

1-1 By: Woolley, et al. (Senate Sponsor - Williams) H.B. No. 752
1-2 (In the Senate - Received from the House April 28, 2003;
1-3 May 1, 2003, read first time and referred to Committee on State
1-4 Affairs; May 16, 2003, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 May 16, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 752 By: Staples

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the administration of public retirement systems for
1-11 police officers in certain municipalities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 1, Article 6243g-4, Revised Statutes, is
1-14 amended to read as follows:

1-15 Sec. 1. PURPOSE. The purpose of this article is to restate
1-16 and amend the provisions of former law creating and governing a
1-17 police officers pension system in each city in this state having a
1-18 population of 1.5 million or more, according to the most recent
1-19 federal decennial census, and to reflect changes agreed to by the
1-20 city and the board of trustees of the pension system under Section
1-21 27 of this article. The pension system shall continue to operate
1-22 regardless of whether the city's population falls below 1.5 million
1-23 [~~permit the consolidation of the terms of certain pension plans~~].

1-24 SECTION 2. Section 2, Article 6243g-4, Revised Statutes, is
1-25 amended by amending Subdivisions (1), (2), (7), (11), (14), and
1-26 (23), adding Subdivisions (4-a), (14-a), and (22-a), and
1-27 renumbering Subdivision (19) as Subdivision (17-a) to read as
1-28 follows:

1-29 (1) "Active member" means a person employed as [an
1-30 employee who holds] a classified police officer by the [position in
1-31 a] police department of a city subject to this article, except for a
1-32 person [an employee] who is a part-time, seasonal, or temporary
1-33 employee or a person who elected to remain a member of a pension
1-34 system described by Chapter 88, Acts of the 77th Legislature,
1-35 Regular Session, 2001 (Article 6243h, Vernon's Texas Civil
1-36 Statutes). The term does not include a person who is a member of
1-37 another pension system of the same city, except to the extent
1-38 provided by Section 15(j) or 18 of this article.

1-39 (2) "Average total direct pay" means an amount
1-40 determined by dividing the following sum by 12:

1-41 (A) the highest biweekly pay received by a member
1-42 for any single pay period in the last 26 pay periods in which the
1-43 member worked full-time, considering only items of total direct pay
1-44 that are included in each paycheck, multiplied by 26; plus

1-45 (B) the total direct pay, excluding all items of
1-46 the type included in Paragraph (A) received during the same last 26
1-47 biweekly pay periods [a member's total direct pay for the 26 pay
1-48 periods immediately preceding the date of separation from service
1-49 or the date of entry into DROP, if earlier, divided by 12].

1-50 (4-a) "Catastrophic injury" means a sudden, violent,
1-51 life-threatening, duty-related injury sustained by an active
1-52 member that is due to an externally caused motor vehicle accident,
1-53 gunshot wound, aggravated assault, or other external event or
1-54 events and results, as supported by evidence, in one of the
1-55 following conditions:

1-56 (A) loss of sight in one or both eyes;

1-57 (B) loss of one or both feet at or above the
1-58 ankle;

1-59 (C) loss of one or both hands at or above the
1-60 wrist;

1-61 (D) injury to the spine that results in permanent
1-62 and complete paralysis of both arms, both legs, or one arm and one
1-63 leg; or

2-1 (E) an externally caused physical traumatic
 2-2 injury to the brain rendering the member physically or mentally
 2-3 unable to perform the member's duties as a police officer.

2-4 (7) "Dependent child" means a deceased member's
 2-5 unmarried natural or adopted child who:

2-6 (A) has not attained age 18;

2-7 (B) has attained age 18 but not age 24 [~~22~~] and is
 2-8 attending school on a full-time basis; or

2-9 (C) has attained age 18 and is permanently
 2-10 disabled as the result of a disability that began before the child
 2-11 attained age 18.

2-12 (11) "Former member" means a person who was once an
 2-13 active member, vested or not, but who [~~has~~] terminated active
 2-14 member status and received a refund of member contributions.

2-15 (14) "Member" means [~~includes~~] an active member,
 2-16 inactive member, or retired member, as the context may require. The
 2-17 term [~~, but~~] does not include a former member.

2-18 (14-a) "Normal retirement age" means the earlier of:

2-19 (A) the age at which the member attains 20 years
 2-20 of service; or

2-21 (B) the age at which the member first attains
 2-22 both the age of at least 60 and at least 10 years of service.

2-23 (17-a) [~~(19)~~] "Retired member" means a member who has
 2-24 separated from service and who is eligible to receive an immediate
 2-25 service or disability pension under this article.

2-26 (22-a) "Survivor" means a surviving spouse, a
 2-27 dependent child, or a dependent parent.

2-28 (23) "Total direct pay" means wages as defined by
 2-29 Section 3401(a) of the code, plus any amounts that are not included
 2-30 in gross income by reason of workers' compensation claims under
 2-31 Section 104(a)(1), 125, 402(g)(2), or 457 of the code, [and] member
 2-32 contributions picked up pursuant to Section 414(h)(2) of the code,
 2-33 and any portion of a motorcycle allowance that is not considered
 2-34 wages, less any pay received for overtime work. The term does not
 2-35 include nontaxable payments not expressly described by this
 2-36 subdivision. However, the compensation included in applying the
 2-37 limits under Sections 26(c) and (d) of this article shall include
 2-38 overtime pay and exclude any amount that is excluded from gross
 2-39 income under Section 104(a)(1) of the code and the portion of any
 2-40 motorcycle allowance that is excluded from gross income by any
 2-41 other provision of the code not mentioned in this subdivision.

2-42 SECTION 3. Section 3, Article 6243g-4, Revised Statutes, is
 2-43 amended by amending Subsections (a)-(d), (f), and (g) and adding
 2-44 Subsection (h) to read as follows:

2-45 (a) The board of trustees of the pension system that was
 2-46 created under Chapter 76, Acts of the 50th Legislature, Regular
 2-47 Session, 1947 (Article 6243g-1, Vernon's Texas Civil Statutes), and
 2-48 that operates under Section 67, Article XVI, Texas Constitution,
 2-49 continues to be responsible for the general administration,
 2-50 management, and operation of the pension system, including the
 2-51 direction of investment and oversight of the fund's assets.

2-52 (b) The board is composed of seven members as follows:

2-53 (1) the administrative head of the city or the
 2-54 administrative head's authorized representative;

2-55 (2) three employees of the police department having
 2-56 membership in the pension system, [~~and~~] elected by the active,
 2-57 inactive, and retired members of the pension system [in the manner
 2-58 determined at a one-time election held for the pension system
 2-59 before October 1, 1999];

2-60 (3) two retired members [~~, elected in the manner~~
 2-61 ~~determined at a one-time election held for the pension system~~
 2-62 ~~before October 1, 1999,] who are receiving pensions from the system
 2-63 and are not officers or employees of the city, elected by the
 2-64 active, inactive, and retired members of the pension system; and~~

2-65 (4) the treasurer of the city or the person
 2-66 discharging the duties of the city treasurer.

2-67 (c) The terms of office of the board members elected as
 2-68 described by Subsection (b)(2) of this section shall be three
 2-69 years, beginning on January 1 and ending on December 31, with one

3-1 board member being elected every year at an election called by the
 3-2 board and held in December. If a vacancy occurs among the three
 3-3 elected active board members, the board shall hold an election
 3-4 within 60 days after the date the vacancy occurred. At that
 3-5 election, an active member shall be elected to serve for the
 3-6 remainder of the term of the vacant position or for a full term if
 3-7 the term of the board member that caused the vacancy would have
 3-8 ended in that year.

3-9 (d) The terms of office of the board members elected as
 3-10 described by Subsection (b)(3) of this section shall be three
 3-11 years, beginning on January 1 and ending on December 31. Beginning
 3-12 in 1999, and each third succeeding year, one board member shall be
 3-13 elected at an election called by the board and held in December.
 3-14 Beginning in 2000, and each third succeeding year, a second board
 3-15 member shall be elected at an election called by the board and held
 3-16 in December. If a vacancy occurs among the two elected retired
 3-17 members of the board, the board shall hold an election within 60
 3-18 days after the date the vacancy occurred. At that election, a
 3-19 retired member shall be elected to serve for the remainder of the
 3-20 term of the vacant position or for a full term if the term of the
 3-21 board member that caused the vacancy would have ended in that year.
 3-22 A board member who is a retired member and who was appointed to the
 3-23 board before January 1999 shall serve the remainder of the board
 3-24 member's term. On expiration of the appointed term, the appointed
 3-25 board member is eligible to run for the board position described by
 3-26 Subsection (b)(3) of this section in the same manner as any other
 3-27 retired member.

3-28 (f) ~~An individual who is [If it is so determined at a~~
 3-29 ~~one-time election held for the pension system before October 1,~~
 3-30 ~~1999,]~~ an officer or employee of any employee organization or
 3-31 retiree organization or an employee of the pension system is
 3-32 prohibited from being elected to the board, appointed to the board,
 3-33 or in any other way serving as [becoming] a member of the board.

3-34 (g) Each board member shall, within 30 days after taking
 3-35 office [the date of appointment or election], take an oath of
 3-36 office:

3-37 (1) to diligently and honestly administer the affairs
 3-38 of the pension system by:

- 3-39 (A) being loyal exclusively to all members;
- 3-40 (B) being prudent in protecting and managing the
 3-41 trust's property;
- 3-42 (C) defending the trust's assets; and
- 3-43 (D) acting under the terms of the plan; and

3-44 (2) to not knowingly violate, or willingly permit to
 3-45 be violated, this article.

3-46 (h) Notwithstanding any other provision in this section, if
 3-47 a candidate for an elected trustee position is unopposed in an
 3-48 election, the election may not be held for that position. The board
 3-49 shall certify the candidate as elected to the board on the executive
 3-50 director's certification that the candidate is eligible to be a
 3-51 trustee under this section and is unopposed for election. The
 3-52 certified candidate shall take the oath of office as soon as
 3-53 practicable in January, after being declared elected in December.

3-54 SECTION 4. Section 4(a), Article 6243g-4, Revised Statutes,
 3-55 is amended to read as follows:

3-56 (a) Elected members of the board who are employees of the
 3-57 city's police department are entitled to leave from their employer
 3-58 to attend to the official business of the pension system and are not
 3-59 required to report to the city or any other governmental entity
 3-60 regarding travel or the official business of the pension system,
 3-61 except when on city business.

3-62 SECTION 5. Section 5, Article 6243g-4, Revised Statutes, is
 3-63 amended by amending Subsection (d) and adding Subsection (b-1) to
 3-64 read as follows:

3-65 (b-1) The board may hire an executive director. The
 3-66 executive director, acting under the direction of the board, shall
 3-67 handle the operations of the plan and shall perform other duties as
 3-68 the board may assign. The executive director shall also serve as
 3-69 the plan administrator for purposes of complying with Subchapter A,

4-1 Chapter 804, Government Code.

4-2 (d) The board may employ one or more actuaries, legal
 4-3 counsel, accountants, or other professionals [~~an actuary, legal~~
 4-4 ~~counsel, an accountant, or another professional~~] and pay the
 4-5 compensation for these services from the fund.

4-6 SECTION 6. Section 6, Article 6243g-4, Revised Statutes, is
 4-7 amended by adding Subsections (e-1), (g), and (h) and amending
 4-8 Subsection (f) to read as follows:

4-9 (e-1) The board may sue on behalf of the pension system in
 4-10 any court with proper subject matter jurisdiction regardless of
 4-11 location. The board has sole authority to litigate matters on
 4-12 behalf of the pension system.

4-13 (f) The board has full discretion and authority to
 4-14 administer the pension system, to construe and interpret this
 4-15 article, and to do all other acts necessary to carry out the purpose
 4-16 of this article in a manner and to the extent that the board
 4-17 considers expedient to administer this article for the greatest
 4-18 benefit of all members. All decisions of the board are final and
 4-19 binding on all affected parties.

4-20 (g) The board, if reasonably necessary in the course of
 4-21 performing a board function, may subpoena a witness or the
 4-22 production of a book, record, or other document. The presiding
 4-23 officer of the board may issue, in the name of the board, a subpoena
 4-24 only if a majority of the board approves. The presiding officer of
 4-25 the board, or the presiding officer's designee, shall administer an
 4-26 oath to each witness. A peace officer shall serve a subpoena issued
 4-27 by the board. If the person to whom a subpoena is directed fails to
 4-28 comply, the board may bring suit to enforce the subpoena in a
 4-29 district court of the county in which the person resides or in the
 4-30 county in which the book, record, or other document is located. If
 4-31 the district court finds that good cause exists for issuance of the
 4-32 subpoena, the court shall order compliance. The district court may
 4-33 modify the requirements of a subpoena that the court finds are
 4-34 unreasonable. Failure to obey the order of the district court is
 4-35 punishable as contempt.

4-36 (h) The board is not subject to Title 6, Property Code.

4-37 SECTION 7. Sections 7(d) and (f), Article 6243g-4, Revised
 4-38 Statutes, are amended to read as follows:

4-39 (d) On the date the board makes a declaration under
 4-40 Subsection (c) of this section, the board shall call a special
 4-41 election to be held not earlier than the 20th or later than the 60th
 4-42 [~~30th~~] day after that date to fill the vacancy for the unexpired
 4-43 term of the person who was removed. The person who was removed is
 4-44 not eligible to run in the special election but is eligible to run
 4-45 in all subsequent board elections.

4-46 (f) The hearing must begin as soon as the hearing examiner
 4-47 can be scheduled but not later than the 60th day after the date the
 4-48 board votes to remove the board member. In a hearing conducted
 4-49 under this subsection, the hearing examiner may issue subpoenas.
 4-50 The parties may agree to an expedited hearing procedure. Unless
 4-51 otherwise agreed by the parties, in an expedited procedure, the
 4-52 hearing examiner must issue a decision not later than the 10th day
 4-53 after the date the hearing ends. Unless operating under an
 4-54 expedited hearing procedure, the hearing examiner shall make a
 4-55 reasonable effort to issue a decision not later than the 30th day
 4-56 after the date the hearing ends. The hearing examiner's inability
 4-57 to meet the time requirements imposed by this subsection does not
 4-58 affect the hearing examiner's jurisdiction or final decision. The
 4-59 final decision of the hearing examiner may be either to remove the
 4-60 board member or not to remove the board member from the board. [~~A~~
 4-61 ~~decision may be made to remove the board member from the board only~~
 4-62 ~~if the hearing examiner determines that the board member violated~~
 4-63 ~~Subchapter A, Chapter 121, Property Code.] The hearing examiner's~~
 4-64 fees and expenses shall be paid by the pension system. The costs of
 4-65 a witness shall be paid by the party who calls the witness.

4-66 SECTION 8. Section 8(a), Article 6243g-4, Revised Statutes,
 4-67 is amended to read as follows:

4-68 (a) Each active member of the pension system shall pay into
 4-69 the system each month 8 3/4 percent of the member's total direct

5-1 pay. The payments shall be deducted by the city from the salary of
 5-2 each active member each payroll period [~~monthly~~] and paid to the
 5-3 pension system. Except for the repayment of withdrawn
 5-4 contributions under Section 17(f) or 18(c)(3) of this article and
 5-5 rollovers permitted by Section 17(h) of this article, a person may
 5-6 not be required or permitted to make any payments into the pension
 5-7 system after the person separates from service.

5-8 SECTION 9. The heading to Section 9, Article 6243g-4,
 5-9 Revised Statutes, is amended to read as follows:

5-10 Sec. 9. CONTRIBUTIONS [~~MONTHLY PAYMENT~~] BY THE CITY.

5-11 SECTION 10. Section 9(a), Article 6243g-4, Revised
 5-12 Statutes, is amended to read as follows:

5-13 (a) The city shall make substantially equal contributions
 5-14 to the fund as soon as administratively feasible after each payroll
 5-15 period. For each fiscal year ending after June 30, 2005, the city's
 5-16 minimum contribution shall be the greater of 16 percent of the
 5-17 members' total direct pay or the level percentage of salary payment
 5-18 required to amortize the unfunded actuarial liability over a
 5-19 constant period of 30 years computed on the basis of an acceptable
 5-20 actuarial reserve funding method approved by the board. However,
 5-21 for the fiscal year ending June 30, 2002, the city's contribution
 5-22 shall be \$32,645,000, for the fiscal year ending June 30, 2003, the
 5-23 city's contribution shall be \$34,645,000, for the fiscal year
 5-24 ending June 30, 2004, the city's contribution shall be \$36,645,000,
 5-25 and for the fiscal year ending June 30, 2005, the city's
 5-26 contribution shall be 16 percent of the members' total direct pay.
 5-27 [~~For fiscal years ending before June 30, 2002, the city shall make~~
 5-28 ~~contributions to the fund after each payroll period in an amount~~
 5-29 ~~previously agreed to by the city and the board. For the fiscal year~~
 5-30 ~~ending June 30, 2002, the city's contribution rate shall be~~
 5-31 ~~composed of the normal cost plus the level percentage of salary~~
 5-32 ~~payment required to amortize the actuarial liability over a period~~
 5-33 ~~of 40 years from January 1, 1983, computed on the basis of an~~
 5-34 ~~acceptable actuarial reserve funding method approved by the board.~~
 5-35 ~~For each fiscal year ending after June 30, 2002, the city's~~
 5-36 ~~contribution shall be the sum of (1) an amount computed in the~~
 5-37 ~~manner provided for the contribution for the fiscal year ending~~
 5-38 ~~June 30, 2002, plus (2) \$2 million multiplied by the number of~~
 5-39 ~~fiscal years that have ended since June 30, 2002, but not more than~~
 5-40 ~~16 percent of the aggregate total direct pay of all active members~~
 5-41 ~~for the fiscal year. If the amount described by (1) in the~~
 5-42 ~~preceding sentence is greater than 16 percent of the aggregate~~
 5-43 ~~total direct pay of all active members for the year, the amount~~
 5-44 ~~described by (1) shall be contributed.]~~

5-45 SECTION 11. Section 11(a), Article 6243g-4, Revised
 5-46 Statutes, is amended to read as follows:

5-47 (a) A member who returns to service after an interruption in
 5-48 service is entitled to credit for the previous service to the extent
 5-49 provided by Section 19 of this article. [~~In addition, a member who~~
 5-50 ~~is retiring shall receive one-half day of service for each day for~~
 5-51 ~~which the city is required to make contributions with respect to the~~
 5-52 ~~member's unused sick leave, vacation pay, or accumulated overtime~~
 5-53 ~~under Section 9(b) of this article, except to the extent that the~~
 5-54 ~~member elects to have the amounts credited to the member's DROP~~
 5-55 ~~account. Under no circumstances may payments for the same days of~~
 5-56 ~~unused sick leave, vacation pay, or accumulated overtime be used to~~
 5-57 ~~both increase a member's service and credit the member's DROP~~
 5-58 ~~account.]~~

5-59 SECTION 12. Section 12, Article 6243g-4, Revised Statutes,
 5-60 is amended by amending Subsections (a), (b), (d), (f), and (g) and
 5-61 adding Subsections (h) and (i) to read as follows:

5-62 (a) A member who separates from service after earning 20 or
 5-63 more years of service is eligible to receive a monthly service
 5-64 pension, beginning in the month of separation from service. A
 5-65 member who separates from service with the city after November 23,
 5-66 1998, after earning 10 or more but less than 20 years of service in
 5-67 any of the city's pension systems and who complies with all
 5-68 applicable requirements of Section 19 of this article is eligible
 5-69 to receive a monthly service pension, beginning in the month the

6-1 individual attains 60 years of age. An individual may not receive a
 6-2 pension under this article while still an active member, except as
 6-3 provided by Subsection (f) of this section. All service pensions
 6-4 end with the month in which the retired member dies. The city shall
 6-5 supply all personnel, financial, and payroll records necessary to
 6-6 establish the member's eligibility for a benefit, the member's
 6-7 credited service, and the amount of the benefit. The city must
 6-8 provide those records in the format specified by the pension
 6-9 system.

6-10 (b) Except as otherwise provided by this section, the
 6-11 monthly service pension of a member that becomes due after May 1,
 6-12 2001 [~~who separates from service after November 23, 1998~~], is equal
 6-13 to 2.75 [~~2.5~~] percent of the member's average total direct pay or,
 6-14 if the member retired before November 24, 1998, 2.75 percent of the
 6-15 member's base salary, for each of the member's first 20 years of
 6-16 service, plus an additional two percent of the member's average
 6-17 total direct pay for each of the member's subsequent years of
 6-18 service, computed to the nearest one-twelfth of a year. A member
 6-19 who separates from service after November 23, 1998, including a
 6-20 member who was a DROP participant, and begins to receive a monthly
 6-21 service pension shall also receive a one-time lump-sum payment of
 6-22 \$5,000 at the same time the first monthly pension payment is made.
 6-23 The lump-sum payment under this subsection is not available to a
 6-24 member who has previously received a \$5,000 payment under this
 6-25 section or Section 16 of this article.

6-26 (d) A retired member who receives a service pension under
 6-27 this article is entitled to receive an additional amount each month
 6-28 equal to \$150 [~~\$88.05~~], beginning on the later of the date the
 6-29 retired member's pension begins or the date the first monthly
 6-30 payment becomes due after June 18, 2001, and continuing until the
 6-31 end of the month in which the retired member dies. This amount is
 6-32 intended to defray the retired member's group medical insurance
 6-33 costs and will be paid directly by the fund to the retired member
 6-34 for the retired member's lifetime.

6-35 (f) Notwithstanding anything to the contrary in this
 6-36 article, an active or inactive member who is eligible to
 6-37 participate in the executive official pension plan established by
 6-38 Chapter 358, Acts of the 48th Legislature, Regular Session, 1943
 6-39 (Article 6243g, Vernon's Texas Civil Statutes), or a successor
 6-40 statute, may, while continuing employment with the police
 6-41 department, participate in the executive official pension plan and
 6-42 elect:

6-43 (1) if an active member:

6-44 (A) to begin receiving an immediate pension
 6-45 benefit and be considered a retired member eligible for all rights
 6-46 and privileges afforded any other retired member under this
 6-47 article, if the member has 20 years or more of service and is
 6-48 eligible for retirement under this section except for the
 6-49 continuing employment; or

6-50 (B) to enter DROP if the member satisfies all
 6-51 requirements of this article for DROP membership; or

6-52 (2) if an inactive member, to begin receiving an
 6-53 immediate pension benefit equal to 2.75 [~~2.5~~] percent of the
 6-54 member's average total direct pay at the time the member became
 6-55 inactive for the member's first 20 years of service and be entitled
 6-56 to all rights and privileges afforded a retired member under this
 6-57 article.

6-58 (g) Notwithstanding anything to the contrary in this
 6-59 article, service pensions that began before May 1, 2001 [~~September~~
 6-60 ~~1, 1999~~], shall continue to be paid in accordance with applicable
 6-61 prior law, subject only to the adjustments that are specifically
 6-62 provided by this section.

6-63 (h) Average total direct pay for a member who retires after
 6-64 participating in a phase-down program in which the member receives
 6-65 a periodic payment that is generated from the member's accumulated
 6-66 sick time, vacation time, and overtime balances shall be based on
 6-67 the highest pay period, excluding any pay for overtime work, in the
 6-68 periods during which the member worked full-time before
 6-69 participating in the phase-down program.

7-1 (i) The computation of average total direct pay shall be
 7-2 made in accordance with procedures and policies adopted by the
 7-3 board.

7-4 SECTION 13. Section 14, Article 6243g-4, Revised Statutes,
 7-5 is amended by amending Subsections (b)-(g), (j), and (l) and adding
 7-6 Subsections (f-1) and (m) to read as follows:

7-7 (b) An active member who has at least 20 years of service
 7-8 with the police department may file with the pension system an
 7-9 [~~irrevocable~~] election to participate in DROP and receive a DROP
 7-10 benefit instead of the standard form of pension provided by this
 7-11 article. The election may be made, under procedures established by
 7-12 the board, by an active member who has attained the required years
 7-13 of service. A DROP election that is made and accepted by the board
 7-14 may not be revoked before the member's separation from service.

7-15 (c) The monthly service pension and death benefits of an
 7-16 active member who becomes a DROP participant will be determined as
 7-17 if the active member had separated from service and begun receiving
 7-18 a pension on the effective date of the DROP election. The active
 7-19 member does not retire but does not accrue additional service
 7-20 credit beginning on the effective date of the election, and
 7-21 increases in pay that occur on or after that date may not be used in
 7-22 computing the active member's monthly service pension, except as
 7-23 provided by Subsection (l) of this section, but cost-of-living
 7-24 adjustments that occur on or after that date and that otherwise
 7-25 would be applicable to the pension will be made.

7-26 (d) The member's DROP benefit is determined as provided by
 7-27 this subsection and Subsection (e) of this section. Each month an
 7-28 amount equal to the monthly service pension the active member would
 7-29 have been entitled to receive if the active member had separated
 7-30 from service on the effective date of entry into DROP, less any
 7-31 amount that is intended to help defray the active member's group
 7-32 medical insurance costs as described by Section 12(d) of this
 7-33 article, shall be credited to a notional DROP account for the active
 7-34 member, and each month an amount equal to the monthly contributions
 7-35 the active member makes to the fund on and after the effective date
 7-36 of entry into DROP also shall be credited to the same notional DROP
 7-37 account. In any year in which a 13th payment is made to retired
 7-38 members under Section 12(e) of this article, an amount equal to the
 7-39 amount of the 13th payment that would have been made to the DROP
 7-40 participant if the DROP participant had retired on the date of DROP
 7-41 entry will be credited to the DROP account. [~~In addition, any~~
 7-42 ~~amount that is contributed by the city under Section 9(b) of this~~
 7-43 ~~article with respect to the active member's unused sick leave,~~
 7-44 ~~vacation pay, or accumulated overtime, and that is not required to~~
 7-45 ~~be used to provide 10 or 20 years of service to the member under~~
 7-46 ~~Section 11 of this article or used to repay withdrawn contributions~~
 7-47 ~~under Section 18(c) of this article shall be credited to the DROP~~
 7-48 ~~account as of the end of the month in which it is contributed.]~~

7-49 (e) As of the end of each month an amount is credited to each
 7-50 active member's notional DROP account at the rate of one-twelfth of
 7-51 a hypothetical earnings rate on amounts in the account. The
 7-52 hypothetical earnings rate is determined for each calendar year
 7-53 based on the average of the aggregate annual rate of return on
 7-54 investments of the pension system for the five consecutive fiscal
 7-55 years ending June 30 preceding the calendar year to which the
 7-56 earnings rate applies. The rate may not be less than zero. [~~The~~
 7-57 ~~board may lower any future rate below the rate otherwise prescribed~~
 7-58 ~~by this subsection to the extent necessary to ensure that the DROP~~
 7-59 ~~does not adversely affect the financial condition of the fund.]~~

7-60 (f) At the time of a DROP participant's separation from
 7-61 service, the DROP participant or, if separation from service was
 7-62 due to the DROP participant's death, the person entitled to receive
 7-63 benefits under Sections 16 and 16A of this article shall be afforded
 7-64 a one-time election to revoke the DROP election and substitute
 7-65 either the annuity that would have been paid if the member had never
 7-66 elected DROP or an annuity and notional DROP account equal to the
 7-67 annuity and notional DROP account that would have been received if
 7-68 the member had entered DROP on a date elected by the member or
 7-69 survivor. The date elected by the member or survivor may not be

8-1 earlier than the earliest date the member could have elected to
 8-2 enter DROP or later than the date of the member's death or other
 8-3 separation from service. The computation of the value of the
 8-4 annuity and DROP account of a member or survivor who makes a Back
 8-5 DROP election shall be subject to the policies and procedures
 8-6 adopted by the board. For purposes of this subsection, "Back DROP"
 8-7 means the option to make this one-time election [~~If a DROP~~
 8-8 ~~participant separates from service because of disability or death,~~
 8-9 ~~the member or the member's spouse or, if there is no eligible~~
 8-10 ~~spouse, any other person eligible to receive benefits under Section~~
 8-11 ~~16 of this article, as applicable, may either receive an amount~~
 8-12 ~~equal to the member's DROP account or revoke the member's DROP~~
 8-13 ~~election and elect to receive benefits as provided by this article~~
 8-14 ~~without regard to this section. A revocation and election under~~
 8-15 ~~this subsection must be made at the time and in the manner provided~~
 8-16 ~~in a procedure that the board may adopt from time to time.~~
 8-17 ~~Alternatively, the retired member, a deceased member's spouse, or,~~
 8-18 ~~if there is no spouse, the person entitled to receive benefits under~~
 8-19 ~~Section 16 of this article may elect to receive a distribution that~~
 8-20 ~~is equal to the member's DROP account and benefits as described by~~
 8-21 ~~Subsection (c) of this section].~~

8-22 (f-1) If a DROP participant separates from service due to
 8-23 death and the person entitled to receive benefits under Sections 16
 8-24 and 16A of this article does not revoke the DROP election, the DROP
 8-25 benefit may be received in the form of an additional annuity over
 8-26 the life expectancy of the surviving spouse.

8-27 (g) In lieu of receiving a lump-sum DROP benefit on
 8-28 separation from service, a retired member who has been a DROP
 8-29 participant or, if separation from service was due to the DROP
 8-30 participant's death, the surviving spouse may leave the retired
 8-31 member's DROP account with the pension system, in which case
 8-32 interest will be credited to the DROP account in the manner
 8-33 described by Subsection (e) of this section [this subsection].
 8-34 [The interest credited for any month shall be at the applicable
 8-35 annual interest rate as defined by Section 417(e)(3)(A)(ii)(II) of
 8-36 the code and published by the Internal Revenue Service for June of
 8-37 the year preceding the calendar year in which the interest is
 8-38 credited.]

8-39 (j) A retired member who is a DROP participant, or a
 8-40 surviving spouse, may elect to receive distribution of the DROP
 8-41 account in a one-time lump-sum payment or in any other form of
 8-42 distribution that is approved by the board and satisfies the
 8-43 requirements of Section 401(a)(9) of the code. [Distributions to a
 8-44 deceased member's survivors, as described by Subsection (f) of this
 8-45 section, shall be made in a lump sum as soon as administratively
 8-46 feasible after the deceased member's death.]

8-47 (l) The DROP account of each DROP participant who was an
 8-48 active member on May 1, 2001, shall be recomputed and adjusted,
 8-49 effective on that date, to reflect the amount that would have been
 8-50 credited to the account if the member's pension had been computed
 8-51 based on 2.75 percent of the member's average total direct pay, or
 8-52 base pay if applicable, for each of the member's first 20 years of
 8-53 service. The DROP account adjustment shall also include the
 8-54 assumed earnings that would have been credited to the account if the
 8-55 2.75 percent multiplier for the first 20 years of service had been
 8-56 in effect from the time the member became a DROP participant [If
 8-57 DROP causes any unanticipated actuarial costs, the board may take
 8-58 action as necessary to mitigate the unanticipated actuarial cost,
 8-59 including discontinuing acceptance of additional elections to
 8-60 participate in the DROP, but the pension system shall continue to
 8-61 administer DROP for the members participating before the date of
 8-62 discontinuance of enrollment].

8-63 (m) The DROP monthly service pension, as described by
 8-64 Subsection (c) of this section, of each DROP participant who
 8-65 retires after May 1, 2001, shall be recomputed as of the date of
 8-66 retirement, based on the DROP participant's average total direct
 8-67 pay at the time of retirement and changes to the benefit formula in
 8-68 Section 12(b) of this article that have occurred since the member's
 8-69 DROP entry date. If this recomputation would result in a greater

9-1 monthly service pension, as described by Subsection (c) of this
 9-2 section, the DROP participant's monthly service pension shall be
 9-3 adjusted to the greater amount.

9-4 SECTION 14. Section 15, Article 6243g-4, Revised Statutes,
 9-5 is amended by amending Subsections (a)-(d) and adding Subsections
 9-6 (h)-(k) to read as follows:

9-7 (a) An active member who becomes totally and permanently
 9-8 incapacitated for the performance of the member's duties as a
 9-9 result of a bodily injury received in, or illness caused by, the
 9-10 performance of those duties shall, on presentation to the board of
 9-11 proof of total and permanent incapacity, be retired and shall
 9-12 receive an immediate duty-connected disability pension equal to the
 9-13 greater of 55 [~~50~~] percent of the member's average total direct pay
 9-14 at the time of retirement or the member's accrued service pension.
 9-15 If the injury or illness involves a traumatic event that directly
 9-16 causes an immediate cardiovascular condition resulting in a total
 9-17 disability, the member is eligible for a duty-connected disability
 9-18 pension. A disability pension granted by the board shall be paid to
 9-19 the member for the remainder of the member's life or for as long as
 9-20 the incapacity remains. If a member is a DROP participant at the
 9-21 commencement of the member's disability, the member shall have the
 9-22 option of receiving the DROP balance in any manner that is approved
 9-23 by the board and that satisfies the requirements of Section
 9-24 401(a)(9) of the code and Treasury Regulation Section 1.104-1(b)
 9-25 (26 C.F.R. Section 1.104-1) and is otherwise available to any other
 9-26 member under this article.

9-27 (b) A member with 10 years or more of credited service who
 9-28 becomes totally and permanently incapacitated for the performance
 9-29 of the member's duties and is not eligible for either an immediate
 9-30 service pension or a duty-connected disability pension is eligible
 9-31 for an immediate monthly pension computed in the same manner as a
 9-32 service retirement pension but based on average total direct pay
 9-33 and service accrued to the date of the disability. The pension
 9-34 under this subsection may not be less than 27.5 percent of the
 9-35 member's average total direct pay.

9-36 (c) A member who becomes entitled to receive a disability
 9-37 pension after November 23, 1998, is entitled to receive a one-time
 9-38 lump-sum payment of \$5,000 at the same time the first monthly
 9-39 disability pension payment is made, but only if the member has not
 9-40 previously received a \$5,000 payment under this section or Section
 9-41 12 of this article. The retired member [person] shall also receive
 9-42 an additional amount each month equal to \$150 [~~\$88.05~~], beginning
 9-43 on the later of the date the pension begins or the date the first
 9-44 monthly payment becomes due after June 18, 2001, and continuing as
 9-45 long as the disability pension continues, to help defray the cost of
 9-46 group medical insurance. [A retired member whose disability
 9-47 pension continues and was in pay status on November 23, 1998, is
 9-48 entitled to receive a one-time lump-sum payment of \$5,000 as soon as
 9-49 administratively feasible after November 23, 1998. This payment
 9-50 has no effect on the amount of the retired member's monthly
 9-51 pension.] For any year in which a 13th payment is made to retired
 9-52 members under Section 12(e) of this article, a 13th payment,
 9-53 computed in the same manner, shall also be paid to members who have
 9-54 retired under this section.

9-55 (d) A person may not receive a disability pension unless the
 9-56 person files with the board an application for a disability pension
 9-57 not later than 180 days after the date of separation from service,
 9-58 at which time the board shall have the person examined by a
 9-59 physician chosen and compensated by the board. The physician shall
 9-60 make a report and recommendations to the board regarding the extent
 9-61 of any disability and whether any disability that is diagnosed is a
 9-62 duty-connected disability. Except as provided by Subsection (j) of
 9-63 this section, a [A] person may not receive a disability pension for
 9-64 an injury received or illness incurred after separation from
 9-65 service.

9-66 (h) As soon as administratively feasible after the later of
 9-67 June 18, 2001, or the date of the member's retirement because of
 9-68 disability, an additional monthly disability benefit may be
 9-69 provided to the member. The additional monthly benefit shall be

10-1 equal to the difference between the monthly benefit the member is
 10-2 receiving under Subsection (a) or (b) of this section, whichever is
 10-3 applicable, and 100 percent of the member's average total direct
 10-4 pay at the time of retirement because of disability. The additional
 10-5 benefit will end on the earlier of the fourth anniversary of the
 10-6 date the benefit is first paid, the end of the last month the member
 10-7 is engaged in an education or training program approved in
 10-8 accordance with procedures adopted by the board, or the date the
 10-9 member is approved to return to active duty. This additional
 10-10 monthly benefit is not reduced by any DROP account distributions
 10-11 the member receives unless the member elects to receive the DROP
 10-12 distributions in the form of an annuity. This additional benefit is
 10-13 not available to a member who is receiving a disability benefit
 10-14 under Subsection (j) of this section.

10-15 (i) Effective for payments that become due after April 30,
 10-16 2000, and instead of the disability benefit provided by Subsection
 10-17 (a), (b), or (h) of this section, a member who suffers a
 10-18 catastrophic injury shall receive a monthly benefit equal to 100
 10-19 percent of the member's average total direct pay determined as of
 10-20 the date of retirement.

10-21 (j) A member who transfers from the police department of a
 10-22 city subject to this article to another department of the same city,
 10-23 or who separates from service and is rehired in another department,
 10-24 and who subsequently terminates employment with the city due to a
 10-25 duty-connected injury incurred while working as a non-police
 10-26 employee, shall be entitled to receive an immediate proportional
 10-27 nonduty-connected disability benefit computed in the same manner as
 10-28 provided by Subsection (b) of this section, but the benefit shall be
 10-29 based only on service earned as an employee of the police
 10-30 department. For purposes of this proportional disability benefit
 10-31 only, the 180-day application filing requirement in Subsection (d)
 10-32 of this section begins at the time of separation from the department
 10-33 that employed the member at the time the disability was incurred. A
 10-34 person may not receive a disability pension for an injury incurred
 10-35 after termination from service with the city or for a nonduty
 10-36 disability incurred after separation from service with the police
 10-37 department. This proportional nonduty-connected disability
 10-38 benefit is not available to a person who is already receiving a
 10-39 service retirement pension or disability pension under this
 10-40 article.

10-41 (k) A benefit payment that becomes due under this section is
 10-42 effective on the later of the first day the disabled member leaves
 10-43 the payroll of the city or the date the member signs the application
 10-44 for a disability pension.

10-45 SECTION 15. Sections 16(a), (c), and (f)-(h), Article
 10-46 6243g-4, Revised Statutes, are amended to read as follows:

10-47 (a) For purposes of this article, a marriage is considered
 10-48 to exist only if the marriage is recorded in the records of the
 10-49 recorder's office in the county in which the marriage ceremony was
 10-50 performed. In [or, in] the case of a [declaration of] common-law
 10-51 marriage, a marriage declaration must be [if the declaration is]
 10-52 signed by the member and the member's common-law spouse before a
 10-53 notary public and recorded in the records of the county clerk's
 10-54 office in the county in which the couple resides at the commencement
 10-55 of the marriage [filed with the board]. In addition, a marriage
 10-56 that is evidenced by a declaration of common-law marriage signed
 10-57 before a notary public after December 31, 1999, may not be treated
 10-58 as effective earlier than the date on which it was signed before the
 10-59 notary public.

10-60 (c) If a member of the pension system who has not completed
 10-61 10 years of service in the police department is killed or dies from
 10-62 any cause growing out of or in consequence of any act clearly not in
 10-63 the actual performance of the member's official duty, the member's
 10-64 surviving spouse, dependent child or children, or dependent parent
 10-65 or parents are entitled to receive an immediate benefit. The
 10-66 benefit is computed in the same manner as a service retirement
 10-67 pension but is based on the deceased member's service and average
 10-68 total direct pay at the time of death. The monthly benefit may not
 10-69 be less than 27.5 percent of the member's average total direct pay

11-1 ~~[only to a refund of the member's contributions to the pension~~
 11-2 ~~system].~~

11-3 (f) A surviving spouse who receives a survivor's benefit
 11-4 under this article is entitled to receive an additional amount each
 11-5 month equal to \$150 [~~\$88.05~~], beginning with the later of the date
 11-6 the first payment of the survivor's benefit is due or the date the
 11-7 first monthly payment becomes due after June 18, 2001, and
 11-8 continuing until the end of the month in which the surviving spouse
 11-9 dies.

11-10 (g) A ~~[surviving spouse or dependent who was in pay status~~
 11-11 ~~on November 23, 1998, is entitled to receive a one-time lump-sum~~
 11-12 ~~payment of \$5,000 as soon as administratively feasible after~~
 11-13 ~~November 23, 1998. The]~~ surviving spouse or dependent who becomes
 11-14 eligible to receive benefits with respect to an active member who
 11-15 dies in active service after November 23, 1998, is entitled to
 11-16 receive a one-time lump-sum payment of \$5,000 at the time the first
 11-17 monthly pension benefit is paid, if the member has not already
 11-18 received a \$5,000 lump-sum payment under Section 12 or 15(c) of this
 11-19 article. If more than one dependent is eligible to receive a
 11-20 payment under this subsection, the \$5,000 shall be divided equally
 11-21 among the eligible dependents. This payment has no effect on the
 11-22 amount of the surviving spouse's or dependents' monthly pension and
 11-23 may not be paid more than once.

11-24 (h) The monthly benefits of surviving spouses or dependents
 11-25 provided under this section, except the \$150 [~~\$88.05~~] monthly
 11-26 payments described by Subsection (f) of this section, shall be
 11-27 increased annually at the same time and by the same percentage as
 11-28 the pensions of retired members are increased in accordance with
 11-29 Section 12(c) of this article. Also, for any year in which a 13th
 11-30 payment is made pursuant to Section 12(e) of this article, a 13th
 11-31 payment, computed in the same manner, shall also be made to
 11-32 survivors who are entitled to receive death benefits at that time.

11-33 SECTION 16. Article 6243g-4, Revised Statutes, is amended
 11-34 by adding Section 16A to read as follows:

11-35 Sec. 16A. BENEFICIARY DESIGNATION. (a) The provisions of
 11-36 Section 16 of this article pertaining to rights of survivors do not
 11-37 apply to an amount held in a member's DROP account. A member who
 11-38 participates in DROP may designate a beneficiary to receive the
 11-39 balance of the member's DROP account in the event of the member's
 11-40 death, as permitted by Section 401(a)(9) of the code and the board's
 11-41 policies. A member who is married is considered to have designated
 11-42 the member's spouse as the member's beneficiary unless the spouse
 11-43 consents, in a notarized writing delivered to the board, to the
 11-44 designation of another person as beneficiary. If no designated
 11-45 beneficiary survives the member, the board may pay the balance of
 11-46 the member's DROP account to the member's beneficiaries in the
 11-47 following order:

11-48 (1) to the member's spouse;
 11-49 (2) if the member does not have a spouse, to each child
 11-50 of the member in equal shares;
 11-51 (3) if the member does not have a spouse or any
 11-52 children, to each surviving parent of the member in equal shares; or
 11-53 (4) if the member has no beneficiaries described by
 11-54 Subdivisions (1), (2), and (3) of this subsection, to the estate of
 11-55 the member.

11-56 (b) If a member names a spouse as a beneficiary and is
 11-57 subsequently divorced from that spouse, the divorce voids the
 11-58 designation of the divorced spouse as the member's beneficiary. A
 11-59 designation of a divorced spouse will cause the board to pay any
 11-60 balance remaining in the member's DROP account in the order
 11-61 prescribed by Subsection (a) of this section.

11-62 SECTION 17. Section 17(h), Article 6243g-4, Revised
 11-63 Statutes, is amended to read as follows:

11-64 (h) Subject to procedures adopted by the board, the pension
 11-65 system shall accept a direct cash transfer of funds from another
 11-66 plan that is an eligible rollover distribution within the meaning
 11-67 of Section 402(f)(2)(A) of the code. The transfer shall be accepted
 11-68 only for the purpose of repaying contributions the member has
 11-69 previously withdrawn or for other purposes expressly authorized by

12-1 ~~the board's procedures. [City contributions made under Section 9(b)~~
 12-2 ~~of this article based on the unused sick leave, vacation pay, and~~
 12-3 ~~accumulated overtime pay of a member who has separated from service~~
 12-4 ~~may be applied, at the election of the member seeking a refund, to~~
 12-5 ~~pay a refund of member contributions if the contributions are not~~
 12-6 ~~used under Section 11(c) of this article to satisfy a service~~
 12-7 ~~requirement for retirement.]~~

12-8 SECTION 18. Section 18, Article 6243g-4, Revised Statutes,
 12-9 is amended by amending Subsections (a) and (b) and adding
 12-10 Subsection (d) to read as follows:

12-11 (a) Except as provided by this section:

12-12 (1) ~~[~~ credit may not be allowed to any person for
 12-13 service with any department in the city other than the police
 12-14 department; and

12-15 (2) ~~a [.~~ Except as provided by this section, if a
 12-16 person is transferred to or from some other department of the city
 12-17 to or from the police department, the] person's service will be
 12-18 computed from the date of entry into the service of the police
 12-19 department until the date of separation from service with the
 12-20 police department.

12-21 (b) Solely for purposes of determining whether a person has
 12-22 a sufficient number of years of service to receive a retirement
 12-23 pension or to enter the DROP program, and not for purposes of
 12-24 determining the amount of the pension or DROP credit, a person who
 12-25 is employed in any full-time position with the city after June 18,
 12-26 2001 ~~[November 23, 1998]~~, and has or obtains any credited service
 12-27 with the pension system after that date, shall receive service
 12-28 credit for any period of full-time employment with the same city.
 12-29 However, a person may not receive credit for service with both the
 12-30 police department and any other department of the city for the same
 12-31 period.

12-32 (d) Classified police officers who were formerly employed
 12-33 by a city as park police, airport police, or marshals, who were
 12-34 involuntarily transferred from another city department to the
 12-35 police department of the city, and who are current active members of
 12-36 the pension system shall have the option to receive credit with the
 12-37 pension system for previous service with another pension system of
 12-38 the city, provided that a person may not receive service credit for
 12-39 both pension systems for the same period of service.

12-40 SECTION 19. Section 20, Article 6243g-4, Revised Statutes,
 12-41 is amended to read as follows:

12-42 Sec. 20. DONATIONS. The pension system may accept gifts
 12-43 and donations, and the gifts and donations shall be added to the
 12-44 fund for the use of the pension system, including, but not limited
 12-45 to, for use for education programs and the related administrative
 12-46 expenses of the programs.

12-47 SECTION 20. Section 22, Article 6243g-4, Revised Statutes,
 12-48 is amended to read as follows:

12-49 Sec. 22. LEGAL ADVICE. The city attorney of the city shall
 12-50 handle all legal matters for the pension system that are referred by
 12-51 the board without additional compensation for the service. The
 12-52 board may, however, as it considers necessary, employ outside legal
 12-53 counsel to the exclusion of, or to assist, the city attorney and pay
 12-54 reasonable compensation for the service of the additional legal
 12-55 counsel from the fund.

12-56 SECTION 21. Section 23, Article 6243g-4, Revised Statutes,
 12-57 is amended to read as follows:

12-58 Sec. 23. MEMBERS IN MILITARY SERVICE. (a) A member of the
 12-59 pension system engaged in active service in a uniformed service may
 12-60 not be required to make the monthly payments into the fund and may
 12-61 not lose any previous years' service with the city because of the
 12-62 uniformed service. The uniformed service shall count as continuous
 12-63 service in the police department if the member returns to the city
 12-64 police department after discharge from the uniformed service as an
 12-65 employee within the period required by the Uniformed Services
 12-66 Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section
 12-67 4301 et seq.), as amended, and the uniformed service does not exceed
 12-68 the period for which a person is entitled to have service counted
 12-69 pursuant to that Act. Notwithstanding any other provision of this

13-1 article, contributions and benefits shall be paid and qualified
13-2 service for military service shall be determined in compliance with
13-3 Section 414(u) of the code.

13-4 (b) The city is required to make its [~~regular monthly~~]
13-5 payments into the fund on behalf of each member while the member is
13-6 engaged in a uniformed service. If a member who has less than 10
13-7 years of service in the pension system dies directly or indirectly
13-8 as a result of the uniformed service, and without returning to
13-9 active service, the spouse, dependent children, dependent parent,
13-10 or estate of the member is entitled to receive a benefit [~~refund~~] in
13-11 the same manner as described by Section 16(c) of this article.

13-12 SECTION 22. Sections 25(d) and (e), Article 6243g-4,
13-13 Revised Statutes, are amended to read as follows:

13-14 (d) The total salary taken into account for any purpose for
13-15 any member of the pension system may not exceed \$200,000 for any
13-16 year for an eligible participant, or for years beginning after 2001
13-17 for an ineligible participant, or \$150,000 a year before 2001 for an
13-18 ineligible participant. These dollar limits shall be adjusted from
13-19 time to time in accordance with guidelines provided by the United
13-20 States secretary of the treasury. For purposes of this subsection,
13-21 an eligible participant is a person who first became an active
13-22 member before 1996, and an ineligible participant is a member who is
13-23 not an eligible participant.

13-24 (e) Accrued benefits under this article become 100 percent
13-25 nonforfeitable for a member on the date the member has completed 10
13-26 years of service. If the pension system or the fund is terminated
13-27 or partially terminated, or city contributions to the fund are
13-28 discontinued completely, there may not be a reversion of funds to
13-29 the employer. On complete or partial termination or discontinuance
13-30 of city contributions, the fund held by the pension system shall be
13-31 used exclusively for benefits for members and their surviving
13-32 spouses and dependents, and the members' [~~affected employees'~~]
13-33 rights to the benefits, to the extent funded, shall be
13-34 nonforfeitable if not already nonforfeitable under this
13-35 subsection.

13-36 SECTION 23. Article 6243g-4, Revised Statutes, is amended
13-37 by adding Section 29 to read as follows:

13-38 Sec. 29. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS OR
13-39 BENEFICIARIES. (a) Information contained in a record that is in
13-40 the custody of a fund established under this article concerning an
13-41 individual member, retiree, survivor, or beneficiary is
13-42 confidential for purposes of Sections 552.101, 552.102, and
13-43 552.117, Government Code. The information may not be disclosed in a
13-44 form that identifies a specific individual unless the information
13-45 is disclosed to:

- 13-46 (1) the individual;
- 13-47 (2) the individual's attorney, guardian, executor,
13-48 administrator, or conservator; or
- 13-49 (3) a person who has written authorization from the
13-50 individual to receive the information.

13-51 (b) This section does not prevent the disclosure of the
13-52 status or identity of an individual as a member, former member,
13-53 retiree, deceased member, survivor, beneficiary, or alternate
13-54 payee of the system.

13-55 SECTION 24. Sections 9(b), 15(f), and 16(d), Article
13-56 6243g-4, Revised Statutes, are repealed.

13-57 SECTION 25. This Act takes effect September 1, 2003.

13-58 * * * * *