

CHAPTER 661

S.B. No. 264

AN ACT

relating to the administration of police officer retirement systems in certain municipalities.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 2, Chapter 76, Acts of the 50th Legislature, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), is amended by adding Subdivision (i) to read as follows:

(i) "Retired member" means a member who has terminated service, other than an inactive member, and who is eligible to receive a service or disability pension under this Act.

SECTION 2. Chapter 76, Acts of the 50th Legislature, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), is amended by adding Section 2A to read as follows:

Sec. 2A. A person is ineligible to receive a pension based on the person's service credited in the Pension System while the person holds a classified position in the police department of the city.

SECTION 3. Chapter 76, Acts of the 50th Legislature, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), is amended by adding Section 11A to read as follows:

Sec. 11A. (a) The Pension System shall suspend all pension payments to a person who has retired under this Act and is subsequently appointed as the department head of the police department. The suspension of payments begins on the effective date of the person's appointment.

(b) Pension benefits based on the person's previous period of service do not accrue during the period of pension payment suspension, but the person again becomes an active member during this period, and contributions of the city and the department head for the subsequent service are payable during the period. The department head retains credit for all previous service and acquires credit for the subsequent service.

(c) The department head is eligible to retire at the end of the subsequent service and receive pension benefits under this Act based on both periods of service.

SECTION 4. Chapter 76, Acts of the 50th Legislature, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), is amended by adding Section 16A to read as follows:

Sec. 16A. (a) An employee of the city who has retired under this Act, was not eligible to become a member of a pension system governed by Chapter 358, Acts of the 48th Legislature, 1943 (Article 6243g, Vernon's Texas Civil Statutes), under Section 4(d) of that Act, and is or has been transferred by action of the city to a classified position in a police department included in the Pension System becomes or became as of the effective date of the transfer an active member of the plan under this Act from which the person earlier retired.

(b) A person who rejoins the Pension System under this section is entitled to receive service credit for each day of service and work performed by the person in a classified position in the police department. The Pension Board shall add service performed after the transfer to the prior service the member accrued in a classified position in the police department. The member may not receive service credit under this Act for service performed for the city other than in a classified position in the police department.

(c) After a transfer described by this section, contributions of the city and the member become payable as for other members of the same pension plan.

(d) When a member who has transferred as described by this section subsequently retires, the person is entitled to a pension computed on the basis of the combined service described by Subsection (b) of this section, after deducting any period in which the member was suspended from duty without pay, on leave of absence without pay, on separation from service, or employed by the city in a capacity other than in a classified position in the police department.

(e) *If a retired member receives both pension benefits from the fund and a salary from the city as a classified officer that cover the same period, the retired member shall repay to the fund the pension benefits received during that period. The Pension Board shall withhold payment of pension benefits under this Act if it is determined that a retired member is receiving both pension benefits from the fund and a salary from the city as a classified officer that cover the same period. On request of the Pension Board, the city attorney or a private attorney chosen by the board shall file suit in a court of competent jurisdiction to recover pension benefits owed to the fund under this subsection.*

(f) *This Act does not authorize the return to service with a police department or the resumption of membership in the Pension System by a retired member except as specifically provided by Section 11A of this Act or this section.*

SECTION 5. Chapter 76, Acts of the 50th Legislature, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), is amended by adding Section 18 to read as follows:

Sec. 18. *The Pension Board may require any active member, inactive member, retired member, eligible survivor, or other person or entity to furnish information the Board requires for the determination of benefits under this Act. If a person or entity does not cooperate in the furnishing or obtaining of information required as provided by this section, the Board may withhold payment of the pension or other benefits dependent on the information.*

SECTION 6. Article 6243g-3, Revised Statutes, is amended by adding Section 18 to read as follows:

Sec. 18. **RESUMPTION OF SERVICE AS DEPARTMENT HEAD AFTER RETIREMENT.** (a) *The pension system shall suspend all pension payments to a person who has retired under this article and is subsequently appointed as the department head of the police department. The suspension of payments begins on the effective date of the person's appointment.*

(b) *Pension benefits based on the person's previous period of service do not accrue during the period of pension payment suspension, but the person again becomes an active member during this period, and contributions of the city and the department head for the subsequent service are payable during the period. The department head retains credit for all previous service and acquires credit for the subsequent service.*

(c) *The department head is eligible to retire at the end of the subsequent service and receive pension benefits under this article based on both periods of service.*

SECTION 7. Article 6243g-3, Revised Statutes, is amended by adding Section 25A to read as follows:

Sec. 25A. (a) *An employee of the city who has retired under this article, was not eligible to become a member of a pension system governed by Chapter 358, Acts of the 48th Legislature, 1943 (Article 6243g, Vernon's Texas Civil Statutes), under Section 4(d) of that Act, and is or has been transferred by action of the city to a classified position in a police department included in the pension system becomes or became as of the effective date of the transfer an active member of the plan under this article from which the person earlier retired.*

(b) *A person who rejoins the pension system under this section is entitled to receive service credit for each day of service and work performed by the person in a classified position in the police department. The pension board shall add service performed after the transfer to the prior service the member accrued in a classified position in the police department. The member may not receive service credit under this article for service performed for the city other than in a classified position in the police department.*

(c) *After a transfer described by this section, contributions of the city and the member become payable as for other members of the same pension plan.*

(d) *When a member who has transferred as described by this section subsequently retires, the person is entitled to a pension computed on the basis of the combined service described by Subsection (b) of this section, after deducting any period in which the member was suspended from duty without pay, on leave of absence without pay, on separation from*

service, or employed by the city in a capacity other than in a classified position in the police department.

(e) If a retired member receives both pension benefits from the fund and a salary from the city as a classified officer that cover the same period, the retired member shall repay to the fund the pension benefits received during that period. The pension board shall withhold payment of pension benefits under this article if it is determined that a retired member is receiving both pension benefits from the fund and a salary from the city as a classified officer that cover the same period. On request of the pension board, the city attorney or a private attorney chosen by the board shall file suit in a court of competent jurisdiction to recover pension benefits owed to the fund under this subsection.

(f) This article does not authorize the return to service with a police department or the resumption of membership in the pension system by a retired member except as specifically provided by Section 18 of this article or this section.

SECTION 8. If a person retired and was appointed before the effective date of this Act as the department head of a police department the employees of which are covered by a retirement system to which the changes in law made by this Act apply, the changes apply to the department head as if the effective date of this Act were the effective date of the appointment.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 30, 1993: Yeas 28, Nays 0; passed the House on May 26, 1993, by a non-record vote.

Approved June 15, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.