

## **BILL ANALYSIS**

Senate Research Center

H.B. 2752  
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Intergovernmental Relations  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The San Antonio Fire and Police Pension Fund was created to provide retirement and disability annuities to qualifying firefighters, police officers, and their surviving spouses or children. This bill provides for additional benefits under that fund while maintaining actuarial stability and has received approval from the City of San Antonio, the fund, certain unions, and the retiree's association.

H.B. 2752 grants a catastrophic disability annuity, eliminates the penalty to surviving spouses of retirees, increases certain pensions by \$200 per month, establishes a minimum monthly pension, expands the Back DROP lump-sum payment election, authorizes the mayor to appoint certain individuals to serve as trustee in place of the mayor, and authorizes a refund of contributions by the member prior to vesting.

### **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 1.02, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by amending Subdivision (15) and adding Subdivisions (4-a), (8-a), and (12-a), to redefine "retirement annuity" and to define "catastrophic injury," "disability," and "qualified mayoral designee," respectively.

SECTION 2. Amends Section 2.01(a), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

- (a) Provides that the firefighters and police officers pension fund of a municipality (fund) is governed by a board of trustees (board) consisting of the mayor of a municipality to which this Act applies or a qualified mayoral designee, and eight other certain individuals.

SECTION 3. Amends Section 2.02(a), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

- (a) Provides that the mayor of a municipality to which this Act applies, or a qualified mayoral designee, serves on the board for the term of the mayor's office except that, if the mayor appoints a mayoral designee, the mayor is authorized to replace or remove that mayoral designee at the mayor's discretion. Authorizes an individual designated by the mayor to serve on the board under this subsection to only serve on the board while the individual is a qualified mayoral designee.

SECTION 4. Amends Section 4.07(b), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to delete existing text entitling a member of the fund who terminates employment before the member's right to benefits under the fund has vested but who has contributed to the fund for at least five years to a refund of the member's contributions that were picked up by the municipality.

SECTION 5. Amends Section 5.01, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by amending Subsection (f) and adding Subsections (f-1), (i), and (j), as follows:

(f) Requires the board to compute the retirement annuity of a member who retires after September 30, 2001, but before October 1, 2007, in a certain manner.

(f-1) Requires the board to compute the retirement annuity of a member who retires after September 30, 2007, in a certain manner. Provides that in making the computation for a year, the year is considered to begin on the first day a contribution is made. Prohibits an annuity under this subsection from exceeding, as of the date of the retirement, 87-1/2 percent of the member's average total salary.

(i) Sets forth certain increases of the monthly benefit payable by the fund beginning with the first monthly benefit payable by the fund after October 1, 2007.

(j) Sets forth certain increases of the monthly benefit payable by the fund after taking into account Subsection (i) beginning with the first monthly benefit payable by the fund after October 1, 2007.

SECTION 6. Amends Section 5.015(b), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

(b) Provides that the Back DROP election results in a lump-sum payment for a number of full months of service elected by the member that does not exceed the lesser of the number of months of service credit the member has in excess of 20 years or 48 months, rather than 36 months.

SECTION 7. Amends Section 5.03, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by amending Subsections (a) and (c) and adding Subsections (a-1), (a-2), and (g), as follows:

(a) Provides that an active member of the fund who is not eligible to receive a catastrophic injury disability annuity under Subsection (a-1) of this section is eligible to retire and receive a regular disability retirement annuity if the member makes a written application for regular disability retirement with the board.

(a-1) Provides that an active member of the fund is eligible to retire and receive a catastrophic injury disability retirement annuity under certain conditions.

(a-2) Sets forth certain diseases, disorders, or injuries that are not catastrophic injuries.

(c) Provides that a member of the fund who is on suspension and who becomes disabled as a result of an injury sustained or disease contracted while the member is on suspension is eligible for a disability retirement annuity under Subsection (a) or (a-1) of this section, as applicable, if the suspended member makes up each deducted contribution lost by reason of the suspension not later than the 30th day after the later of the termination date of the suspension or the exhaustion of any appeal with respect to the suspension except as provided by Subsection (d) of this section. Deletes existing text providing that a member of the fund who is on suspension and who receives a total and permanent disability resulting from an injury or disease incurred while on suspension is eligible for a disability retirement annuity.

(g) Provides that a disability retiree who becomes disabled before October 1, 2007, and who is otherwise qualified to receive a catastrophic injury disability retirement annuity under Subsection (a-1) is eligible to receive an annuity under that subsection, subject to Section 5.04(a-2) of this Act.

SECTION 8. Amends Section 5.04, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2), as follows:

(a) Provides that a member who is eligible to retire and receive a disability retirement annuity, rather than a monthly disability retirement annuity, under Section 5.03(a) of this Act is entitled to receive an annuity from the fund equal to a certain amount.

(a-1) Entitles a member who is eligible to retire and receive a catastrophic injury disability retirement annuity under Section 5.03(a-1) of this Act to receive an annuity from the fund equal to a certain amount subject to Subsection (a-2) of this section.

(a-2) Requires an annuity awarded by the board under Subsection (a-1) of this section to a member who was previously awarded an annuity under Subsection (a) of this section to be increased to equal the amount the annuity awarded under Subsection (a) of this section would have been if the annuity had been awarded under Subsection (a-1) of this section, taking into account the cost of living adjustment increases provided for in Section 5.09 of this Act. Provides that this subsection does not entitle the member to any additional payment for the period before the effective date of the award under Subsection (a-1) of this section.

(b) Requires all fractional years to be prorated based on full months served in the department as a contributing member of the fund in making computations under this section. Deletes existing text providing that all fractional years under this section are prorated based on full months served on the fire or police department as a contributing member of the fund.

SECTION 9. Amends Section 5.05, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by amending Subsections (a) and (c) and adding Subsections (a-1), (a-2), (a-3), and (c-1), as follows:

(a) Deletes existing text requiring the board to determine whether the disability retirement annuity shall be continued, decreased, restored to the original amount if it had been decreased, or discontinued, except that a disability retirement annuity is prohibited from being completely discontinued unless the disability retiree has first been accepted for reinstatement in that person's former position or status in the fire or police department by the chief of the respective department based on an examination.

(a-1) Requires a disability retiree who is awarded a catastrophic injury disability annuity under Section 5.03(a-1) of this Act to undergo a medical examination by any reputable physician or physicians selected by the board by a certain date.

(a-2) Authorizes the board to require one or more medical examinations under Subsection (a) of this section in addition to those required under Subsection (a-1) of this section.

(a-3) Requires the board to determine whether the disability retirement annuity shall be continued, decreased, restored to the original amount if it had been decreased, or discontinued subject to Subsection (c) of this section, and based on an examination under Subsections (a), (a-1), or (a-2) of this section.

(c) Prohibits the disability retirement annuity from being reduced to an amount that is less than a certain computation for those retired because of disability on or after August 30, 1971. Makes a conforming change.

(c-1) Requires all fractional years to be prorated based on full months served in the department as a contributing member of the fund before the date of retirement in making the computation under Subsection (c) of this section. Deletes existing text requiring funds be contributed at two percent, for each year that the retiree has served and contributed a portion of salary, of the average of the member's total salary for the highest three years of the last five years, computed from the date of retirement, divided by 12, or if the member has served less than three years before the date of retirement, 50 percent of the member's average monthly total salary, or a theoretical monthly average if service is less than a full month.

SECTION 10. Amends Section 5.07(b), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

(b) Authorizes the board to reduce the retiree's disability retirement annuity by the amount of \$1 for each month for each \$2 of income earned by the retiree from the other employment during each month of the previous year, except that the disability retirement annuity may not be decreased below the amount determined under Section 5.05(c) if the retiree received income from other employment, including self-employment, during the preceding year, rather than based on 2-1/4 percent of the retiree's average total salary computed at the time of retirement under Section 5.04 for each year of service in the department.

SECTION 11. Amends Section 5.09(a), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

(a) Requires an annuity to be increased by a percentage equal to 75 percent of the percentage increase in the cost of living index if the member's service retirement, disability retirement, or death before retirement occurred on or after October 1, 1997, rather than 1993. Makes a conforming change.

SECTION 12. Amends Section 6.02, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by amending Subsections (a), (c), (g), and (m) and adding Subsections (g-1), (g-2), and (o), as follows:

(a) Entitles a surviving spouse and children to receive from the fund an aggregate death benefit annuity, computed and payable from the date of the member's death if a member or retiree receiving a disability pension under Section 5.03(a) of this Act dies leaving a surviving spouse or at least one dependent child subject to Section 6.03 of this Act and the provisions of this section.

(c) Deletes existing text entitling a surviving spouse or child to certain benefits subject to Section 6.08 of this Act. Makes a conforming change.

(g) Provides that a surviving spouse of a retiree who was not married to the retiree until after the retiree's retirement is entitled to receive only the benefits, if any, provided under Subsection (g-1), rather than Subsection (m), of this section or, rather than and, Section 6.08 of this Act.

(g-1) Entitles a surviving spouse of a retiree who was not married to the retiree until after the date of the retiree's retirement to receive the entire death benefit of a surviving spouse in this section if the surviving spouse was married to the retiree for a period of at least the five consecutive years preceding the date of the retiree's death. Entitles a surviving spouse of a retiree who was not married to the retiree until after the retiree's retirement and was not married to the retiree for a period of the five consecutive years preceding the date of the retiree's death to receive only the benefits, if any, provided under Section 6.08 of this Act. Makes the benefit provided by this subsection prospective to a retiree death that occurs on or after October 1, 2007.

(g-2) Provides that the surviving spouse of a retiree who made an election under Subsection (m) of this section before October 1, 2007, and who does not cancel that election in accordance with Subsection (m) of this section is not entitled to receive the death benefit annuity provided for under Subsection (g-1) of this section.

(m) Authorizes a service retiree who marries after the date of retirement to elect to receive a reduced annuity during the retiree's lifetime and provide for a death benefit annuity to the retiree's surviving spouse subject to Subsections (n) and (o) of this section. Deletes existing text authorizing an election made under this subsection to be canceled by the retiree before the retiree's death on the divorce of the retiree or the death of the retiree's spouse.

(o) Prohibits a retiree from making an election under Subsection (m) of this section after September 30, 2007. Requires a cancellation of an election by a retiree under Subsection (m) of this section to be made on or before December 31, 2007.

SECTION 13. Amends Section 6.08, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), by amending Subsections (a) and (b), as follows:

(a) Entitles a surviving spouse of a retiree whose status as such resulted from any marriage after the date of the retirement of the retiree and who has been married to the retiree for a period of at least the 2-1/2 but less than the five consecutive years preceding the date of the retiree's death, to a lump-sum death benefit because of the retiree's death in the amount of \$2,500 except as provided by Subsection (b) of this section. Deletes existing text entitling a retiree's spouse to certain benefits.

(b) Provides that a surviving spouse is not entitled to a lump-sum death benefit under this section if a child is entitled to receive death benefits under this Act as a result of the retiree's death.

SECTION 14. Amends Section 6.11, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

Sec. 6.11. DEATH BENEFIT FOR ACTIVE MEMBER'S ESTATE. Entitles the estate of a deceased member to a death benefit payment from the fund in an amount equal to 10, rather than five, times the amount of an annuity computed in accordance with Section 5.01(f-1), rather than 5.01(f), of this Act using the deceased member's service credit and average total salary as of the date of death if an active member dies and does not leave a beneficiary.

SECTION 15. Amends Section 6.115, Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), to make a conforming change.

SECTION 16. Amends Sections 6.14(e), (f), (h), and (j), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.), as follows:

(e) Makes a conforming change.

(f) Requires the surviving spouse to elect the number of months used in computing the lump-sum payment. Prohibits the number of months elected by a surviving spouse used in computing a lump-sum payment from exceeding 48, rather than 36, months.

(h) Provides that the deceased member's service credit is the lesser of the deceased member's service credit computed as provided by Section 5.01(g) of this Act, less the number of months elected by the surviving spouse under Subsection (f) of this section and less any service credit for unused sick leave to which the member would have been entitled, or 27 years, in determining the annuity under Subsection (e) of this section for a surviving spouse whose death benefit annuity is limited by Section 6.02(b) of this Act.

(j) Makes a conforming change.

SECTION 17. Repealer: Sections 4.07(a) (relating to an authorization of the board to invest or direct the investment of surplus for the sole benefit of the pension system), 5.04(c) (relating to a requirement of the board to attempt to notify the heirs of the procedures for applying and qualifying for survivor benefits or a refund of the Group B primary party's contributions), and 6.08(c) (relating to the computation of Group B benefits), Chapter 824, Acts of the 73rd Legislature, Regular Session, 1993 (Article 6243o, V.T.C.S.).

SECTION 18. Effective date: October 1, 2007.