

By: Rodriguez

H.B. No. 4368

Substitute the following for H.B. No. 4368:

By: Parker

C.S.H.B. No. 4368

A BILL TO BE ENTITLED

AN ACT

1
2 relating to participation in, contributions to, and the benefits
3 and administration of retirement systems for police officers in
4 certain municipalities.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 1.02, Chapter 452 (S.B. 738), Acts of the
7 72nd Legislature, Regular Session, 1991 (Article [6243n-1](#), Vernon's
8 Texas Civil Statutes), is amended by amending Subdivisions (2) and
9 (4) and adding Subdivisions (1-a), (2-a), (3-a), (3-b), (6-a),
10 (6-b), (6-c), (6-d), (6-e), (10-a), (11-a), (13-a), (13-b), (13-c),
11 (15-a), (15-b), (15-c), (15-d), (15-e), (17-a), (18-a), (18-b),
12 (19-a), (19-b), (23-a), (29-a), and (29-b) to read as follows:

13 (1-a) "Actuarial accrued liability" means the portion
14 of the actuarial present value of projected benefits of the police
15 retirement system attributed to past periods of member service
16 based on the cost method used in the risk sharing valuation study
17 prepared under Section 8.03 or 8.04 of this Act, as applicable.

18 (2) "Actuarial equivalent" means any benefit of equal
19 present value to a standard benefit when computed as specified by
20 this Act, based on the actuarial assumptions adopted by the police
21 retirement board for that purpose.

22 (2-a) "Actuarial value of assets" means the value of
23 the police retirement system's investments as calculated using the
24 asset smoothing method used in the risk sharing valuation study

1 prepared under Section 8.03 or 8.04 of this Act, as applicable.

2 (3-a) "Amortization period" means:

3 (A) the period necessary to fully pay a liability
4 layer; or

5 (B) if referring to the amortization period of
6 the police retirement system as a whole, the number of years
7 incorporated in a weighted average amortization factor for the sum
8 of the legacy liability and all liability layers as determined in
9 each annual actuarial valuation of assets and liabilities of the
10 system.

11 (3-b) "Amortization rate" means, for a given calendar
12 year, the percentage rate determined by:

13 (A) adding the scheduled amortization payments
14 required to pay off the then-existing liability layers;

15 (B) subtracting the city legacy contribution
16 amount for the same calendar year, as determined in the risk sharing
17 valuation study prepared under Section 8.03 or 8.04 of this Act, as
18 applicable, from the sum under Paragraph (A); and

19 (C) dividing the sum under Paragraph (B) by the
20 projected pensionable payroll for the same calendar year.

21 (4) "Average final compensation" means the monthly
22 average of basic hourly earnings of a member during, as applicable:

23 (A) if the member has 120 months or more of
24 service during which the member made contributions to the system or
25 the predecessor system, the 36 months for a group A member or 60
26 months for a group B member which yielded the highest average during
27 the last 120 months of membership service during which the member

1 contributed to the system or the predecessor system;

2 (B) if the member has less than 120 months of
3 membership service during which the member contributed to the
4 system or the predecessor system, but has at least 36 months of
5 membership service for a group A member or 60 months of membership
6 service for a group B member during which the member made
7 contributions to the system or the predecessor system, the average
8 of the 36 months or 60 months, as applicable, which yielded the
9 highest average; or

10 (C) if the member does not have 36 months of
11 membership service for a group A member or 60 months of membership
12 service for a group B member during which the member contributed to
13 the system or the predecessor system, the average of the member's
14 months of membership service during which the member made
15 contributions to the system or the predecessor system.

16 (6-a) "City contribution rate" means, for a given
17 calendar year, a percentage rate equal to the sum of the employer
18 normal cost rate and the amortization rate, as adjusted under
19 Section 8.05 or 8.06 of this Act, if applicable.

20 (6-b) "City legacy contribution amount" means, for
21 each calendar year, a predetermined payment amount expressed in
22 dollars in accordance with a payment schedule amortizing the legacy
23 liability for the calendar year ending December 31, 2020 that is
24 included in the initial risk sharing valuation study under Section
25 8.03 of this Act. The schedule of legacy liability payments will be
26 determined in such a manner that the total annual payments for the
27 first three calendar years will result in a phase-in of the

1 anticipated increase in the City's contribution rate from calendar
2 year 2021 to the estimated contribution rate for calendar year 2022
3 (determined as if there was no contribution increase phase-in). The
4 aforementioned estimated contribution rate for 2022 will be based
5 on the projected payroll of the City from the initial risk sharing
6 valuation study under Section 8.03 of this Act assuming a 3% payroll
7 growth rate. The phase-in will reflect approximately one-third of
8 the increase each year over the three-year phase-in period. The
9 total annual payments for the first three calendar years will be
10 adjusted to reflect the impact of the phase-in of the
11 contributions. The legacy liability payments for years 4 through 30
12 will represent a 3% increase over the prior years' legacy
13 contribution.

14 (6-c) "Corridor" means the range of city contribution
15 rates that are:

16 (A) equal to or greater than the minimum city
17 contribution rate; and

18 (B) equal to or less than the maximum city
19 contribution rate.

20 (6-d) "Corridor margin" means five percentage points.

21 (6-e) "Corridor midpoint" means the projected city
22 contribution rate specified for each calendar year for 30 years as
23 provided by the initial risk sharing valuation study under Section
24 8.03 of this Act, rounded to the nearest hundredths decimal place.

25 (10-a) "Employer normal cost rate" means, for a given
26 calendar year, the normal cost rate minus the applicable member
27 contribution rate determined under Section 8.01 of this Act.

1 (11-a) "Estimated city contribution rate" means, for a
2 given calendar year, the city contribution rate that would be
3 required to maintain an amortization period for the retirement
4 system as a whole of no more than 30 years as determined by the
5 system's actuary in a risk sharing valuation study under Section
6 8.03 or 8.04 of this Act, as applicable, and before any adjustment
7 to the rate under Section 8.05 or 8.06 of this Act, as applicable.

8 (13-a) "Funded ratio" means the ratio of the actuarial
9 value of assets divided by the actuarial accrued liability.

10 (13-b) "Group A member" means a member included in
11 group A membership under Section 4.01(e-1) of this Act.

12 (13-c) "Group B member" means a member included in
13 group B membership under Section 4.01(e-1) of this Act.

14 (15-a) "Legacy liability" means the unfunded
15 actuarial accrued liability determined as of December 31, 2020, and
16 for each subsequent calendar year, adjusted as follows:

17 (A) reduced by the city legacy contribution
18 amount for the calendar year allocated to the amortization of the
19 legacy liability; and

20 (B) adjusted by the assumed rate of return
21 adopted by the police retirement board for the calendar year.

22 (15-b) "Level percent of payroll method" means the
23 amortization method that defines the amount of the liability layer
24 recognized each calendar year as a level percent of pensionable
25 payroll until the amount of the liability layer remaining is
26 reduced to zero.

27 (15-c) "Liability gain layer" means a liability layer

1 that decreases the unfunded actuarial accrued liability.

2 (15-d) "Liability layer" means:

3 (A) the legacy liability established in the
4 initial risk sharing valuation study under Section 8.03 of this
5 Act; or

6 (B) for calendar years after December 31, 2020,
7 the amount that the police retirement system's unfunded actuarial
8 accrued liability increases or decreases, as applicable, due to the
9 unanticipated change for the calendar year as determined in each
10 subsequent risk sharing valuation study prepared under Section 8.04
11 of this Act.

12 (15-e) "Liability loss layer" means a liability layer
13 that increases the unfunded actuarial accrued liability. For
14 purposes of this Act, the legacy liability is a liability loss
15 layer.

16 (17-a) "Maximum city contribution rate" means, for a
17 given calendar year, the rate equal to the corridor midpoint plus
18 the corridor margin.

19 (18-a) "Minimum city contribution rate" means, for a
20 given calendar year, the rate equal to the corridor midpoint minus
21 the corridor margin.

22 (18-b) "Normal cost rate" means, for a given calendar
23 year, the salary weighted average of the individual normal cost
24 rates determined for the current active member population, plus the
25 assumed administrative expenses determined in the most recent
26 actuarial experience study.

27 (19-a) "Payoff year" means the year a liability layer

1 is fully amortized under the amortization period. A payoff year may
2 not be extended or accelerated for a period that is less than one
3 month.

4 (19-b) "Pensionable payroll" means the aggregate
5 basic hourly earnings of all members in active service for a
6 calendar year or pay period, as applicable.

7 (23-a) "Projected pensionable payroll" means the
8 estimated pensionable payroll for the calendar year beginning 12
9 months after the date of the risk sharing valuation study prepared
10 under Section 8.03 or 8.04 of this Act, at the time of calculation
11 by:

12 (A) projecting the prior calendar year's
13 pensionable payroll forward two years using the current payroll
14 growth rate assumption adopted by the police retirement board; and

15 (B) adjusting, if necessary, for changes in
16 population or other known factors, provided those factors would
17 have a material impact on the calculation, as determined by the
18 board.

19 (29-a) "Unanticipated change" means, with respect to
20 the unfunded actuarial accrued liability in each subsequent risk
21 sharing valuation study prepared under Section 8.04 of this Act,
22 the difference between:

23 (A) the remaining balance of all then-existing
24 liability layers as of the date of the risk sharing valuation study;
25 and

26 (B) the actual unfunded actuarial accrued
27 liability as of the date of the risk sharing valuation study.

1 (29-b) "Unfunded actuarial accrued liability" means
2 the difference between the actuarial accrued liability and the
3 actuarial value of assets.

4 SECTION 2. Section 3.02, Chapter 452 (S.B. 738), Acts of the
5 72nd Legislature, Regular Session, 1991 (Article ~~6243n-1~~, Vernon's
6 Texas Civil Statutes), is amended to read as follows:

7 Sec. 3.02. COMPOSITION OF BOARD. (a) The police retirement
8 board shall be composed of 11 members as follows:

9 (1) one council member designated by the city council;

10 (2) the city manager or the city manager's designee;

11 (3) the director of finance or the director's
12 designee;

13 (4) four [~~five~~] police officer members elected by the
14 police officer members of the system, each of whom serves for a term
15 of four years;

16 (5) one legally qualified voter of the city, being a
17 resident for the preceding five years and not an employee of the
18 city or a member of the system at the time of appointment or during
19 any time serving as a trustee on the board, with demonstrated
20 experience in the field of finance or investments, to be appointed
21 by the police retirement board to serve for a term of four years and
22 until the member's successor is duly selected and qualified; [~~and~~]

23 (6) one legally qualified voter of the city, being a
24 resident for the preceding five years and not an employee of the
25 city or a member of the system at the time of appointment or during
26 any time serving as a trustee on the board, with demonstrated
27 experience in the field of finance or investments, to be appointed

1 by the city council to serve for a term of four years and until the
2 member's successor is duly selected and qualified; and

3 (7) [~~6~~] two retired members to be elected by the retired
4 members to serve for a term of four years, with the term of one
5 member expiring each odd-numbered year.

6 (b) The terms of two members elected as described by
7 Subsection (a)(4) of this section expire in 2023 [~~2001~~] and every
8 fourth subsequent year, and the terms of two [~~three~~] members
9 elected as described by Subsection (a)(4) of this section expire in
10 2025 [~~2003~~] and every fourth subsequent year.

11 (c) A vacancy occurring by the death, resignation, or
12 removal of the member appointed under Subsection (a)(5) of this
13 section shall be filled by appointment by the remaining members of
14 the police retirement board.

15 (d) A vacancy occurring by the death, resignation, or
16 removal of the member appointed under Subsection (a)(6) of this
17 section shall be filled by appointment by the city council.

18 SECTION 3. Section 3.10, Chapter 452 (S.B. 738), Acts of the
19 72nd Legislature, Regular Session, 1991 (Article [6243n-1](#), Vernon's
20 Texas Civil Statutes), is amended to read as follows:

21 Sec. 3.10. INVESTMENT MANAGERS. The police retirement
22 board may hire an investment manager or investment managers who
23 shall have full authority to invest the assets and manage any
24 portion of the portfolio of the system, as specified by the
25 manager's [~~employment~~] contract.

26 SECTION 4. Section 4.01, Chapter 452 (S.B. 738), Acts of the
27 72nd Legislature, Regular Session, 1991 (Article [6243n-1](#), Vernon's

1 Texas Civil Statutes), is amended by amending Subsections (c) and
2 (e) and adding Subsections (e-1) and (e-2) to read as follows:

3 (c) Any person who becomes an employee of the city or the
4 system, if eligible for membership, shall become a member as a
5 condition of employment and shall make the required deposits
6 commencing with the first pay period following a probationary
7 period of six continuous months from date of employment, if
8 applicable, or eligibility, if later.

9 (e) [~~(1)~~] Membership in the police retirement system shall
10 consist of the following groups:

11 (1) [~~(A)~~] Active--Contributory: the member who is in a
12 status which allows payroll contributions to the police retirement
13 system (working a normal work week, holding a full-time position,
14 and, if applicable, having completed a continuous period of six
15 months of service initially, to attain membership).

16 (2) [~~(B)~~] Active--Noncontributory: the member whose
17 current employment status does not allow contributions to the
18 system (working less than a normal work week or on a leave of
19 absence under Subsection (f)(6)(A) of this section) and on return
20 to working a normal work week, the member will again be given
21 creditable service, with contributions resumed at time of status
22 change.

23 (3) [~~(C)~~] Inactive--Contributory: the member who is
24 on a uniformed service leave of absence under Subsection (f)(6)(B)
25 of this section, who is allowed to make deposits to the system
26 during the member's absence.

27 (4) [~~(D)~~] Vested--Noncontributory: the terminated

1 member who, being vested, leaves the member's accumulated deposits
2 in the system.

3 (5) [~~(E)~~] Retired: the member who is receiving a
4 service or disability retirement annuity.

5 (e-1) Each member is either a group A member or a group B
6 member, as follows:

7 (1) a member is a group A member if the member was:

8 (A) retired or employed by the city or the system
9 on December 31, 2021;

10 (B) a vested--noncontributory member as of
11 December 31, 2021, who has not withdrawn the member's accumulated
12 deposits; or

13 (C) formerly employed by the city or the system
14 before December 31, 2021, returned to employment with the city or
15 system on or after January 1, 2022, and:

16 (i) did not withdraw the member's
17 accumulated deposits from the system; or

18 (ii) withdrew the member's accumulated
19 deposits from the system, but reinstated all of the previously
20 forfeited creditable service; and

21 (2) a member is a group B member if the member:

22 (A) first became employed by the city or the
23 system on or after January 1, 2022; or

24 (B) was formerly employed by the city or the
25 system before December 31, 2021, returned to employment with the
26 city or system on or after January 1, 2022, and:

27 (i) while the member was separated from

1 service, withdrew the member's accumulated deposits from the
2 system; and

3 (ii) has not reinstated all of the member's
4 previously forfeited creditable service.

5 (e-2) [~~2~~] It shall be the duty of the police retirement
6 board to determine the membership group to which each police
7 officer or employee of the system who becomes a member of the police
8 retirement system properly belongs under Subsection (e) and
9 Subsection (e-1) of this Act.

10 SECTION 5. Section 5.03(a), Chapter 452 (S.B. 738), Acts of
11 the 72nd Legislature, Regular Session, 1991 (Article [6243n-1](#),
12 Vernon's Texas Civil Statutes), is amended to read as follows:

13 (a) An eligible member or eligible surviving spouse may
14 establish creditable service for probationary service performed as
15 provided under this section according to the following conditions,
16 limitations, and restrictions:

17 (1) Probationary service creditable in the system is
18 any probationary service following the member's commission date or
19 the member's first date of employment with the system for which the
20 member does not have creditable service.

21 (2) An eligible member or eligible surviving spouse
22 may establish creditable service under this section by contributing
23 to the system a single payment equal to the contribution the member
24 would have made to the system for that service at the time the
25 service was performed and an interest charge based on the
26 contribution amount to be repaid times an interest factor. The
27 interest factor is eight percent per year for the period that begins

1 with the beginning of the month and year at the end of the
2 probationary period for which creditable service is being
3 established to the beginning of the month and year payment is made
4 to the system for the purpose of establishing said service.

5 (3) After the eligible member or eligible surviving
6 spouse makes the deposit required by Subdivision (2) of this
7 subsection, the system shall grant the member one month of
8 creditable service for each month of probationary service
9 established under this section.

10 SECTION 6. Section 5.04(a), Chapter 452 (S.B. 738), Acts of
11 the 72nd Legislature, Regular Session, 1991 (Article [6243n-1](#),
12 Vernon's Texas Civil Statutes), is amended to read as follows:

13 (a) Under irrevocable action taken by the city council on
14 February 12, 1998, police [~~This section does not take effect unless~~
15 ~~the city council authorizes the city to begin making contributions~~
16 ~~to the police retirement system in accordance with Section 8.01(a)~~
17 ~~of this Act for police cadets during their employment as cadets~~
18 ~~while members of a cadet class. Police]~~ cadets whose cadet class
19 begins after April 1, 1998, [~~the city council makes the~~
20 ~~authorization]~~ shall make deposits to the police retirement system
21 in accordance with Section 8.01(a) of this Act, and those cadets
22 shall be members of the police retirement system and shall receive
23 creditable service for employment as cadets while members of a
24 cadet class, notwithstanding Sections 1.02(7), (18), and (21) of
25 this Act.

26 SECTION 7. Section 6.01, Chapter 452 (S.B. 738), Acts of the
27 72nd Legislature, Regular Session, 1991 (Article [6243n-1](#), Vernon's

1 Texas Civil Statutes), is amended by amending Subsections (a) and
2 (f) to read as follows:

3 (a) On retirement after having reached the member's normal
4 retirement date, members entitled thereto shall receive a service
5 retirement benefit in the form of a life annuity (modified cash
6 refund). Each monthly payment of the life annuity (modified cash
7 refund) shall be equal to one-twelfth of:

8 (1) for a group A member, the product of 3.2 [2.88]
9 percent of a member's average final compensation multiplied by the
10 number of months of creditable service; or

11 (2) for a group B member, the product of 2.5 percent of
12 a member's average final compensation multiplied by the number of
13 months of creditable service.

14 ~~[The retirement benefit percent specified by this section to~~
15 ~~calculate the amount of the monthly payment of the life annuity~~
16 ~~(modified cash refund) may be changed after 1997 if:~~

17 ~~(1) the change is approved by the board's actuary;~~

18 ~~(2) the change is adopted by the board as a board rule;~~

19 ~~(3) the change applies to all present members, all~~
20 ~~retired members, and all who become members after the effective~~
21 ~~date of the change in the retirement benefit percent;~~

22 ~~(4) a member's vested interest as of the last day of~~
23 ~~the month immediately preceding the effective date of the change in~~
24 ~~the retirement benefit percent is not reduced; and~~

25 ~~(5) a retirement annuity being paid by the police~~
26 ~~retirement system to members or to the surviving spouses or~~
27 ~~beneficiaries of members who retired before the effective date of~~

1 ~~the change in the retirement benefit percent is changed as~~
2 ~~prescribed by Subsection (d)(6) of this section, except that a~~
3 ~~reduction in annuities may not cause the member's, surviving~~
4 ~~spouse's, or beneficiary's annuity payment to be reduced below the~~
5 ~~base retirement amount calculated under this Act.]~~

6 (f) For purposes of this section, compensation of each
7 noneligible member taken into account under this Act may not exceed
8 the maximum amount allowed under [~~\$200,000 per calendar year,~~
9 ~~indexed pursuant to~~] Section 401(a)(17) of the Internal Revenue
10 Code of 1986 (26 U.S.C. Section 401). The [~~\$200,000~~] limit
11 prescribed by this subsection does not apply to an eligible member.
12 For purposes of this subsection, an eligible member is any
13 individual who first became a member before January 1, 1996. For
14 purposes of this subsection, a noneligible member is any other
15 member.

16 SECTION 8. Section 6.02, Chapter 452 (S.B. 738), Acts of the
17 72nd Legislature, Regular Session, 1991 (Article [6243n-1](#), Vernon's
18 Texas Civil Statutes), is amended by amending Subsection (a) and
19 adding Subsection (a-1) to read as follows;

20 (a) A group A [~~Any~~] member shall be eligible for service
21 retirement if the member has attained the age of 55 years and
22 completed at least 20 years of creditable service with the city, or
23 has completed 23 years of creditable service, excluding any
24 military service established under Section 5.02 of this Act.

25 (a-1) A group B member shall be eligible for service
26 retirement if the member has attained the age of 50 years and
27 completed at least 25 years of creditable service with the city,

1 excluding any military service established under Section 5.02 of
2 this Act.

3 SECTION 9. Section 6.04(b), Chapter 452 (S.B. 738), Acts of
4 the 72nd Legislature, Regular Session, 1991 (Article 6243n-1,
5 Vernon's Texas Civil Statutes), is amended to read as follows:

6 (b) If a member who has attained the applicable age for
7 minimum distributions required under Section 401(a)(9) of the
8 Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)(9)),
9 [~~70-1/2~~] separates or has separated from service without applying
10 for retirement or a refund of accumulated deposits, the police
11 retirement system shall attempt to send to that member a written
12 notice as soon as practicable after the later of the date the member
13 attains the applicable age [~~70-1/2~~] or the date the member
14 separates from service. The written notice must advise the member
15 of the requirement under Section 401(a)(9) of the Internal Revenue
16 Code of 1986 (26 U.S.C. Section 401(a)(9)) to retire and begin
17 receiving a monthly retirement benefit. If, before the 91st day
18 after the date the police retirement system sends the notice, the
19 member has not filed an application for retirement or a refund, the
20 member is considered to have retired on the last day of the third
21 month following the later of the two dates specified by this
22 subsection. If applicable, the retirement option shall be
23 determined in accordance with the member's written selection of
24 optional benefit and designation of beneficiary under Section
25 6.06(a)(1) of this Act. Otherwise, the member shall receive the
26 life annuity under Section 6.01 of this Act.

27 SECTION 10. Section 7.02, Chapter 452 (S.B. 738), Acts of

1 the 72nd Legislature, Regular Session, 1991 (Article [6243n-1](#),
2 Vernon's Texas Civil Statutes), is amended by amending Subsection
3 (a) and adding Subsection (a-1) to read as follows:

4 (a) On award of disability retirement benefits, the member
5 shall receive a disability retirement benefit computed in the same
6 manner that a service retirement benefit would be computed at the
7 member's normal retirement date, based on average final
8 compensation and creditable service at date of disability
9 retirement without reduction for early retirement. If the
10 disability is a direct or proximate result of the performance of the
11 member's employment duties with the system or the city, then the
12 disability retirement benefit will be subject to a minimum benefit
13 determined in accordance with Section 6.01(a)(1) or (2), as
14 applicable, based on:

15 (1) average final compensation at date of disability
16 retirement; and

17 (2) for:

18 (A) a group A member, 20 years of creditable
19 service; or

20 (B) a group B member, 25 years of creditable
21 service.

22 (a-1) The options allowed under this section are life
23 annuity or its actuarial equivalent payable in the form described
24 as Option I, Option II, Option III, Option IV, or Option V in
25 Section 6.03 of this Act. The disability benefits paid to the
26 member will be paid from Fund No. 1 until the amount received equals
27 the member's accumulated deposits; thereafter the benefits will be

1 paid from Fund No. 2.

2 SECTION 11. Article VIII, Chapter 452 (S.B. 738), Acts of
3 the 72nd Legislature, Regular Session, 1991 (Article [6243n-1](#),
4 Vernon's Texas Civil Statutes), is amended by amending Section 8.01
5 and adding Sections 8.02 through 8.15 to read as follows:

6 Sec. 8.01. MEMBER CONTRIBUTIONS [~~METHOD OF FINANCING~~]. (a)
7 [~~(1)~~] Deposits by the members to the police retirement system shall
8 be made at a rate of at least:

9 (1) 13 percent of the basic hourly earnings of the
10 [each] member, for each pay period beginning before January 1,
11 2022; and

12 (2) 15 percent of the basic hourly earnings of the
13 member, for each pay period beginning on or after January 1, 2022,
14 subject to adjustment as provided by Section 8.07 of this Act, but
15 in no event to exceed 17 percent.

16 (a-1) Deposits required to be made by members under
17 Subsection (a) of this section shall be deducted from payroll each
18 pay period.

19 (a-2) On recommendation of the board, the
20 Active--Contributory members may by a majority of those voting
21 increase the rate of member deposits above the minimum rate of
22 deposit established by Subsection (a) of this section [~~13 percent~~]
23 to whatever amount the board has recommended. If the deposit rate
24 for members has been increased to a rate above the rate established
25 under subsection (a) [~~13 percent~~] by a majority vote of the members
26 in accordance with this subsection (a-2), the rate may be decreased
27 to a rate not lower than the rate established in section 8.01(a)(2)

1 if the board recommends the decrease, the board's actuary approves
2 the decrease, and a majority of the Active--Contributory members
3 voting on the matter approve the decrease. Notwithstanding the
4 previous sentence, in no event will an increase to the member
5 contribution rate that is made solely due to an adjustment under
6 Section 8.07 of this Act be decreased by a majority vote of the
7 members.

8 Sec. 8.02. CITY CONTRIBUTIONS. (a) [(2)] The city shall
9 contribute amounts equal to [~~18 percent of the basic hourly~~
10 ~~earnings of each member employed by the city for all periods on or~~
11 ~~before September 30, 2010, subject to additional amounts as~~
12 ~~provided by Subdivision (3) of this subsection. The city shall~~
13 ~~contribute amounts equal to 19 percent of the basic hourly earnings~~
14 ~~of each member employed by the city for all periods after September~~
15 ~~30, 2010, and before October 1, 2011, subject to additional amounts~~
16 ~~as provided by Subdivision (3) of this subsection. The city shall~~
17 ~~contribute amounts equal to 20 percent of the basic hourly earnings~~
18 ~~of each member employed by the city for all periods after September~~
19 ~~30, 2011, and before October 1, 2012, subject to additional amounts~~
20 ~~as provided by Subdivision (3) of this subsection. The city shall~~
21 ~~contribute amounts equal to] 21 percent of the basic hourly~~
22 earnings of each member employed by the city for all pay periods
23 beginning after September 30, 2012, and before January 1, 2022,
24 subject to additional amounts as provided by Section 8.09 of this
25 Act [~~Subdivision (3) of this subsection~~]. For all pay periods
26 beginning on or after January 1, 2022, the city shall make
27 contributions to the police retirement system in accordance with

1 Subsections (b) and (c) of this section and Sections 8.03, 8.04,
2 8.05, and 8.06 of this Act, as applicable, and subject to additional
3 amounts as provided by Section 8.09 of this Act. The city council
4 may also authorize the city to make additional contributions to the
5 police retirement system in whatever amount the city council may
6 determine. Contributions by the city shall be made each pay period.

7 (b) For each pay period that begins on or after January 1,
8 2022, and before January 1, 2023, the city shall contribute an
9 amount equal to the sum of:

10 (1) the city contribution rate, as determined in the
11 initial risk sharing valuation study conducted under Section 8.03
12 of this Act, multiplied by the pensionable payroll for the
13 applicable pay period; and

14 (2) 1/26 of the city legacy contribution amount for
15 the 2022 calendar year, as determined in the initial risk sharing
16 valuation study conducted under Section 8.03 of this Act.

17 (c) For each pay period that begins on or after January 1,
18 2023, the city shall contribute an amount equal to the sum of:

19 (1) the city contribution rate for the applicable
20 calendar year, as determined in a subsequent risk sharing valuation
21 study conducted under Section 8.04 of this Act and adjusted under
22 Section 8.05 or 8.06 of this Act, as applicable, multiplied by the
23 pensionable payroll for the applicable pay period; and

24 (2) 1/26 of the city legacy contribution amount for
25 the applicable calendar year, as determined in the initial risk
26 sharing valuation study conducted under Section 8.03 of this Act.

27 Sec. 8.03. INITIAL RISK SHARING VALUATION STUDY. (a) The

1 police retirement system shall cause the system's actuary to
2 prepare an initial risk sharing valuation study that is dated as of
3 December 31, 2020, in accordance with this section.

4 (b) The initial risk sharing valuation study must:

5 (1) except as otherwise provided by this section, be
6 prepared in accordance with the guidelines set forth in Section
7 8.04 of this Act;

8 (2) be based on the actuarial assumptions that were
9 used by the system's actuary in the valuation completed for the year
10 ended December 31, 2020;

11 (3) project the corridor midpoint for the next 30
12 calendar years beginning with the calendar year that begins on
13 January 1, 2022; and

14 (3) include a schedule of city legacy contribution
15 amounts for 30 calendar years beginning with the calendar year that
16 begins on January 1, 2022.

17 Sec. 8.04. SUBSEQUENT RISK SHARING VALUATION STUDIES. (a)
18 For each calendar year beginning after December 31, 2020, the
19 police retirement system shall cause the system's actuary to
20 prepare a risk sharing valuation study in accordance with this
21 section and actuarial standards of practice.

22 (b) Each risk sharing valuation study must:

23 (1) be dated as of the last day of the calendar year
24 for which the study is required to be prepared;

25 (2) calculate the unfunded actuarial accrued
26 liability of the system as of the last day of the applicable
27 calendar year, including the liability layer, if any, associated

1 with the most recently completed calendar year;

2 (3) calculate the estimated city contribution rate for
3 the following calendar year;

4 (4) determine the city contribution rate contribution
5 rate and member contribution rate for the following calendar year,
6 taking into account any adjustments required under Section 8.05,
7 8.06 or 8.07, as applicable; and

8 (5) except as provided by Subsection (d) of this
9 section, be based on the assumptions and methods adapted by the
10 board in accordance with Section 8.08, if applicable, that are
11 consistent with actuarial standards of practice and the following
12 principles:

13 (A) closed layered amortization of liability
14 layers to ensure that the amortization period for each liability
15 layer begins 12 months after the date of the risk sharing valuation
16 study in which the liability layer is first recognized;

17 (B) each liability layer is assigned an
18 amortization period;

19 (C) each liability loss layer will be amortized
20 over a period of 30 years from the first day of the calendar year
21 beginning 12 months after the date of the risk sharing valuation
22 study in which the liability loss layer is first recognized, except
23 that the legacy liability must be amortized over a 30-year period
24 beginning January 1, 2022;

25 (D) each liability gain layer will be amortized
26 over:

27 (i) a period equal to the remaining

1 amortization period on the largest remaining liability loss layer,
2 and the two layers must be treated as one layer such that if the
3 payoff year of the liability loss layer is accelerated or extended,
4 the payoff year of the liability gain layer is also accelerated or
5 extended; or

6 (ii) if there is no liability loss layer, a
7 period of 30 years from the first day of the calendar year beginning
8 12 months after the date of the risk sharing valuation study in
9 which the liability gain layer is first recognized;

10 (E) liability layers, including the legacy
11 liability, will be funded according to the level percent of payroll
12 method;

13 (F) payroll for purposes of determining the
14 corridor midpoint, city contribution rate, and city legacy
15 contribution amount must be projected using the annual payroll
16 growth rate assumption adopted by the board; and

17 (G) the city contribution rate will be calculated
18 each calendar year without inclusion of the legacy liability.

19 (c) The city and the board may agree on a written transition
20 plan for resetting the corridor midpoint:

21 (1) if at any time the funded ratio of the system is
22 equal to or greater than 100 percent; or

23 (2) for any calendar year after the payoff year of the
24 legacy liability.

25 (d) Subject to Section 8.08, the board may by rule adopt
26 actuarial principles other than those required under Subsection
27 (b)(5) of this section, provided the actuarial principles:

1 (1) are consistent with actuarial standards of
2 practice;

3 (2) are approved by the system's actuary; and

4 (3) do not operate to change the city legacy
5 contribution amount.

6 Sec. 8.05. ADJUSTMENT TO CITY CONTRIBUTION RATE IF LOWER
7 THAN CORRIDOR MIDPOINT. (a) This section governs the
8 determination of the city contribution rate applicable in a
9 calendar year under Section 8.04(b)(4) of this Act if the estimated
10 city contribution rate determined under Section 8.04(b)(3) of this
11 Act is lower than the corridor midpoint.

12 (b) If the estimated city contribution rate is lower than
13 the corridor midpoint and the funded ratio is:

14 (1) less than 90 percent, the city contribution rate
15 for the applicable year equals the corridor midpoint; or

16 (2) equal to or greater than 90 percent and the city
17 contribution rate is:

18 (A) equal to or greater than the minimum city
19 contribution rate, the estimated city contribution rate is the city
20 contribution rate for the calendar year; or

21 (B) less than the minimum city contribution rate
22 for the corresponding calendar year, the city contribution rate for
23 the calendar year equals the minimum city contribution rate.

24 (c) If the funded ratio is equal to or greater than 100
25 percent:

26 (1) all existing liability layers, including the
27 legacy liability, are considered fully amortized and paid; and

1 (2) the city legacy contribution amount may no longer
2 be included in the city contribution under Section 8.02 of this Act.

3 Sec. 8.06. ADJUSTMENT TO CITY CONTRIBUTION RATE IF EQUAL TO
4 OR GREATER THAN CORRIDOR MIDPOINT. (a) This section governs the
5 determination of the city contribution rate applicable in a
6 calendar year under Section 8.04(b)(4) of this Act if the estimated
7 city contribution rate determined under Section 8.04(b)(3) of this
8 Act is equal to or greater than the corridor midpoint.

9 (b) If the estimated city contribution rate is equal to or
10 greater than the corridor midpoint and:

11 (1) less than or equal to the maximum city
12 contribution rate for the corresponding calendar year, the
13 estimated city contribution rate is the city contribution rate; or

14 (2) greater than the maximum city contribution rate
15 for the corresponding calendar year, the city contribution rate is
16 the maximum city contribution rate.

17 Sec. 8.07. ADDITION TO MEMBER CONTRIBUTION RATE IF
18 ESTIMATED CITY CONTRIBUTION RATE GREATER THAN MAXIMUM CITY
19 CONTRIBUTION RATE. (a) This section governs the determination of
20 the additional member contribution rate applicable in a calendar
21 year under Section 8.04(b)(4) of this Act if the estimated city
22 contribution rate determined under Section 8.04(b)(3) of this Act
23 is greater than the maximum city contribution rate. Any addition to
24 the member contribution rate under this Section is subject to a
25 maximum of 2% of payroll.

26 (b) If the estimated city contribution rate is greater than
27 the corridor maximum, the member contribution rate will increase by

1 an amount equal to the difference between the following:

2 (1) the estimated city contribution rate, and

3 (2) the maximum city contribution rate

4 (c) If the estimated city contribution rate is more than
5 2.0% of payroll greater than the maximum city contribution rate,
6 the city and the board shall enter into discussions to determine
7 additional funding solutions.

8 Sec. 8.08. PROCESS FOR EXPERIENCE STUDIES AND CHANGES TO
9 ACTUARIAL ASSUMPTIONS. (a) At least every five years, the board
10 will have the system's actuary conduct an experience study to
11 review the actuarial assumptions and methods adopted by the board
12 for the purposes of determining the actuarial liabilities and
13 actuarially determined contribution rates of the system. The system
14 shall notify the city at the beginning of an upcoming experience
15 study by the system's actuary.

16 (b) In connection with the system's experience study, the
17 city will inform the system if it either will:

18 (1) conduct its own experience study using its own
19 actuary;

20 (2) have its actuary review the experience study of
21 the system's actuary; or

22 (3) accept the experience study of the system's
23 actuary.

24 (c) If the city chooses to have its own experience study
25 performed in accordance with subsection (b)(1), the city shall have
26 three months from the notification by the system of its intent to
27 conduct an experience study to complete its study. If the city

1 chooses to have its actuary review the system's experience study in
2 accordance with subsection(b)(2), the city shall have one month to
3 review the experience study beginning from the date the preliminary
4 results of the experience study are presented to the board.

5 (d) If the city chooses to have its own experience study
6 performed in accordance with subsection (b)(1), or to have its
7 actuary review the system's experience study in accordance with
8 subsection(b)(2), the system's actuary and the city's actuary shall
9 determine what the hypothetical city contribution rate would be
10 using the proposed actuarial assumptions from the experience
11 studies and data from the most recent actuarial valuation.

12 (1) If the difference between the hypothetical city
13 contribution rates determined by the system's actuary and the
14 city's actuary is less than or equal to 2 percent of payroll, then
15 no further action is needed, and the experience study performed by
16 the system's actuary shall be used by the board in determining
17 assumptions.

18 (2) If the difference between the hypothetical city
19 contribution rates determined by the system's actuary and the
20 city's actuary is greater than 2 percent of payroll, then the
21 system's actuary and the city's actuary shall have 20 business days
22 to reconcile the difference in actuarial assumptions or methods
23 causing the different hypothetical city contribution rates.

24 (A) If as a result of the reconciliation efforts
25 under this subdivision, the difference between the city
26 contribution rates determined by the system's actuary and the
27 city's actuary is reduced to less than or equal to two percentage

1 points, then no further action is needed, and the experience study
2 performed by the system's actuary shall be used by the board in
3 determining actuarial assumptions.

4 (B) If, after 20 business days, the system's
5 actuary and the city actuary are not able to reach a reconciliation
6 that reduces the difference in the hypothetical city contribution
7 rates to an amount less than or equal to two percentage points, a
8 third-party actuary shall be retained to opine upon differences in
9 the assumptions made, and actuarial methods used, by the system's
10 actuary and the city actuary. The independent third-party actuary
11 shall be chosen by the city from a list of three actuarial firms
12 provided by the system.

13 (C) If a third-party actuary is utilized under
14 this subdivision, the third-party actuary's findings will be
15 presented to the board, along with the experience study conducted
16 by the system's actuary and, if applicable, the city's actuary.
17 Should the board adopt actuarial assumptions or methods contrary to
18 the third-party actuary's findings, a formal letter describing the
19 rationale for its action shall be provided by the system to the city
20 council and Texas Pension Review Board, and the system's actuary
21 and executive director shall be made available at the request of the
22 city council or the Texas Pension Review Board to present in person
23 the rationale for the board's action.

24 e. If the board desires to make a change to actuarial
25 assumptions or methods that is not in connection with an experience
26 study described in subsection (a), the system and the city shall
27 follow the same process that is undertaken with respect to an

1 experience study as described in this Section in connection with
2 the proposed change.

3 Sec. 8.09. ADDITIONAL CITY CONTRIBUTIONS FOR PROPORTIONATE
4 RETIREMENT PROGRAM PARTICIPATION. (a) [~~(3)~~] The city shall
5 contribute amounts in addition to the amounts described by Section
6 8.02 of this Act [~~Subdivision (2) of this subsection~~] as required by
7 Section 803.101(h), Government Code, to fund the additional
8 liabilities incurred by the police retirement system as a result of
9 participating in the proportionate retirement program. The rate at
10 which the city shall contribute additional amounts under this
11 section [~~subdivision~~] is equal to 0.737 [~~0.25~~] percent of the basic
12 hourly earnings of each member employed by the city for all pay
13 periods commencing on or after October 1, 2020, subject to
14 adjustment under Subsection (b) of this section [~~from January 4,~~
15 ~~2009, through September 30, 2009. The rate at which the city shall~~
16 ~~contribute additional amounts under this subdivision is equal to~~
17 ~~0.63 percent of the basic hourly earnings of each member employed by~~
18 ~~the city for all periods after September 30, 2009, subject to~~
19 ~~adjustment under Subdivision (4) of this subsection].~~

20 (b) [~~(4)~~] The additional contribution rate under Subsection
21 (a) of this section [~~Subdivision (3) of this subsection~~] shall
22 increase or decrease as considered necessary by the actuary for the
23 police retirement system after each five-year period of
24 participation by the system in the proportionate retirement program
25 in order to update the amount necessary to fund the additional
26 liabilities incurred by the system as a result of participating in
27 the proportionate retirement program and of the consolidation of

1 the city's public safety and emergency management department with
 2 the police department on January 4, 2009. The system's actuary
 3 shall perform an experience study that shall be the basis for a
 4 contribution rate adjustment under this subsection [~~subdivision~~].
 5 The effective date of the initial contribution rate adjustment
 6 under this subsection [~~subdivision~~] is October 1, 2015. Each later
 7 contribution rate adjustment under this subsection [~~subdivision~~]
 8 takes effect October 1 of every fifth year after the effective date
 9 of the initial contribution rate adjustment. The system's actuary
 10 shall present to the police retirement board the experience study
 11 on which any contribution rate adjustment under this subsection
 12 [~~subdivision~~] is based not later than 45 days before the effective
 13 date of the adjustment, and the city's actuary shall have the
 14 opportunity to review and comment on the study. An adjustment in the
 15 additional contribution rate under this subsection [~~subdivision~~]
 16 may not cause the additional contribution rate under Subsection (a)
 17 of this section [~~Subdivision (3) of this subsection~~] to be less than
 18 zero.

19 Sec. 8.10. PUBLICATION OF CHANGES TO CONTRIBUTION RATES.

20 [~~(b)~~] Any change of the rates of deposit and the rates of
 21 contribution shall be published when approved by the board.

22 Sec. 8.11. EXPENSES. (a) [~~(c) Contributions by the city~~

23 ~~shall be paid to the system after appropriation by the city council.~~

24 [~~(d)~~] Expenses involved in administration and operation of
 25 the police retirement system shall be paid from the assets of the
 26 police retirement system subject to approval by the board. Such
 27 expenses shall include actuarial valuations of the system no less

1 frequently than on a biennial basis, annual audits and/or actuarial
2 studies, preparation of annual reports, and staff assistance.
3 Additional consulting may be authorized by the board and paid for
4 from the assets of the police retirement system as deemed necessary
5 from time to time by the board.

6 (b) [~~(e)~~] Expenses incurred from investment advice,
7 counsel, and management shall be paid from the assets of the police
8 retirement system.

9 Sec. 8.12. PAYMENT OF CONTRIBUTIONS. (a) Contributions by
10 the city shall be paid to the system after appropriation by the city
11 council.

12 (b) [~~(f)~~] The city shall make the police officer
13 contributions to the system required by Section 8.02 of this Act
14 [~~Subsection (a) of this section~~].

15 (c) The system shall make the administrative staff's
16 contributions to the system.

17 (d) Member contributions will be made by a reduction in
18 their monetary compensation. Contributions made shall be treated as
19 employer contributions in accordance with Section 414(h)(2),
20 Internal Revenue Code (26 U.S.C. Section 414(h)(2)), for the
21 purpose of determining tax treatment of the amounts under the
22 federal Internal Revenue Code. These contributions are not
23 includible in the gross income of the member until such time as they
24 are distributed or made available to the member.

25 (e) Member contributions made as provided by Subsection (d)
26 of this section [~~subsection~~] shall be deposited to the individual
27 account of each affected member and shall be treated as

1 compensation of members for all other purposes of this Act and for
2 the purpose of determining contributions to the federal Old-Age,
3 Survivors, and Disability Insurance System (Social Security). The
4 provisions of this subsection shall remain in effect as long as the
5 plan covering members is a qualified retirement plan under Section
6 401(a), Internal Revenue Code (26 U.S.C. Section 401(a)), and its
7 related trust is tax exempt under Section 501(a), Internal Revenue
8 Code (26 U.S.C. Section 501(a)).

9 Sec. 8.13. EFFECT OF SYSTEM TERMINATION ON CONTRIBUTIONS.

10 [~~g~~] If the police retirement system is terminated, further
11 contributions may not be made by the city or the system, and further
12 deposits may not be made by the members for service after the date
13 of termination. Members do not accrue any additional benefits after
14 the date of termination. The benefit accrued by each member on the
15 termination of the plan or the complete discontinuance of
16 contributions under the plan and the benefit of any affected member
17 on the partial termination of the plan, to the extent funded, become
18 nonforfeitable notwithstanding the length of a member's service.
19 The benefit accrued by a member also becomes nonforfeitable, if not
20 already nonforfeitable, at the normal retirement date.

21 Sec. 8.14. EFFECT OF FORFEITURE. [~~h~~] A forfeiture from a

22 member terminating employment and withdrawing the member's
23 accumulated deposits may not be applied to increase the benefit
24 that any other member would receive from the system. The actuary
25 shall anticipate the effect of forfeitures in determining the costs
26 under the system.

27 Sec. 8.15. SYSTEM ASSETS. [~~i~~] The assets of the police

1 retirement system shall be held in trust for the exclusive benefit
2 of the members and their beneficiaries. The corpus or income may not
3 be used for or diverted to a purpose other than the exclusive
4 benefit of members or their beneficiaries, whether by operation or
5 natural termination of the system, by power of revocation or
6 amendment, by the happening of a contingency, by collateral
7 arrangement, or by other means.

8 SECTION 12. Section 13.02, Chapter 452 (S.B. 738), Acts of
9 the 72nd Legislature, Regular Session, 1991 (Article 6243n-1,
10 Vernon's Texas Civil Statutes), is amended to read as follows:

11 Sec. 13.02. MANDATORY DISTRIBUTIONS PROHIBITED. A member
12 or former member who has separated from service may not be required
13 to receive an eligible rollover distribution, as defined in Section
14 13.01(b)(1) of this Act, without the member's consent unless the
15 member or former member has attained the applicable age for minimum
16 distributions required under Section 401(a)(9) of the Internal
17 Revenue Code of 1986 (26 U.S.C. Section 401(a)(9)) [~~is at least~~
18 ~~70-1/2 years of age~~].

19 SECTION 13. The following provisions of Chapter 452 (S.B.
20 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article
21 6243n-1, Vernon's Texas Civil Statutes), are repealed:

- 22 (1) Section 5.04(b);
- 23 (2) Section 6.01(c);
- 24 (3) Section 6.01(d);
- 25 (4) Section 6.01(e);
- 26 (5) Section 6.02(b); and
- 27 (6) Section 7.02(b).

1 SECTION 14. This Act takes effect September 1, 2021, except
2 for Section 3.02 regarding changes to the board composition, which
3 will take effect on January 1, 2022.