

CHAPTER 743

H.B. No. 570

AN ACT

relating to the operation and management of policemen's retirement systems in cities with a population of 1.2 million or more.

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

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

(b) The Pension Board shall be composed of seven (7) members as follows:

(1) The administrative head of the City, or his authorized representative.

(2) Three (3) employees of the police department having membership in the Pension System and elected by the members of such police department and system.

(3) Two (2) legally qualified taxpaying voters of such city, residents thereof for the preceding three (3) years, to be chosen by the elected members of the Pension Board *and confirmed by the Board*, being neither employees nor officers of such city.

(4) The City Treasurer of the city, or the person discharging the duties of the City Treasurer.

The terms of office of the elected members of the Pension Board shall be three (3) years, provided, however, that at the first election after the effective date of this Act, one such elected member shall be elected to a term of one year, one such elected member shall be elected to a term of two (2) years; and one such elected member shall be elected to a term of three (3) years. Thereafter, at an annual election called by the Chief of Police, and held during the month of December, one member shall be elected to a three-year term. Whenever a vacancy occurs among the three (3) elected members of the Pension Board, the *Pension Board* [~~remaining elected members~~] shall appoint a Pension Fund member to serve the balance of the calendar year *and* until the next regularly scheduled election of Board members. At that time, the membership of the police department shall elect a Pension Fund member to serve for the remainder of the term.

The term of office of appointed members of the Board shall be two (2) years, *with such appointed members being nominated by the elected members of the Board and confirmed by the Board, and having terms commencing when the appointed members are qualified* [~~such appointments shall be made by the elected members of the Board and shall commence when the appointed members are qualified, in January after the effective day of this Act.~~]

The term of office of the Board members statutorily provided for, shall be and continue so long as such member holds the position defined in this Act for automatic members of such Board.

SECTION 2. Section 11(a), Chapter 76, Acts of the 50th Legislature, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A person who becomes a member of the Pension System on or after *September 1, 1975*, [~~the effective date of this amendatory Act~~] and who has been in the service of the city police department for the period of twenty (20) years may retire *on or after July 1, 1986*, at the age of fifty (50) years and shall be entitled to a retirement pension of an amount equal to *two percent (2%) of his base salary per month for each year of service in the police department, not to exceed a total pension equal to eighty percent (80%) of base salary, such base salary to be* [~~thirty percent (30%) of~~] the base salary provided for the classified position in the police department held by the member, provided that if the member has not held the same classified position for five (5) years prior to the date of retirement, the retirement pension shall be based on the average monthly base salary of the member for five (5) years preceding retirement. Except as provided in Subsection (a-1) of this section, no retirement pension may be paid to a member who has not attained the age of fifty (50) years. [~~Subject to the limitations provided in Subsection (b) of this section, the computation of retirement pension shall include any increase or decrease of the base salary or the average monthly base salary for the classified position or positions on which the member retired even though the increase or decrease occurs after retirement.~~]

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

(a-1) A person who was a member of the pension system before *September 1, 1975* [~~the effective date of this amendatory Act~~], may retire *on or after July 1, 1986*, regardless of age upon completion of twenty (20) years of service in the city police department and shall be entitled to a retirement pension of an amount equal to *two percent (2%) of his base salary per month for each year of service in the police department, not to exceed a total pension equal to eighty percent (80%) of base salary, such base salary to be* [~~thirty percent (30%) of~~] the base salary provided for the classified position in the police department held by the member, provided that if the member has not held the same classified position for five (5) years prior to the date of retirement, the retirement pension shall be based on the average monthly base salary of the member for five (5) years preceding retirement. [~~Subject to the limitations provided in Subsection (b) of this section, the computation of retirement pension shall include any increase or decrease of the base salary or the average monthly base salary for the classified position or positions on which the member retired even though the increase or decrease occurs after retirement.~~]

SECTION 4. Section 11(c), Chapter 76, Acts of the 50th Legislature, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), is repealed.

SECTION 5. Section 11(d), Chapter 76, Acts of the 50th Legislature, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) It shall be compulsory for any member to retire from the service of the police department upon attaining the age of sixty-five (65) years. Failure of any member of the Pension System to comply with this provision shall deprive the member and his dependents of any of the benefits provided for herein. If at the time of retirement *on or after July 1, 1986*, because of maximum age requirements, the member has completed less than twenty (20) years of service, his monthly retirement pension shall be prorated on the basis of *two percent (2%)* [~~one and one-half percent (1 1/2%)~~] of the base salary of the classified position of the member per month for each year of service completed. [~~Subject to the~~]

~~limitations provided in Subsection (b) of this section, the computation of retirement pension shall include any increase or decrease of the base salary or the average monthly base salary for the classified position or positions on which the member retired even though the increase or decrease occurs after retirement.]~~

SECTION 6. Section 11(g), Chapter 76, Acts of the 50th Legislature, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(g) Notwithstanding any other provision of this Act, as amended, regarding increases in pensions based on any increase or decrease of the base salary or the average monthly base salary for the classified position or positions from which the member retired, the provisions of this subsection shall apply. Beginning on January 1, 1987 [1982], the pension payable to each retired member of the Pension System as of December 31, 1986 [1981], or the initial pension payable to each active member who retires under the provisions of this Act on or after January 1, 1987 [1982], which pension amounts are referred to in this subsection as the basic pension, shall be adjusted annually, effective April 1 of each year, upward *at a rate equal to two-thirds (%) of [in accordance with]* any percentage increase in the Consumer Price Index for All Urban Consumers for the preceding year, measured by the percentage change in the average indexes for the two (2) respective preceding calendar years, as determined by the United States Department of Labor. The adjusted pension shall never be less than the basic pension that such retired member would otherwise be entitled to receive without regard to changes in the Consumer Price Index and shall be based on the Consumer Price Index for All Urban Consumers as constructed on September 1, 1986 [1981], provided such index continues to be published. In the event that publication of the Consumer Price Index as constructed on September 1, 1986 [1981], is discontinued, then the current published Consumer Price Index shall be used for the purposes of this section. The adjusted pension shall never be greater than the amount of the retired member's basic pension plus annual increases of not more than *eight percent (8%) per year, compounded, and never less than the amount of the retired member's basic pension plus annual increases of two and one-half percent (2.5%), compounded, notwithstanding a greater or lesser increase in the Consumer Price Index [two-thirds (%) of the percentage increase of the Consumer Price Index, compounded, notwithstanding a greater increase in the Consumer Price Index]*.

SECTION 7. Section 12, Chapter 76, Acts of the 50th Legislature, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. **DISABILITY BENEFITS.** Any member of the police department who becomes incapacitated for the performance of his duty by reasons of any bodily injury received in, or illness caused by, the performance of his duty shall, upon presentation to the Pension Board of proof of permanent disability, be retired and shall receive a retirement allowance equal to the percentage of his disability. Such allowance shall be computed on the same basis as a service retirement with regard to length of service; for example, if the member is fifty percent (50%) disabled he shall receive one-half (½) the retirement allowance granted a member as a service retirement for the period of service he has completed, provided that in case of a disability retirement before the member has completed twenty (20) years of service, he shall receive an allowance based on the minimum allowed for twenty (20) years service. Such allowance as is granted by the Pension Board shall be paid the member for the remainder of his life or so long as he remains incapacitated. *A member not otherwise eligible for a service pension, with ten (10) years of credited service, who suffers a partial disability on or after July 1, 1986, and who is not eligible for a duty-connected disability pension, shall be eligible for a pension equal to twenty percent (20%) of final compensation payable for two (2) years or for the member's life, whichever is less. A member not otherwise eligible for a service pension, who suffers a total disability on or after July 1, 1986, and who is not eligible for a duty-connected pension, shall be eligible for a pension computed on the same basis as a service retirement based upon service accrued to the date of disability.* When any member has been retired for permanent, total or partial disability, he shall be subject at all times to re-examination by the Pension Board and shall submit himself to such further examination as the Pension Board may require. If any member refuses to submit himself to any such examination, the Pension Board may, within its discretion,

order the payments stopped. If a member who has been retired under the provisions of this Section should thereafter recover, so that in the opinion of the Pension Board he is able to perform the usual and customary duties formerly handled by him for the city in the police department, and such member is reinstated or tendered reinstatement to the position he held at the time of his retirement, then the Pension Board shall order such payment stopped. No person shall be retired either for total or partial disability unless he files with the Pension Board an application for allowance, at which time the Pension Board shall have him examined by a *physician* ~~[no fewer than three (3) physicians]~~, to be chosen *and compensated* by the Pension Board and who *is* ~~[are]~~ to make a ~~[their]~~ report to the Pension Board.

SECTION 8. Section 13, Chapter 76, Acts of the 50th Legislature, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13. RIGHTS OF SURVIVORS. (a) If any member of the police department who has been retired on allowance because of length of service or disability thereafter dies *on or after July 1, 1986*, from any cause whatsoever after he has become entitled to an allowance or pension, ~~[or if while in service any member dies from any cause growing out of or in consequence of the performance of his duty,]~~ and leaves surviving a spouse to whom the member was married prior to his retirement *or for a period of at least five (5) years prior to the member's death (hereinafter referred to as the "surviving spouse")*, a child or children under the age of eighteen (18) years or a dependent parent, the Board shall order paid a monthly allowance as follows: (a) to the *surviving* spouse, so long as he or she remains a widow or widower, a sum equal to the allowance which was granted to the member upon service or disability pension based on his length of service in the police department; (b) to the guardian of each child, the sum of twenty-five (\$25) Dollars a month until the child reaches the age of eighteen (18) years or marries; (c) to the guardian of each child, only in case no spouse is entitled to an allowance, the sum the spouse would have received, to be divided equally among the unmarried children under eighteen (18) years; (d) to the dependent parent, only in case no spouse or dependent child is entitled to an allowance, the sum the spouse would have received, to be paid to but one (1) parent and such parent to be determined by the Pension Board.

(b) If any member of the Pension System has not completed ten (10) years or more of service in the police department and is killed or dies from any cause growing out of or in consequence of any act which is clearly not in the actual performance of his official duty, his surviving spouse or dependent child or children shall be refunded any contributions which the member made to the Pension System.

(c) If any member who has completed ten (10) years or more of service in the police department is killed or dies from any cause growing out of or in consequence of any act which is clearly not in the actual performance of his official duty, his surviving spouse and/or dependent child or children shall receive the same benefits as under Section 13(a) of this Act.

(d) *If any member is killed or dies from any cause growing out of or in consequence of the performance of his duty, on or after July 1, 1986, his surviving spouse and dependents shall receive the same benefits as under Subsection (a) of this section, except that the benefit payable to the spouse, or to the guardian of the dependent child or children if there is no surviving spouse, shall be equal to 100 percent of the member's final compensation.*

SECTION 9. Section 11(a), Article 6243g-3, Revised Statutes, is amended to read as follows:

(a) A member shall become eligible to receive a service pension, after he has terminated employment, *on or after July 1, 1986*, beginning with the month when he has 20 years of credited service and has attained age 50 [55].

SECTION 10. Section 21, Article 6243g-3, Revised Statutes, is amended to read as follows:

Sec. 21. SURVIVOR'S PENSION. (a) *If a member or retired member dies on or after July 1, 1986, the [The] monthly survivor's pension payable to the [a] member's eligible primary survivor or, if there is no eligible surviving spouse at the time of the*

member's death, then to his eligible surviving dependents, shall be equal to 100 [75] percent of the member's accrued or actual service or disability pension. If the primary survivor is the surviving spouse, such person must have been married to the deceased member prior to retirement, or for a period of at least five (5) years prior to the member's death.

(b) A survivor's pension shall begin with the month following the month in which the member or retired member dies. If payable to a surviving spouse who subsequently dies or marries, it shall become payable in the following month only to a surviving dependent child as defined in Section 1 of this article. If payable to a dependent child who dies or fails to meet the conditions of eligibility in Section 1 of this article, the pension shall then cease. If payable to a parent, it shall cease with the month in which the parent dies.

(c) *If the member dies from any cause growing out of or in consequence of the performance of his duty, on or after July 1, 1986, the survivor's pension payable under Subsection (a) of this section shall be equal to 100 percent of the member's final compensation.*

SECTION 11. Section 24, Article 6243g-3, Revised Statutes, is amended to read as follows:

Sec. 24. ADJUSTMENT OF BENEFITS. *Beginning January 1, 1987, a [A] pension payable under this article may be adjusted annually on April 1, beginning in the year the member attains age 55 [60], or in the case of disability and survivor's pensions, beginning in the year next following 12 months of payments, in accordance with two-thirds (2/3) of the percentage changes in the Consumer Price Index for All Urban Consumers, but not below the original pension amount. The annual adjustment under this section shall never be less than two and one-half percent (2.5%) and shall never be more than eight percent (8%) [nor above the original pension amount increased by four percent annually,] not compounded, notwithstanding a greater or lesser increase in the consumer price index.*

SECTION 12. 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 by the House on April 27, 1987, by a non-record vote. Passed by the Senate on May 27, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 20, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.