

1-1 By: Dukes (Senate Sponsor - Watson) H.B. No. 1318
1-2 (In the Senate - Received from the House May 9, 2007;
1-3 May 10, 2007, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 18, 2007, reported favorably by
1-5 the following vote: Yeas 4, Nays 0; May 18, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to retirement systems for police officers in certain
1-9 municipalities.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 1.02(1), Chapter 452, Acts of the 72nd
1-12 Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's
1-13 Texas Civil Statutes), is amended to read as follows:

1-14 (1) "Accumulated deposits" means the amount standing
1-15 to the credit of a member derived from the deposits required to be
1-16 made by the member to the police retirement system or to the
1-17 predecessor system. Accumulated deposits also include [improved
1-18 annually by] interest that is credited annually to the account of a
1-19 vested member at a rate of five percent or the rate determined by
1-20 the board and that is credited as of December 31 to amounts standing
1-21 to the credit of the member on January 1 of the same calendar year.
1-22 Accumulated deposits also include interest credited to the account
1-23 of a member before September 1, 2007, without regard to whether the
1-24 member is vested at the time the interest is credited to the
1-25 member's account.

1-26 SECTION 2. Article III, Chapter 452, Acts of the 72nd
1-27 Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's
1-28 Texas Civil Statutes), is amended by adding Sections 3.13 and 3.14
1-29 to read as follows:

1-30 Sec. 3.13. REIMBURSEMENT OF LEGAL EXPENSES OF BOARD MEMBER
1-31 OR EMPLOYEE OF SYSTEM. (a) The board may:

1-32 (1) reimburse a board member or an employee of the
1-33 police retirement system for liability imposed as damages because
1-34 of an alleged act, error, or omission committed in the person's
1-35 capacity as a fiduciary or co-fiduciary of assets of the system or
1-36 as an employee of the system and for costs and expenses incurred by
1-37 the person in defense of a claim of an alleged act, error, or
1-38 omission; or

1-39 (2) purchase from an insurer authorized to engage in
1-40 business in this state one or more insurance policies that provide
1-41 for that reimbursement.

1-42 (b) The board may not provide reimbursement under this
1-43 section, and may not purchase an insurance policy under this
1-44 section that would provide reimbursement, of a board member or
1-45 employee of the police retirement system for liability imposed or
1-46 expenses incurred because of the person's personal dishonesty,
1-47 fraudulent breach of trust, lack of good faith, intentional fraud
1-48 or deception, or intentional failure to act prudently.

1-49 (c) The cost of reimbursement or an insurance policy
1-50 purchased under this section shall be paid from the assets of the
1-51 police retirement system.

1-52 Sec. 3.14. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS,
1-53 RETIREES, ANNUITANTS, OR BENEFICIARIES. (a) Information contained
1-54 in records that are in the custody of the police retirement system
1-55 concerning an individual member, retiree, annuitant, or
1-56 beneficiary is confidential under Section 552.101, Government
1-57 Code, and may not be disclosed in a form identifiable with a
1-58 specific individual unless:

1-59 (1) the information is disclosed to:

1-60 (A) the individual or the individual's attorney,
1-61 guardian, executor, administrator, or conservator, or another
1-62 person who the administrator of the police retirement system
1-63 determines is acting in the interest of the individual or the
1-64 individual's estate;

2-1 (B) a spouse or former spouse of the individual
 2-2 after the administrator of the police retirement system determines
 2-3 that the information is relevant to the spouse's or former spouse's
 2-4 interest in member accounts, benefits, or other amounts payable by
 2-5 the police retirement system;

2-6 (C) a governmental official or employee after the
 2-7 administrator of the police retirement system determines that
 2-8 disclosure of the requested information is reasonably necessary to
 2-9 the performance of the duties of the official or employee; or

2-10 (D) a person authorized by the individual in
 2-11 writing to receive the information; or

2-12 (2) the information is disclosed pursuant to a
 2-13 subpoena and the administrator of the police retirement system
 2-14 determines that the individual will have a reasonable opportunity
 2-15 to contest the subpoena.

2-16 (b) This section does not prevent the disclosure of the
 2-17 status or identity of an individual as a member, former member,
 2-18 retiree, deceased member or retiree, or beneficiary of the police
 2-19 retirement system.

2-20 (c) A determination and disclosure under Subsection (a) may
 2-21 be made without notice to the individual member, retiree,
 2-22 annuitant, or beneficiary.

2-23 (d) If a disclosure under Subsection (a) is a disclosure of
 2-24 protected health information by a covered entity, as those terms
 2-25 are defined by the privacy rule of the Administrative
 2-26 Simplification subtitle of the Health Insurance Portability and
 2-27 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
 2-28 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
 2-29 covered entity shall ensure that the authorization for the
 2-30 disclosure complies with all of the privacy rule's applicable
 2-31 requirements, standards, and implementation specifications
 2-32 relating to authorizations for uses and disclosures of protected
 2-33 health information.

2-34 SECTION 3. Section 4.01(f)(1), Chapter 452, Acts of the
 2-35 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's
 2-36 Texas Civil Statutes), is amended to read as follows:

2-37 (1) A member shall cease to be a member of the police
 2-38 retirement system and shall forfeit creditable service if, after
 2-39 employment termination through dismissal, resignation, or from any
 2-40 other cause, the member shall withdraw the member's accumulated
 2-41 deposits as provided under the withdrawal benefit provisions of
 2-42 this Act; provided, however, that any eligible member who has not
 2-43 previously received credit for one-half of the member's previously
 2-44 forfeited creditable service shall be entitled to reinstatement of
 2-45 previously forfeited creditable service if such eligible member or
 2-46 eligible surviving spouse shall have deposited in the system the
 2-47 accumulated deposits withdrawn and an interest charge based on the
 2-48 amount withdrawn times an interest factor. The interest factor is
 2-49 eight percent per year for the ~~[derived by adjusting and~~
 2-50 ~~compounding the annual rates of interest that were credited to the~~
 2-51 ~~accumulated deposits of members, where each annual rate is adjusted~~
 2-52 ~~by dividing it by 0.75. The]~~ period that ~~[for compounding the~~
 2-53 ~~interest factor]~~ begins with the beginning of the month and year in
 2-54 which the member withdrew the member's accumulated deposits and
 2-55 ends with the beginning of the month and year payment is made to the
 2-56 system to reinstate the service. ~~[The annual rate of interest~~
 2-57 ~~applicable for the year when payment is made is considered to be~~
 2-58 ~~equal to the prior year's rate of interest for the purpose of making~~
 2-59 ~~the determination.]~~

2-60 SECTION 4. Section 5.03(a), Chapter 452, Acts of the 72nd
 2-61 Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's
 2-62 Texas Civil Statutes), is amended to read as follows:

2-63 (a) An eligible member or eligible surviving spouse may
 2-64 establish creditable service for probationary service performed as
 2-65 provided under this section according to the following conditions,
 2-66 limitations, and restrictions:

2-67 (1) Probationary service creditable in the system is
 2-68 any probationary service following commission date for which the
 2-69 member does not have creditable service.

3-1 (2) An eligible member or eligible surviving spouse
 3-2 may establish creditable service under this section by contributing
 3-3 to the system a single payment equal to the contribution the member
 3-4 would have made to the system for that service at the time the
 3-5 service was performed and an interest charge based on the
 3-6 contribution amount to be repaid times an interest factor. The
 3-7 interest factor is eight percent per year for the ~~[derived by~~
 3-8 ~~adjusting and compounding the annual rates of interest that were~~
 3-9 ~~credited to the accumulated deposits of members, where each annual~~
 3-10 ~~rate is adjusted by dividing it by 0.75. The]~~ period that ~~[for~~
 3-11 ~~compounding the interest factor]~~ begins with the beginning of the
 3-12 month and year at the end of the probationary period for which
 3-13 creditable service is being established to the beginning of the
 3-14 month and year payment is made to the system for the purpose of
 3-15 establishing said service. ~~[The annual rate of interest applicable~~
 3-16 ~~for the year when payment is made is considered to be equal to the~~
 3-17 ~~prior year's rate of interest for the purpose of making the~~
 3-18 ~~determination.]~~

3-19 (3) After the eligible member or eligible surviving
 3-20 spouse makes the deposit required by Subdivision (2) of this
 3-21 subsection, the system shall grant the member one month of
 3-22 creditable service for each month of probationary service
 3-23 established under this section.

3-24 SECTION 5. Section 5.04(c), Chapter 452, Acts of the 72nd
 3-25 Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's
 3-26 Texas Civil Statutes), is amended to read as follows:

3-27 (c) An eligible member or eligible surviving spouse may
 3-28 establish creditable service for cadet service performed as
 3-29 provided under this section according to the following conditions,
 3-30 limitations, and restrictions:

3-31 (1) Cadet service creditable in the system is any
 3-32 service while a member of a cadet class for which the member does
 3-33 not have creditable service.

3-34 (2) An eligible member or eligible surviving spouse
 3-35 may establish creditable service under this section by contributing
 3-36 to the system a single payment equal to the contribution the member
 3-37 would have made to the system for that service at the time the
 3-38 service was performed and an interest charge based on the
 3-39 contribution amount to be repaid times an interest factor. The
 3-40 interest factor is eight percent per year for the ~~[derived by~~
 3-41 ~~adjusting and compounding the annual rates of interest that were~~
 3-42 ~~credited to the accumulated deposits of members, where each annual~~
 3-43 ~~rate is adjusted by dividing it by 0.75. The]~~ period that ~~[for~~
 3-44 ~~compounding the interest factor]~~ begins with the beginning of the
 3-45 month and year at the end of the cadet class for which creditable
 3-46 service is being established and ends with the beginning of the
 3-47 month and year payment is made to the system for the purpose of
 3-48 establishing said service. ~~[The annual rate of interest applicable~~
 3-49 ~~for the year when payment is made is considered to be equal to the~~
 3-50 ~~prior year's rate of interest for the purpose of making the~~
 3-51 ~~determination.]~~

3-52 (3) After the eligible member or eligible surviving
 3-53 spouse makes the deposit required by Subsection (c)(2) of this
 3-54 section, the system shall grant the member one month of creditable
 3-55 service for each month of cadet service established under this
 3-56 section.

3-57 SECTION 6. Section 5.05, Chapter 452, Acts of the 72nd
 3-58 Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's
 3-59 Texas Civil Statutes), is amended by amending Subsections (a) and
 3-60 (c) and adding Subsection (f) to read as follows:

3-61 (a) The police retirement board may by rule provide that a
 3-62 member or eligible surviving spouse of a member, or a deceased
 3-63 member's designated beneficiary if there is no surviving spouse,
 3-64 may establish creditable service by depositing with the retirement
 3-65 system the actuarial present value, at the time of deposit, of the
 3-66 additional life annuity (modified cash refund) defined in Section
 3-67 6.01 of this Act that would be attributable to the purchase of the
 3-68 service credit under this section, based on rates and tables
 3-69 recommended by the retirement system's actuary and adopted by the

4-1 board of trustees. The police retirement board may also by rule
 4-2 provide that a member or eligible surviving spouse of a member, or a
 4-3 deceased member's designated beneficiary if there is no surviving
 4-4 spouse, may establish creditable service by depositing with the
 4-5 retirement system the actuarial present value, at the time of
 4-6 deposit, of the additional deferred life annuity (modified cash
 4-7 refund) that would be attributable to the purchase of the service
 4-8 credit under this section, based on rates and tables recommended by
 4-9 the retirement system's actuary and adopted by the board of
 4-10 trustees. As used in this section, a "deferred life annuity
 4-11 (modified cash refund)" means a series of equal monthly payments,
 4-12 payable for life after an inactive member's deferred retirement
 4-13 date, which is on or before the last day of the month in which the
 4-14 inactive member would have satisfied the eligibility requirements
 4-15 of Section 6.02 of this Act if the member had continued as an
 4-16 active-contributory member, excluding any permissive service
 4-17 credit established under this section and excluding any military
 4-18 service credit established under Section 5.02 of this Act.

4-19 (c) The board may not adopt a rule authorizing the purchase
 4-20 of credit under this section unless the board has obtained an
 4-21 actuarial study indicating that adoption of the rule will not cause
 4-22 the amortization period for ~~[make the retirement system financially~~
 4-23 ~~unsound and that, after adoption of the rule,]~~ the retirement
 4-24 system's unfunded actuarial accrued liability to exceed ~~[can be~~
 4-25 ~~amortized within]~~ the maximum amortization period adopted by the
 4-26 Governmental Accounting Standards Board.

4-27 (f)(1) At the time a member establishes creditable service
 4-28 for a deferred retirement date under this section, the member may
 4-29 file with the board the member's written statement either selecting
 4-30 one of the optional benefits authorized by this Act and designating
 4-31 the beneficiary of the option if one is selected or stating that the
 4-32 member has been afforded an opportunity to select an option but does
 4-33 not desire to do so. An option selection becomes effective at the
 4-34 member's date of deferred retirement. The member retains the right
 4-35 to make a final selection until the date of deferred retirement.
 4-36 The final selection is binding on all parties.

4-37 (2) If the member dies before the date of deferred
 4-38 retirement but after filing the written statement selecting one of
 4-39 the optional benefits, the member's survivor benefit is calculated
 4-40 as if the member had retired on the date of deferred retirement
 4-41 under the optional benefit selected and died the next day.

4-42 (3) In the event a member who is eligible for a
 4-43 deferred retirement dies before the deferred retirement date
 4-44 without making a written selection of an option listed in Section
 4-45 6.03 of this Act and the member has a spouse surviving, the
 4-46 surviving spouse of the member may select the optional form of a
 4-47 survivor benefit in the same manner as if the member had made the
 4-48 selection on the member's scheduled date of deferred retirement or
 4-49 may select a lump-sum payment equal to the accumulated deposits
 4-50 standing to the member's credit in Fund No. 1 plus an equivalent
 4-51 amount from Fund No. 2. If the member does not have a surviving
 4-52 spouse, the member's beneficiary or, if no beneficiary exists, the
 4-53 executor or administrator of the member's estate is entitled to
 4-54 select either an Option V survivor benefit (15-Year Certain and
 4-55 Life Annuity), effective on the member's scheduled date of deferred
 4-56 retirement, or a lump-sum payment equal to the accumulated deposits
 4-57 standing to the member's credit in Fund No. 1 plus an equivalent
 4-58 amount from Fund No. 2.

4-59 (4) When monthly survivor benefits are payable as a
 4-60 result of the death of a member before the member's deferred
 4-61 retirement date, an additional sum of \$10,000 is payable as a death
 4-62 benefit to the member's beneficiary or, if no beneficiary exists,
 4-63 to the member's estate.

4-64 SECTION 7. Sections 6.05(a) and (c), Chapter 452, Acts of
 4-65 the 72nd Legislature, Regular Session, 1991 (Article 6243n-1,
 4-66 Vernon's Texas Civil Statutes), are amended to read as follows:

4-67 (a) In the event of death of a member who is ineligible for
 4-68 retirement, the accumulated deposits standing to the member's
 4-69 credit in Fund No. 1 and an equivalent amount from Fund No. 2 shall

5-1 be payable in a lump sum to the member's beneficiary or, if no
 5-2 beneficiary, to the member's estate, unless the member shall have
 5-3 directed otherwise in writing duly acknowledged and filed with the
 5-4 board. The lump sum may not be less than \$10,000 [~~\$7,500~~]. When the
 5-5 \$10,000 [~~\$7,500~~] minimum is payable, the amount payable from Fund
 5-6 No. 2 is \$10,000 [~~\$7,500~~] minus the accumulated deposits standing
 5-7 to the member's credit in Fund No. 1.

5-8 (c) In the event of death of a member receiving a retirement
 5-9 benefit, the sum of \$10,000 [~~\$7,500~~] shall be payable in a lump sum
 5-10 to the member's beneficiary or, if no beneficiary, to the member's
 5-11 estate, unless the member shall have directed otherwise in writing,
 5-12 duly acknowledged and filed with the board. The payment under this
 5-13 subsection shall be made from the retiree death benefits fund
 5-14 described in Section 6.08 of this Act.

5-15 SECTION 8. Section 6.06(a)(4), Chapter 452, Acts of the
 5-16 72nd Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's
 5-17 Texas Civil Statutes), is amended to read as follows:

5-18 (4) When monthly survivor benefits are payable as a
 5-19 result of the death of a member before retirement, an additional sum
 5-20 of \$10,000 [~~\$7,500~~] shall be payable as a death benefit to the
 5-21 member's beneficiary or, if no beneficiary exists, to the member's
 5-22 estate.

5-23 SECTION 9. Section 7.01(a), Chapter 452, Acts of the 72nd
 5-24 Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's
 5-25 Texas Civil Statutes), is amended to read as follows:

5-26 (a) Only members who are classified as
 5-27 Active-Contributory [~~Active-Noncontributory~~] or
 5-28 Inactive-Contributory, pursuant to Subsection (e) of Section 4.01
 5-29 of this Act, or who are approved for extended disability retirement
 5-30 eligibility under this subsection, are eligible for consideration
 5-31 for disability retirement pursuant to this article. A member may be
 5-32 approved by the board for extended disability retirement
 5-33 eligibility only:

5-34 (1) if that member applies in writing to the board for
 5-35 extended eligibility on a date not earlier than the 30th day before
 5-36 and not later than the 30th day after the date of becoming an
 5-37 Active-Noncontributory member, setting forth the reason why the
 5-38 member should be granted the extended eligibility;

5-39 (2) if the board, in its sole discretion, approves the
 5-40 application for extended eligibility; and

5-41 (3) on the terms the board determines to be
 5-42 appropriate.

5-43 SECTION 10. Article XIII, Chapter 452, Acts of the 72nd
 5-44 Legislature, Regular Session, 1991 (Article 6243n-1, Vernon's
 5-45 Texas Civil Statutes), is amended by adding Section 13.02 to read as
 5-46 follows:

5-47 Sec. 13.02. MANDATORY DISTRIBUTIONS PROHIBITED. A member
 5-48 or former member who has separated from service may not be required
 5-49 to receive an eligible rollover distribution, as defined in Section
 5-50 13.01(b)(1) of this Act, without the member's consent unless the
 5-51 member or former member is at least 70-1/2 years of age.

5-52 SECTION 11. This Act takes effect September 1, 2007.

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