

By: Brimer

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 has established, by municipal ordinance, a single unitary public retirement system 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. Except as  
21 otherwise provided by administrative rule, municipal ordinance, or  
22 this section, a person becomes a participating member of the  
23 retirement system on the date of the person's employment by the  
24 municipality. A person employed by the municipality is not eligible  
25 to be a participating member if the person is an independent  
26 contractor or an employee of an independent contractor doing work  
27 for the municipality.

1                   PART 3. CREDITABLE SERVICE

2           Sec. 3.01. TYPES OF CREDITABLE SERVICE. The board by rule  
3 shall establish the types of service for which a participating  
4 member earns credit.

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

8                   PART 4. BENEFITS

9           Sec. 4.01. TYPES OF BENEFITS. The types and calculation of  
10 benefits provided by the retirement system are determined in  
11 accordance with:

12                   (1) administrative rules governing benefits in effect  
13 on January 1, 2007; or

14                   (2) amendments to those rules adopted under procedures  
15 prescribed by this article.

16           Sec. 4.02. AMENDMENTS CONCERNING BENEFIT PROGRAMS OR PLANS.

17           (a) An amendment to the administrative rules governing the benefit  
18 plan or program of the public retirement system may only be made if:

19                   (1) a qualified actuary performs an actuarial analysis  
20 of the fiscal impact of the proposed amendment and determines that  
21 the amendment will not require increased contributions by the  
22 municipality to the public retirement system;

23                   (2) the board of trustees, by majority vote, calls a  
24 special election or elects to place the proposed amendment on the  
25 ballot as a separate proposition to be voted on at a trustee  
26 election in which all participating members may vote; and

27                   (3) a majority of all participating members eligible

1 to vote casts ballots in the special election and a majority of  
2 those voting approves the amendment.

3 (b) An amendment to the administrative rules governing the  
4 benefit plan or program of the public retirement system applies to:

5 (1) all participating members of the public retirement  
6 system; and

7 (2) a participating retiree or survivor only if:

8 (A) the amendment changes the basic formula or  
9 any other calculation of benefits; or

10 (B) the amendment states that it applies to all  
11 participating retirees and survivors.

12 (c) If an amendment changes the basic formula or any other  
13 calculation of benefits, the benefits of a participating retiree or  
14 survivor must be recalculated using the amended formula or  
15 calculation.

16 (d) An election under Subsection (a) of this section must be  
17 by secret ballot. If a special election is called, the pension  
18 office shall conduct the election and the board of trustees shall  
19 canvass the vote.

20 (e) A person who is a participating member on the date of an  
21 election held under this section is eligible to vote in the  
22 election.

23 (f) An amendment to the administrative rules governing the  
24 benefit plan or program of a public retirement system may not  
25 deprive a person, without the person's written consent, of the  
26 person's right to receive benefits from the retirement system that  
27 are fully vested.



1 finance director of the municipality to serve as a member of the  
2 board of trustees if the treasurer or finance director is a vested,  
3 participating member of the public retirement system. If the  
4 treasurer or finance director is not a vested, participating  
5 member, the governing body shall designate a participating member  
6 of the municipality's finance department to serve as a member of the  
7 board of trustees.

8 (f) Members of the board of trustees hold office for terms  
9 of two years.

10 Sec. 5.02. BOARD POWERS AND DUTIES. (a) The board of  
11 trustees shall administer the public retirement system, including  
12 the retirement fund of the public retirement system.

13 (b) The board of trustees may adopt amendments to the  
14 administrative rules in accordance with Sections 4.02, 5.06, 5.07,  
15 and 5.08 of this article.

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

18 Sec. 5.04. QUORUM; VOTING. (a) Except as provided by  
19 Subsection (b) of this section, each member of the board of trustees  
20 is entitled to one vote.

21 (b) Unless otherwise provided by this article, the chair of  
22 the board of trustees may only vote in the event of a tie.

23 (c) Except as provided by Subsection (d) of this section,  
24 six members of the board of trustees constitute a quorum to transact  
25 the business of the board.

26 (d) In the event of a vacancy on the board of trustees, the  
27 number of members required to constitute a quorum is reduced by the

1 number of vacancies on the board of trustees.

2 Sec. 5.05. QUALIFIED ACTUARY. (a) The board of trustees  
3 may employ a qualified actuary.

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

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

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

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

8 (a) Except as provided by Sections 4.02, 5.07, and 5.08 of this  
9 article, the board of trustees may adopt amendments to the  
10 administrative rules if:

11 (1) a qualified actuary performs an actuarial analysis  
12 of the fiscal impact of the proposed amendment and determines that  
13 the amendment will not impact the actuarial soundness of the fund;

14 (2) the proposed amendment is placed on the agenda of  
15 the board for at least two consecutive meetings of the board that  
16 are not less than 30 days apart for the purpose of giving  
17 participating members an opportunity to comment on the proposed  
18 amendment; and

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

21 (b) An amendment to the administrative rules adopted in  
22 accordance with this section becomes effective immediately unless  
23 otherwise provided by the amendment.

24 Sec. 5.07. AMENDMENTS CONCERNING CONTRIBUTIONS BY

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



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

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

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

8           (4) except as provided by Subsection (b) of this  
9 section, the amendment is approved by a majority vote of:

10           (A) the board of trustees, if the governing body  
11 called the special election under Subdivision (2) of this  
12 subsection; or

13           (B) the governing body, if the board of trustees  
14 called the special election under Subdivision (2) of this  
15 subsection.

16           (b) If the board of trustees or the governing body, as  
17 applicable, has not approved or rejected the proposed amendment  
18 under Subsection (a)(4) of this section by the 60th day after the  
19 date the votes of the special election are canvassed, the proposed  
20 amendment takes effect on the 60th day after the date the votes are  
21 canvassed.

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

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

27           (e) Unless otherwise provided by the proposed amendment and

1 except as provided by Subsection (b) of this section, an amendment  
2 to the administrative rules becomes effective on approval by the  
3 board of trustees or the governing body, as appropriate, under  
4 Subsection (a)(4) of this section.

5 Sec. 5.08. EMERGENCY, ROUTINE, OR STATUTORILY REQUIRED  
6 AMENDMENTS. (a) Unless an amendment to the administrative rules  
7 requires adoption in accordance with Section 4.02 or 5.07 of this  
8 article, the board of trustees may adopt emergency, routine, or  
9 statutorily required amendments to the administrative rules that  
10 are required by federal or state law if the board of trustees by  
11 unanimous vote of the members present and voting:

12 (1) agrees that the proposed amendment is an  
13 emergency, routine, or statutorily required amendment; and

14 (2) approves the proposed amendment.

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

19 SECTION 2. (a) The administrative rules governing the  
20 public retirement system of a municipality to which this Act  
21 applies under Section 1.01, Article 6243i, Revised Statutes, as  
22 added by this Act, in effect on January 1, 2007, shall continue in  
23 effect on and after the effective date of this Act.

24 (b) The changes in law made by Sections 4.02, 5.06, 5.07,  
25 and 5.08, Article 6243i, Revised Statutes, as added by this Act,  
26 apply to a change in the administrative rules governing a public  
27 retirement system of a municipality to which this Act applies under

1 Section 1.01, Article 6243i, Revised Statutes, as added by this  
2 Act, adopted on or after the effective date of this Act.

3 SECTION 3. (a) As soon as practicable after the effective  
4 date of this Act, a new board of trustees charged with administering  
5 the public retirement system of a municipality described by Section  
6 1.01, Article 6243i, Revised Statutes, as added by this Act, shall  
7 be elected or appointed in accordance with Section 5.01, Article  
8 6243i, Revised Statutes, as added by this Act.

9 (b) The term of a member of the board of trustees or other  
10 board administering the public retirement system described by  
11 Subsection (a) of this section who is serving on the board on the  
12 effective date of this Act expires on the date that a majority of  
13 the new board of trustees has been elected or appointed under  
14 Subsection (a) of this section.

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