act applies because of the lasting health consequences associated with the stressful nature of the professions of fire fighting and law enforcement.

SECTION 1.02. DEFINITIONS. Defines "board," and "fund."

SECTION 1.03. APPLICABILITY. Provides that this Act applies to a paid fire and police department of a municipality with a population of 750,000 or more that has adopted Chapter 174, Local Government Code.

SECTION 1.04. STATUTORY TRUST. Provides that the fund is a statutory trust and is not a subdivision of government. Requires the board of trustees of a fund established by this Act (board) to hold in trust the assets of the firefighter's and police officer's retiree health care fund of a municipality to which this Act applies (fund) for the benefit of the members and retirees of the fund and their spouses in retirement. Prohibits the fund from being diverted, transferred, or used for any other purpose inconsistent with this Act and with the instruments governing the fund. Prohibits a public or private agency or authority from altering or impairing any contract made by the board or under the authority or direction of the board.

SECTION 1.05. EXEMPTIONS. Provides that the benefits of the fund are exempt from garnishment, assignment, attachment, judgments, other legal processes, and inheritance or other taxes established by this state.

ARTICLE 2. ADMINISTRATIVE PROVISIONS

SECTION 2.01. BOARD OF TRUSTEES. Sets forth the composition of the board of trustees of a municipality. Requires the board, through its secretary, to administer the required elections of the firefighter, police officer, and retiree representative members. Provides that the fund is independent of the control of the municipality.

SECTION 2.02. TERMS OF BOARD MEMBERS. Sets forth the terms of the board members.

SECTION 2.03. REMOVAL OF BOARD MEMBERS. Outlines provisions and sets forth requirements regarding the removal of board members.

SECTION 2.04. OFFICERS. Requires the board to elect a chair, a vice chair, and a secretary from among the board members. Provides that the treasurer of the municipality is the treasurer of the board.

SECTION 2.05. EMPLOYEES. Authorizes the board to employ an executive director and staff to administer the fund.

SECTION 2.06. MEETINGS. Requires the board to hold regular monthly meetings and special meetings at the call of the chair or on written demand by a majority of the board members.

SECTION 2.07. BOARD COMMITTEES. Sets forth requirements and outlines provisions regarding board committees.

ARTICLE 3. GENERAL POWERS AND DUTIES OF BOARD

SECTION 3.01. GENERAL POWERS AND DUTIES. Sets forth the board's general powers and duties. Requires the board to report annually to the governing body of the municipality regarding the condition of the fund and the receipts and disbursements of the fund.

SECTION 3.02. HEARINGS. Authorizes any member of the fund to appear before the board in person or through an attorney to contest health coverage or benefit decisions. Authorizes the board chair to issue process for witnesses, administer oaths to those witnesses, and examine any witness in any manner affecting a coverage or benefit under this Act. Authorizes process for witnesses to be served on any member of the fund. Provides that on the failure of any witness to attend and testify, that person may be compelled to attend and testify as in any judicial proceeding, according to the practice in a justice court.

SECTION 3.02. ORDERS FOR PAYMENTS. Sets forth requirements regarding orders for payments. Prohibits money from being disbursed from the fund without a record vote of the board. Provides that a quorum of the board is five members and when a quorum exists, an action of the board requires a majority vote of the members present.

ARTICLE 4. MEMBERSHIP

SECTION 4.01. MEMBERSHIP. Requires membership to be determined by the exclusive collective bargaining agents of the firefighters and police officers recognized under Chapter 174D, Local Government Code.

SECTION 4.02. CONTRIBUTIONS. Sets forth requirements regarding contributions. Requires any donations made to the fund and all money received from any source for the fund to be deposited in the fund at the earliest opportunity. Provides that the municipal contribution and benefits from the fund are a part of the compensation for services rendered to the municipality. Provides that this Act is considered part of the contract of employment and appointment of the firefighters and police officers of a municipality to which this Act applies.

SECTION 4.03. RIGHTS OF MEMBERS AND ASSOCIATIONS. Provides that a member of the fund is entitled to all rights otherwise provided to the member under the federal Employee Retirement

Income and Security Act (29 U.S.C. Section 1001 et seq.), as amended, or any other state or federal statute. Provides that a voluntary employee's beneficiary association as described by Section 501(c), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)), as amended, is entitled to all rights otherwise provided to it under any state or federal statute.

ARTICLE 5. RETIREMENT HEALTH BENEFITS

SECTION 5.01. RETIREMENT HEALTH BENEFITS. Requires retirement health benefits to be determined in accordance with the collectively bargained agreements between the municipality and the exclusive bargaining agents of the firefighters and police officers under Chapter 174, Local Government Code.

ARTICLE 6. INVESTMENT AND FINANCIAL PROVISIONS.

SECTION 6.01. TREASURER'S DUTIES. Provides that all money is payable to the treasurer of the fund for the use of the fund. Provides that the duties imposed on the treasurer under this Act are considered additional duties for which the treasurer is liable under oath and bond as the treasurer of the municipality. Provides that the treasurer is not entitled to compensation for serving as the treasurer of the fund.

SECTION 6.02. ACCOUNTS. Requires accounts to be kept as ordered by the board.

SECTION 6.03. RESERVE FUNDS. Requires the board to determine a reasonably safe amount of surplus assets necessary to defray reasonable expenses of the fund. Requires all other assets to be designated as reserve funds. Provides that only the board may invest and manage the reserve funds. Requires the reserve funds to be invested and managed for the sole benefit of the beneficiaries.

SECTION 6.04. INVESTMENT POWERS OF BOARD. Sets forth requirements and outlines provisions regarding the investment powers of the board.

SECTION 6.05. PROFESSIONAL CONSULTANTS. Outlines provisions regarding professional consultants to the board.

SECTION 6.06. INVESTMENT MANAGER QUALIFICATIONS. Sets forth qualifications for an investment manager.

ARTICLE 7. STANDARDS OF CONDUCT AND FINANCIAL

DISCLOSURE REQUIREMENTS

SECTION 7.01. ETHICS POLICY. Sets forth requirements and outlines provisions regarding the ethics policy of the board.

ARTICLE 8. TRANSITION; EFFECTIVE DATE; EMERGENCY

SECTION 8.01. APPOINTMENT OF INITIAL BOARD. Sets forth requirements and outlines provisions regarding the appointment of the initial board.

SECTION 8.02. Effective date: September 1, 1997.

SECTION 8.03. Emergency clause.