

By: Brimer

S.B. No. 976

Substitute the following for S.B. No. 976:

By: Villarreal

C.S.S.B. No. 976

A BILL TO BE ENTITLED

AN ACT

relating to the public retirement system of certain municipalities.

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

SECTION 1. Title 109, Revised Statutes, is amended by adding Article 6243i to read as follows:

Art. 6243i. UNITARY RETIREMENT SYSTEM FOR CERTAIN MUNICIPALITIES

PART 1. GENERAL PROVISIONS

Sec. 1.01. APPLICABILITY. This article applies only to a municipality with a population of 500,000 or more that on January 1, 2007, has a single unitary public retirement system established by municipal ordinance for employees of all departments of the municipality.

Sec. 1.02. DEFINITIONS. In this article:

(1) "Administrative rules" means the rules adopted to govern a public retirement system, including rules regarding the participation in, contributions to, and benefits from the public retirement system.

(2) "Board of trustees" means the persons elected or appointed to administer the public retirement system.

(3) "Governing body" means the governing body of a municipality to which this article applies.

(4) "Participating member" means a person who makes contributions to the public retirement system as an employee of a

1 municipality to which this article applies.

2 (5) "Participating retiree" means a person who
3 receives or who is eligible to receive a service retirement annuity
4 from the retirement fund.

5 (6) "Pension office" means the administrative office
6 of the public retirement system.

7 (7) "Public retirement system" means a continuing,
8 organized program or plan of service retirement, disability
9 retirement, or death benefits for employees of a municipality to
10 which this article applies but does not include:

11 (A) a program for which benefits are administered
12 by a life insurance company;

13 (B) a program providing only workers'
14 compensation benefits;

15 (C) a program administered by the federal
16 government;

17 (D) an individual retirement account or
18 individual retirement annuity within the meaning of Section 408, or
19 a retirement bond within the meaning of Section 409, of the Internal
20 Revenue Code of 1986;

21 (E) a plan described by Section 401(d) of the
22 Internal Revenue Code of 1986;

23 (F) an individual account plan consisting of an
24 annuity contract described by Section 403(b) of the Internal
25 Revenue Code of 1986; or

26 (G) an eligible state deferred compensation plan
27 described by Section 457(b) of the Internal Revenue Code of 1986.

1 (8) "Retirement fund" means the trust fund established
2 by or in conjunction with the public retirement system for the
3 purpose of holding assets to be used to provide benefits payable by
4 the public retirement system.

5 (9) "Rule amendment" includes any amendment of, repeal
6 of, addition to, deletion of, modification of, or change to an
7 administrative rule.

8 (10) "Survivor" means a person, including the
9 surviving spouse or dependent, who receives survivor benefits from
10 a retirement fund.

11 (11) "Vested" means the accrued right of a
12 participating member who has met the age and length-of-service
13 requirements for service retirement required by the public
14 retirement system. A member whose retirement rights are vested may
15 withdraw from employment with the municipality, leave the member's
16 accumulated contributions on deposit with the public retirement
17 system, and begin to receive the member's service retirement
18 annuity.

19 PART 2. MEMBERSHIP

20 Sec. 2.01. GENERAL MEMBERSHIP REQUIREMENT. (a) Except as
21 otherwise provided by administrative rule, municipal ordinance, or
22 this section, a person becomes a participating member of the public
23 retirement system on the date of the person's employment by the
24 municipality.

25 (b) A person employed by the municipality is not eligible to
26 be a participating member if the person is:

27 (1) an independent contractor or an employee of an

1 independent contractor doing work for the municipality;

2 (2) an elected officer or a nonsalaried, appointed
3 member of an administrative board or commission of the
4 municipality, except an employee who serves as a member of the board
5 or commission;

6 (3) an employee serving on a part-time basis of less
7 than one-half the time required to serve as a full-time employee;

8 (4) an employee who is paid in part by the municipality
9 and in part by a county, state, or other governmental agency; or

10 (5) a temporary employee, as determined by the records
11 of the municipality, on the payroll of the municipality.

12 (c) A person may appeal a determination regarding the
13 person's eligibility to be a participating member to the board of
14 trustees. The board's decision regarding eligibility is final.

15 PART 3. CREDITABLE SERVICE

16 Sec. 3.01. TYPES OF CREDITABLE SERVICE. The board of
17 trustees by rule shall establish the types of service for which a
18 participating member earns credit.

19 Sec. 3.02. BENEFIT ELIGIBILITY BASED ON CREDITED SERVICE.
20 A participating member's eligibility to receive a service
21 retirement benefit is based on credited service at the time of
22 retirement.

23 PART 4. BENEFITS

24 Sec. 4.01. TYPES OF BENEFITS. The types and calculation of
25 benefits provided by the public retirement system are determined in
26 accordance with applicable laws, municipal ordinances, and
27 administrative rules.

1 Sec. 4.02. AMENDMENTS INCREASING BENEFITS. Before taking
2 effect, any amendment to the administrative rules proposed by the
3 board of trustees that increases the benefits provided by the
4 public retirement system must be reviewed and approved by the
5 governing body.

6 Sec. 4.03. AMENDMENTS REDUCING BENEFITS. (a) Only the
7 governing body may adopt an amendment to the administrative rules
8 that reduces a benefit provided by the public retirement system.

9 (b) At least 90 days before the date the governing body is
10 scheduled to vote on an amendment to the administrative rules that
11 would reduce a benefit provided by the public retirement system,
12 the governing body must give notice to the board of trustees of the
13 governing body's intention to consider and vote on the amendment.

14 PART 5. ADMINISTRATION

15 Sec. 5.01. COMPOSITION OF BOARD OF TRUSTEES. (a) The
16 board of trustees is composed of 13 members.

17 (b) Each of the following groups of participating members
18 shall elect one vested, participating member from their respective
19 group to serve as a member of the board of trustees:

20 (1) police officers; and

21 (2) firefighters.

22 (c) The group of participating members who are general
23 employees of the municipality and who are not employed as police
24 officers or firefighters shall elect two vested, participating
25 members from the group to serve as members of the board of
26 trustees.

27 (d) Each of the following groups of participating retirees

1 shall elect one participating retiree from their respective group
2 to serve as a member of the board of trustees:

- 3 (1) retired police officers;
4 (2) retired firefighters; and
5 (3) other retired general employees of the
6 municipality who did not retire from service as a police officer or
7 firefighter.

8 (e) The mayor shall nominate and the governing body shall
9 confirm, by majority vote, five residents of the municipality to
10 serve as members of the board of trustees. A person appointed under
11 this subsection may not be a member of the governing body.

12 (f) The governing body shall designate the chief financial
13 officer of the municipality to serve as a member of the board of
14 trustees.

15 (g) Members of the board of trustees hold office for terms
16 of two years.

17 Sec. 5.02. BOARD POWERS AND DUTIES. (a) The board of
18 trustees shall administer the public retirement system, including
19 the retirement fund of the public retirement system.

20 (b) The board of trustees may adopt amendments to the
21 administrative rules in accordance with Sections 5.06, 5.07, 5.09,
22 and 5.10 of this article.

23 Sec. 5.03. BOARD CHAIR. The board of trustees shall elect a
24 chair from the membership of the board.

25 Sec. 5.04. QUORUM; VOTING. (a) Each member of the board of
26 trustees is entitled to one vote.

27 (b) Except as provided by Subsection (c) of this section,

1 seven members of the board of trustees constitute a quorum to
2 transact the business of the board.

3 (c) In the event of a vacancy on the board of trustees, the
4 number of members required to constitute a quorum is reduced by the
5 number of vacancies on the board of trustees.

6 Sec. 5.05. QUALIFIED ACTUARY; ACTUARIAL ASSUMPTIONS.

7 (a) The board of trustees may employ a qualified actuary.

8 (b) To be a qualified actuary, an actuary must be:

9 (1) a fellow of the Society of Actuaries; or

10 (2) a member of the American Academy of Actuaries.

11 (c) At least 30 days before the date the board of trustees
12 adopts actuarial assumptions to be used by the public retirement
13 system, the board must submit to the governing body a detailed
14 report regarding the proposed actuarial assumptions. The report
15 must include the fiscal impact of the proposed actuarial
16 assumptions on the public retirement system.

17 Sec. 5.06. RULE AMENDMENTS ADOPTED BY BOARD OF TRUSTEES.

18 (a) Except as provided by Sections 4.03, 5.07, 5.09, and 5.10 of
19 this article and subject to Section 4.02 of this article, the board
20 of trustees may adopt amendments to the administrative rules if:

21 (1) a qualified actuary performs an actuarial analysis
22 of the fiscal impact of the proposed amendment and determines that
23 the amendment will not impact the actuarial soundness of the
24 retirement fund;

25 (2) the proposed amendment is placed on the agenda of
26 the board of trustees for at least two consecutive meetings of the
27 board that are not less than 30 days apart for the purpose of giving

1 participating members an opportunity to comment on the proposed
2 amendment; and

3 (3) the proposed amendment is approved by a majority
4 vote of the full membership of the board of trustees.

5 (b) An amendment to the administrative rules adopted in
6 accordance with this section becomes effective immediately unless
7 otherwise provided by the amendment.

8 Sec. 5.07. AMENDMENTS CONCERNING CONTRIBUTIONS BY

9 MUNICIPALITY. (a) An amendment to the administrative rules
10 governing municipal contributions, including an amendment to the
11 rate or manner of making contributions, may be made only if:

12 (1) a qualified actuary performs an actuarial analysis
13 of the fiscal impact of the proposed amendment;

14 (2) the board of trustees or the governing body, by
15 majority vote, calls a special election of all participating
16 members to approve the amendment;

17 (3) the amendment is approved by a majority of the
18 participating members eligible to vote in the special election; and

19 (4) the amendment is approved by a majority vote of:

20 (A) the board of trustees, if the governing body
21 called the special election under Subdivision (2) of this
22 subsection; or

23 (B) the governing body, if the board of trustees
24 called the special election under Subdivision (2) of this
25 subsection.

26 (b) The board of trustees or the governing body, as
27 applicable, shall approve or reject the proposed amendment under

1 Subsection (a)(4) of this section by the 90th day after the date the
2 votes of the special election are canvassed.

3 (c) The pension office shall conduct a special election
4 under Subsection (a) of this section by secret ballot. The board of
5 trustees shall canvass the vote.

6 (d) A person who is a participating member on the date of the
7 special election is eligible to vote in the special election.

8 (e) Unless otherwise provided by the proposed amendment, an
9 amendment to the administrative rules becomes effective on approval
10 by the board of trustees or the governing body, as appropriate,
11 under Subsection (a)(4) of this section.

12 (f) Notwithstanding Subsections (a) through (e) of this
13 section, only the governing body may adopt an amendment to the
14 administrative rules that increases municipal contributions.

15 Sec. 5.08. AMENDMENTS BY GOVERNING BODY IN EVENT OF FISCAL
16 EMERGENCY. (a) Notwithstanding Section 5.07 of this article, in
17 the event a municipality to which this article applies has a fiscal
18 emergency that requires an amendment to the administrative rules
19 governing municipal contributions, the governing body may amend the
20 administrative rules to address the emergency if the governing
21 body:

22 (1) determines that the emergency exists and approves
23 the proposed amendment by the unanimous vote of all members of the
24 governing body; and

25 (2) provides written notice to the administrative head
26 of the public retirement system at least five business days before
27 the date the proposed amendment takes effect.

1 (b) On the 90th day after the date an amendment under this
2 section takes effect and for each subsequent 90-day period while
3 the amendment is in effect, the governing body shall determine
4 whether the emergency continues to exist. If the governing body
5 does not determine by a unanimous vote that the emergency continues
6 to exist or if the governing body fails to vote on whether the
7 emergency exists as required by this subsection, the amendment
8 automatically expires on the date the vote is taken or on the date
9 the vote should have been taken, as applicable.

10 Sec. 5.09. AMENDMENTS INCREASING CONTRIBUTIONS BY MEMBERS.

11 (a) An amendment to the administrative rules that increases member
12 contributions must be adopted in accordance with the procedures
13 provided by Sections 5.07(a) through (e) of this article for
14 adopting an amendment governing municipal contributions.

15 (b) Notwithstanding any other law, an amendment made in
16 accordance with Subsection (a) of this section may require a
17 participating member to contribute an amount that exceeds 10
18 percent of the compensation paid to the participating member for
19 each payroll period.

20 Sec. 5.10. EMERGENCY, ROUTINE, OR STATUTORILY REQUIRED
21 AMENDMENTS BY BOARD. (a) Unless an amendment to the

22 administrative rules requires adoption in accordance with Section
23 5.07 or 5.09 of this article, the board of trustees may adopt
24 emergency or routine amendments to the administrative rules or
25 amendments that are required by federal or state law if the board of
26 trustees by unanimous vote of the members present and voting:

27 (1) agrees that the proposed amendment is an

1 emergency, routine, or statutorily required amendment; and

2 (2) approves the proposed amendment.

3 (b) An amendment adopted in accordance with this section is
4 an automatic agenda item for the next regular meeting of the board
5 of trustees and is subject to review or repeal by the board at that
6 meeting.

7 Sec. 5.11. SEMIANNUAL MEETING OF BOARD AND GOVERNING BODY.

8 At least once every six months, the board of trustees and the
9 governing body shall meet to review the performance of the
10 retirement fund and determine how to address the unfunded
11 liabilities, if any, of the public retirement system.

12 SECTION 2. (a) The administrative rules governing the
13 public retirement system of a municipality to which this Act
14 applies under Section 1.01, Article 6243i, Revised Statutes, as
15 added by this Act, in effect on May 31, 2007, shall continue in
16 effect on and after the effective date of this Act.

17 (b) The changes in law made by Sections 4.02, 4.03, 5.06,
18 5.07, 5.08, 5.09, and 5.10, Article 6243i, Revised Statutes, as
19 added by this Act, apply to a change in the administrative rules
20 governing a public retirement system of a municipality to which
21 this Act applies under Section 1.01, Article 6243i, Revised
22 Statutes, as added by this Act, adopted on or after the effective
23 date of this Act.

24 SECTION 3. (a) As soon as practicable after the effective
25 date of this Act, a new board of trustees charged with administering
26 the public retirement system of a municipality described by Section
27 1.01, Article 6243i, Revised Statutes, as added by this Act, shall

1 be elected or appointed in accordance with Section 5.01, Article
2 6243i, Revised Statutes, as added by this Act.

3 (b) The term of a member of the board of trustees or other
4 board administering the public retirement system described by
5 Subsection (a) of this section who is serving on the board on the
6 effective date of this Act expires on the date that a majority of
7 the new board of trustees has been elected or appointed under
8 Subsection (a) of this section.

9 SECTION 4. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2007.