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H.B. No. 2747

A BILL TO BE ENTITLED

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AN ACT

relating to the administration of a retirement health care plan for firefighters and police officers in certain municipalities.

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

SECTION 1. Section 1.02, Chapter 1332, Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas Civil Statutes), is amended by amending Subdivisions (1), (3), (4), and (8) and adding Subdivisions (1-a), (6-a)-(6-d), (8-a), and (10) to read as follows:

(1) "Active member" means a firefighter or a police officer who is a current contributing member of the fund [~~who is an active firefighter or police officer of the municipality~~].

(1-a) "Actuary" means an actuary selected by the board to conduct an actuarial study who is a Fellow of the Society of Actuaries, a Fellow of the Conference of Consulting Actuaries, or a member of the American Academy of Actuaries.

(3) "Beneficiary" means a retired police officer, a retired firefighter, or the spouse or other eligible dependent of a retired or deceased police officer or retired or deceased firefighter who is entitled to receive retiree health benefits under Section 5.01(a) of this Act.

(4) "Collective bargaining agreements [~~agreement~~]" means the [~~a~~] collectively bargained agreements in effect on January 1, 2004, [~~agreement~~] between a municipality to which this

1 Act applies and the exclusive bargaining agents of the firefighters  
2 and police officers of the municipality under Chapter 174, Local  
3 Government Code.

4 (6-a) "Master contract document" means the master  
5 contract in effect on January 1, 2004, containing the terms and  
6 conditions of the health and medical benefits plan established  
7 under the collective bargaining agreements.

8 (6-b) "Member" means a firefighter or police officer  
9 who has become a member of the fund as provided by Section 4.01 of  
10 this Act and has not retired, died, or forfeited the person's  
11 interest in the fund.

12 (6-c) "Member payroll" means, for any applicable pay  
13 period, the base pay plus additional compensation for employment  
14 longevity paid to all active members who were active members during  
15 the pay period.

16 (6-d) "Pension act" means Chapter 824, Acts of the  
17 73rd Legislature, Regular Session, 1993 (Article 6243o, Vernon's  
18 Texas Civil Statutes).

19 (8) "Retiree" means a member of the fund who was  
20 formerly a firefighter or police officer of the municipality, who  
21 retired after September 30, 1989, and who has a right to retirement  
22 health benefits under Section 5.01(a) of this Act.

23 (8-a) "Retiree health plan" means the group family  
24 health plan established by the collective bargaining agreements and  
25 the master contract document.

26 (10) "Years of service" means the number of full years  
27 beginning on the date the firefighter or police officer becomes a

1 member of the fund until the date the firefighter or police officer  
2 retires or otherwise terminates employment as a firefighter or  
3 police officer less any service credit for the amount of time the  
4 member is engaged in active service with any uniformed service of  
5 the United States that the member does not purchase as provided by  
6 Section 4.022 of this Act.

7 SECTION 2. Section 1.03, Chapter 1332, Acts of the 75th  
8 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
9 Civil Statutes), is amended to read as follows:

10 Sec. 1.03. APPLICABILITY. This Act applies to a paid fire  
11 and police department of a municipality with a population of one  
12 million or more but less than 1,175,000, according to the most  
13 recent federal census [~~of 750,000 or more that has adopted Chapter~~  
14 ~~174, Local Government Code~~].

15 SECTION 3. Section 2.01(b), Chapter 1332, Acts of the 75th  
16 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
17 Civil Statutes), is amended to read as follows:

18 (b) The board, through its secretary, shall administer the  
19 required elections of the active members and retiree trustees. The  
20 board shall hold a runoff election between the two candidates  
21 receiving the most votes if no candidate receives a majority of the  
22 votes cast for a trustee position. On the executive director's  
23 certification that a candidate for trustee is eligible for office  
24 and is unopposed for election, the board shall certify the  
25 candidate as elected to the board.

26 SECTION 4. Section 2.03(c), Chapter 1332, Acts of the 75th  
27 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas

1 Civil Statutes), is amended to read as follows:

2 (c) A removal election must be held within 90 [~~30~~] days  
3 after the date the board certifies that a proper petition for a  
4 removal election has been signed by at least 20 percent of the  
5 persons eligible to vote to elect the trustee. A trustee's term of  
6 service ends on the entry of an order by the board declaring that a  
7 majority of the votes cast in a removal election under this section  
8 favor removal.

9 SECTION 5. Section 2.04(b), Chapter 1332, Acts of the 75th  
10 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
11 Civil Statutes), is amended to read as follows:

12 (b) The board in its discretion may elect other officers of  
13 the board. An officer may be, but is not required to be, a trustee  
14 [~~treasurer of the municipality is the treasurer of the board~~].

15 SECTION 6. Section 3.01, Chapter 1332, Acts of the 75th  
16 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
17 Civil Statutes), is amended by adding Subsections (f)-(k) to read  
18 as follows:

19 (f) The board has full discretion and authority to  
20 administer the fund, construe and interpret this Act, correct any  
21 defect or omission, reconcile any inconsistency, and perform all  
22 other acts necessary to carry out the purpose of this Act and  
23 administer this Act for the greatest benefit of all members. All  
24 decisions of the board are final and binding on all affected  
25 parties.

26 (g) A gathering of any number of trustees to investigate,  
27 research, or review prospective or current investments or otherwise

1 attend to the trustees' fiduciary responsibilities, without formal  
2 action by the trustees, is not a deliberation or meeting under  
3 Chapter 551, Government Code, and is not required to be open to the  
4 public.

5 (h) The trustees, executive director, and employees of the  
6 fund are immune from liability for any action taken or omission made  
7 in good faith in the performance of their duties for the fund.

8 (i) Information contained in a record that is in the custody  
9 of the fund concerning a member, former member, retiree, deceased  
10 retiree, beneficiary, or alternate payee is confidential under  
11 Sections 552.101, 552.102, and 552.117, Government Code. The  
12 information may not be disclosed in a form that identifies a  
13 specific individual, unless the information is disclosed:

14 (1) to the individual;

15 (2) to the individual's attorney, guardian, executor,  
16 administrator, or conservator, or to another person the executive  
17 director or the executive director's designee determines from  
18 written documentation to be acting in the interest of the  
19 individual or the individual's estate;

20 (3) to a person authorized by the individual in  
21 writing to receive the information; or

22 (4) under a subpoena.

23 (j) Subsection (i) of this section does not prevent the  
24 disclosure of the status or identity of an individual as a member,  
25 former member, retiree, deceased member, deceased retiree,  
26 beneficiary, or alternate payee of the fund.

27 (k) A determination and disclosure under Subsection (i) of

1 this section does not require notice to the member, retiree,  
2 beneficiary, or alternate payee.

3 SECTION 7. The heading to Article 4, Chapter 1332, Acts of  
4 the 75th Legislature, Regular Session, 1997 (Article 6243q,  
5 Vernon's Texas Civil Statutes), is amended to read as follows:

6 ARTICLE 4. MEMBERSHIP AND CONTRIBUTIONS

7 SECTION 8. Section 4.01, Chapter 1332, Acts of the 75th  
8 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
9 Civil Statutes), is amended to read as follows:

10 Sec. 4.01. MEMBERSHIP. A person becomes a member of the  
11 fund on the person's employment as a firefighter or police officer  
12 in a municipality to which this Act applies [~~Membership in the fund~~  
13 ~~shall be determined by the collective bargaining agreements~~].

14 SECTION 9. Section 4.02, Chapter 1332, Acts of the 75th  
15 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
16 Civil Statutes), is amended to read as follows:

17 Sec. 4.02. MEMBER CONTRIBUTIONS. (a) An amount in  
18 accordance with the following schedule shall be deducted from each  
19 active member's compensation and contributed to the fund biweekly:

20 (1) \$36.99 beginning after September 30, 2005, and  
21 ending before October 1, 2006;

22 (2) \$44.32 beginning after September 30, 2006, and  
23 ending before October 1, 2007;

24 (3) \$52.17 beginning after September 30, 2007, and  
25 ending before October 1, 2008;

26 (4) \$60.57 beginning after September 30, 2008, and  
27 ending before October 1, 2009;

1           (5) \$69.54 beginning after September 30, 2009, and  
2 ending before October 1, 2010;

3           (6) \$79.13 beginning after September 30, 2010, and  
4 ending before October 1, 2011;

5           (7) \$89.35 beginning after September 30, 2011, and  
6 ending before October 1, 2012;

7           (8) \$100.26 beginning after September 30, 2012, and  
8 ending before October 1, 2013;

9           (9) \$111.89 beginning after September 30, 2013, and  
10 ending before October 1, 2014;

11           (10) \$124.28 beginning after September 30, 2014, and  
12 ending before October 1, 2015;

13           (11) \$137.46 beginning after September 30, 2015, and  
14 ending before October 1, 2016;

15           (12) \$151.49 beginning after September 30, 2016, and  
16 ending before October 1, 2017;

17           (13) \$166.41 beginning after September 30, 2017, and  
18 ending before October 1, 2018;

19           (14) \$182.26 beginning after September 30, 2018, and  
20 ending before October 1, 2019;

21           (15) \$199.11 beginning after September 30, 2019  
22 [Contributions to the fund shall be determined in accordance with  
23 the collective bargaining agreements].

24           (b) Subject to Subsection (c) of this section, to be  
25 eligible for health benefits under Section 5.01 of this Act, a  
26 retiree who retired with less than 30 years of service, or the  
27 retiree's surviving spouse in the case of a deceased retiree, shall

1 continue to make contributions to the fund as required by  
2 Subsection (a) of this section beginning on the date of the  
3 retiree's retirement until the total contributions made by the  
4 person equal the amount of contributions the retiree would have  
5 made if the retiree had retired with 30 years of service [~~Any~~  
6 ~~donations made to the fund and all money received from any source~~  
7 ~~for the fund shall be deposited in the fund at the earliest~~  
8 ~~opportunity~~].

9 (c) A retiree who retired under the pension act as a result  
10 of a disability, or the disability retiree's surviving spouse in  
11 the case of a deceased disability retiree, is not required to make  
12 contributions under Subsection (b) of this section for more than 10  
13 years following the date of the disability retiree's retirement  
14 [~~The municipal contribution to and health benefits paid from the~~  
15 ~~fund are a part of the compensation for services rendered to the~~  
16 ~~municipality. This Act is considered part of the contract of~~  
17 ~~employment and appointment of the firefighters and police officers~~  
18 ~~of a municipality to which this Act applies~~].

19 (d) To be eligible for health benefits under Section 5.01 of  
20 this Act, the surviving spouse of a deceased member who died in the  
21 line of duty, as determined under the collective bargaining  
22 agreements, or was an active member at the time of death, shall  
23 continue to make contributions to the fund as required by  
24 Subsection (a) of this section beginning on the date of the member's  
25 death until the earlier of:

26 (1) the expiration of 10 years following the date of  
27 the member's death; or

1           (2) the expiration of the period following the date of  
2 the member's death that, when added to the deceased member's years  
3 of service, equals 30 years.

4           (e) This section applies only to members who retire, become  
5 disabled, or die in the line of duty after October 1, 2005, and  
6 their surviving spouses.

7           (f) Persons other than active members shall pay  
8 contributions required under this section on a monthly basis by  
9 payroll deduction or in cash.

10           (g) The municipal contributions to and health benefits paid  
11 from the fund are a part of the compensation for services rendered  
12 to a municipality to which this Act applies. This Act is considered  
13 part of the contract of employment and appointment of the  
14 firefighters and police officers of a municipality to which this  
15 Act applies.

16           SECTION 10. Article 4, Chapter 1332, Acts of the 75th  
17 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
18 Civil Statutes), is amended by adding Sections 4.021 and 4.022 to  
19 read as follows:

20           Sec. 4.021. CONTRIBUTIONS BY A MUNICIPALITY. (a) A  
21 municipality to which this Act applies shall pay into the fund an  
22 amount equal to a percentage of member payroll, according to the  
23 following schedule:

24           (1) 11.24 percent for each full pay period beginning  
25 after September 30, 2005, and ending before October 1, 2006;

26           (2) 11.94 percent for each full pay period beginning  
27 after September 30, 2006, and ending before October 1, 2007;

1           (3) 12.64 percent for each full pay period beginning  
2 after September 30, 2007, and ending before October 1, 2008;

3           (4) 13.34 percent for each full pay period beginning  
4 after September 30, 2008, and ending before October 1, 2009;

5           (5) 14.04 percent for each full pay period beginning  
6 after September 30, 2009, and ending before October 1, 2010;

7           (6) 14.74 percent for each full pay period beginning  
8 after September 30, 2010, and ending before October 1, 2011;

9           (7) 15.44 percent for each full pay period beginning  
10 after September 30, 2011, and ending before October 1, 2012;

11           (8) 16.14 percent for each full pay period beginning  
12 after September 30, 2012, and ending before October 1, 2013;

13           (9) 16.84 percent for each full pay period beginning  
14 after September 30, 2013, and ending before October 1, 2014;

15           (10) 17.54 percent for each full pay period beginning  
16 after September 30, 2014, and ending before October 1, 2015;

17           (11) 18.24 percent for each full pay period beginning  
18 after September 30, 2015, and ending before October 1, 2016;

19           (12) 18.94 percent for each full pay period beginning  
20 after September 30, 2016, and ending before October 1, 2017;

21           (13) 19.64 percent for each full pay period beginning  
22 after September 30, 2017, and ending before October 1, 2018;

23           (14) 20.34 percent for each full pay period beginning  
24 after September 30, 2018, and ending before October 1, 2019;

25           (15) 21.04 percent for each full pay period beginning  
26 after September 30, 2019.

27           (b) The payments into the fund by the municipality for each

1 active member shall be made on the same day the contributions are  
2 deducted from active members' compensation under Section 4.02(a) of  
3 this Act.

4 (c) The municipal contribution to and health benefits paid  
5 from the fund are part of the compensation for services rendered to  
6 the municipality. This Act is considered part of the contract of  
7 employment and appointment of the firefighters and police officers  
8 of a municipality to which this Act applies.

9 Sec. 4.022. UNIFORMED SERVICE. (a) A member of the fund  
10 who enters any uniformed service of the United States may not:

11 (1) be required to make the monthly payments into the  
12 fund as required by this Act while the member is engaged in active  
13 service with the uniformed service; or

14 (2) lose any seniority rights or retirement benefits  
15 provided by this Act because of that service.

16 (b) Not later than the 90th day after the date of the  
17 member's reinstatement to an active status in a fire or police  
18 department, the member shall file with the secretary of the board a  
19 written statement of intent to pay into the fund an amount equal to  
20 the amount the member would have paid if the member had remained on  
21 active status in the department during the period of the member's  
22 absence while in the uniformed service.

23 (c) The member shall make the payment described by  
24 Subsection (b) of this section in full within a period of time after  
25 the member's return that is equal to three times the amount of time  
26 the member was absent, except that the maximum period for payment  
27 may not exceed five years.

1        (d) If the member does not comply with Subsections (b) and  
2 (c) of this section, the member loses all credit toward the member's  
3 years of service for the length of time the member was engaged in  
4 active service in any uniformed service.

5        (e) The amount of credit purchased under this section may  
6 not exceed the length of the active service in a uniformed service  
7 required to be credited by law.

8        SECTION 11. Section 4.03(b), Chapter 1332, Acts of the 75th  
9 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
10 Civil Statutes), is amended to read as follows:

11        (b) This fund is intended to be a voluntary employee's  
12 beneficiary association as described by Section 501(c), Internal  
13 Revenue Code of 1986 (26 U.S.C. Section 501(c)), as amended, and the  
14 board has the discretion to ~~may~~ take any action necessary to  
15 ensure that the fund is classified as such.

16        SECTION 12. Section 5.01, Chapter 1332, Acts of the 75th  
17 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
18 Civil Statutes), is amended to read as follows:

19        Sec. 5.01. RETIREMENT HEALTH BENEFITS. (a) A person is  
20 eligible to receive health and medical benefits under this Act to  
21 the same extent the person is eligible to receive health and medical  
22 benefits under the retiree health plan, subject to the terms and  
23 conditions of the retiree health plan, except as otherwise provided  
24 by this Act.

25        (b) Health and medical benefits that are substantially  
26 similar to the health and medical benefits provided under the  
27 retiree health plan shall be provided by the fund to persons who are

1 eligible to receive them under Subsection (a) of this section,  
2 subject to the terms and conditions of the retiree health plan,  
3 except as otherwise provided by this Act.

4 (c) The expiration of the terms of the collective bargaining  
5 agreements or the master contract document has no effect on the  
6 benefits provided under this Act.

7 (d) The board may adjust, modify, or change benefits  
8 provided under this section if the fund's total actuarial unfunded  
9 liability, as determined by the actuary, is not increased by the  
10 adjustment, modification, or change.

11 (e) The board shall determine which persons are eligible to  
12 receive benefits under this section and which benefits the persons  
13 are eligible to receive under Subsections (a) and (b) of this  
14 section.

15 (f) The board may discontinue benefits under this section  
16 for any person who does not make the contributions required by  
17 Section 4.02 of this Act.

18 (g) Beginning on January 1, 2006, the maximum out-of-pocket  
19 (including deductible) payment for each individual each calendar  
20 year as set out in Appendix B to the retiree health plan increases  
21 from \$700 to \$1,200 [~~Retirement health benefits shall be~~  
22 ~~determined in accordance with the collective bargaining~~  
23 ~~agreements~~].

24 SECTION 13. Section 6.02, Chapter 1332, Acts of the 75th  
25 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
26 Civil Statutes), is amended to read as follows:

27 Sec. 6.02. ACCOUNTS AND FINANCIAL REPORTS. (a) Accounts of

1 the fund shall be kept as ordered by the board.

2 (b) The board shall require that monthly financial reports  
3 showing all fund receipts and disbursements be prepared and  
4 submitted to the board.

5 SECTION 14. Section 6.04(c), Chapter 1332, Acts of the 75th  
6 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
7 Civil Statutes), is amended to read as follows:

8 (c) The board may directly manage investments of the reserve  
9 funds or may choose to contract for professional management  
10 services. If the funds own real estate, the board may, at its  
11 discretion, establish an organization described by Section  
12 501(c)(2) or [Section] 501(c)(25), Internal Revenue Code of 1986  
13 (26 U.S.C. Sections 501(c)(2) and [Section] 501(c)(25)), as  
14 amended, to hold title to the real estate.

15 SECTION 15. Section 6.05(a), Chapter 1332, Acts of the 75th  
16 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
17 Civil Statutes), is amended to read as follows:

18 (a) The board may contract for professional investment  
19 management services, financial consultants, independent auditors,  
20 third-party administrators, preferred providers, health  
21 maintenance organizations, attorneys, and actuaries. Only the  
22 board may enter into those contracts. The board may establish a  
23 reasonable fee for compensation under those contracts.

24 SECTION 16. Section 6.06, Chapter 1332, Acts of the 75th  
25 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
26 Civil Statutes), is amended to read as follows:

27 Sec. 6.06. INVESTMENT CONSULTANT [~~MANAGER~~] QUALIFICATIONS.

1 In appointing investment consultants [~~managers~~], the board shall  
2 require that the investment consultant [~~manager~~] be:

3 (1) registered under the Investment Advisors Act of  
4 1940 (15 U.S.C. Section 80b-1 et seq.), as amended;

5 (2) a bank as defined by that Act; or

6 (3) an insurance company qualified to perform  
7 investment services under the law of more than one state.

8 SECTION 17. Section 6.01, Chapter 1332, Acts of the 75th  
9 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
10 Civil Statutes), is repealed.

11 SECTION 18. This Act takes effect October 1, 2005.