

1-1 By: McClendon, et al. (Senate Sponsor - Madla) H.B. No. 2747  
1-2 (In the Senate - Received from the House May 11, 2005;  
1-3 May 13, 2005, read first time and referred to Committee on  
1-4 Intergovernmental Relations; May 20, 2005, reported favorably by  
1-5 the following vote: Yeas 3, Nays 2; May 20, 2005, sent to  
1-6 printer.)

1-7 A BILL TO BE ENTITLED  
1-8 AN ACT

1-9 relating to the administration of a retirement health care plan for  
1-10 firefighters and police officers in certain municipalities.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 1.02, Chapter 1332, Acts of the 75th  
1-13 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
1-14 Civil Statutes), is amended by amending Subdivisions (1), (3), (4),  
1-15 and (8) and adding Subdivisions (1-a), (6-a)-(6-d), (8-a), and (10)  
1-16 to read as follows:

1-17 (1) "Active member" means a firefighter or a police  
1-18 officer who is a current contributing member of the fund [~~who is an~~  
1-19 ~~active firefighter or police officer of the municipality~~].

1-20 (1-a) "Actuary" means an actuary selected by the board  
1-21 to conduct an actuarial study who is a Fellow of the Society of  
1-22 Actuaries, a Fellow of the Conference of Consulting Actuaries, or a  
1-23 member of the American Academy of Actuaries.

1-24 (3) "Beneficiary" means a retired police officer, a  
1-25 retired firefighter, or the spouse or other eligible dependent of a  
1-26 retired or deceased police officer or retired or deceased  
1-27 firefighter who is entitled to receive retiree health benefits  
1-28 under Section 5.01(a) of this Act.

1-29 (4) "Collective bargaining agreements [~~agreement~~]"  
1-30 means the [~~a~~] collectively bargained agreements in effect on  
1-31 January 1, 2004, [~~agreement~~] between a municipality to which this  
1-32 Act applies and the exclusive bargaining agents of the firefighters  
1-33 and police officers of the municipality under Chapter 174, Local  
1-34 Government Code.

1-35 (6-a) "Master contract document" means the master  
1-36 contract in effect on January 1, 2004, containing the terms and  
1-37 conditions of the health and medical benefits plan established  
1-38 under the collective bargaining agreements.

1-39 (6-b) "Member" means a firefighter or police officer  
1-40 who has become a member of the fund as provided by Section 4.01 of  
1-41 this Act and has not retired, died, or forfeited the person's  
1-42 interest in the fund.

1-43 (6-c) "Member payroll" means, for any applicable pay  
1-44 period, the base pay plus additional compensation for employment  
1-45 longevity paid to all active members who were active members during  
1-46 the pay period.

1-47 (6-d) "Pension act" means Chapter 824, Acts of the  
1-48 73rd Legislature, Regular Session, 1993 (Article 6243o, Vernon's  
1-49 Texas Civil Statutes).

1-50 (8) "Retiree" means a member of the fund who was  
1-51 formerly a firefighter or police officer of the municipality, who  
1-52 retired after September 30, 1989, and who has a right to retirement  
1-53 health benefits under Section 5.01(a) of this Act.

1-54 (8-a) "Retiree health plan" means the group family  
1-55 health plan established by the collective bargaining agreements and  
1-56 the master contract document.

1-57 (10) "Years of service" means the number of full years  
1-58 beginning on the date the firefighter or police officer becomes a  
1-59 member of the fund until the date the firefighter or police officer  
1-60 retires or otherwise terminates employment as a firefighter or  
1-61 police officer less any service credit for the amount of time the  
1-62 member is engaged in active service with any uniformed service of  
1-63 the United States that the member does not purchase as provided by  
1-64 Section 4.022 of this Act.

2-1 SECTION 2. Section 1.03, Chapter 1332, Acts of the 75th  
 2-2 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
 2-3 Civil Statutes), is amended to read as follows:

2-4 Sec. 1.03. APPLICABILITY. This Act applies to a paid fire  
 2-5 and police department of a municipality with a population of one  
 2-6 million or more but less than 1,175,000, according to the most  
 2-7 recent federal census [~~of 750,000 or more that has adopted Chapter~~  
 2-8 ~~174, Local Government Code~~].

2-9 SECTION 3. Section 2.01(b), Chapter 1332, Acts of the 75th  
 2-10 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
 2-11 Civil Statutes), is amended to read as follows:

2-12 (b) The board, through its secretary, shall administer the  
 2-13 required elections of the active members and retiree trustees. The  
 2-14 board shall hold a runoff election between the two candidates  
 2-15 receiving the most votes if no candidate receives a majority of the  
 2-16 votes cast for a trustee position. On the executive director's  
 2-17 certification that a candidate for trustee is eligible for office  
 2-18 and is unopposed for election, the board shall certify the  
 2-19 candidate as elected to the board.

2-20 SECTION 4. Section 2.03(c), Chapter 1332, Acts of the 75th  
 2-21 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
 2-22 Civil Statutes), is amended to read as follows:

2-23 (c) A removal election must be held within 90 [~~30~~] days  
 2-24 after the date the board certifies that a proper petition for a  
 2-25 removal election has been signed by at least 20 percent of the  
 2-26 persons eligible to vote to elect the trustee. A trustee's term of  
 2-27 service ends on the entry of an order by the board declaring that a  
 2-28 majority of the votes cast in a removal election under this section  
 2-29 favor removal.

2-30 SECTION 5. Section 2.04(b), Chapter 1332, Acts of the 75th  
 2-31 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
 2-32 Civil Statutes), is amended to read as follows:

2-33 (b) The board in its discretion may elect other officers of  
 2-34 the board. An officer may be, but is not required to be, a trustee  
 2-35 [~~treasurer of the municipality is the treasurer of the board~~].

2-36 SECTION 6. Section 3.01, Chapter 1332, Acts of the 75th  
 2-37 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
 2-38 Civil Statutes), is amended by adding Subsections (f)-(k) to read  
 2-39 as follows:

2-40 (f) The board has full discretion and authority to  
 2-41 administer the fund, construe and interpret this Act, correct any  
 2-42 defect or omission, reconcile any inconsistency, and perform all  
 2-43 other acts necessary to carry out the purpose of this Act and  
 2-44 administer this Act for the greatest benefit of all members. All  
 2-45 decisions of the board are final and binding on all affected  
 2-46 parties.

2-47 (g) A gathering of any number of trustees to investigate,  
 2-48 research, or review prospective or current investments or otherwise  
 2-49 attend to the trustees' fiduciary responsibilities, without formal  
 2-50 action by the trustees, is not a deliberation or meeting under  
 2-51 Chapter 551, Government Code, and is not required to be open to the  
 2-52 public.

2-53 (h) The trustees, executive director, and employees of the  
 2-54 fund are immune from liability for any action taken or omission made  
 2-55 in good faith in the performance of their duties for the fund.

2-56 (i) Information contained in a record that is in the custody  
 2-57 of the fund concerning a member, former member, retiree, deceased  
 2-58 retiree, beneficiary, or alternate payee is confidential under  
 2-59 Sections 552.101, 552.102, and 552.117, Government Code. The  
 2-60 information may not be disclosed in a form that identifies a  
 2-61 specific individual, unless the information is disclosed:

2-62 (1) to the individual;  
 2-63 (2) to the individual's attorney, guardian, executor,  
 2-64 administrator, or conservator, or to another person the executive  
 2-65 director or the executive director's designee determines from  
 2-66 written documentation to be acting in the interest of the  
 2-67 individual or the individual's estate;  
 2-68 (3) to a person authorized by the individual in  
 2-69 writing to receive the information; or

3-1 (4) under a subpoena.

3-2 (j) Subsection (i) of this section does not prevent the  
 3-3 disclosure of the status or identity of an individual as a member,  
 3-4 former member, retiree, deceased member, deceased retiree,  
 3-5 beneficiary, or alternate payee of the fund.

3-6 (k) A determination and disclosure under Subsection (i) of  
 3-7 this section does not require notice to the member, retiree,  
 3-8 beneficiary, or alternate payee.

3-9 SECTION 7. The heading to Article 4, Chapter 1332, Acts of  
 3-10 the 75th Legislature, Regular Session, 1997 (Article 6243q,  
 3-11 Vernon's Texas Civil Statutes), is amended to read as follows:

3-12 ARTICLE 4. MEMBERSHIP AND CONTRIBUTIONS

3-13 SECTION 8. Section 4.01, Chapter 1332, Acts of the 75th  
 3-14 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
 3-15 Civil Statutes), is amended to read as follows:

3-16 Sec. 4.01. MEMBERSHIP. A person becomes a member of the  
 3-17 fund on the person's employment as a firefighter or police officer  
 3-18 in a municipality to which this Act applies [~~Membership in the fund~~  
 3-19 shall be determined by the collective bargaining agreements].

3-20 SECTION 9. Section 4.02, Chapter 1332, Acts of the 75th  
 3-21 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
 3-22 Civil Statutes), is amended to read as follows:

3-23 Sec. 4.02. MEMBER CONTRIBUTIONS. (a) An amount in  
 3-24 accordance with the following schedule shall be deducted from each  
 3-25 active member's compensation and contributed to the fund biweekly:

3-26 (1) \$36.99 beginning after September 30, 2005, and  
 3-27 ending before October 1, 2006;

3-28 (2) \$44.32 beginning after September 30, 2006, and  
 3-29 ending before October 1, 2007;

3-30 (3) \$52.17 beginning after September 30, 2007, and  
 3-31 ending before October 1, 2008;

3-32 (4) \$60.57 beginning after September 30, 2008, and  
 3-33 ending before October 1, 2009;

3-34 (5) \$69.54 beginning after September 30, 2009, and  
 3-35 ending before October 1, 2010;

3-36 (6) \$79.13 beginning after September 30, 2010, and  
 3-37 ending before October 1, 2011;

3-38 (7) \$89.35 beginning after September 30, 2011, and  
 3-39 ending before October 1, 2012;

3-40 (8) \$100.26 beginning after September 30, 2012, and  
 3-41 ending before October 1, 2013;

3-42 (9) \$111.89 beginning after September 30, 2013, and  
 3-43 ending before October 1, 2014;

3-44 (10) \$124.28 beginning after September 30, 2014, and  
 3-45 ending before October 1, 2015;

3-46 (11) \$137.46 beginning after September 30, 2015, and  
 3-47 ending before October 1, 2016;

3-48 (12) \$151.49 beginning after September 30, 2016, and  
 3-49 ending before October 1, 2017;

3-50 (13) \$166.41 beginning after September 30, 2017, and  
 3-51 ending before October 1, 2018;

3-52 (14) \$182.26 beginning after September 30, 2018, and  
 3-53 ending before October 1, 2019;

3-54 (15) \$199.11 beginning after September 30, 2019  
 3-55 [Contributions to the fund shall be determined in accordance with  
 3-56 the collective bargaining agreements].

3-57 (b) Subject to Subsection (c) of this section, to be  
 3-58 eligible for health benefits under Section 5.01 of this Act, a  
 3-59 retiree who retired with less than 30 years of service, or the  
 3-60 retiree's surviving spouse in the case of a deceased retiree, shall  
 3-61 continue to make contributions to the fund as required by  
 3-62 Subsection (a) of this section beginning on the date of the  
 3-63 retiree's retirement until the total contributions made by the  
 3-64 person equal the amount of contributions the retiree would have  
 3-65 made if the retiree had retired with 30 years of service [Any  
 3-66 donations made to the fund and all money received from any source  
 3-67 for the fund shall be deposited in the fund at the earliest  
 3-68 opportunity].

3-69 (c) A retiree who retired under the pension act as a result

4-1 of a disability, or the disability retiree's surviving spouse in  
 4-2 the case of a deceased disability retiree, is not required to make  
 4-3 contributions under Subsection (b) of this section for more than 10  
 4-4 years following the date of the disability retiree's retirement  
 4-5 [The municipal contribution to and health benefits paid from the  
 4-6 fund are a part of the compensation for services rendered to the  
 4-7 municipality. This Act is considered part of the contract of  
 4-8 employment and appointment of the firefighters and police officers  
 4-9 of a municipality to which this Act applies].

4-10 (d) To be eligible for health benefits under Section 5.01 of  
 4-11 this Act, the surviving spouse of a deceased member who died in the  
 4-12 line of duty, as determined under the collective bargaining  
 4-13 agreements, or was an active member at the time of death, shall  
 4-14 continue to make contributions to the fund as required by  
 4-15 Subsection (a) of this section beginning on the date of the member's  
 4-16 death until the earlier of:

4-17 (1) the expiration of 10 years following the date of  
 4-18 the member's death; or

4-19 (2) the expiration of the period following the date of  
 4-20 the member's death that, when added to the deceased member's years  
 4-21 of service, equals 30 years.

4-22 (e) This section applies only to members who retire, become  
 4-23 disabled, or die in the line of duty after October 1, 2005, and  
 4-24 their surviving spouses.

4-25 (f) Persons other than active members shall pay  
 4-26 contributions required under this section on a monthly basis by  
 4-27 payroll deduction or in cash.

4-28 (g) The municipal contributions to and health benefits paid  
 4-29 from the fund are a part of the compensation for services rendered  
 4-30 to a municipality to which this Act applies. This Act is considered  
 4-31 part of the contract of employment and appointment of the  
 4-32 firefighters and police officers of a municipality to which this  
 4-33 Act applies.

4-34 SECTION 10. Article 4, Chapter 1332, Acts of the 75th  
 4-35 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
 4-36 Civil Statutes), is amended by adding Sections 4.021 and 4.022 to  
 4-37 read as follows:

4-38 Sec. 4.021. CONTRIBUTIONS BY A MUNICIPALITY. (a) A  
 4-39 municipality to which this Act applies shall pay into the fund an  
 4-40 amount equal to a percentage of member payroll, according to the  
 4-41 following schedule:

4-42 (1) 11.24 percent for each full pay period beginning  
 4-43 after September 30, 2005, and ending before October 1, 2006;

4-44 (2) 11.94 percent for each full pay period beginning  
 4-45 after September 30, 2006, and ending before October 1, 2007;

4-46 (3) 12.64 percent for each full pay period beginning  
 4-47 after September 30, 2007, and ending before October 1, 2008;

4-48 (4) 13.34 percent for each full pay period beginning  
 4-49 after September 30, 2008, and ending before October 1, 2009;

4-50 (5) 14.04 percent for each full pay period beginning  
 4-51 after September 30, 2009, and ending before October 1, 2010;

4-52 (6) 14.74 percent for each full pay period beginning  
 4-53 after September 30, 2010, and ending before October 1, 2011;

4-54 (7) 15.44 percent for each full pay period beginning  
 4-55 after September 30, 2011, and ending before October 1, 2012;

4-56 (8) 16.14 percent for each full pay period beginning  
 4-57 after September 30, 2012, and ending before October 1, 2013;

4-58 (9) 16.84 percent for each full pay period beginning  
 4-59 after September 30, 2013, and ending before October 1, 2014;

4-60 (10) 17.54 percent for each full pay period beginning  
 4-61 after September 30, 2014, and ending before October 1, 2015;

4-62 (11) 18.24 percent for each full pay period beginning  
 4-63 after September 30, 2015, and ending before October 1, 2016;

4-64 (12) 18.94 percent for each full pay period beginning  
 4-65 after September 30, 2016, and ending before October 1, 2017;

4-66 (13) 19.64 percent for each full pay period beginning  
 4-67 after September 30, 2017, and ending before October 1, 2018;

4-68 (14) 20.34 percent for each full pay period beginning  
 4-69 after September 30, 2018, and ending before October 1, 2019;

5-1 (15) 21.04 percent for each full pay period beginning  
 5-2 after September 30, 2019.

5-3 (b) The payments into the fund by the municipality for each  
 5-4 active member shall be made on the same day the contributions are  
 5-5 deducted from active members' compensation under Section 4.02(a) of  
 5-6 this Act.

5-7 (c) The municipal contribution to and health benefits paid  
 5-8 from the fund are part of the compensation for services rendered to  
 5-9 the municipality. This Act is considered part of the contract of  
 5-10 employment and appointment of the firefighters and police officers  
 5-11 of a municipality to which this Act applies.

5-12 Sec. 4.022. UNIFORMED SERVICE. (a) A member of the fund  
 5-13 who enters any uniformed service of the United States may not:

5-14 (1) be required to make the monthly payments into the  
 5-15 fund as required by this Act while the member is engaged in active  
 5-16 service with the uniformed service; or

5-17 (2) lose any seniority rights or retirement benefits  
 5-18 provided by this Act because of that service.

5-19 (b) Not later than the 90th day after the date of the  
 5-20 member's reinstatement to an active status in a fire or police  
 5-21 department, the member shall file with the secretary of the board a  
 5-22 written statement of intent to pay into the fund an amount equal to  
 5-23 the amount the member would have paid if the member had remained on  
 5-24 active status in the department during the period of the member's  
 5-25 absence while in the uniformed service.

5-26 (c) The member shall make the payment described by  
 5-27 Subsection (b) of this section in full within a period of time after  
 5-28 the member's return that is equal to three times the amount of time  
 5-29 the member was absent, except that the maximum period for payment  
 5-30 may not exceed five years.

5-31 (d) If the member does not comply with Subsections (b) and  
 5-32 (c) of this section, the member loses all credit toward the member's  
 5-33 years of service for the length of time the member was engaged in  
 5-34 active service in any uniformed service.

5-35 (e) The amount of credit purchased under this section may  
 5-36 not exceed the length of the active service in a uniformed service  
 5-37 required to be credited by law.

5-38 SECTION 11. Section 4.03(b), Chapter 1332, Acts of the 75th  
 5-39 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
 5-40 Civil Statutes), is amended to read as follows:

5-41 (b) This fund is intended to be a voluntary employee's  
 5-42 beneficiary association as described by Section 501(c), Internal  
 5-43 Revenue Code of 1986 (26 U.S.C. Section 501(c)), as amended, and the  
 5-44 board has the discretion to [may] take any action necessary to  
 5-45 ensure that the fund is classified as such.

5-46 SECTION 12. Section 5.01, Chapter 1332, Acts of the 75th  
 5-47 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
 5-48 Civil Statutes), is amended to read as follows:

5-49 Sec. 5.01. RETIREMENT HEALTH BENEFITS. (a) A person is  
 5-50 eligible to receive health and medical benefits under this Act to  
 5-51 the same extent the person is eligible to receive health and medical  
 5-52 benefits under the retiree health plan, subject to the terms and  
 5-53 conditions of the retiree health plan, except as otherwise provided  
 5-54 by this Act.

5-55 (b) Health and medical benefits that are substantially  
 5-56 similar to the health and medical benefits provided under the  
 5-57 retiree health plan shall be provided by the fund to persons who are  
 5-58 eligible to receive them under Subsection (a) of this section,  
 5-59 subject to the terms and conditions of the retiree health plan,  
 5-60 except as otherwise provided by this Act.

5-61 (c) The expiration of the terms of the collective bargaining  
 5-62 agreements or the master contract document has no effect on the  
 5-63 benefits provided under this Act.

5-64 (d) The board may adjust, modify, or change benefits  
 5-65 provided under this section if the fund's total actuarial unfunded  
 5-66 liability, as determined by the actuary, is not increased by the  
 5-67 adjustment, modification, or change.

5-68 (e) The board shall determine which persons are eligible to  
 5-69 receive benefits under this section and which benefits the persons

6-1 are eligible to receive under Subsections (a) and (b) of this  
 6-2 section.

6-3 (f) The board may discontinue benefits under this section  
 6-4 for any person who does not make the contributions required by  
 6-5 Section 4.02 of this Act.

6-6 (g) Beginning on January 1, 2006, the maximum out-of-pocket  
 6-7 (including deductible) payment for each individual each calendar  
 6-8 year as set out in Appendix B to the retiree health plan increases  
 6-9 from \$700 to \$1,200 [~~Retirement health benefits shall be~~  
 6-10 ~~determined in accordance with the collective bargaining~~  
 6-11 ~~agreements~~].

6-12 SECTION 13. Section 6.02, Chapter 1332, Acts of the 75th  
 6-13 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
 6-14 Civil Statutes), is amended to read as follows:

6-15 Sec. 6.02. ACCOUNTS AND FINANCIAL REPORTS. (a) Accounts of  
 6-16 the fund shall be kept as ordered by the board.

6-17 (b) The board shall require that monthly financial reports  
 6-18 showing all fund receipts and disbursements be prepared and  
 6-19 submitted to the board.

6-20 SECTION 14. Section 6.04(c), Chapter 1332, Acts of the 75th  
 6-21 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
 6-22 Civil Statutes), is amended to read as follows:

6-23 (c) The board may directly manage investments of the reserve  
 6-24 funds or may choose to contract for professional management  
 6-25 services. If the funds own real estate, the board may, at its  
 6-26 discretion, establish an organization described by Section  
 6-27 501(c)(2) or [~~Section~~] 501(c)(25), Internal Revenue Code of 1986  
 6-28 (26 U.S.C. Sections 501(c)(2) and [~~Section~~] 501(c)(25)), as  
 6-29 amended, to hold title to the real estate.

6-30 SECTION 15. Section 6.05(a), Chapter 1332, Acts of the 75th  
 6-31 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
 6-32 Civil Statutes), is amended to read as follows:

6-33 (a) The board may contract for professional investment  
 6-34 management services, financial consultants, independent auditors,  
 6-35 third-party administrators, preferred providers, health  
 6-36 maintenance organizations, attorneys, and actuaries. Only the  
 6-37 board may enter into those contracts. The board may establish a  
 6-38 reasonable fee for compensation under those contracts.

6-39 SECTION 16. Section 6.06, Chapter 1332, Acts of the 75th  
 6-40 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
 6-41 Civil Statutes), is amended to read as follows:

6-42 Sec. 6.06. INVESTMENT CONSULTANT [~~MANAGER~~] QUALIFICATIONS.  
 6-43 In appointing investment consultants [~~managers~~], the board shall  
 6-44 require that the investment consultant [~~manager~~] be:

- 6-45 (1) registered under the Investment Advisors Act of
- 6-46 1940 (15 U.S.C. Section 80b-1 et seq.), as amended;
- 6-47 (2) a bank as defined by that Act; or
- 6-48 (3) an insurance company qualified to perform
- 6-49 investment services under the law of more than one state.

6-50 SECTION 17. Section 6.01, Chapter 1332, Acts of the 75th  
 6-51 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas  
 6-52 Civil Statutes), is repealed.

6-53 SECTION 18. This Act takes effect October 1, 2005.

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