

By: Dukes

H.B. No. 1318

A BILL TO BE ENTITLED

AN ACT

relating to retirement systems for police officers in certain municipalities.

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

SECTION 1. Section 1.02(1), Chapter 452, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) "Accumulated deposits" means the amount standing to the credit of a member derived from the deposits required to be made by the member to the police retirement system or to the predecessor system. Accumulated deposits also include [improved annually by] interest that is credited annually to the account of a vested member at a rate of five percent or the rate determined by the board and that is credited as of December 31 to amounts standing to the credit of the member on January 1 of the same calendar year. Accumulated deposits also include interest credited to the account of a member before September 1, 2007, without regard to whether the member is vested at the time the interest is credited to the member's account.

SECTION 2. Article III, Chapter 452, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's Texas Civil Statutes), is amended by adding Sections 3.13 and 3.14 to read as follows:

Sec. 3.13. REIMBURSEMENT OF LEGAL EXPENSES OF BOARD MEMBER

1 OR EMPLOYEE OF SYSTEM. (a) The board may:

2 (1) reimburse a board member or an employee of the  
3 police retirement system for liability imposed as damages because  
4 of an alleged act, error, or omission committed in the person's  
5 capacity as a fiduciary or co-fiduciary of assets of the system or  
6 as an employee of the system and for costs and expenses incurred by  
7 the person in defense of a claim of an alleged act, error, or  
8 omission; or

9 (2) purchase from an insurer authorized to engage in  
10 business in this state one or more insurance policies that provide  
11 for that reimbursement.

12 (b) The board may not provide reimbursement under this  
13 section, and may not purchase an insurance policy under this  
14 section that would provide reimbursement, of a board member or  
15 employee of the police retirement system for liability imposed or  
16 expenses incurred because of the person's personal dishonesty,  
17 fraudulent breach of trust, lack of good faith, intentional fraud  
18 or deception, or intentional failure to act prudently.

19 (c) The cost of reimbursement or an insurance policy  
20 purchased under this section shall be paid from the assets of the  
21 police retirement system.

22 Sec. 3.14. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS,  
23 RETIREES, ANNUITANTS, OR BENEFICIARIES. (a) Information contained  
24 in records that are in the custody of the police retirement system  
25 concerning an individual member, retiree, annuitant, or  
26 beneficiary is confidential under Section 552.101, Government  
27 Code, and may not be disclosed in a form identifiable with a

1 specific individual unless:

2 (1) the information is disclosed to:

3 (A) the individual or the individual's attorney,  
4 guardian, executor, administrator, or conservator, or another  
5 person who the administrator of the police retirement system  
6 determines is acting in the interest of the individual or the  
7 individual's estate;

8 (B) a spouse or former spouse of the individual  
9 after the administrator of the police retirement system determines  
10 that the information is relevant to the spouse's or former spouse's  
11 interest in member accounts, benefits, or other amounts payable by  
12 the police retirement system;

13 (C) a governmental official or employee after the  
14 administrator of the police retirement system determines that  
15 disclosure of the requested information is reasonably necessary to  
16 the performance of the duties of the official or employee; or

17 (D) a person authorized by the individual in  
18 writing to receive the information; or

19 (2) the information is disclosed pursuant to a  
20 subpoena and the administrator of the police retirement system  
21 determines that the individual will have a reasonable opportunity  
22 to contest the subpoena.

23 (b) This section does not prevent the disclosure of the  
24 status or identity of an individual as a member, former member,  
25 retiree, deceased member or retiree, or beneficiary of the police  
26 retirement system.

27 (c) A determination and disclosure under Subsection (a) may

1 be made without notice to the individual member, retiree,  
2 annuitant, or beneficiary.

3 (d) If a disclosure under Subsection (a) is a disclosure of  
4 protected health information by a covered entity, as those terms  
5 are defined by the privacy rule of the Administrative  
6 Simplification subtitle of the Health Insurance Portability and  
7 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
8 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
9 covered entity shall ensure that the authorization for the  
10 disclosure complies with all of the privacy rule's applicable  
11 requirements, standards, and implementation specifications  
12 relating to authorizations for uses and disclosures of protected  
13 health information.

14 SECTION 3. Section 4.01(f)(1), Chapter 452, Acts of the  
15 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's  
16 Texas Civil Statutes), is amended to read as follows:

17 (1) A member shall cease to be a member of the police  
18 retirement system and shall forfeit creditable service if, after  
19 employment termination through dismissal, resignation, or from any  
20 other cause, the member shall withdraw the member's accumulated  
21 deposits as provided under the withdrawal benefit provisions of  
22 this Act; provided, however, that any eligible member who has not  
23 previously received credit for one-half of the member's previously  
24 forfeited creditable service shall be entitled to reinstatement of  
25 previously forfeited creditable service if such eligible member or  
26 eligible surviving spouse shall have deposited in the system the  
27 accumulated deposits withdrawn and an interest charge based on the

1 amount withdrawn times an interest factor. The interest factor is  
2 eight percent per year for the [~~derived by adjusting and~~  
3 ~~compounding the annual rates of interest that were credited to the~~  
4 ~~accumulated deposits of members, where each annual rate is adjusted~~  
5 ~~by dividing it by 0.75. The~~] period that [~~for compounding the~~  
6 ~~interest factor~~] begins with the beginning of the month and year in  
7 which the member withdrew the member's accumulated deposits and  
8 ends with the beginning of the month and year payment is made to the  
9 system to reinstate the service. [~~The annual rate of interest~~  
10 ~~applicable for the year when payment is made is considered to be~~  
11 ~~equal to the prior year's rate of interest for the purpose of making~~  
12 ~~the determination.~~]

13 SECTION 4. Section 5.03(a), Chapter 452, Acts of the 72nd  
14 Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's  
15 Texas Civil Statutes), is amended to read as follows:

16 (a) An eligible member or eligible surviving spouse may  
17 establish creditable service for probationary service performed as  
18 provided under this section according to the following conditions,  
19 limitations, and restrictions:

20 (1) Probationary service creditable in the system is  
21 any probationary service following commission date for which the  
22 member does not have creditable service.

23 (2) An eligible member or eligible surviving spouse  
24 may establish creditable service under this section by contributing  
25 to the system a single payment equal to the contribution the member  
26 would have made to the system for that service at the time the  
27 service was performed and an interest charge based on the

1 contribution amount to be repaid times an interest factor. The  
2 interest factor is eight percent per year for the [~~derived by~~  
3 ~~adjusting and compounding the annual rates of interest that were~~  
4 ~~credited to the accumulated deposits of members, where each annual~~  
5 ~~rate is adjusted by dividing it by 0.75. The] period that [~~for~~  
6 ~~compounding the interest factor~~] begins with the beginning of the  
7 month and year at the end of the probationary period for which  
8 creditable service is being established to the beginning of the  
9 month and year payment is made to the system for the purpose of  
10 establishing said service. [~~The annual rate of interest applicable~~  
11 ~~for the year when payment is made is considered to be equal to the~~  
12 ~~prior year's rate of interest for the purpose of making the~~  
13 ~~determination.~~]~~

14 (3) After the eligible member or eligible surviving  
15 spouse makes the deposit required by Subdivision (2) of this  
16 subsection, the system shall grant the member one month of  
17 creditable service for each month of probationary service  
18 established under this section.

19 SECTION 5. Section 5.04(c), Chapter 452, Acts of the 72nd  
20 Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's  
21 Texas Civil Statutes), is amended to read as follows:

22 (c) An eligible member or eligible surviving spouse may  
23 establish creditable service for cadet service performed as  
24 provided under this section according to the following conditions,  
25 limitations, and restrictions:

26 (1) Cadet service creditable in the system is any  
27 service while a member of a cadet class for which the member does

1 not have creditable service.

2 (2) An eligible member or eligible surviving spouse  
3 may establish creditable service under this section by contributing  
4 to the system a single payment equal to the contribution the member  
5 would have made to the system for that service at the time the  
6 service was performed and an interest charge based on the  
7 contribution amount to be repaid times an interest factor. The  
8 interest factor is eight percent per year for the ~~[derived by~~  
9 ~~adjusting and compounding the annual rates of interest that were~~  
10 ~~credited to the accumulated deposits of members, where each annual~~  
11 ~~rate is adjusted by dividing it by 0.75. The]~~ period that ~~[for~~  
12 ~~compounding the interest factor]~~ begins with the beginning of the  
13 month and year at the end of the cadet class for which creditable  
14 service is being established and ends with the beginning of the  
15 month and year payment is made to the system for the purpose of  
16 establishing said service. ~~[The annual rate of interest applicable~~  
17 ~~for the year when payment is made is considered to be equal to the~~  
18 ~~prior year's rate of interest for the purpose of making the~~  
19 ~~determination.]~~

20 (3) After the eligible member or eligible surviving  
21 spouse makes the deposit required by Subsection (c)(2) of this  
22 section, the system shall grant the member one month of creditable  
23 service for each month of cadet service established under this  
24 section.

25 SECTION 6. Section 5.05, Chapter 452, Acts of the 72nd  
26 Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's  
27 Texas Civil Statutes), is amended by amending Subsections (a) and

1 (c) and adding Subsection (f) to read as follows:

2 (a) The police retirement board may by rule provide that a  
3 member or eligible surviving spouse of a member, or a deceased  
4 member's designated beneficiary if there is no surviving spouse,  
5 may establish creditable service by depositing with the retirement  
6 system the actuarial present value, at the time of deposit, of the  
7 additional life annuity (modified cash refund) defined in Section  
8 6.01 of this Act that would be attributable to the purchase of the  
9 service credit under this section, based on rates and tables  
10 recommended by the retirement system's actuary and adopted by the  
11 board of trustees. The police retirement board may also by rule  
12 provide that a member or eligible surviving spouse of a member, or a  
13 deceased member's designated beneficiary if there is no surviving  
14 spouse, may establish creditable service by depositing with the  
15 retirement system the actuarial present value, at the time of  
16 deposit, of the additional deferred life annuity (modified cash  
17 refund) that would be attributable to the purchase of the service  
18 credit under this section, based on rates and tables recommended by  
19 the retirement system's actuary and adopted by the board of  
20 trustees. As used in this section, a "deferred life annuity  
21 (modified cash refund)" means a series of equal monthly payments,  
22 payable for life after an inactive member's deferred retirement  
23 date, which is on or before the last day of the month in which the  
24 inactive member would have satisfied the eligibility requirements  
25 of Section 6.02 of this Act if the member had continued as an  
26 active-contributory member, excluding any permissive service  
27 credit established under this section and excluding any military



1 service credit established under Section 5.02 of this Act.

2 (c) The board may not adopt a rule authorizing the purchase  
3 of credit under this section unless the board has obtained an  
4 actuarial study indicating that adoption of the rule will not cause  
5 the amortization period for [~~make the retirement system financially~~  
6 ~~unsound and that, after adoption of the rule,~~] the retirement  
7 system's unfunded actuarial accrued liability to exceed [~~can be~~  
8 ~~amortized within~~] the maximum amortization period adopted by the  
9 Governmental Accounting Standards Board.

10 (f)(1) At the time a member establishes creditable service  
11 for a deferred retirement date under this section, the member may  
12 file with the board the member's written statement either selecting  
13 one of the optional benefits authorized by this Act and designating  
14 the beneficiary of the option if one is selected or stating that the  
15 member has been afforded an opportunity to select an option but does  
16 not desire to do so. An option selection becomes effective at the  
17 member's date of deferred retirement. The member retains the right  
18 to make a final selection until the date of deferred retirement.  
19 The final selection is binding on all parties.

20 (2) If the member dies before the date of deferred  
21 retirement but after filing the written statement selecting one of  
22 the optional benefits, the member's survivor benefit is calculated  
23 as if the member had retired on the date of deferred retirement  
24 under the optional benefit selected and died the next day.

25 (3) In the event a member who is eligible for a  
26 deferred retirement dies before the deferred retirement date  
27 without making a written selection of an option listed in Section

1 6.03 of this Act and the member has a spouse surviving, the  
2 surviving spouse of the member may select the optional form of a  
3 survivor benefit in the same manner as if the member had made the  
4 selection on the member's scheduled date of deferred retirement or  
5 may select a lump-sum payment equal to the accumulated deposits  
6 standing to the member's credit in Fund No. 1 plus an equivalent  
7 amount from Fund No. 2. If the member does not have a surviving  
8 spouse, the member's beneficiary or, if no beneficiary exists, the  
9 executor or administrator of the member's estate is entitled to  
10 select either an Option V survivor benefit (15-Year Certain and  
11 Life Annuity), effective on the member's scheduled date of deferred  
12 retirement, or a lump-sum payment equal to the accumulated deposits  
13 standing to the member's credit in Fund No. 1 plus an equivalent  
14 amount from Fund No. 2.

15 (4) When monthly survivor benefits are payable as a  
16 result of the death of a member before the member's deferred  
17 retirement date, an additional sum of \$10,000 is payable as a death  
18 benefit to the member's beneficiary or, if no beneficiary exists,  
19 to the member's estate.

20 SECTION 7. Sections 6.05(a) and (c), Chapter 452, Acts of  
21 the 72nd Legislature, Regular Session, 1991 (Article 6243n-1,  
22 Vernon's Texas Civil Statutes), are amended to read as follows:

23 (a) In the event of death of a member who is ineligible for  
24 retirement, the accumulated deposits standing to the member's  
25 credit in Fund No. 1 and an equivalent amount from Fund No. 2 shall  
26 be payable in a lump sum to the member's beneficiary or, if no  
27 beneficiary, to the member's estate, unless the member shall have

1 directed otherwise in writing duly acknowledged and filed with the  
2 board. The lump sum may not be less than \$10,000 [~~\$7,500~~]. When the  
3 \$10,000 [~~\$7,500~~] minimum is payable, the amount payable from Fund  
4 No. 2 is \$10,000 [~~\$7,500~~] minus the accumulated deposits standing  
5 to the member's credit in Fund No. 1.

6 (c) In the event of death of a member receiving a retirement  
7 benefit, the sum of \$10,000 [~~\$7,500~~] shall be payable in a lump sum  
8 to the member's beneficiary or, if no beneficiary, to the member's  
9 estate, unless the member shall have directed otherwise in writing,  
10 duly acknowledged and filed with the board. The payment under this  
11 subsection shall be made from the retiree death benefits fund  
12 described in Section 6.08 of this Act.

13 SECTION 8. Section 6.06(a)(4), Chapter 452, Acts of the  
14 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's  
15 Texas Civil Statutes), is amended to read as follows:

16 (4) When monthly survivor benefits are payable as a  
17 result of the death of a member before retirement, an additional sum  
18 of \$10,000 [~~\$7,500~~] shall be payable as a death benefit to the  
19 member's beneficiary or, if no beneficiary exists, to the member's  
20 estate.

21 SECTION 9. Section 7.01(a), Chapter 452, Acts of the 72nd  
22 Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's  
23 Texas Civil Statutes), is amended to read as follows:

24 (a) Only members who are classified as  
25 Active-Contributory [~~Active-Noncontributory~~] or  
26 Inactive-Contributory, pursuant to Subsection (e) of Section 4.01  
27 of this Act, or who are approved for extended disability retirement

1 eligibility under this subsection, are eligible for consideration  
2 for disability retirement pursuant to this article. A member may be  
3 approved by the board for extended disability retirement  
4 eligibility only:

5 (1) if that member applies in writing to the board for  
6 extended eligibility on a date not earlier than the 30th day before  
7 and not later than the 30th day after the date of becoming an  
8 Active-Noncontributory member, setting forth the reason why the  
9 member should be granted the extended eligibility;

10 (2) if the board, in its sole discretion, approves the  
11 application for extended eligibility; and

12 (3) on the terms the board determines to be  
13 appropriate.

14 SECTION 10. Article XIII, Chapter 452, Acts of the 72nd  
15 Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's  
16 Texas Civil Statutes), is amended by adding Section 13.02 to read as  
17 follows:

18 Sec. 13.02. MANDATORY DISTRIBUTIONS PROHIBITED. A member  
19 or former member who has separated from service may not be required  
20 to receive an eligible rollover distribution, as defined in Section  
21 13.01(b)(1) of this Act, without the member's consent unless the  
22 member or former member is at least 70-1/2 years of age.

23 SECTION 11. This Act takes effect September 1, 2007.