

## **BILL ANALYSIS**

Senate Research Center  
82R6458 KFF-F

S.B. 1164  
By: Wentworth  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current law permits municipalities participating in the Texas Municipal Retirement System (TMRS) to authorize and provide for increased annuities to be paid to retirees and beneficiaries of deceased retirees no more than once every 12 months. For instance, plans can opt to make certain periodic increases in benefits, such as an annual cost of living adjustment (COLA). However, in December, 2007, TMRS adopted revised actuarial assumptions and a change in actuarial funding method from "Unit Credit" to "Projected Unit Credit" to provide advance funding of COLAs and similar benefits that are adopted on an annually repeating basis. Because these actuarial changes potentially have a significant effect on Unfunded Actuarial Accrued Liability as well as a municipality's contribution requirements, TMRS allows a municipality to adopt plan changes removing certain annually repeating or periodic benefits. While municipalities are not prevented from adopting either ad hoc or annually repeating benefit increases in the future, these rules would also require retroactive application of these benefits should they be restored, potentially imposing significant costs on the municipality and discouraging the municipality from future election of ad hoc or periodic benefit increases.

S.B. 1164 would amend Chapters 853 (Creditable Service) and 854 (Benefits), Government Code, to allow municipalities to provide option annuity increases or annual supplemental payments without being subject to current requirements that these benefit increases apply retroactively. The legislation would also allow participating municipalities to grant additional payments where funding is available.

As proposed, S.B. 1164 amends current law relating to optional annuity increases and annual supplemental payments for certain retirees and beneficiaries of the Texas Municipal Retirement System.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the board of trustees of the Texas Municipal Retirement System in SECTION 3 (Section 854.203, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 853.404(c), Government Code, as follows:

(c) Authorizes the governing body of a participating municipality that adopts an ordinance under Section 854.203 providing for increased annuities effective January 1 of a designated year to further provide in the ordinance that increases in annuities will be credited effective January 1 of each year following the designated year based on recomputations made as provided by Section 854.203(b), rather than as provided by Section 854.203(b)(1), for each year following the initial computation, and using the fraction specified in the ordinance as required under Section 854.203(b), rather than as required under Section 854.203(b)(2), in the recomputations.

SECTION 2. Amends the heading to Section 854.203, Government Code, to read as follows:

Sec. 854.203. OPTIONAL ANNUITY INCREASE OR ANNUAL SUPPLEMENTAL PAYMENTS.

SECTION 3. Amends Section 854.203, Government Code, by amending Subsections (a), (b), (f), and (g) and adding Subsections (b-1), (b-2), (b-3), and (b-4), as follows:

(a) Authorizes the governing body of a participating municipality by ordinance, from time to time but not more frequently than once in each 12-month period, to authorize and provide for an increased annuity, a supplemental payment, or both, rather than provide for increased annuities, to be paid to retirees and beneficiaries of deceased retirees of the municipality.

(b) Provides that the amount of annuity increase under this section is computed by one of the following methods:

(1) Creates this subdivision from existing text and makes no further changes:

(A) Creates this paragraph from existing Subdivision (b)(1). Makes a nonsubstantive change; and

(B) Creates this paragraph from existing Subdivision (b)(2). Makes a nonsubstantive change; or

(2) as the sum of the prior and current service annuities of the person on whose service the annuities are based on the effective date of the annuity increase multiplied by the percentage increase specified in the ordinance adopted by the governing body, except that an adjustment to an annuity after the annuity starting date for annuity increases under this subdivision may not cause an annuitant's annuity to exceed the amount that the annuitant would be entitled to had 100 percent of the amount described by Subsection (b)(1)(A) (relating to multiplying the sum of the prior and current service annuities on the effective date of retirement by the percentage change in the Consumer Price Index for All Urban Consumers) been applied to the annuitant's annuity on the effective date of retirement.

(b-1) Provides that an increase under Subsection (b)(2) applies to all annuities for which the effective date of retirement of the person on whose service the annuity is based is at least 12 months before the effective date of the increase. Requires that each distribution of a benefit under this subtitle be determined and made in accordance with Section 401(a)(9), Internal Revenue Code of 1986, notwithstanding any other provision of this subtitle. Authorizes the board of trustees of the Texas Municipal Retirement System (board) to adopt rules it considers necessary to comply with the distribution requirements.

(b-2) Provides that the amount of a supplemental payment under this section is an amount equal to the sum of the prior and current service annuities of the person on whose service the annuities are based on the date that is the 30th day after the effective date of the ordinance as described by Subsection (c) multiplied by the percentage specified in the ordinance adopted by the governing body. Requires that a supplemental payment under this section be issued on:

(1) March 31, if the effective date of the ordinance described by Subsection (c) is January 1; or

(2) the 60th day after the date on which the amount of the payment is calculated under this subsection, if the effective date of the ordinance is not January 1.

(b-3) Requires the supplemental payment to be prorated based on the number of months the person is retired if the effective date of retirement of the person on whose service the annuity is based is less than 12 months before the date on which the amount of the payment is calculated under Subsection (b-2).

(b-4) Provides that a supplemental payment under this section is an obligation of the municipality's account in the municipality accumulation fund.

(f) Provides that an increase granted to an annuitant under Subsection (b)(2), or the amount by which an increase under Subsection (b)(1), rather than under this section, exceeds all previously granted increases to an annuitant is:

(1)-(3) Creates these subdivisions from existing text. Makes nonsubstantive changes.

(g) Prohibits the board from approving an ordinance unless the actuary first determines that all obligations charged against the municipality's account in the municipality accumulation fund, including the obligations proposed in the ordinance, can be funded by the municipality within its maximum contribution rate and within its amortization period as in effect on the effective date of the annuity increases or supplemental payments.

SECTION 4. Effective date: upon passage or September 1, 2011.