

By: Woolley

H.B. No. 752

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the administration of public retirement systems for  
3 police officers in certain municipalities.

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

5 SECTION 1. Section 1, Article 6243g-4, Revised Statutes, is  
6 amended to read as follows:

7 Sec. 1. PURPOSE. The purpose of this article is to restate  
8 and amend the provisions of former law governing a police officers  
9 pension system in each city in this state having a population of 1.5  
10 million or more, according to the most recent federal decennial  
11 census, to reflect changes agreed to by the city and the board of  
12 trustees of the pension system under Section 27 of this article.  
13 The pension system shall continue to operate regardless of whether  
14 the city's population falls below 1.5 million [~~permit the~~  
15 ~~consolidation of the terms of certain pension plans~~].

16 SECTION 2. Section 2, Article 6243g-4, Revised Statutes, is  
17 amended by amending Subdivisions (1), (2), (7), (11), (14), and  
18 (23), adding Subdivisions (4-a), (14-a), and (22-a), and  
19 renumbering Subdivision (19) as Subdivision (17-a) to read as  
20 follows:

21 (1) "Active member" means a person employed as [~~an~~  
22 ~~employee who holds~~] a classified police officer by the [~~position in~~  
23 ~~a~~] police department of a city subject to this article, except for a  
24 person [~~an employee~~] who is a part-time, seasonal, or temporary

1 employee or a person who elected to remain a member of a pension  
2 system described by Chapter 88, Acts of the 77th Legislature,  
3 Regular Session, 2001 (Article 6243h, Vernon's Texas Civil  
4 Statutes). The term does not include a person who is a member of  
5 another pension system of the same city, except to the extent  
6 provided by Section 15(j) or 18 of this article.

7 (2) "Average total direct pay" means an amount  
8 determined by dividing the following sum by 12:

9 (A) the highest biweekly pay received by a member  
10 for any single pay period in the last 26 pay periods in which the  
11 member worked full-time, considering only items of total direct pay  
12 that are included in each paycheck, multiplied by 26; plus

13 (B) the total direct pay, excluding all items of  
14 the type included in Paragraph (A) received during the same last 26  
15 biweekly pay periods [~~a member's total direct pay for the 26 pay~~  
16 ~~periods immediately preceding the date of separation from service~~  
17 ~~or the date of entry into DROP, if earlier, divided by 12].~~

18 (4-a) "Catastrophic injury" means a sudden, violent,  
19 life-threatening, duty-related injury sustained by an active  
20 member that is due to an externally caused motor vehicle accident,  
21 gunshot wound, aggravated assault, or other external event or  
22 events and results, as supported by evidence, in one of the  
23 following conditions:

24 (A) loss of sight in one or both eyes;

25 (B) loss of one or both feet at or above the  
26 ankle;

27 (C) loss of one or both hands at or above the

1 wrist;

2 (D) injury to the spine that results in permanent  
3 and complete paralysis of both arms, both legs, or one arm and one  
4 leg; or

5 (E) an externally caused physical traumatic  
6 injury to the brain rendering the member physically or mentally  
7 unable to perform the member's duties as a police officer.

8 (7) "Dependent child" means a deceased member's  
9 unmarried natural or adopted child who:

10 (A) has not attained age 18;

11 (B) has attained age 18 but not age 24 [~~22~~] and is  
12 attending school on a full-time basis; or

13 (C) has attained age 18 and is permanently  
14 disabled as the result of a disability that began before the child  
15 attained age 18.

16 (11) "Former member" means a person who was once an  
17 active member, vested or not, but who [~~has~~] terminated active  
18 member status and received a refund of member contributions.

19 (14) "Member" means [~~includes~~] an active member,  
20 inactive member, or retired member, as the context may require. The  
21 term [~~, but~~] does not include a former member.

22 (14-a) "Normal retirement age" means the earlier of:

23 (A) the age at which the member attains 20 years  
24 of service; or

25 (B) the age at which the member first attains  
26 both the age of at least 60 and at least 10 years of service.

27 (17-a) [~~(19)~~] "Retired member" means a member who has

1 separated from service and who is eligible to receive an immediate  
2 service or disability pension under this article.

3 (22-a) "Survivor" means a surviving spouse, a  
4 dependent child, or a dependent parent.

5 (23) "Total direct pay" means wages as defined by  
6 Section 3401(a) of the code, plus any amounts that are not included  
7 in gross income by reason of workers' compensation claims under  
8 Section 104(a)(1), 125, 402(g)(2), or 457 of the code, [and] member  
9 contributions picked up pursuant to Section 414(h)(2) of the code,  
10 and any portion of a motorcycle allowance that is not considered  
11 wages, less any pay received for overtime work. The term does not  
12 include nontaxable payments not expressly described by this  
13 subdivision. However, the compensation included in applying the  
14 limits under Sections 26(c) and (d) of this article shall include  
15 overtime pay and exclude any amount that is excluded from gross  
16 income under Section 104(a)(1) of the code and the portion of any  
17 motorcycle allowance that is excluded from gross income by any  
18 other provision of the code not mentioned in this subdivision.

19 SECTION 3. Section 3, Article 6243g-4, Revised Statutes, is  
20 amended by amending Subsections (a)-(d), (f), and (g) and adding  
21 Subsection (h) to read as follows:

22 (a) The board of trustees of the pension system that was  
23 created under Chapter 76, Acts of the 50th Legislature, Regular  
24 Session, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), and  
25 that operates under Section 67, Article XVI, Texas Constitution,  
26 continues to be responsible for the general administration,  
27 management, and operation of the pension system, including the

1 direction of investment and oversight of the fund's assets.

2 (b) The board is composed of seven members as follows:

3 (1) the administrative head of the city, or the  
4 administrative head's authorized representative appointed with the  
5 advice and consent of the board;

6 (2) three employees of the police department having  
7 membership in the pension system, ~~[and]~~ elected by the active,  
8 inactive, and retired members of the pension system ~~[in the manner~~  
9 ~~determined at a one-time election held for the pension system~~  
10 ~~before October 1, 1999];~~

11 (3) two retired members~~[, elected in the manner~~  
12 ~~determined at a one-time election held for the pension system~~  
13 ~~before October 1, 1999,]~~ who are receiving pensions from the system  
14 and are not officers or employees of the city, elected by the  
15 active, inactive, and retired members of the pension system; and

16 (4) the treasurer of the city or the person  
17 discharging the duties of the city treasurer.

18 (c) The terms of office of the board members elected as  
19 described by Subsection (b)(2) of this section shall be three  
20 years, beginning on January 1 and ending on December 31, with one  
21 board member being elected every year at an election called by the  
22 board and held in December. If a vacancy occurs among the three  
23 elected active board members, the board shall hold an election  
24 within 60 days after the date the vacancy occurred. At that  
25 election, an active member shall be elected to serve for the  
26 remainder of the term of the vacant position or for a full term if  
27 the term of the board member that caused the vacancy would have

1 ended in that year.

2 (d) The terms of office of the board members elected as  
3 described by Subsection (b)(3) of this section shall be three  
4 years, beginning on January 1 and ending on December 31. Beginning  
5 in 1999, and each third succeeding year, one board member shall be  
6 elected at an election called by the board and held in December.  
7 Beginning in 2000, and each third succeeding year, a second board  
8 member shall be elected at an election called by the board and held  
9 in December. If a vacancy occurs among the two elected retired  
10 members of the board, the board shall hold an election within 60  
11 days after the date the vacancy occurred. At that election, a  
12 retired member shall be elected to serve for the remainder of the  
13 term of the vacant position or for a full term if the term of the  
14 board member that caused the vacancy would have ended in that year.  
15 A board member who is a retired member and who was appointed to the  
16 board before January 1999 shall serve the remainder of the board  
17 member's term. On expiration of the appointed term, the appointed  
18 board member is eligible to run for the board position described by  
19 Subsection (b)(3) of this section in the same manner as any other  
20 retired member.

21 (f) An individual who is [~~If it is so determined at a~~  
22 ~~one-time election held for the pension system before October 1,~~  
23 ~~1999,~~] an officer or employee of any employee organization or  
24 retiree organization or an employee of the pension system is not  
25 eligible to be [~~is prohibited from being~~] elected to the board, to  
26 be appointed to the board, or in any other way to serve as  
27 [~~becoming~~] a member of the board.

1 (g) Each board member shall, within 30 days after taking  
2 office [~~the date of appointment or election~~], take an oath of  
3 office:

4 (1) to diligently and honestly administer the affairs  
5 of the pension system by:

6 (A) being loyal exclusively to all members;

7 (B) being prudent in protecting and managing the  
8 trust's property;

9 (C) defending the trust's assets; and

10 (D) acting under the terms of the plan; and

11 (2) to not knowingly violate, or willingly permit to  
12 be violated, this article.

13 (h) Notwithstanding any other provision in this section, if  
14 a candidate for an elected trustee position is unopposed in an  
15 election, the election may not be held for that position. The board  
16 shall certify the candidate as elected to the board on the executive  
17 director's certification that the candidate is eligible to be a  
18 trustee under this section and is unopposed for election. The  
19 certified candidate shall take the oath of office as soon as  
20 practicable in January, after being declared elected in December.

21 SECTION 4. Section 4(a), Article 6243g-4, Revised Statutes,  
22 is amended to read as follows:

23 (a) Elected members of the board who are employees of the  
24 city's police department are entitled to leave from their employer  
25 to attend to the official business of the pension system and are not  
26 required to report to the city or any other governmental entity  
27 regarding travel or the official business of the pension system.

1 SECTION 5. Section 5, Article 6243g-4, Revised Statutes, is  
2 amended by adding Subsections (b-1) and (i) to read as follows:

3 (b-1) The board may hire an executive director. The  
4 executive director, acting under the direction of the board, shall  
5 handle the operations of the plan and shall perform other duties as  
6 the board may assign. The executive director shall also serve as  
7 the plan administrator for purposes of complying with Subchapter A,  
8 Chapter 804, Government Code.

9 (i) A gathering of any number of trustees to investigate,  
10 research, or review prospective or current investments or to  
11 otherwise attend to the trustees' fiduciary responsibilities,  
12 without formal action by the trustees, is not a deliberation or  
13 meeting under Chapter 551, Government Code, and is not required to  
14 be open to the public.

15 SECTION 6. Section 6, Article 6243g-4, Revised Statutes, is  
16 amended by adding Subsections (e-1) and (g) and amending Subsection  
17 (f) to read as follows:

18 (e-1) The board may sue on behalf of the pension system in  
19 any court with proper subject matter jurisdiction regardless of  
20 location. The board has sole authority to litigate matters on  
21 behalf of the pension system.

22 (f) The board has full discretion and authority to  
23 administer the pension system, to construe and interpret this  
24 article, to correct any defect or omission, to reconcile any  
25 inconsistency that appears in this article, and to do all other acts  
26 necessary to carry out the purpose of this article in a manner and  
27 to the extent that the board considers expedient to administer this



1 article for the greatest benefit of all members. All decisions of  
2 the board are final and binding on all affected parties.

3 (g) The board, if reasonably necessary in the course of  
4 performing a board function, may subpoena a witness or the  
5 production of a book, record, or other document. The presiding  
6 officer of the board may issue, in the name of the board, a subpoena  
7 only if a majority of the board approves. The presiding officer of  
8 the board, or the presiding officer's designee, shall administer an  
9 oath to each witness. A peace officer shall serve a subpoena issued  
10 by the board. If the person to whom a subpoena is directed fails to  
11 comply, the board may bring suit to enforce the subpoena in a  
12 district court of the county in which the person resides or in the  
13 county in which the book, record, or other document is located. If  
14 the district court finds that good cause exists for issuance of the  
15 subpoena, the court shall order compliance. The district court may  
16 modify the requirements of a subpoena that the court finds are  
17 unreasonable. Failure to obey the order of the district court is  
18 punishable as contempt.

19 SECTION 7. Section 7(d), Article 6243g-4, Revised Statutes,  
20 is amended to read as follows:

21 (d) On the date the board makes a declaration under  
22 Subsection (c) of this section, the board shall call a special  
23 election to be held not earlier than the 20th or later than the 60th  
24 [~~30th~~] day after that date to fill the vacancy for the unexpired  
25 term of the person who was removed. The person who was removed is  
26 not eligible to run in the special election but is eligible to run  
27 in all subsequent board elections.

1 SECTION 8. Section 8(a), Article 6243g-4, Revised Statutes,  
2 is amended to read as follows:

3 (a) Each active member of the pension system shall pay into  
4 the system each month 8 3/4 percent of the member's total direct  
5 pay. The payments shall be deducted by the city from the salary of  
6 each active member each payroll period [~~monthly~~] and paid to the  
7 pension system. Except for the repayment of withdrawn  
8 contributions under Section 17(f) or 18(c)(3) of this article and  
9 rollovers permitted by Section 17(h) of this article, a person may  
10 not be required or permitted to make any payments into the pension  
11 system after the person separates from service.

12 SECTION 9. The heading to Section 9, Article 6243g-4,  
13 Revised Statutes, is amended to read as follows:

14 Sec. 9. CONTRIBUTIONS [~~MONTHLY PAYMENT~~] BY THE CITY.

15 SECTION 10. Section 9(a), Article 6243g-4, Revised  
16 Statutes, is amended to read as follows:

17 (a) The city shall make substantially equal contributions  
18 to the fund as soon as administratively feasible after each payroll  
19 period. For each fiscal year ending after June 30, 2005, the city's  
20 minimum contribution shall be the greater of 16 percent of the  
21 members' total direct pay or the level percentage of salary payment  
22 required to amortize the unfunded actuarial liability over a  
23 constant period of 30 years computed on the basis of an acceptable  
24 actuarial reserve funding method approved by the board. However,  
25 for the fiscal year ending June 30, 2002, the city's contribution  
26 shall be \$32,645,000, for the fiscal year ending June 30, 2003, the  
27 city's contribution shall be \$34,645,000, for the fiscal year

1 ending June 30, 2004, the city's contribution shall be \$36,645,000,  
2 and for the fiscal year ending June 30, 2005, the city's  
3 contribution shall be 16 percent of the members' total direct pay.

4 ~~[For fiscal years ending before June 30, 2002, the city shall make~~  
5 ~~contributions to the fund after each payroll period in an amount~~  
6 ~~previously agreed to by the city and the board. For the fiscal year~~  
7 ~~ending June 30, 2002, the city's contribution rate shall be~~  
8 ~~composed of the normal cost plus the level percentage of salary~~  
9 ~~payment required to amortize the actuarial liability over a period~~  
10 ~~of 40 years from January 1, 1983, computed on the basis of an~~  
11 ~~acceptable actuarial reserve funding method approved by the board.~~  
12 ~~For each fiscal year ending after June 30, 2002, the city's~~  
13 ~~contribution shall be the sum of (1) an amount computed in the~~  
14 ~~manner provided for the contribution for the fiscal year ending~~  
15 ~~June 30, 2002, plus (2) \$2 million multiplied by the number of~~  
16 ~~fiscal years that have ended since June 30, 2002, but not more than~~  
17 ~~16 percent of the aggregate total direct pay of all active members~~  
18 ~~for the fiscal year. If the amount described by (1) in the~~  
19 ~~preceding sentence is greater than 16 percent of the aggregate~~  
20 ~~total direct pay of all active members for the year, the amount~~  
21 ~~described by (1) shall be contributed.]~~

22 SECTION 11. Section 11(a), Article 6243g-4, Revised  
23 Statutes, is amended to read as follows:

24 (a) A member who returns to service after an interruption in  
25 service is entitled to credit for the previous service to the extent  
26 provided by Section 19 of this article. ~~[In addition, a member who~~  
27 ~~is retiring shall receive one-half day of service for each day for~~

1 ~~which the city is required to make contributions with respect to the~~  
2 ~~member's unused sick leave, vacation pay, or accumulated overtime~~  
3 ~~under Section 9(b) of this article, except to the extent that the~~  
4 ~~member elects to have the amounts credited to the member's DROP~~  
5 ~~account. Under no circumstances may payments for the same days of~~  
6 ~~unused sick leave, vacation pay, or accumulated overtime be used to~~  
7 ~~both increase a member's service and credit the member's DROP~~  
8 ~~account.]~~

9 SECTION 12. Sections 12(b), (d), (f), and (g), Article  
10 6243g-4, Revised Statutes, are amended to read as follows:

11 (b) Except as otherwise provided by this section, the  
12 monthly service pension of a member that becomes due after May 1,  
13 2001 [~~who separates from service after November 23, 1998~~], is equal  
14 to 2.75 [~~2.5~~] percent of the member's average total direct pay or,  
15 if the member retired before November 24, 1998, 2.75 percent of the  
16 member's base salary, for each of the member's first 20 years of  
17 service, plus an additional two percent of the member's average  
18 total direct pay for each of the member's subsequent years of  
19 service, computed to the nearest one-twelfth of a year. A member  
20 who separates from service after November 23, 1998, including a  
21 member who was a DROP participant, and begins to receive a monthly  
22 service pension shall also receive a one-time lump-sum payment of  
23 \$5,000 at the same time the first monthly pension payment is made.  
24 The lump-sum payment under this subsection is not available to a  
25 member who has previously received a \$5,000 payment under this  
26 section or Section 16 of this article.

27 (d) A retired member who receives a service pension under

1 this article is entitled to receive an additional amount each month  
2 equal to \$150 [~~\$88.05~~], beginning on the later of the date the  
3 retired member's pension begins or the date the first monthly  
4 payment becomes due after June 18, 2001, and continuing until the  
5 end of the month in which the retired member dies. This amount is  
6 intended to defray the retired member's group medical insurance  
7 costs and will be paid directly by the fund to the retired member  
8 for the retired member's lifetime.

9 (f) Notwithstanding anything to the contrary in this  
10 article, an active or inactive member who is eligible to  
11 participate in the executive official pension plan established by  
12 Chapter 358, Acts of the 48th Legislature, Regular Session, 1943  
13 (Article 6243g, Vernon's Texas Civil Statutes), or a successor  
14 statute, may, while continuing employment with the police  
15 department, participate in the executive official pension plan and  
16 elect:

17 (1) if an active member:

18 (A) to begin receiving an immediate pension  
19 benefit and be considered a retired member eligible for all rights  
20 and privileges afforded any other retired member under this  
21 article, if the member has 20 years or more of service and is  
22 eligible for retirement under this section except for the  
23 continuing employment; or

24 (B) to enter DROP if the member satisfies all  
25 requirements of this article for DROP membership; or

26 (2) if an inactive member, to begin receiving an  
27 immediate pension benefit equal to 2.75 [~~2.5~~] percent of the

1 member's average total direct pay at the time the member became  
2 inactive for the member's first 20 years of service and be entitled  
3 to all rights and privileges afforded a retired member under this  
4 article.

5 (g) Notwithstanding anything to the contrary in this  
6 article, service pensions that began before May 1, 2001 [~~September~~  
7 ~~1, 1999~~], shall continue to be paid in accordance with applicable  
8 prior law, subject only to the adjustments that are specifically  
9 provided by this section.

10 SECTION 13. Section 14, Article 6243g-4, Revised Statutes,  
11 is amended by amending Subsections (b)-(g), (j), and (l) and adding  
12 Subsections (f-1) and (m) to read as follows:

13 (b) An active member who has at least 20 years of service  
14 with the police department may file with the pension system an  
15 [~~irrevocable~~] election to participate in DROP and receive a DROP  
16 benefit instead of the standard form of pension provided by this  
17 article. The election may be made, under procedures established by  
18 the board, by an active member who has attained the required years  
19 of service. A DROP election that is made and accepted by the board  
20 may not be revoked before the member's separation from service.

21 (c) The monthly service pension and death benefits of an  
22 active member who becomes a DROP participant will be determined as  
23 if the active member had separated from service and begun receiving  
24 a pension on the effective date of the DROP election. The active  
25 member does not retire but does not accrue additional service  
26 credit beginning on the effective date of the election, and  
27 increases in pay that occur on or after that date may not be used in

1 computing the active member's monthly service pension, except as  
2 provided by Subsection (1) of this section, but cost-of-living  
3 adjustments that occur on or after that date and that otherwise  
4 would be applicable to the pension will be made.

5 (d) The member's DROP benefit is determined as provided by  
6 this subsection and Subsection (e) of this section. Each month an  
7 amount equal to the monthly service pension the active member would  
8 have been entitled to receive if the active member had separated  
9 from service on the effective date of entry into DROP, less any  
10 amount that is intended to help defray the active member's group  
11 medical insurance costs as described by Section 12(d) of this  
12 article, shall be credited to a notional DROP account for the active  
13 member, and each month an amount equal to the monthly contributions  
14 the active member makes to the fund on and after the effective date  
15 of entry into DROP also shall be credited to the same notional DROP  
16 account. In any year in which a 13th payment is made to retired  
17 members under Section 12(e) of this article, an amount equal to the  
18 amount of the 13th payment that would have been made to the DROP  
19 participant if the DROP participant had retired on the date of DROP  
20 entry will be credited to the DROP account. [~~In addition, any~~  
21 ~~amount that is contributed by the city under Section 9(b) of this~~  
22 ~~article with respect to the active member's unused sick leave,~~  
23 ~~vacation pay, or accumulated overtime, and that is not required to~~  
24 ~~be used to provide 10 or 20 years of service to the member under~~  
25 ~~Section 11 of this article or used to repay withdrawn contributions~~  
26 ~~under Section 18(c) of this article shall be credited to the DROP~~  
27 ~~account as of the end of the month in which it is contributed.]~~

1           (e) As of the end of each month an amount is credited to each  
2 active member's notional DROP account at the rate of one-twelfth of  
3 a hypothetical earnings rate on amounts in the account. The  
4 hypothetical earnings rate is determined for each calendar year  
5 based on the average of the aggregate annual rate of return on  
6 investments of the pension system for the five consecutive fiscal  
7 years ending June 30 preceding the calendar year to which the  
8 earnings rate applies. The rate may not be less than zero. [~~The  
9 board may lower any future rate below the rate otherwise prescribed  
10 by this subsection to the extent necessary to ensure that the DROP  
11 does not adversely affect the financial condition of the fund.~~]

12           (f) At the time of a DROP participant's separation from  
13 service, the DROP participant or, if separation from service was  
14 due to the DROP participant's death, the person entitled to receive  
15 benefits under Sections 16 and 16A of this article shall be afforded  
16 a one-time election to revoke the DROP election and substitute  
17 either the annuity that would have been paid if the member had never  
18 elected DROP or an annuity and notional DROP account equal to the  
19 annuity and notional DROP account that would have been received if  
20 the member had entered DROP on a date elected by the member or  
21 survivor. The date elected by the member or survivor may not be  
22 earlier than the earliest date the member could have elected to  
23 enter DROP or later than the date of the member's death or other  
24 separation from service. The computation of the value of the  
25 annuity and DROP account of a member or survivor who makes a Back  
26 DROP election shall be subject to the policies and procedures  
27 adopted by the board. For purposes of this subsection, "Back DROP"



1 means the option to make this one-time election. [~~If a DROP~~  
2 ~~participant separates from service because of disability or death,~~  
3 ~~the member or the member's spouse or, if there is no eligible~~  
4 ~~spouse, any other person eligible to receive benefits under Section~~  
5 ~~16 of this article, as applicable, may either receive an amount~~  
6 ~~equal to the member's DROP account or revoke the member's DROP~~  
7 ~~election and elect to receive benefits as provided by this article~~  
8 ~~without regard to this section. A revocation and election under~~  
9 ~~this subsection must be made at the time and in the manner provided~~  
10 ~~in a procedure that the board may adopt from time to time.~~  
11 ~~Alternatively, the retired member, a deceased member's spouse, or,~~  
12 ~~if there is no spouse, the person entitled to receive benefits under~~  
13 ~~Section 16 of this article may elect to receive a distribution that~~  
14 ~~is equal to the member's DROP account and benefits as described by~~  
15 ~~Subsection (c) of this section.]~~

16 (f-1) If a DROP participant separates from service due to  
17 death and the person entitled to receive benefits under Sections 16  
18 and 16A of this article does not revoke the DROP election, the DROP  
19 benefit may be received in the form of an additional annuity over  
20 the life expectancy of the surviving spouse.

21 (g) In lieu of receiving a lump-sum DROP benefit on  
22 separation from service, a retired member who has been a DROP  
23 participant or, if separation from service was due to the DROP  
24 participant's death, the surviving spouse may leave the retired  
25 member's DROP account with the pension system, in which case  
26 interest will be credited to the DROP account in the manner  
27 described by Subsection (e) of this section [~~this subsection~~].

1 ~~[The interest credited for any month shall be at the applicable~~  
2 ~~annual interest rate as defined by Section 417(e)(3)(A)(ii)(II) of~~  
3 ~~the code and published by the Internal Revenue Service for June of~~  
4 ~~the year preceding the calendar year in which the interest is~~  
5 ~~credited.]~~

6 (j) A retired member who is a DROP participant, or a  
7 surviving spouse, may elect to receive distribution of the DROP  
8 account in a one-time lump-sum payment or in any other form of  
9 distribution that is approved by the board and satisfies the  
10 requirements of Section 401(a)(9) of the code. ~~[Distributions to a~~  
11 ~~deceased member's survivors, as described by Subsection (f) of this~~  
12 ~~section, shall be made in a lump sum as soon as administratively~~  
13 ~~feasible after the deceased member's death.]~~

14 (l) The DROP account of each DROP participant who was an  
15 active member on May 1, 2001, shall be recomputed and adjusted,  
16 effective on that date, to reflect the amount that would have been  
17 credited to the account if the member's pension had been computed  
18 based on 2.75 percent of the member's average total direct pay, or  
19 base pay if applicable, for each of the member's first 20 years of  
20 service. The DROP account adjustment shall also include the  
21 assumed earnings that would have been credited to the account if the  
22 2.75 percent multiplier for the first 20 years of service had been  
23 in effect from the time the member became a DROP participant ~~[If~~  
24 ~~DROP causes any unanticipated actuarial costs, the board may take~~  
25 ~~action as necessary to mitigate the unanticipated actuarial cost,~~  
26 ~~including discontinuing acceptance of additional elections to~~  
27 ~~participate in the DROP, but the pension system shall continue to~~

1 ~~administer DROP for the members participating before the date of~~  
2 ~~discontinuance of enrollment].~~

3 (m) The DROP account of each DROP participant who retires  
4 after May 1, 2001, shall be recomputed as of the date of retirement,  
5 based on the DROP participant's average total direct pay at the time  
6 of retirement and changes to the benefit formula in Section 12(b) of  
7 this article that have occurred since the member's DROP entry date.  
8 If this recomputation would result in a greater account balance,  
9 the DROP participant's account balance shall be adjusted to the  
10 greater amount.

11 SECTION 14. Section 15, Article 6243g-4, Revised Statutes,  
12 is amended by amending Subsections (a)-(d) and adding Subsections  
13 (h)-(k) to read as follows:

14 (a) An active member who becomes totally and permanently  
15 incapacitated for the performance of the member's duties as a  
16 result of a bodily injury received in, or illness caused by, the  
17 performance of those duties shall, on presentation to the board of  
18 proof of total and permanent incapacity, be retired and shall  
19 receive an immediate duty-connected disability pension equal to the  
20 greater of 55 ~~[50]~~ percent of the member's average total direct pay  
21 at the time of retirement or the member's accrued service pension.  
22 If the injury or illness involves a traumatic event that directly  
23 causes an immediate cardiovascular condition resulting in a total  
24 disability, the member is eligible for a duty-connected disability  
25 pension. A disability pension granted by the board shall be paid to  
26 the member for the remainder of the member's life or for as long as  
27 the incapacity remains. If a member is a DROP participant at the

1 commencement of the member's disability, the member shall have the  
2 option of receiving the DROP balance in any manner that is approved  
3 by the board and that satisfies the requirements of Section  
4 401(a)(9) of the code and Treasury Regulation Section 1.104-1(b)  
5 (26 C.F.R. Section 1.104-1) and is otherwise available to any other  
6 member under this article.

7 (b) A member with 10 years or more of credited service who  
8 becomes totally and permanently incapacitated for the performance  
9 of the member's duties and is not eligible for either an immediate  
10 service pension or a duty-connected disability pension is eligible  
11 for an immediate monthly pension computed in the same manner as a  
12 service retirement pension but based on average total direct pay  
13 and service accrued to the date of the disability. The pension  
14 under this subsection may not be less than 27.5 percent of the  
15 member's average total direct pay.

16 (c) A member who becomes entitled to receive a disability  
17 pension after November 23, 1998, is entitled to receive a one-time  
18 lump-sum payment of \$5,000 at the same time the first monthly  
19 disability pension payment is made, but only if the member has not  
20 previously received a \$5,000 payment under this section or Section  
21 12 of this article. The retired member [~~person~~] shall also receive  
22 an additional amount each month equal to \$150 [~~\$88.05~~], beginning  
23 on the later of the date the pension begins or the date the first  
24 monthly payment becomes due after June 18, 2001, and continuing as  
25 long as the disability pension continues, to help defray the cost of  
26 group medical insurance. [~~A retired member whose disability~~  
27 ~~pension continues and was in pay status on November 23, 1998, is~~

1 ~~entitled to receive a one-time lump-sum payment of \$5,000 as soon as~~  
2 ~~administratively feasible after November 23, 1998. This payment~~  
3 ~~has no effect on the amount of the retired member's monthly~~  
4 ~~pension.]~~ For any year in which a 13th payment is made to retired  
5 members under Section 12(e) of this article, a 13th payment,  
6 computed in the same manner, shall also be paid to members who have  
7 retired under this section.

8 (d) A person may not receive a disability pension unless the  
9 person files with the board an application for a disability pension  
10 not later than 180 days after the date of separation from service,  
11 at which time the board shall have the person examined by a  
12 physician chosen and compensated by the board. The physician shall  
13 make a report and recommendations to the board regarding the extent  
14 of any disability and whether any disability that is diagnosed is a  
15 duty-connected disability. Except as provided by Subsection (j) of  
16 this section, a [A] person may not receive a disability pension for  
17 an injury received or illness incurred after separation from  
18 service.

19 (h) As soon as administratively feasible after the later of  
20 June 18, 2001, or the date of the member's retirement because of  
21 disability, an additional monthly disability benefit may be  
22 provided to the member. The additional monthly benefit shall be  
23 equal to the difference between the monthly benefit the member is  
24 receiving under Subsection (a) or (b) of this section, whichever is  
25 applicable, and 100 percent of the member's average total direct  
26 pay at the time of retirement because of disability. The additional  
27 benefit will end on the earlier of the fourth anniversary of the

1 date the benefit is first paid, the end of the last month the member  
2 is engaged in an education or training program approved in  
3 accordance with procedures adopted by the board, or the date the  
4 member is approved to return to active duty. This additional  
5 monthly benefit is not reduced by any DROP account distributions  
6 the member receives unless the member elects to receive the DROP  
7 distributions in the form of an annuity. This additional benefit is  
8 not available to a member who is receiving a disability benefit  
9 under Subsection (j) of this section.

10 (i) Effective for payments that become due after April 30,  
11 2000, and instead of the disability benefit provided by Subsection  
12 (a), (b), or (h) of this section, a member who suffers a  
13 catastrophic injury shall receive a monthly benefit equal to 100  
14 percent of the member's average total direct pay determined as of  
15 the date of retirement.

16 (j) A member who transfers from the police department of a  
17 city subject to this article to another department of the same city,  
18 or who separates from service and is rehired in another department,  
19 and who subsequently terminates employment with the city due to a  
20 duty-connected injury incurred while working as a non-police  
21 employee, shall be entitled to receive an immediate proportional  
22 nonduty-connected disability benefit computed in the same manner as  
23 provided by Subsection (b) of this section, but the benefit shall be  
24 based only on service earned as an employee of the police  
25 department. For purposes of this proportional disability benefit  
26 only, the 180-day application filing requirement in Subsection (d)  
27 of this section begins at the time of separation from the department

1 that employed the member at the time the disability was incurred. A  
2 person may not receive a disability pension for an injury incurred  
3 after termination from service with the city or for a nonduty  
4 disability incurred after separation from service with the police  
5 department. This proportional nonduty-connected disability  
6 benefit is not available to a person who is already receiving a  
7 service retirement pension or disability pension under this  
8 article.

9 (k) A benefit payment that becomes due under this section is  
10 effective on the later of the first day the disabled member leaves  
11 the payroll of the city or the date the member signs the application  
12 for a disability pension.

13 SECTION 15. Sections 16(a), (c), and (f)-(h), Article  
14 6243g-4, Revised Statutes, are amended to read as follows:

15 (a) For purposes of this article, a marriage is considered  
16 to exist only if the marriage is recorded in the records of the  
17 recorder's office in the county in which the marriage ceremony was  
18 performed. In [or, in] the case of a [declaration of] common-law  
19 marriage, a marriage declaration must be [if the declaration is]  
20 signed by the member and the member's common-law spouse before a  
21 notary public and recorded in the records of the county clerk's  
22 office in the county in which the couple resides at the commencement  
23 of the marriage [filed with the board]. In addition, a marriage  
24 that is evidenced by a declaration of common-law marriage signed  
25 before a notary public after December 31, 1999, may not be treated  
26 as effective earlier than the date on which it was signed before the  
27 notary public.

1 (c) If a member of the pension system who has not completed  
2 10 years of service in the police department is killed or dies from  
3 any cause growing out of or in consequence of any act clearly not in  
4 the actual performance of the member's official duty, the member's  
5 surviving spouse, dependent child or children, or dependent parent  
6 or parents are entitled to receive an immediate benefit. The  
7 benefit is computed in the same manner as a service retirement  
8 pension but is based on the deceased member's service and average  
9 total direct pay at the time of death. The monthly benefit may not  
10 be less than 27.5 percent of the member's average total direct pay  
11 ~~[only to a refund of the member's contributions to the pension~~  
12 ~~system].~~

13 (f) A surviving spouse who receives a survivor's benefit  
14 under this article is entitled to receive an additional amount each  
15 month equal to \$150 ~~[\$88.05]~~, beginning with the later of the date  
16 the first payment of the survivor's benefit is due or the date the  
17 first monthly payment becomes due after June 18, 2001, and  
18 continuing until the end of the month in which the surviving spouse  
19 dies.

20 (g) A ~~[surviving spouse or dependent who was in pay status~~  
21 ~~on November 23, 1998, is entitled to receive a one-time lump-sum~~  
22 ~~payment of \$5,000 as soon as administratively feasible after~~  
23 ~~November 23, 1998. The]~~ surviving spouse or dependent who becomes  
24 eligible to receive benefits with respect to an active member who  
25 dies in active service after November 23, 1998, is entitled to  
26 receive a one-time lump-sum payment of \$5,000 at the time the first  
27 monthly pension benefit is paid, if the member has not already



1 received a \$5,000 lump-sum payment under Section 12 or 15(c) of this  
2 article. If more than one dependent is eligible to receive a  
3 payment under this subsection, the \$5,000 shall be divided equally  
4 among the eligible dependents. This payment has no effect on the  
5 amount of the surviving spouse's or dependents' monthly pension and  
6 may not be paid more than once.

7 (h) The monthly benefits of surviving spouses or dependents  
8 provided under this section, except the \$150 [~~\$88.05~~] monthly  
9 payments described by Subsection (f) of this section, shall be  
10 increased annually at the same time and by the same percentage as  
11 the pensions of retired members are increased in accordance with  
12 Section 12(c) of this article. Also, for any year in which a 13th  
13 payment is made pursuant to Section 12(e) of this article, a 13th  
14 payment, computed in the same manner, shall also be made to  
15 survivors who are entitled to receive death benefits at that time.

16 SECTION 16. Article 6243g-4, Revised Statutes, is amended  
17 by adding Section 16A to read as follows:

18 Sec. 16A. BENEFICIARY DESIGNATION. (a) The provisions of  
19 Section 16 of this article pertaining to rights of survivors do not  
20 apply to an amount held in a member's DROP account. A member who  
21 participates in DROP may designate a beneficiary to receive the  
22 balance of the member's DROP account in the event of the member's  
23 death, as permitted by Section 401(a)(9) of the code and the board's  
24 policies. A member who is married is considered to have designated  
25 the member's spouse as the member's beneficiary unless the spouse  
26 consents, in a notarized writing delivered to the board, to the  
27 designation of another person as beneficiary. If no designated

1 beneficiary survives the member, the board may pay the balance of  
2 the member's DROP account to the member's beneficiaries in the  
3 following order:

4 (1) to the member's spouse;

5 (2) if the member does not have a spouse, to each child  
6 of the member in equal shares;

7 (3) if the member does not have a spouse or any  
8 children, to each surviving parent of the member in equal shares; or

9 (4) if the member has no beneficiaries described by  
10 Subdivisions (1), (2), and (3) of this subsection, to the estate of  
11 the member.

12 (b) If a member names a spouse as a beneficiary and is  
13 subsequently divorced from that spouse, the divorce voids the  
14 designation of the divorced spouse as the member's beneficiary. A  
15 designation of a divorced spouse will cause the board to pay any  
16 balance remaining in the member's DROP account in the order  
17 prescribed by Subsection (a) of this section.

18 SECTION 17. Section 17(h), Article 6243g-4, Revised  
19 Statutes, is amended to read as follows:

20 (h) Subject to procedures adopted by the board, the pension  
21 system shall accept a direct cash transfer of funds from another  
22 plan that is an eligible rollover distribution within the meaning  
23 of Section 402(f)(2)(A) of the code. The transfer shall be accepted  
24 only for the purpose of repaying contributions the member has  
25 previously withdrawn or for other purposes expressly authorized by  
26 the board's procedures. [~~City contributions made under Section 9(b)~~  
27 ~~of this article based on the unused sick leave, vacation pay, and~~

1 ~~accumulated overtime pay of a member who has separated from service~~  
2 ~~may be applied, at the election of the member seeking a refund, to~~  
3 ~~pay a refund of member contributions if the contributions are not~~  
4 ~~used under Section 11(c) of this article to satisfy a service~~  
5 ~~requirement for retirement.]~~

6 SECTION 18. Section 18, Article 6243g-4, Revised Statutes,  
7 is amended by amending Subsections (a) and (b) and adding  
8 Subsection (d) to read as follows:

9 (a) Except as provided by this section:

10 (1) [r] credit may not be allowed to any person for  
11 service with any department in the city other than the police  
12 department; and

13 (2) a [~~. Except as provided by this section, if a~~  
14 ~~person is transferred to or from some other department of the city~~  
15 ~~to or from the police department, the]~~ person's service will be  
16 computed from the date of entry into the service of the police  
17 department until the date of separation from service with the  
18 police department.

19 (b) Solely for purposes of determining whether a person has  
20 a sufficient number of years of service to receive a retirement  
21 pension or to enter the DROP program, and not for purposes of  
22 determining the amount of the pension or DROP credit, a person who  
23 is employed in any full-time position with the city after June 8,  
24 2001 [~~November 23, 1998~~], and has or obtains any credited service  
25 with the pension system after that date, shall receive service  
26 credit for any period of full-time employment with the same city.  
27 However, a person may not receive credit for service with both the

1 police department and any other department of the city for the same  
2 period.

3 (d) Classified police officers who were formerly employed  
4 by a city as park police, airport police, or marshals, who were  
5 involuntarily transferred from another city department to the  
6 police department of the city, and who are current active members of  
7 the pension system shall have the option to receive credit with the  
8 pension system for previous service with another pension system of  
9 the city, provided that a person may not receive service credit for  
10 both pension systems for the same period of service.

11 SECTION 19. Section 20, Article 6243g-4, Revised Statutes,  
12 is amended to read as follows:

13 Sec. 20. DONATIONS. The pension system may accept gifts  
14 and donations, and the gifts and donations shall be added to the  
15 fund for the use of the pension system, including, but not limited  
16 to, for use for education programs and the related administrative  
17 expenses of the programs.

18 SECTION 20. Section 22, Article 6243g-4, Revised Statutes,  
19 is amended to read as follows:

20 Sec. 22. LEGAL ADVICE. The city attorney of the city shall  
21 handle all legal matters for the pension system, including  
22 litigation that is [~~that are~~] referred by the board, without  
23 additional compensation for the service. The board may, however,  
24 as it considers necessary, employ outside legal counsel to the  
25 exclusion of, or to assist, the city attorney and pay reasonable  
26 compensation for the service of the additional legal counsel from  
27 the fund.

1 SECTION 21. Section 23, Article 6243g-4, Revised Statutes,  
2 is amended to read as follows:

3 Sec. 23. MEMBERS IN MILITARY SERVICE. (a) A member of the  
4 pension system engaged in active service in a uniformed service may  
5 not be required to make the monthly payments into the fund and may  
6 not lose any previous years' service with the city because of the  
7 uniformed service. The uniformed service shall count as continuous  
8 service in the police department if the member returns to the city  
9 police department after discharge from the uniformed service as an  
10 employee within the period required by the Uniformed Services  
11 Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section  
12 4301 et seq.), as amended, and the uniformed service does not exceed  
13 the period for which a person is entitled to have service counted  
14 pursuant to that Act. Notwithstanding any other provision of this  
15 article, contributions and benefits shall be paid and qualified  
16 service for military service shall be determined in compliance with  
17 Section 414(u) of the code.

18 (b) The city is required to make its [~~regular monthly~~]  
19 payments into the fund on behalf of each member while the member is  
20 engaged in a uniformed service. If a member who has less than 10  
21 years of service in the pension system dies directly or indirectly  
22 as a result of the uniformed service, and without returning to  
23 active service, the spouse, dependent children, dependent parent,  
24 or estate of the member is entitled to receive a benefit [~~refund~~]  
25 in the same manner as described by Section 16(c) of this article.

26 SECTION 22. Sections 25(d) and (e), Article 6243g-4,  
27 Revised Statutes, are amended to read as follows:

1 (d) The total salary taken into account for any purpose for  
2 any member of the pension system may not exceed \$200,000 for any  
3 year for an eligible participant, or for years beginning after 2001  
4 for an ineligible participant, or \$150,000 a year before 2001 for an  
5 ineligible participant. These dollar limits shall be adjusted from  
6 time to time in accordance with guidelines provided by the United  
7 States secretary of the treasury. For purposes of this subsection,  
8 an eligible participant is a person who first became an active  
9 member before 1996, and an ineligible participant is a member who is  
10 not an eligible participant.

11 (e) Accrued benefits under this article become 100 percent  
12 nonforfeitable for a member on the date the member has completed 10  
13 years of service. If the pension system or the fund is terminated  
14 or partially terminated, or city contributions to the fund are  
15 discontinued completely, there may not be a reversion of funds to  
16 the employer. On complete or partial termination or discontinuance  
17 of city contributions, the fund held by the pension system shall be  
18 used exclusively for benefits for members and their surviving  
19 spouses and dependents, and the members' [~~affected employees'~~]  
20 rights to the benefits, to the extent funded, shall be  
21 nonforfeitable if not already nonforfeitable under this  
22 subsection.

23 SECTION 23. Article 6243g-4, Revised Statutes, is amended  
24 by adding Section 29 to read as follows:

25 Sec. 29. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS OR  
26 BENEFICIARIES. (a) Information contained in a record that is in  
27 the custody of a fund established under this article concerning an

1 individual member, retiree, survivor, or beneficiary is  
2 confidential for purposes of Sections 552.101, 552.102, and  
3 552.117, Government Code. The information may not be disclosed in a  
4 form that identifies a specific individual unless the information  
5 is disclosed to:

6 (1) the individual;

7 (2) the individual's attorney, guardian, executor,  
8 administrator, or conservator; or

9 (3) a person who has written authorization from the  
10 individual to receive the information.

11 (b) This section does not prevent the disclosure of the  
12 status or identity of an individual as a member, former member,  
13 retiree, deceased member, survivor, beneficiary, or alternate  
14 payee of the system.

15 SECTION 24. Sections 9(b), 15(f), and 16(d), Article  
16 6243g-4, Revised Statutes, are repealed.

17 SECTION 25. This Act takes effect September 1, 2003.