

By: Madla

S.B. No. 1372

A BILL TO BE ENTITLED

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) "Group average salary" means, for any applicable  
5 pay period, the average base pay plus additional compensation for  
6 employment longevity paid to all active members who were active  
7 members for all of the applicable pay period.

8 (6-b) "Master contract document" means the master  
9 contract in effect on January 1, 2004, containing the terms and  
10 conditions of the health and medical benefits plan established  
11 under the collective bargaining agreements.

12 (6-c) "Member" means a firefighter or police officer  
13 who has become a member of the fund as provided by Section 4.01 of  
14 this Act and has not retired, died, or forfeited the person's  
15 interest in the fund.

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)-(j) 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 fully protected and free of liability for any action taken  
7 or omission made in good faith in the performance of their duties  
8 for the fund.

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

14 (1) the individual;

15 (2) the individual's attorney, guardian, executor,  
16 administrator, or conservator; or

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

19 (j) This section does not prevent the disclosure of the  
20 status or identity of an individual as a member, former member,  
21 retiree, deceased member, or beneficiary of the fund.

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

25 ARTICLE 4. MEMBERSHIP AND CONTRIBUTIONS

26 SECTION 8. Section 4.01, 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           Sec. 4.01. MEMBERSHIP. A person becomes a member of the  
3 fund on the person's employment as a firefighter or police officer  
4 in a municipality to which this Act applies [~~Membership in the fund~~  
5 ~~shall be determined by the collective bargaining agreements~~].

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

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

12                   (1) \$36.93 beginning after September 30, 2005, and  
13 ending before October 1, 2006;

14                   (2) \$43.12 beginning after September 30, 2006, and  
15 ending before October 1, 2007;

16                   (3) \$50.17 beginning after September 30, 2007, and  
17 ending before October 1, 2008;

18                   (4) \$57.72 beginning after September 30, 2008, and  
19 ending before October 1, 2009;

20                   (5) \$65.78 beginning after September 30, 2009, and  
21 ending before October 1, 2010;

22                   (6) \$74.39 beginning after September 30, 2010, and  
23 ending before October 1, 2011;

24                   (7) \$83.56 beginning after September 30, 2011, and  
25 ending before October 1, 2012;

26                   (8) \$93.35 beginning after September 30, 2012, and  
27 ending before October 1, 2013;

1           (9) \$103.77 beginning after September 30, 2013, and  
2 ending before October 1, 2014;

3           (10) \$114.86 beginning after September 30, 2014, and  
4 ending before October 1, 2015;

5           (11) \$126.67 beginning after September 30, 2015, and  
6 ending before October 1, 2016;

7           (12) \$139.23 beginning after September 30, 2016, and  
8 ending before October 1, 2017;

9           (13) \$152.56 beginning after September 30, 2017, and  
10 ending before October 1, 2018;

11           (14) \$166.72 beginning after September 30, 2018, and  
12 ending before October 1, 2019;

13           (15) \$181.79 beginning after September 30, 2019  
14 [Contributions to the fund shall be determined in accordance with  
15 the collective bargaining agreements].

16           (b) Subject to Subsection (c) of this section, to be  
17 eligible for health benefits under Section 5.01 of this Act, a  
18 retiree who retired with less than 30 years of service, or the  
19 retiree's surviving spouse in the case of a deceased retiree, shall  
20 continue to make contributions to the fund as required by  
21 Subsection (a) of this section beginning on the date of the  
22 retiree's retirement until the total contributions made by the  
23 person equal the amount of contributions the retiree would have  
24 made if the retiree had retired with 30 years of service [Any  
25 donations made to the fund and all money received from any source  
26 for the fund shall be deposited in the fund at the earliest  
27 opportunity].

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

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

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

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

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

26           (f) Persons other than active members shall pay  
27 contributions required under this section on a monthly basis by



1 payroll deduction or in cash.

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

6 Sec. 4.021. CONTRIBUTIONS BY A MUNICIPALITY. (a) A  
7 municipality to which this Act applies shall pay into the fund an  
8 amount equal to a percentage of the group average salary, according  
9 to the following schedule, for each member who is an active member  
10 for all of the applicable pay period:

11 (1) 11.24 percent for each full pay period beginning  
12 after September 30, 2005, and ending before October 1, 2006;

13 (2) 11.91 percent for each full pay period beginning  
14 after September 30, 2006, and ending before October 1, 2007;

15 (3) 12.58 percent for each full pay period beginning  
16 after September 30, 2007, and ending before October 1, 2008;

17 (4) 13.25 percent for each full pay period beginning  
18 after September 30, 2008, and ending before October 1, 2009;

19 (5) 13.92 percent for each full pay period beginning  
20 after September 30, 2009, and ending before October 1, 2010;

21 (6) 14.59 percent for each full pay period beginning  
22 after September 30, 2010, and ending before October 1, 2011;

23 (7) 15.26 percent for each full pay period beginning  
24 after September 30, 2011, and ending before October 1, 2012;

25 (8) 15.93 percent for each full pay period beginning  
26 after September 30, 2012, and ending before October 1, 2013;

27 (9) 16.60 percent for each full pay period beginning

1 after September 30, 2013, and ending before October 1, 2014;

2 (10) 17.27 percent for each full pay period beginning  
3 after September 30, 2014, and ending before October 1, 2015;

4 (11) 17.94 percent for each full pay period beginning  
5 after September 30, 2015, and ending before October 1, 2016;

6 (12) 18.61 percent for each full pay period beginning  
7 after September 30, 2016, and ending before October 1, 2017;

8 (13) 19.28 percent for each full pay period beginning  
9 after September 30, 2017, and ending before October 1, 2018;

10 (14) 19.95 percent for each full pay period beginning  
11 after September 30, 2018, and ending before October 1, 2019;

12 (15) 20.62 percent for each full pay period beginning  
13 after September 30, 2019.

14 (b) The payments into the fund by the municipality for each  
15 active member shall be made on the same day the contributions are  
16 deducted from active members' compensation under Section 4.02(a) of  
17 this Act.

18 (c) The municipal contribution to and health benefits paid  
19 from the fund are part of the compensation for services rendered to  
20 the municipality. This Act is considered part of the contract of  
21 employment and appointment of the firefighters and police officers  
22 of a municipality to which this Act applies.

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

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

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

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

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

15           (d) Except as provided by Subsection (f) of this section, if  
16 the member does not comply with Subsections (b) and (c) of this  
17 section, the member loses all credit toward the member's years of  
18 service for the length of time the member was engaged in active  
19 service in any uniformed service.

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

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

26           (b) This fund is intended to be a voluntary employee's  
27 beneficiary association as described by Section 501(c), Internal

1 Revenue Code of 1986 (26 U.S.C. Section 501(c)), as amended, and the  
2 board has the discretion to [~~may~~] take any action necessary to  
3 ensure that the fund is classified as such.

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

7 Sec. 5.01. RETIREMENT HEALTH BENEFITS. (a) A person is  
8 eligible to receive health and medical benefits under this Act to  
9 the same extent the person is eligible to receive health and medical  
10 benefits under the retiree health plan, subject to the terms and  
11 conditions of the retiree health plan, except as otherwise provided  
12 by this Act.

13 (b) Health and medical benefits that are substantially  
14 similar to the health and medical benefits provided under the  
15 retiree health plan shall be provided by the fund to persons who are  
16 eligible to receive them under Subsection (a) of this section.

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

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

24 (e) The board shall determine which persons are eligible to  
25 receive benefits under this section and which benefits the persons  
26 are eligible to receive under Subsections (a) and (b) of this  
27 section.

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

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

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

13       Sec. 6.02. ACCOUNTS AND FINANCIAL REPORTS. (a) Accounts of  
14 the fund shall be kept as ordered by the board.

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

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

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

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

4 (a) The board may contract for professional investment  
5 management services, financial consultants, independent auditors,  
6 third-party administrators, preferred providers, health  
7 maintenance organizations, attorneys, and actuaries. Only the  
8 board may enter into those contracts. The board may establish a  
9 reasonable fee for compensation under those contracts.

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

13 Sec. 6.06. INVESTMENT CONSULTANT [~~MANAGER~~] QUALIFICATIONS.  
14 In appointing investment consultants [~~managers~~], the board shall  
15 require that the investment consultant [~~manager~~] be:

16 (1) registered under the Investment Advisors Act of  
17 1940 (15 U.S.C. Section 80b-1 et seq.), as amended;

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

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

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

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