

1-1 By: Madla S.B. No. 1372
1-2 (In the Senate - Filed March 10, 2005; March 21, 2005, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 25, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 April 25, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1372 By: Madla

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

1-10 relating to the administration of a retirement health care plan for
1-11 firefighters and police officers in certain municipalities.

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

1-13 SECTION 1. Section 1.02, Chapter 1332, Acts of the 75th
1-14 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas
1-15 Civil Statutes), is amended by amending Subdivisions (1), (3), (4),
1-16 and (8) and adding Subdivisions (1-a), (6-a) through (6-d), (8-a),
1-17 and (10) to read as follows:

1-18 (1) "Active member" means a firefighter or a police
1-19 officer who is a current contributing member of the fund [~~who is an~~
1-20 ~~active firefighter or police officer of the municipality~~].

1-21 (1-a) "Actuary" means an actuary selected by the board
1-22 to conduct an actuarial study who is a Fellow of the Society of
1-23 Actuaries, a Fellow of the Conference of Consulting Actuaries, or a
1-24 member of the American Academy of Actuaries.

1-25 (3) "Beneficiary" means a retired police officer, a
1-26 retired firefighter, or the spouse or other eligible dependent of a
1-27 retired or deceased police officer or retired or deceased
1-28 firefighter who is entitled to receive retiree health benefits
1-29 under Section 5.01(a) of this Act.

1-30 (4) "Collective bargaining agreements [~~agreement~~]"
1-31 means the [a] collectively bargained agreements in effect on
1-32 January 1, 2004, [agreement] between a municipality to which this
1-33 Act applies and the exclusive bargaining agents of the firefighters
1-34 and police officers of the municipality under Chapter 174, Local
1-35 Government Code.

1-36 (6-a) "Master contract document" means the master
1-37 contract in effect on January 1, 2004, containing the terms and
1-38 conditions of the health and medical benefits plan established
1-39 under the collective bargaining agreements.

1-40 (6-b) "Member" means a firefighter or police officer
1-41 who has become a member of the fund as provided by Section 4.01 of
1-42 this Act and has not retired, died, or forfeited the person's
1-43 interest in the fund.

1-44 (6-c) "Member payroll" means, for any applicable pay
1-45 period, the base pay plus additional compensation for employment
1-46 longevity paid to all active members who were active members during
1-47 the pay period.

1-48 (6-d) "Pension act" means Chapter 824, Acts of the
1-49 73rd Legislature, Regular Session, 1993 (Article 6243o, Vernon's
1-50 Texas Civil Statutes).

1-51 (8) "Retiree" means a member of the fund who was
1-52 formerly a firefighter or police officer of the municipality, who
1-53 retired after September 30, 1989, and who has a right to retirement
1-54 health benefits under Section 5.01(a) of this Act.

1-55 (8-a) "Retiree health plan" means the group family
1-56 health plan established by the collective bargaining agreements and
1-57 the master contract document.

1-58 (10) "Years of service" means the number of full years
1-59 beginning on the date the firefighter or police officer becomes a
1-60 member of the fund until the date the firefighter or police officer
1-61 retires or otherwise terminates employment as a firefighter or
1-62 police officer less any service credit for the amount of time the
1-63 member is engaged in active service with any uniformed service of

2-1 the United States that the member does not purchase as provided by
 2-2 Section 4.022 of this Act.

2-3 SECTION 2. Section 1.03, Chapter 1332, Acts of the 75th
 2-4 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas
 2-5 Civil Statutes), is amended to read as follows:

2-6 Sec. 1.03. APPLICABILITY. This Act applies to a paid fire
 2-7 and police department of a municipality with a population of one
 2-8 million or more but less than 1,175,000, according to the most
 2-9 recent federal census [750,000 or more that has adopted Chapter
 2-10 174, Local Government Code].

2-11 SECTION 3. Subsection (b), Section 2.01, Chapter 1332, Acts
 2-12 of the 75th Legislature, Regular Session, 1997 (Article 6243q,
 2-13 Vernon's Texas Civil Statutes), is amended to read as follows:

2-14 (b) The board, through its secretary, shall administer the
 2-15 required elections of the active members and retiree trustees. The
 2-16 board shall hold a runoff election between the two candidates
 2-17 receiving the most votes if no candidate receives a majority of the
 2-18 votes cast for a trustee position. On the executive director's
 2-19 certification that a candidate for trustee is eligible for office
 2-20 and is unopposed for election, the board shall certify the
 2-21 candidate as elected to the board.

2-22 SECTION 4. Subsection (c), Section 2.03, Chapter 1332, Acts
 2-23 of the 75th Legislature, Regular Session, 1997 (Article 6243q,
 2-24 Vernon's Texas Civil Statutes), is amended to read as follows:

2-25 (c) A removal election must be held within 90 [~~30~~] days
 2-26 after the date the board certifies that a proper petition for a
 2-27 removal election has been signed by at least 20 percent of the
 2-28 persons eligible to vote to elect the trustee. A trustee's term of
 2-29 service ends on the entry of an order by the board declaring that a
 2-30 majority of the votes cast in a removal election under this section
 2-31 favor removal.

2-32 SECTION 5. Subsection (b), Section 2.04, Chapter 1332, Acts
 2-33 of the 75th Legislature, Regular Session, 1997 (Article 6243q,
 2-34 Vernon's Texas Civil Statutes), is amended to read as follows:

2-35 (b) The board in its discretion may elect other officers of
 2-36 the board. An officer may be, but is not required to be, a trustee
 2-37 [~~treasurer of the municipality is the treasurer of the board~~].

2-38 SECTION 6. Section 3.01, Chapter 1332, Acts of the 75th
 2-39 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas
 2-40 Civil Statutes), is amended by adding Subsections (f) through (k)
 2-41 to read as follows:

2-42 (f) The board has full discretion and authority to
 2-43 administer the fund, construe and interpret this Act, correct any
 2-44 defect or omission, reconcile any inconsistency, and perform all
 2-45 other acts necessary to carry out the purpose of this Act and
 2-46 administer this Act for the greatest benefit of all members. All
 2-47 decisions of the board are final and binding on all affected
 2-48 parties.

2-49 (g) A gathering of any number of trustees to investigate,
 2-50 research, or review prospective or current investments or otherwise
 2-51 attend to the trustees' fiduciary responsibilities, without formal
 2-52 action by the trustees, is not a deliberation or meeting under
 2-53 Chapter 551, Government Code, and is not required to be open to the
 2-54 public.

2-55 (h) The trustees, executive director, and employees of the
 2-56 fund are immune from liability for any action taken or omission made
 2-57 in good faith in the performance of their duties for the fund.

2-58 (i) Information contained in a record that is in the custody
 2-59 of the fund concerning a member, former member, retiree, deceased
 2-60 retiree, beneficiary, or alternate payee is confidential under
 2-61 Sections 552.101, 552.102, and 552.117, Government Code. The
 2-62 information may not be disclosed in a form that identifies a
 2-63 specific individual, unless the information is disclosed:

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

3-1 (3) to a person authorized by the individual in
3-2 writing to receive the information; or
3-3 (4) under a subpoena.

3-4 (j) Subsection (i) of this section does not prevent the
3-5 disclosure of the status or identity of an individual as a member,
3-6 former member, retiree, deceased member, deceased retiree,
3-7 beneficiary, or alternate payee of the fund.

3-8 (k) A determination and disclosure under Subsection (i) of
3-9 this section does not require notice to the member, retiree,
3-10 beneficiary, or alternate payee.

3-11 SECTION 7. The heading to Article 4, Chapter 1332, Acts of
3-12 the 75th Legislature, Regular Session, 1997 (Article 6243q,
3-13 Vernon's Texas Civil Statutes), is amended to read as follows:

3-14 ARTICLE 4. MEMBERSHIP AND CONTRIBUTIONS

3-15 SECTION 8. Section 4.01, Chapter 1332, Acts of the 75th
3-16 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas
3-17 Civil Statutes), is amended to read as follows:

3-18 Sec. 4.01. MEMBERSHIP. A person becomes a member of the
3-19 fund on the person's employment as a firefighter or police officer
3-20 in a municipality to which this Act applies [~~Membership in the fund~~
3-21 shall be determined by the collective bargaining agreements].

3-22 SECTION 9. Section 4.02, Chapter 1332, Acts of the 75th
3-23 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas
3-24 Civil Statutes), is amended to read as follows:

3-25 Sec. 4.02. MEMBER CONTRIBUTIONS. (a) An amount in
3-26 accordance with the following schedule shall be deducted from each
3-27 active member's compensation and contributed to the fund biweekly:

3-28 (1) \$36.99 beginning after September 30, 2005, and
3-29 ending before October 1, 2006;

3-30 (2) \$44.32 beginning after September 30, 2006, and
3-31 ending before October 1, 2007;

3-32 (3) \$52.17 beginning after September 30, 2007, and
3-33 ending before October 1, 2008;

3-34 (4) \$60.57 beginning after September 30, 2008, and
3-35 ending before October 1, 2009;

3-36 (5) \$69.54 beginning after September 30, 2009, and
3-37 ending before October 1, 2010;

3-38 (6) \$79.13 beginning after September 30, 2010, and
3-39 ending before October 1, 2011;

3-40 (7) \$89.35 beginning after September 30, 2011, and
3-41 ending before October 1, 2012;

3-42 (8) \$100.26 beginning after September 30, 2012, and
3-43 ending before October 1, 2013;

3-44 (9) \$111.89 beginning after September 30, 2013, and
3-45 ending before October 1, 2014;

3-46 (10) \$124.28 beginning after September 30, 2014, and
3-47 ending before October 1, 2015;

3-48 (11) \$137.46 beginning after September 30, 2015, and
3-49 ending before October 1, 2016;

3-50 (12) \$151.49 beginning after September 30, 2016, and
3-51 ending before October 1, 2017;

3-52 (13) \$166.41 beginning after September 30, 2017, and
3-53 ending before October 1, 2018;

3-54 (14) \$182.26 beginning after September 30, 2018, and
3-55 ending before October 1, 2019;

3-56 (15) \$199.11 beginning after September 30, 2019
3-57 [Contributions to the fund shall be determined in accordance with
3-58 the collective bargaining agreements].

3-59 (b) Subject to Subsection (c) of this section, to be
3-60 eligible for health benefits under Section 5.01 of this Act, a
3-61 retiree who retired with less than 30 years of service, or the
3-62 retiree's surviving spouse in the case of a deceased retiree, shall
3-63 continue to make contributions to the fund as required by
3-64 Subsection (a) of this section beginning on the date of the
3-65 retiree's retirement until the total contributions made by the
3-66 person equal the amount of contributions the retiree would have
3-67 made if the retiree had retired with 30 years of service [Any
3-68 donations made to the fund and all money received from any source
3-69 for the fund shall be deposited in the fund at the earliest

4-1 opportunity].

4-2 (c) A retiree who retired under the pension act as a result
 4-3 of a disability, or the disability retiree's surviving spouse in
 4-4 the case of a deceased disability retiree, is not required to make
 4-5 contributions under Subsection (b) of this section for more than 10
 4-6 years following the date of the disability retiree's retirement
 4-7 [The municipal contribution to and health benefits paid from the
 4-8 fund are a part of the compensation for services rendered to the
 4-9 municipality. This Act is considered part of the contract of
 4-10 employment and appointment of the firefighters and police officers
 4-11 of a municipality to which this Act applies].

4-12 (d) To be eligible for health benefits under Section 5.01 of
 4-13 this Act, the surviving spouse of a deceased member who died in the
 4-14 line of duty, as determined under the collective bargaining
 4-15 agreements, or was an active member at the time of death, shall
 4-16 continue to make contributions to the fund as required by
 4-17 Subsection (a) of this section beginning on the date of the member's
 4-18 death until the earlier of:

4-19 (1) the expiration of 10 years following the date of
 4-20 the member's death; or

4-21 (2) the expiration of the period following the date of
 4-22 the member's death that, when added to the deceased member's years
 4-23 of service, equals 30 years.

4-24 (e) This section applies only to members who retire, become
 4-25 disabled, or die in the line of duty after October 1, 2005, and
 4-26 their surviving spouses.

4-27 (f) Persons other than active members shall pay
 4-28 contributions required under this section on a monthly basis by
 4-29 payroll deduction or in cash.

4-30 (g) The municipal contributions to and health benefits paid
 4-31 from the fund are a part of the compensation for services rendered
 4-32 to a municipality to which this Act applies. This Act is considered
 4-33 part of the contract of employment and appointment of the
 4-34 firefighters and police officers of a municipality to which this
 4-35 Act applies.

4-36 SECTION 10. Article 4, Chapter 1332, Acts of the 75th
 4-37 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas
 4-38 Civil Statutes), is amended by adding Sections 4.021 and 4.022 to
 4-39 read as follows:

4-40 Sec. 4.021. CONTRIBUTIONS BY A MUNICIPALITY. (a) A
 4-41 municipality to which this Act applies shall pay into the fund an
 4-42 amount equal to a percentage of member payroll, according to the
 4-43 following schedule:

4-44 (1) 11.24 percent for each full pay period beginning
 4-45 after September 30, 2005, and ending before October 1, 2006;

4-46 (2) 11.94 percent for each full pay period beginning
 4-47 after September 30, 2006, and ending before October 1, 2007;

4-48 (3) 12.64 percent for each full pay period beginning
 4-49 after September 30, 2007, and ending before October 1, 2008;

4-50 (4) 13.34 percent for each full pay period beginning
 4-51 after September 30, 2008, and ending before October 1, 2009;

4-52 (5) 14.04 percent for each full pay period beginning
 4-53 after September 30, 2009, and ending before October 1, 2010;

4-54 (6) 14.74 percent for each full pay period beginning
 4-55 after September 30, 2010, and ending before October 1, 2011;

4-56 (7) 15.44 percent for each full pay period beginning
 4-57 after September 30, 2011, and ending before October 1, 2012;

4-58 (8) 16.14 percent for each full pay period beginning
 4-59 after September 30, 2012, and ending before October 1, 2013;

4-60 (9) 16.84 percent for each full pay period beginning
 4-61 after September 30, 2013, and ending before October 1, 2014;

4-62 (10) 17.54 percent for each full pay period beginning
 4-63 after September 30, 2014, and ending before October 1, 2015;

4-64 (11) 18.24 percent for each full pay period beginning
 4-65 after September 30, 2015, and ending before October 1, 2016;

4-66 (12) 18.94 percent for each full pay period beginning
 4-67 after September 30, 2016, and ending before October 1, 2017;

4-68 (13) 19.64 percent for each full pay period beginning
 4-69 after September 30, 2017, and ending before October 1, 2018;

5-1 (14) 20.34 percent for each full pay period beginning
 5-2 after September 30, 2018, and ending before October 1, 2019;

5-3 (15) 21.04 percent for each full pay period beginning
 5-4 after September 30, 2019.

5-5 (b) The payments into the fund by the municipality for each
 5-6 active member shall be made on the same day the contributions are
 5-7 deducted from active members' compensation under Section 4.02(a) of
 5-8 this Act.

5-9 (c) The municipal contribution to and health benefits paid
 5-10 from the fund are part of the compensation for services rendered to
 5-11 the municipality. This Act is considered part of the contract of
 5-12 employment and appointment of the firefighters and police officers
 5-13 of a municipality to which this Act applies.

5-14 Sec. 4.022. UNIFORMED SERVICE. (a) A member of the fund
 5-15 who enters any uniformed service of the United States may not:

5-16 (1) be required to make the monthly payments into the
 5-17 fund as required by this Act while the member is engaged in active
 5-18 service with the uniformed service; or

5-19 (2) lose any seniority rights or retirement benefits
 5-20 provided by this Act because of that service.

5-21 (b) Not later than the 90th day after the date of the
 5-22 member's reinstatement to an active status in a fire or police
 5-23 department, the member shall file with the secretary of the board a
 5-24 written statement of intent to pay into the fund an amount equal to
 5-25 the amount the member would have paid if the member had remained on
 5-26 active status in the department during the period of the member's
 5-27 absence while in the uniformed service.

5-28 (c) The member shall make the payment described by
 5-29 Subsection (b) of this section in full within a period of time after
 5-30 the member's return that is equal to three times the amount of time
 5-31 the member was absent, except that the maximum period for payment
 5-32 may not exceed five years.

5-33 (d) If the member does not comply with Subsections (b) and
 5-34 (c) of this section, the member loses all credit toward the member's
 5-35 years of service for the length of time the member was engaged in
 5-36 active service in any uniformed service.

5-37 (e) The amount of credit purchased under this section may
 5-38 not exceed the length of the active service in a uniformed service
 5-39 required to be credited by law.

5-40 SECTION 11. Subsection (b), Section 4.03, Chapter 1332,
 5-41 Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q,
 5-42 Vernon's Texas Civil Statutes), is amended to read as follows:

5-43 (b) This fund is intended to be a voluntary employee's
 5-44 beneficiary association as described by Section 501(c), Internal
 5-45 Revenue Code of 1986 (26 U.S.C. Section 501(c)), as amended, and the
 5-46 board has the discretion to [may] take any action necessary to
 5-47 ensure that the fund is classified as such.

5-48 SECTION 12. Section 5.01, Chapter 1332, Acts of the 75th
 5-49 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas
 5-50 Civil Statutes), is amended to read as follows:

5-51 Sec. 5.01. RETIREMENT HEALTH BENEFITS. (a) A person is
 5-52 eligible to receive health and medical benefits under this Act to
 5-53 the same extent the person is eligible to receive health and medical
 5-54 benefits under the retiree health plan, subject to the terms and
 5-55 conditions of the retiree health plan, except as otherwise provided
 5-56 by this Act.

5-57 (b) Health and medical benefits that are substantially
 5-58 similar to the health and medical benefits provided under the
 5-59 retiree health plan shall be provided by the fund to persons who are
 5-60 eligible to receive them under Subsection (a) of this section,
 5-61 subject to the terms and conditions of the retiree health plan,
 5-62 except as otherwise provided by this Act.

5-63 (c) The expiration of the terms of the collective bargaining
 5-64 agreements or the master contract document has no effect on the
 5-65 benefits provided under this Act.

5-66 (d) The board may adjust, modify, or change benefits
 5-67 provided under this section if the fund's total actuarial unfunded
 5-68 liability, as determined by the actuary, is not increased by the
 5-69 adjustment, modification, or change.

6-1 (e) The board shall determine which persons are eligible to
6-2 receive benefits under this section and which benefits the persons
6-3 are eligible to receive under Subsections (a) and (b) of this
6-4 section.

6-5 (f) The board may discontinue benefits under this section
6-6 for any person who does not make the contributions required by
6-7 Section 4.02 of this Act.

6-8 (g) Beginning on January 1, 2006, the maximum out-of-pocket
6-9 (including deductible) payment for each individual each calendar
6-10 year as set out in Appendix B to the retiree health plan increases
6-11 from \$700 to \$1,200 [~~Retirement health benefits shall be~~
6-12 ~~determined in accordance with the collective bargaining~~
6-13 ~~agreements~~].

6-14 SECTION 13. Section 6.02, Chapter 1332, Acts of the 75th
6-15 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas
6-16 Civil Statutes), is amended to read as follows:

6-17 Sec. 6.02. ACCOUNTS AND FINANCIAL REPORTS. (a) Accounts
6-18 of the fund shall be kept as ordered by the board.

6-19 (b) The board shall require that monthly financial reports
6-20 showing all fund receipts and disbursements be prepared and
6-21 submitted to the board.

6-22 SECTION 14. Subsection (c), Section 6.04, Chapter 1332,
6-23 Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q,
6-24 Vernon's Texas Civil Statutes), is amended to read as follows:

6-25 (c) The board may directly manage investments of the reserve
6-26 funds or may choose to contract for professional management
6-27 services. If the funds own real estate, the board may, at its
6-28 discretion, establish an organization described by Section
6-29 501(c)(2) or 501(c)(25), Internal Revenue Code of 1986 (26 U.S.C.
6-30 Sections 501(c)(2) and [Section] 501(c)(25)), as amended, to hold
6-31 title to the real estate.

6-32 SECTION 15. Subsection (a), Section 6.05(a), Chapter 1332,
6-33 Acts of the 75th Legislature, Regular Session, 1997 (Article 6243q,
6-34 Vernon's Texas Civil Statutes), is amended to read as follows:

6-35 (a) The board may contract for professional investment
6-36 management services, financial consultants, independent auditors,
6-37 third-party administrators, preferred providers, health
6-38 maintenance organizations, attorneys, and actuaries. Only the
6-39 board may enter into those contracts. The board may establish a
6-40 reasonable fee for compensation under those contracts.

6-41 SECTION 16. Section 6.06, Chapter 1332, Acts of the 75th
6-42 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas
6-43 Civil Statutes), is amended to read as follows:

6-44 Sec. 6.06. INVESTMENT CONSULTANT [~~MANAGER~~] QUALIFICATIONS.
6-45 In appointing investment consultants [~~managers~~], the board shall
6-46 require that the investment consultant [~~manager~~] be:

6-47 (1) registered under the Investment Advisors Act of
6-48 1940 (15 U.S.C. Section 80b-1 et seq.), as amended;

6-49 (2) a bank as defined by that Act; or

6-50 (3) an insurance company qualified to perform
6-51 investment services under the law of more than one state.

6-52 SECTION 17. Section 6.01, Chapter 1332, Acts of the 75th
6-53 Legislature, Regular Session, 1997 (Article 6243q, Vernon's Texas
6-54 Civil Statutes), is repealed.

6-55 SECTION 18. This Act takes effect October 1, 2005.

6-56 * * * * *