

Ch. 61, § 10

70th LEGISLATURE—REGULAR SESSION

CHAPTER 63

S.B. No. 739

AN ACT

relating to participation and credit in, benefits from, and contributions to the Texas County and District Retirement System.

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

SECTION 1. Subdivision (6), Section 51.001, Title 110B, Revised Statutes, is amended to read as follows:

(6) "Employee" means a person who is certified by a subdivision as being employed in, or elected or appointed to, a position or office in the subdivision that normally requires services from the person for not less than 900 hours a year and for which the person is compensated by the subdivision. *The term includes a person employed on a probationary basis except as provided by Section 52.107(c) of this subtitle.*

SECTION 2. Subsection (c), Section 52.004, Title 110B, Revised Statutes, is amended to read as follows:

(c) If a participating subdivision is abolished so that it no longer contributes to the system and no other participating subdivision has assumed funding of the obligations, ~~or~~ if a participating subdivision elects to discontinue enrollment in the system of nonmembers whose employment begins after the date of an election to discontinue, *or if a participating subdivision reduces the number of members in its employment by at least 80 percent from the number of members in its employment during the preceding year and no other participating subdivision has assumed funding of the obligations,* the assets in that subdivision's account in the subdivision accumulation fund shall be allocated under the following priorities, with the details of the allocation to be prescribed by the board of trustees:

(1) First priority shall be given to current service credit of all members who leave their contributions in the system. Service retirement will be allowed at age 60 regardless of length of credited service. If the ratio of the sum of the available tangible assets and the actuarial present value of future subdivision contributions in excess of normal costs, if any, to the actuarial present value of current service credits is less than 1.00, then the credits will have to be proportionally reduced. The ratio will be redetermined annually and adjustments made as needed.

(2) Second priority shall be given to prior service credit, prior service annuities, multiple matching credit, and multiple matching annuities, without *differentiation* ~~[differentiation]~~. If the ratio of the sum of the available tangible assets for this priority group and the available actuarial present value of future subdivision contributions in excess of normal costs, if any, to the actuarial present value of benefits is less than 1.00, then the annuities and credits will have to all be proportionally reduced. *If the ratio is greater than 1.00, then the annuities will all have to be proportionally increased.* The ratio will be redetermined annually and adjustments made as needed.

SECTION 3. Section 52.101, Title 110B, Revised Statutes, is amended to read as follows:

Sec. 52.101. GENERAL MEMBERSHIP REQUIREMENT. (a) Except as otherwise provided by this subchapter, a person who is not a member becomes a member of the retirement system if:

(1) on the date the subdivision's participation in the retirement system becomes effective, the person is a subdivision employee; ~~or~~

(2) *before September 1, 1987, and after the date the subdivision's participation in the retirement system became* ~~becomes~~ effective, the person *became* ~~becomes~~ a subdivision employee and *was* ~~is~~ less than 60 years old *at the time of employment; or*

(3) *after August 31, 1987, and after the date the subdivision's participation becomes effective, the person becomes a subdivision employee.*

(b) A person to whom Subsection (a)(1) of this section applies becomes a member of the retirement system on the date the subdivision's participation becomes effective, and a person to whom Subsection (a)(2) *or* (a)(3) of this section applies becomes a member of the retirement system on the first day of the person's employment. A person who heretofore became a member pursuant to Subsection (a)(2) of this section on the first day of the month subsequent to the month of employment and who did not receive credit for the initial month of employment may obtain credit for the month preceding the date of membership by depositing with the system for credit to his or her individual account the amount that would have been deducted as the member contribution had the person become a member on the date of employment.

SECTION 4. Section 52.107, Title 110B, Revised Statutes, is amended by adding Subsection (c) to read as follows:

(c) A subdivision that was participating in the retirement system before January 1, 1987, and that had in effect before that date and continues to have a policy of hiring new personnel on a probationary basis for a specified period may exclude new personnel from membership during the probationary period but may not, for purposes of retirement system membership, increase the length of the probationary period beyond the length of the period in effect on January 1, 1987. The subdivision may reduce or eliminate the period.

SECTION 5. Subsection (c), Section 52.201, Title 110B, Revised Statutes, is amended to read as follows:

(c) If, after the effective date of an order under Subsection (a) of this section and on or after the effective date of the 1987 amendment of this subsection, a person [who is less than 60 years old] is employed for the first time by the county in a position described by Subsection (a) of this section, the person becomes a member of the retirement system on the date the person's employment begins.

SECTION 6. Subsection (a), Section 53.702, Title 110B, Revised Statutes, is amended to read as follows:

(a) The governing body of a participating subdivision having active members and annuitants whose current or maximum prior service credits have been computed on a basis other than total compensation may by order elect to have the credits recomputed as the sum of:

(1) an amount determined as provided by Section 53.105(b) [53.105] of this subtitle, using average compensation as determined under Section 53.104 of this subtitle, except that compensation exceeding the limits provided by Section 53.104(c) may not be excluded in the computation; plus either

(2) an amount determined as two times the excess of (i) over (ii), discounted at interest from the date one year prior to the date of election to the subdivision's participation date, where (i) is the amount of accumulated contributions the member would have had one year prior to the date of election if in each calendar year since membership began the member had contributed on the basis of the contribution rate applicable at that time and the member's total compensation at that time, and (ii) is the member's actual accumulated contributions one year prior to the date of election; or

(3) an amount determined as two times the excess of (i) over (ii), discounted at interest from the date of retirement to the subdivision's participation date, where (i) is the amount of accumulated contributions the annuitant would have had on the date of retirement if in each calendar year of membership the annuitant had contributed on the basis of the contribution rate applicable at that time and the annuitant's total compensation at that time, and (ii) is the annuitant's actual accumulated contributions on the date of retirement.

SECTION 7. Subsection (b), Section 54.003, Title 110B, Revised Statutes, is amended to read as follows:

(b) If a member who is eligible under Section 54.105, 54.106, 54.203, 54.204, or 54.207(e) of this subtitle to select [has at least 30 years of credited service in the retirement system dies after selecting] an optional retirement annuity dies [but] before retirement, the member is considered to have retired on the last day of the month before the month in which death occurred or on the day before the first anniversary of the effective date of the person's membership, whichever is later.

SECTION 8. Section 54.004, Title 110B, Revised Statutes, is repealed.

SECTION 9. Subsection (b), Section 54.307, Title 110B, Revised Statutes, is amended to read as follows:

(b) If a person resumes membership under this section, the retirement system shall restore to effect any prior service certificate used in determining the amount of the person's annuity at the time of disability retirement. If the person subsequently retires, the retirement system shall allow the person credit for all current service for which required contributions have been made [and not withdrawn].

SECTION 10. Subsection (a), Section 54.501, Title 110B, Revised Statutes, is amended to read as follows:

(a) An employee of a participating subdivision is included within the coverage of the supplemental death benefit program on *that* ~~the first~~ day in ~~of~~ the first month in which:

- (1) the employing subdivision is participating in the supplemental death benefits fund for coverage of all members it employs;
- (2) the employee is a member of the retirement system; and
- (3) the employee is required to make a contribution to the retirement system.

SECTION 11. Subchapter G, Chapter 54, Title 110B, Revised Statutes, is amended by adding Sections 54.605 and 54.606 to read as follows:

Sec. 54.605. SUPPLEMENTAL CONTRIBUTION RATE FOR CERTAIN SUBDIVISIONS. (a) If the actuary determines that the obligations of a participating subdivision to the subdivision accumulation fund cannot be amortized within a period of 40 years or that the subdivision would have an amortization period of more than 30 years if it adopted the optional benefit eligibility plan authorized by Section 54.207 of this subtitle, the governing body of the subdivision may by order or resolution provide additional contributions by adopting a supplemental contribution rate under this section to reduce the funding period or finance the optional benefit eligibility plan.

(b) A supplemental contribution rate is the rate of contribution by a subdivision to its account in the subdivision accumulation fund, in addition to the contributions provided under Section 55.404(a)(2) of this subtitle, that the actuary determines and certifies is required, together with the contributions provided under Section 55.404(a)(2), to amortize the obligations of the subdivision to the subdivision accumulation fund within a period of 30 years. A supplemental contribution rate may not exceed three percent of covered payroll.

(c) A supplemental contribution rate adopted by a participating subdivision may not be increased unless the actuary subsequently determines that the rate previously adopted, together with the contributions provided under Section 55.404(a)(2) of this subtitle, will not amortize the obligations of the subdivision to the subdivision accumulation fund within a period of 40 years from the actuarial study date. If the actuary makes the determination specified by this subsection, the governing body of the subdivision may adopt another supplemental contribution rate under this section.

(d) A supplemental contribution rate adopted by the governing body of a subdivision expires at the end of the 30th calendar year after its effective date, or at the end of any earlier calendar year in which the actuary determines and certifies, after the annual asset valuation under Section 55.206 of this subtitle, that all obligations of the subdivision to the subdivision accumulation fund can be amortized within a period of 30 years on the basis of contributions provided by the subdivision under Section 55.404(a)(2) of this subtitle.

(e) A subdivision that adopts a supplemental contribution rate under this section must concurrently adopt the optional benefit eligibility plan authorized by Section 54.207 of this subtitle if the subdivision has not already adopted the plan and if the resulting amortization period does not exceed 30 years.

Sec. 54.606. ADDITIONAL OPTIONAL DECREASE IN CREDITS. (a) If the actuary determines that the obligations of a participating subdivision to the subdivision accumulation fund cannot be amortized within a period of 40 years, the governing body of the subdivision may by order or resolution reduce multiple matching credits for contributions made after the effective date of the reduction.

(b) The actuary shall determine what lower percentage to be used in determining multiple matching credits under Section 53.403(c) of this subtitle for contributions made after the effective date of the reduction is required to amortize the obligations of the subdivision to the subdivision accumulation fund within a period of 30 years.

(c) The effective date of a reduction in the percentage used in determining multiple matching credits is January 1 of the year following the year in which the order or resolution is adopted.

(d) The governing body of a participating subdivision may reduce the percentage used in determining multiple matching credits under Section 53.403(c) of this subtitle to zero percent for contributions made after the effective date of the reduction, even if the resulting amortization period exceeds 30 years.

(e) The governing body of a participating subdivision may reduce the percentage used in determining multiple matching credits in conjunction with the adoption of a supplemental contribution rate under Section 54.605 of this subtitle in order to amortize the obligations of the subdivision to the subdivision accumulation fund within a period of 30 years.

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 the Senate on April 2, 1987, by the following vote: Yeas 31, Nays 0. Passed the House on April 23, 1987, by the following vote: Yeas 138, Nays 0, one present not voting.

Approved May 6, 1987.

Effective May 6, 1987.

CHAPTER 64

H.B. No. 351

AN ACT

relating to participation and credit by certain employees in retirement systems in certain cities.

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

SECTION 1. Chapter 358, Acts of the 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), is amended by adding Section 16A to read as follows:

Sec. 16A. ELECTION ON ADMINISTRATIVE TRANSFER TO POLICE DEPARTMENT. (a) If a Group A or Group B member is transferred by action of the city to a position in a police department included in a Pension System governed by Chapter 76, Acts of the 50th Legislature, Regular Session, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), and Article 6243g-3, Revised Statutes, the person shall elect whether to remain a member of this Pension System during the person's service for the police department, notwithstanding the membership requirements in those Acts, or to become a member of the Pension System in which the police department is included.

(b) An election under this section must be made in writing and filed with the police department not later than the 30th day after the effective date of transfer. Failure of an eligible person to make an election as provided by this section results in the person's being included in the membership of the Pension System in which the police department is included. The police department shall give to the affected pension boards notice of each election filed as provided by this section.

(c) If a person elects under this section to remain a member of this Pension System, the person's service for the police department is considered creditable service in this system in the group in which the person was included immediately before the election. The police department shall transmit to the Board of this Pension System monthly salary and service records of persons who elect to remain members of this Pension System under this section.