

By: Haggerty, Quintanilla, Chavez, Pickett

H.B. No. 3355

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the board of trustees, benefits, and contributions of  
3 certain fire and police pension funds.

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

5 ARTICLE 1. CONTINGENT PROVISIONS EFFECTIVE SEPTEMBER 1, 2007

6 SECTION 1.01. Sections 1(a) and (b), Chapter 101, Acts of  
7 the 43rd Legislature, 1st Called Session, 1933 (Article 6243b,  
8 Vernon's Texas Civil Statutes), are amended to read as follows:

9 (a) In all incorporated cities and towns containing more  
10 than 550,000 inhabitants and less than 600,000 inhabitants, having  
11 a fully or partially paid fire department, three (3) citizens of  
12 said city or town to be designated by the mayor [~~or the mayor's~~  
13 ~~authorized representative~~], two (2) citizens of said city or town  
14 to be designated by the city manager of said city or town [~~mayor,~~  
15 ~~the chief of police or the chief's authorized representative, the~~  
16 ~~chief of the fire department or the chief's authorized~~  
17 ~~representative, and the successors of the mayor, chief of police,~~  
18 ~~and chief of the fire department~~], three (3) policemen [~~other than~~  
19 ~~the chief or assistant chief,~~] to be elected by members of the  
20 policemen's pension fund, and three (3) firemen [~~other than the~~  
21 ~~chief or assistant chief,~~] to be elected by members of the firemen's  
22 pension fund, composing eleven (11) members, seven (7) of which  
23 shall be a quorum, shall constitute a board of trustees of the  
24 Firemen and Policemen Pension Fund, to provide for the disbursement

1 of the same and to designate the beneficiaries thereof. [~~The three~~  
2 ~~policemen and the three firemen named above shall be elected to a~~  
3 ~~term of four (4) years. The term for a citizen designated by the~~  
4 ~~mayor is four (4) years.~~] The board shall be known as the Board of  
5 Firemen and Policemen Pension Fund, \_\_\_\_\_, Texas. Said board  
6 shall organize by choosing one member as Chairman and by appointing  
7 a secretary. Such board shall have charge of and administer said  
8 fund and shall order payments therefrom in pursuance of the  
9 provisions of this law. It shall report annually to the governing  
10 body of such city or town the condition of the said fund and the  
11 receipts and disbursements on account of the same with a complete  
12 list of beneficiaries of said fund and the amounts paid them.

13 (b) The members of the board of trustees serve four-year  
14 terms. [~~Of the first two (2) citizens designated by the mayor to~~  
15 ~~serve on the board of trustees after the effective date of this~~  
16 ~~subsection, one shall serve a four-year term and the other a~~  
17 ~~two-year term. Thereafter all terms shall be for four (4) years.~~  
18 ~~Of the first six (6) firemen and policemen elected after the~~  
19 ~~effective date of this subsection, three (3) of the firemen and~~  
20 ~~policemen shall serve four-year terms and three (3) of the firemen~~  
21 ~~and policemen shall serve two-year terms. The first four-year~~  
22 ~~terms shall not be served by all three members elected from the~~  
23 ~~firemen's fund nor by all three members elected from the policemen's~~  
24 ~~fund. This determination shall be made by lot under the supervision~~  
25 ~~of the board. Thereafter all elected terms shall be for four (4)~~  
26 ~~years.]~~

27 SECTION 1.02. Section 2, Chapter 101, Acts of the 43rd

1 Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's  
2 Texas Civil Statutes), is amended to read as follows:

3       Sec. 2. PARTICIPATION IN FUND; WAGE DEDUCTIONS. Each  
4 member fireman and policeman in the employment of such city or town  
5 must participate in said fund, except in times of national  
6 emergency those persons as are employed during that time shall not  
7 be required to participate in the fund, and said city or town shall  
8 be authorized to deduct a sum of not less than one per cent (1%) nor  
9 in excess of six per cent (6%) of his wages from each month to form a  
10 part of the fund known as the Firemen and Policemen Pension Fund,  
11 except that the city or town shall deduct a sum less than one per  
12 cent (1%) or more than six per cent (6%) of the member's wages each  
13 month to form a part of the fund if the board of trustees of that  
14 fund increases or decreases the percentage of wages to be  
15 contributed to the fund under the provisions of Section 10A or 14A  
16 of this Act. The amount to be deducted from the wages of those named  
17 above who must participate in the fund is to be determined by the  
18 board of trustees as provided for in Section 1 of this Act within  
19 the minimum and maximum deductions herein provided or as otherwise  
20 provided under the provisions of Section 10A or 14A of this Act.

21       SECTION 1.03. Section 3, Chapter 101, Acts of the 43rd  
22 Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's  
23 Texas Civil Statutes), is amended to read as follows:

24       Sec. 3. PAYMENTS TO FUND. There shall be deducted for such  
25 fund from the wages of each fireman and policeman a sum to be  
26 determined by the board of trustees under the provisions of  
27 Sections [~~Section~~] 2, [~~or~~] 10A, and 14A of this Act. Any donations

1 made to such fund and rewards received by any member of either of  
2 said funds, and all funds received from any source for such fund  
3 shall be deposited in like manner to the credit of such fund.

4 SECTION 1.04. Section 10A, Chapter 101, Acts of the 43rd  
5 Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's  
6 Texas Civil Statutes), is amended to read as follows:

7 Sec. 10A. MODIFICATION OF BENEFITS, MEMBERSHIP  
8 QUALIFICATIONS, ELIGIBILITY REQUIREMENTS AND CONTRIBUTIONS;  
9 CONDITIONS. (a) Notwithstanding anything to the contrary in other  
10 parts of this Act and subject to Subsections (b) and (c) of this  
11 section, the Board of Trustees may, by majority vote of the whole  
12 board, make from time to time one or more of the following changes,  
13 or modifications:

14 (1) modify or change prospectively or retroactively in  
15 any manner whatsoever any of the benefits provided by this Act,  
16 except that any retroactive change or modification shall only  
17 increase pensions or benefits;

18 (2) modify or change prospectively in any manner  
19 whatsoever any of the membership qualifications;

20 (3) modify or change prospectively or retroactively in  
21 any manner whatsoever any of the eligibility requirements for  
22 pensions or benefits;

23 (4) increase or decrease prospectively the percentage  
24 of wages less than the one per cent (1%) minimum or above the six per  
25 cent (6%) maximum provided in Section 2 of this Act to be  
26 contributed to the fund; or

27 (5) provide prospectively for refunds, in whole or in

1 part, and with or without interest, of contributions made to the  
2 fund by employees who leave the city service before qualifying for a  
3 pension.

4 (b) None of the changes made under Subsection (a) of this  
5 section may be made unless all of the following conditions are  
6 sequentially complied with:

7 (1) the change must be approved by a qualified actuary  
8 selected by a four-fifths vote of the Board; the actuary's approval  
9 must be based on an actuarial finding that the change is supported  
10 by the existing funding status of the fund; the actuary, if an  
11 individual, must be a Fellow of the Society of Actuaries or a Fellow  
12 of the Conference of Actuaries in Public Practice or a Member of the  
13 American Academy of Actuaries; the actuary, if an actuarial  
14 consulting firm, must be established in the business of providing  
15 actuarial consulting services to pension plans and have experienced  
16 personnel able to provide the requested services; the findings upon  
17 which the properly selected and qualified actuary's approval are  
18 based are not subject to judicial review;

19 (2) the change must be approved by a majority of all  
20 persons then making contributions to the fund as employees of a  
21 department to which the change would directly apply, voting by  
22 secret ballot at an election held after ten (10) days' notice given  
23 by posting at a prominent place in every station or substation of a  
24 department to which the change would directly apply and in the city  
25 hall;

26 (3) the changes, except changes made under the  
27 provisions of Subdivision (1), Subsection (a), of this section,

1 shall apply only to active member employees who are members of the  
2 affected departments at the time the change becomes effective and  
3 those who enter the departments thereafter; and

4 (4) the changes shall not deprive any person, without  
5 his written consent, of any right to receive a pension or benefits  
6 which have already become vested and matured.

7 (c) If the Board of Trustees proposes to change benefits  
8 under Subdivision (1), Subsection (a), of this section, the change  
9 is not effective until the change is finally approved in accordance  
10 with this subsection. The Board shall submit the change for  
11 approval by the city's or town's governing body. If disapproved by  
12 the governing body, or if the governing body fails to act within  
13 sixty (60) days of presentation to the governing body, the Board, by  
14 resolution passed by a majority of the whole Board, plus one, may  
15 require the city's or town's governing body to hold an election, as  
16 soon as practicable, for approval of the change by the qualified  
17 voters of the city or town. Any change proposed and subsequently  
18 approved by the voters under this subsection becomes effective as  
19 of the beginning of the city's or town's next fiscal year.

20 SECTION 1.05. Chapter 101, Acts of the 43rd Legislature,  
21 1st Called Session, 1933 (Article 6243b, Vernon's Texas Civil  
22 Statutes), is amended by adding Section 14A to read as follows:

23 Sec. 14A. CONTRIBUTION INCREASES. (a) If at any time a  
24 qualified actuary that meets the requirements of Subdivision (1),  
25 Subsection (b), Section 10A of this Act, determines that the total  
26 contribution rate, expressed as a percentage of wages, is  
27 insufficient to amortize the unfunded actuarial accrued liability,

1 as defined under the Governmental Accounting Standards Board  
2 Statement No. 25, over a period not to exceed forty (40) years:

3 (1) the city's or town's governing body may increase  
4 the city or town contribution rate; and

5 (2) to the extent that the city or town contribution  
6 rate increases under Subdivision (1) of this subsection, the member  
7 contribution rate must increase by an amount equal to the member  
8 contribution rate before the increase multiplied by a fraction:

9 (A) the numerator of which is the increase in the  
10 amount of city or town contribution rate; and

11 (B) the denominator of which is the amount of the  
12 city or town contribution rate before the increase.

13 (b) The sum of the city or town contribution rate and the  
14 member contribution rate after an increase under this section may  
15 not exceed the total contribution rate determined by the qualified  
16 actuary to be necessary to amortize the unfunded actuarial accrued  
17 liability over a forty (40) year period.

18 SECTION 1.06. (a) In this section:

19 (1) "Board of trustees" means a board of trustees  
20 constituted under Section 1(a), Chapter 101, Acts of the 43rd  
21 Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's  
22 Texas Civil Statutes).

23 (2) "City or town" means a city or town that operates a  
24 Firemen and Policemen Pension Fund under Chapter 101, Acts of the  
25 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's  
26 Texas Civil Statutes).

27 (b) The two citizen members of the board of trustees who are

1 designated by the mayor of the city or town and who are serving on  
2 the board of trustees on the effective date of this article shall  
3 continue to serve for the remainder of the members' four-year  
4 terms.

5 (c) The mayor of the city or town or the mayor's authorized  
6 representative who is serving on the board of trustees on the  
7 effective date of this article shall continue to serve until the  
8 mayor appoints a third citizen member under this subsection. As  
9 soon as practicable after the effective date of this article, the  
10 mayor shall appoint a citizen member to serve a four-year term.

11 (d) The chief of police or the chief's authorized  
12 representative and the chief of the fire department or the chief's  
13 authorized representative who are serving on the board of trustees  
14 on the effective date of this article shall continue to serve until  
15 the city manager of the city or town appoints two citizen members to  
16 the board of trustees under this subsection. As soon as practicable  
17 after the effective date of this article, the city manager shall  
18 appoint the two citizen members. The city manager shall designate  
19 one citizen member appointed under this subsection to serve a  
20 four-year term and, notwithstanding Section 1(b), Chapter 101, Acts  
21 of the 43rd Legislature, 1st Called Session, 1933 (Article 6243b,  
22 Vernon's Texas Civil Statutes), as amended by this article, shall  
23 designate one citizen member to serve a two-year term. The  
24 successors of the individuals appointed under this subsection shall  
25 serve four-year terms in accordance with Section 1(b), Chapter 101,  
26 Acts of the 43rd Legislature, 1st Called Session, 1933 (Article  
27 6243b, Vernon's Texas Civil Statutes), as amended by this article.



1 (e) A member of the board of trustees elected by the members  
2 of a firemen's pension fund or the members of a policemen's pension  
3 fund and serving on the effective date of this article shall  
4 continue to serve on the board for the remainder of the member's  
5 term.

6 SECTION 1.07. (a) This article is contingent on the  
7 deposit, not later than July 31, 2007, of at least \$100 million to a  
8 Firemen and Policemen Pension Fund by a city or town that operates  
9 such a fund under Chapter 101, Acts of the 43rd Legislature, 1st  
10 Called Session, 1933 (Article 6243b, Vernon's Texas Civil  
11 Statutes).

12 (b) If no city or town described by Subsection (a) of this  
13 section makes the deposit described by that subsection on or before  
14 July 31, 2007, this article has no effect.

15 (c) A city or town described by Subsection (a) of this  
16 section that makes the deposit described by that subsection shall  
17 publish notice of the deposit in the Texas Register as soon as  
18 practicable after the date of the deposit.

19 SECTION 1.08. Subject to Section 1.07 of this article, this  
20 article takes effect September 1, 2007.

21 ARTICLE 2. CONTINGENT PROVISIONS EFFECTIVE SEPTEMBER 1, 2009

22 SECTION 2.01. Section 1(a), Chapter 101, Acts of the 43rd  
23 Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's  
24 Texas Civil Statutes), is reenacted to read as follows:

25 (a) In all incorporated cities and towns containing more  
26 than 550,000 inhabitants and less than 600,000 inhabitants, having  
27 a fully or partially paid fire department, the mayor or the mayor's

1 authorized representative, two (2) citizens of said city or town to  
2 be designated by the mayor, the chief of police or the chief's  
3 authorized representative, the chief of the fire department or the  
4 chief's authorized representative, and the successors of the mayor,  
5 chief of police, and chief of the fire department, three (3)  
6 policemen other than the chief or assistant chief, to be elected by  
7 members of the policemen's pension fund, three (3) firemen other  
8 than the chief or assistant chief, to be elected by members of the  
9 firemen's pension fund, composing eleven (11) members, seven (7) of  
10 which shall be a quorum, shall constitute a board of trustees of the  
11 Firemen and Policemen Pension Fund, to provide for the disbursement  
12 of the same and to designate the beneficiaries thereof. The three  
13 policemen and the three firemen named above shall be elected to a  
14 term of four (4) years. The term for a citizen designated by the  
15 mayor is four (4) years. The board shall be known as the Board of  
16 Firemen and Policemen Pension Fund, \_\_\_\_\_, Texas. Said board  
17 shall organize by choosing one member as Chairman and by appointing  
18 a secretary. Such board shall have charge of and administer said  
19 fund and shall order payments therefrom in pursuance of the  
20 provisions of this law. It shall report annually to the governing  
21 body of such city or town the condition of the said fund and the  
22 receipts and disbursements on account of the same with a complete  
23 list of beneficiaries of said fund and the amounts paid them.

24 SECTION 2.02. Section 2, Chapter 101, Acts of the 43rd  
25 Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's  
26 Texas Civil Statutes), is reenacted to read as follows:

27 Sec. 2. PARTICIPATION IN FUND; WAGE DEDUCTIONS. Each

1 member fireman and policeman in the employment of such city or town  
2 must participate in said fund, except in times of national  
3 emergency those persons as are employed during that time shall not  
4 be required to participate in the fund, and said city or town shall  
5 be authorized to deduct a sum of not less than one per cent (1%) nor  
6 in excess of six per cent (6%) of his wages from each month to form a  
7 part of the fund known as the Firemen and Policemen Pension Fund,  
8 except that the city or town shall deduct a sum less than one per  
9 cent (1%) or more than six per cent (6%) of the member's wages each  
10 month to form a part of the fund if the board of trustees of that  
11 fund increases or decreases the percentage of wages to be  
12 contributed to the fund under the provisions of Section 10A of this  
13 Act. The amount to be deducted from the wages of those named above  
14 who must participate in the fund is to be determined by the board of  
15 trustees as provided for in Section 1 of this Act within the minimum  
16 and maximum deductions herein provided or as otherwise provided  
17 under the provisions of Section 10A of this Act.

18 SECTION 2.03. Section 3, Chapter 101, Acts of the 43rd  
19 Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's  
20 Texas Civil Statutes), is reenacted to read as follows:

21 Sec. 3. PAYMENTS TO FUND. There shall be deducted for such  
22 fund from the wages of each fireman and policeman a sum to be  
23 determined by the board of trustees under the provisions of Section  
24 2 or 10A of this Act. Any donations made to such fund and rewards  
25 received by any member of either of said funds, and all funds  
26 received from any source for such fund shall be deposited in like  
27 manner to the credit of such fund.

1           SECTION 2.04. Sections 10A(a) and (b), Chapter 101, Acts of  
2 the 43rd Legislature, 1st Called Session, 1933 (Article 6243b,  
3 Vernon's Texas Civil Statutes), are reenacted to read as follows:

4           (a) Notwithstanding anything to the contrary in other parts  
5 of this Act, the Board of Trustees may, by majority vote of the  
6 whole board, make from time to time one or more of the following  
7 changes, or modifications:

8                 (1) modify or change prospectively or retroactively in  
9 any manner whatsoever any of the benefits provided by this Act,  
10 except that any retroactive change or modification shall only  
11 increase pensions or benefits;

12                 (2) modify or change prospectively in any manner  
13 whatsoever any of the membership qualifications;

14                 (3) modify or change prospectively or retroactively in  
15 any manner whatsoever any of the eligibility requirements for  
16 pensions or benefits;

17                 (4) increase or decrease prospectively the percentage  
18 of wages less than the one per cent (1%) minimum or above the six per  
19 cent (6%) maximum provided in Section 2 of this Act to be  
20 contributed to the fund; or

21                 (5) provide prospectively for refunds, in whole or in  
22 part, and with or without interest, of contributions made to the  
23 fund by employees who leave the city service before qualifying for a  
24 pension.

25           (b) None of the changes made under Subsection (a) of this  
26 section may be made unless all of the following conditions are  
27 sequentially complied with:

1           (1) the change must be approved by a qualified actuary  
2 selected by a four-fifths vote of the Board; the actuary, if an  
3 individual, must be a Fellow of the Society of Actuaries or a Fellow  
4 of the Conference of Actuaries in Public Practice or a Member of the  
5 American Academy of Actuaries; the findings upon which the  
6 properly selected and qualified actuary's approval are based are  
7 not subject to judicial review;

8           (2) the change must be approved by a majority of all  
9 persons then making contributions to the fund as employees of a  
10 department to which the change would directly apply, voting by  
11 secret ballot at an election held after ten (10) days' notice given  
12 by posting at a prominent place in every station or substation of a  
13 department to which the change would directly apply and in the city  
14 hall;

15           (3) the changes, except changes made under the  
16 provisions of Subdivision (1), Subsection (a), of this section,  
17 shall apply only to active member employees who are members of the  
18 affected departments at the time the change becomes effective and  
19 those who enter the departments thereafter; and

20           (4) the changes shall not deprive any person, without  
21 his written consent, of any right to receive a pension or benefits  
22 which have already become vested and matured.

23           SECTION 2.05. The following laws are repealed:

24           (1) Section 1(b), Chapter 101, Acts of the 43rd  
25 Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's  
26 Texas Civil Statutes), as amended by Article 1 of this Act;

27           (2) Section 10A(c), Chapter 101, Acts of the 43rd

1 Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's  
2 Texas Civil Statutes), as added by Article 1 of this Act; and

3 (3) Section 14A, Chapter 101, Acts of the 43rd  
4 Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's  
5 Texas Civil Statutes), as added by Article 1 of this Act.

6 SECTION 2.06. (a) In this section:

7 (1) "Board of trustees" means a board of trustees  
8 constituted under Section 1(a), Chapter 101, Acts of the 43rd  
9 Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's  
10 Texas Civil Statutes).

11 (2) "City or town" means a city or town that operates a  
12 Firemen and Policemen Pension Fund under Chapter 101, Acts of the  
13 43rd Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's  
14 Texas Civil Statutes).

15 (b) On the effective date of this article, the term of the  
16 citizen member of the board of trustees appointed by the mayor of  
17 the city or town under Section 1.06(c) of this Act terminates and  
18 the mayor or a representative designated by the mayor shall serve as  
19 a member of the board of trustees. The two other citizen members of  
20 the board of trustees who are designated by the mayor of the city or  
21 town and who are serving on the board of trustees on the effective  
22 date of this article shall continue to serve for the remainder of  
23 the members' four-year terms.

24 (c) On the effective date of this article, the terms of the  
25 two citizen members of the board of trustees appointed by the city  
26 manager under Section 1.06(d) of this Act terminate and the chief  
27 of police or the chief's authorized representative and the chief of

1 the fire department or the chief's authorized representative shall  
2 serve as members of the board of trustees.

3 (d) A member of the board of trustees elected by the members  
4 of a firemen's pension fund or the members of a policemen's pension  
5 fund and serving on the effective date of this article shall  
6 continue to serve on the board for the remainder of the member's  
7 term.

8 SECTION 2.07. (a) This article takes effect only if Article  
9 1 of this Act takes effect in accordance with Section 1.07 of this  
10 Act. If Article 1 of this Act does not take effect, this article has  
11 no effect.

12 (b) Subject to Subsection (a) of this section, this article  
13 takes effect September 1, 2009, and supersedes Article 1 of this Act  
14 unless, not later than July 31, 2009, at least \$110 million is  
15 deposited to a Firemen and Policemen Pension Fund by a city or town  
16 that operates such a fund under Chapter 101, Acts of the 43rd  
17 Legislature, 1st Called Session, 1933 (Article 6243b, Vernon's  
18 Texas Civil Statutes).

19 (c) If a city or town described by Subsection (b) of this  
20 section makes the deposit described by that subsection on or before  
21 July 31, 2009, this article has no effect.

22 (d) A city or town described by Subsection (b) of this  
23 section that makes the deposit described by that subsection shall  
24 publish notice of the deposit in the Texas Register as soon as  
25 practicable after the date of the deposit.