

1-1 By: Brimer S.B. No. 976
1-2 (In the Senate - Filed February 27, 2007; March 6, 2007,
1-3 read first time and referred to Committee on Intergovernmental
1-4 Relations; April 11, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 3, Nays 0;
1-6 April 11, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 976 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the public retirement system of certain municipalities.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Title 109, Revised Statutes, is amended by
1-13 adding Article 6243i to read as follows:

1-14 Art. 6243i. UNITARY RETIREMENT SYSTEM FOR CERTAIN
1-15 MUNICIPALITIES

1-16 PART 1. GENERAL PROVISIONS

1-17 Sec. 1.01. APPLICABILITY. This article applies only to a
1-18 municipality with a population of 500,000 or more that has
1-19 established, by municipal ordinance, a single unitary public
1-20 retirement system for employees of all departments of the
1-21 municipality.

1-22 Sec. 1.02. DEFINITIONS. In this article:

1-23 (1) "Administrative rules" means the rules adopted to
1-24 govern a public retirement system, including rules regarding the
1-25 participation in, contributions to, and benefits from the public
1-26 retirement system.

1-27 (2) "Board of trustees" means the persons elected or
1-28 appointed to administer the public retirement system.

1-29 (3) "Governing body" means the governing body of a
1-30 municipality to which this article applies.

1-31 (4) "Participating member" means a person who makes
1-32 contributions to the public retirement system as an employee of a
1-33 municipality to which this article applies.

1-34 (5) "Participating retiree" means a person who
1-35 receives or who is eligible to receive a service retirement annuity
1-36 from the retirement fund.

1-37 (6) "Pension office" means the administrative office
1-38 of the public retirement system.

1-39 (7) "Public retirement system" means a continuing,
1-40 organized program or plan of service retirement, disability
1-41 retirement, or death benefits for employees of a municipality to
1-42 which this article applies but does not include:

1-43 (A) a program for which benefits are administered
1-44 by a life insurance company;

1-45 (B) a program providing only workers'
1-46 compensation benefits;

1-47 (C) a program administered by the federal
1-48 government;

1-49 (D) an individual retirement account or
1-50 individual retirement annuity within the meaning of Section 408, or
1-51 a retirement bond within the meaning of Section 409, of the Internal
1-52 Revenue Code of 1986;

1-53 (E) a plan described by Section 401(d) of the
1-54 Internal Revenue Code of 1986;

1-55 (F) an individual account plan consisting of an
1-56 annuity contract described by Section 403(b) of the Internal
1-57 Revenue Code of 1986; or

1-58 (G) an eligible state deferred compensation plan
1-59 described by Section 457(b) of the Internal Revenue Code of 1986.

1-60 (8) "Retirement fund" means the trust fund established
1-61 by or in conjunction with the public retirement system for the
1-62 purpose of holding assets to be used to provide benefits payable by
1-63 the public retirement system.

2-1 (9) "Rule amendment" includes any amendment of, repeal
2-2 of, addition to, deletion of, modification of, or change to an
2-3 administrative rule.

2-4 (10) "Survivor" means a person, including the
2-5 surviving spouse or dependent, who receives survivor benefits from
2-6 a retirement fund.

2-7 (11) "Vested" means the accrued right of a
2-8 participating member who has met the age and length-of-service
2-9 requirements for service retirement required by the public
2-10 retirement system. A member whose retirement rights are vested may
2-11 withdraw from employment with the municipality, leave the member's
2-12 accumulated contributions on deposit with the public retirement
2-13 system, and begin to receive the member's service retirement
2-14 annuity.

2-15 PART 2. MEMBERSHIP

2-16 Sec. 2.01. GENERAL MEMBERSHIP REQUIREMENT. (a) Except as
2-17 otherwise provided by administrative rule, municipal ordinance, or
2-18 this section, a person becomes a participating member of the public
2-19 retirement system on the date of the person's employment by the
2-20 municipality.

2-21 (b) A person employed by the municipality is not eligible to
2-22 be a participating member if the person is:

2-23 (1) an independent contractor or an employee of an
2-24 independent contractor doing work for the municipality;

2-25 (2) an elected officer or a nonsalaried, appointed
2-26 member of an administrative board or commission of the
2-27 municipality, except an employee who serves as a member of the board
2-28 or commission;

2-29 (3) an employee serving on a part-time basis of less
2-30 than one-half the time required to serve as a full-time employee;

2-31 (4) an employee who is paid in part by the municipality
2-32 and in part by a county, state, or other governmental agency; or

2-33 (5) a temporary employee, as determined by the records
2-34 of the municipality, on the payroll of the municipality.

2-35 (c) A person may appeal a determination regarding the
2-36 person's eligibility to be a participating member to the board of
2-37 trustees. The board's decision regarding eligibility is final.

2-38 PART 3. CREDITABLE SERVICE

2-39 Sec. 3.01. TYPES OF CREDITABLE SERVICE. The board of
2-40 trustees by rule shall establish the types of service for which a
2-41 participating member earns credit.

2-42 Sec. 3.02. BENEFIT ELIGIBILITY BASED ON CREDITED SERVICE.
2-43 A participating member's eligibility to receive a service
2-44 retirement benefit is based on credited service at the time of
2-45 retirement.

2-46 PART 4. BENEFITS

2-47 Sec. 4.01. TYPES OF BENEFITS. The types and calculation of
2-48 benefits provided by the public retirement system are determined in
2-49 accordance with applicable laws, municipal ordinances, and
2-50 administrative rules.

2-51 Sec. 4.02. AMENDMENTS INCREASING BENEFITS. Before taking
2-52 effect, any amendment to the administrative rules proposed by the
2-53 board of trustees that increases the benefits provided by the
2-54 public retirement system must be reviewed and approved by the
2-55 governing body.

2-56 Sec. 4.03. AMENDMENTS REDUCING BENEFITS. (a) Only the
2-57 governing body may adopt an amendment to the administrative rules
2-58 that reduces a benefit provided by the public retirement system.

2-59 (b) At least 90 days before the date the governing body is
2-60 scheduled to vote on an amendment to the administrative rules that
2-61 would reduce a benefit provided by the public retirement system,
2-62 the governing body must give notice to the board of trustees of the
2-63 governing body's intention to consider and vote on the amendment.

2-64 PART 5. ADMINISTRATION

2-65 Sec. 5.01. COMPOSITION OF BOARD OF TRUSTEES. (a) The
2-66 board of trustees is composed of 13 members.

2-67 (b) Each of the following groups of participating members
2-68 shall elect one vested, participating member from their respective
2-69 group to serve as a member of the board of trustees:

3-1 (1) police officers; and
3-2 (2) firefighters.

3-3 (c) The group of participating members who are general
3-4 employees of the municipality and who are not employed as police
3-5 officers or firefighters shall elect two vested, participating
3-6 members from the group to serve as members of the board of
3-7 trustees.

3-8 (d) Each of the following groups of participating retirees
3-9 shall elect one participating retiree from their respective group
3-10 to serve as a member of the board of trustees:

3-11 (1) retired police officers;
3-12 (2) retired firefighters; and
3-13 (3) other retired general employees of the
3-14 municipality who did not retire from service as a police officer or
3-15 firefighter.

3-16 (e) The mayor shall nominate and the governing body shall
3-17 confirm, by majority vote, five residents of the municipality to
3-18 serve as members of the board of trustees. A person appointed under
3-19 this subsection may not be a member of the governing body.

3-20 (f) The governing body shall designate the chief financial
3-21 officer of the municipality to serve as a member of the board of
3-22 trustees.

3-23 (g) Members of the board of trustees hold office for terms
3-24 of two years.

3-25 Sec. 5.02. BOARD POWERS AND DUTIES. (a) The board of
3-26 trustees shall administer the public retirement system, including
3-27 the retirement fund of the public retirement system.

3-28 (b) The board of trustees may adopt amendments to the
3-29 administrative rules in accordance with Sections 5.06, 5.07, 5.09,
3-30 and 5.10 of this article.

3-31 Sec. 5.03. BOARD CHAIR. The board of trustees shall elect a
3-32 chair from the membership of the board.

3-33 Sec. 5.04. QUORUM; VOTING. (a) Each member of the board of
3-34 trustees is entitled to one vote.

3-35 (b) Except as provided by Subsection (c) of this section,
3-36 seven members of the board of trustees constitute a quorum to
3-37 transact the business of the board.

3-38 (c) In the event of a vacancy on the board of trustees, the
3-39 number of members required to constitute a quorum is reduced by the
3-40 number of vacancies on the board of trustees.

3-41 Sec. 5.05. QUALIFIED ACTUARY. (a) The board of trustees
3-42 may employ a qualified actuary.

3-43 (b) To be a qualified actuary, an actuary must be:

3-44 (1) a fellow of the Society of Actuaries; or
3-45 (2) a member of the American Academy of Actuaries.

3-46 (c) The governing body shall review and approve the
3-47 actuarial assumptions used to determine the funding status of the
3-48 retirement fund by an actuary employed by the board of trustees.

3-49 Sec. 5.06. RULE AMENDMENTS ADOPTED BY BOARD OF TRUSTEES.
3-50 (a) Except as provided by Sections 4.03, 5.07, 5.09, and 5.10 of
3-51 this article and subject to Section 4.02 of this article, the board
3-52 of trustees may adopt amendments to the administrative rules if:

3-53 (1) a qualified actuary performs an actuarial analysis
3-54 of the fiscal impact of the proposed amendment and determines that
3-55 the amendment will not impact the actuarial soundness of the
3-56 retirement fund;

3-57 (2) the proposed amendment is placed on the agenda of
3-58 the board of trustees for at least two consecutive meetings of the
3-59 board that are not less than 30 days apart for the purpose of giving
3-60 participating members an opportunity to comment on the proposed
3-61 amendment; and

3-62 (3) the proposed amendment is approved by a majority
3-63 vote of the full membership of the board of trustees.

3-64 (b) An amendment to the administrative rules adopted in
3-65 accordance with this section becomes effective immediately unless
3-66 otherwise provided by the amendment.

3-67 Sec. 5.07. AMENDMENTS CONCERNING CONTRIBUTIONS BY
3-68 MUNICIPALITY. (a) An amendment to the administrative rules
3-69 governing municipal contributions, including an amendment to the

4-1 rate or manner of making contributions, may be made only if:

4-2 (1) a qualified actuary performs an actuarial analysis
4-3 of the fiscal impact of the proposed amendment;

4-4 (2) the board of trustees or the governing body, by
4-5 majority vote, calls a special election of all participating
4-6 members to approve the amendment;

4-7 (3) the amendment is approved by a majority of the
4-8 participating members eligible to vote in the special election; and

4-9 (4) the amendment is approved by a majority vote of:

4-10 (A) the board of trustees, if the governing body
4-11 called the special election under Subdivision (2) of this
4-12 subsection; or

4-13 (B) the governing body, if the board of trustees
4-14 called the special election under Subdivision (2) of this
4-15 subsection.

4-16 (b) The board of trustees or the governing body, as
4-17 applicable, shall approve or reject the proposed amendment under
4-18 Subsection (a)(4) of this section by the 90th day after the date the
4-19 votes of the special election are canvassed.

4-20 (c) The pension office shall conduct a special election
4-21 under Subsection (a) of this section by secret ballot. The board of
4-22 trustees shall canvass the vote.

4-23 (d) A person who is a participating member on the date of the
4-24 special election is eligible to vote in the special election.

4-25 (e) Unless otherwise provided by the proposed amendment, an
4-26 amendment to the administrative rules becomes effective on approval
4-27 by the board of trustees or the governing body, as appropriate,
4-28 under Subsection (a)(4) of this section.

4-29 (f) Notwithstanding Subsections (a) through (e) of this
4-30 section, only the governing body may adopt an amendment to the
4-31 administrative rules that increases municipal contributions.

4-32 Sec. 5.08. AMENDMENTS BY GOVERNING BODY IN EVENT OF FISCAL
4-33 EMERGENCY. (a) Notwithstanding Section 5.07 of this article, in
4-34 the event a municipality to which this article applies has a fiscal
4-35 emergency that requires an amendment to the administrative rules
4-36 governing municipal contributions, the governing body may amend the
4-37 administrative rules to address the emergency if the governing
4-38 body:

4-39 (1) determines that the emergency exists and approves
4-40 the proposed amendment by the unanimous vote of all members of the
4-41 governing body; and

4-42 (2) provides written notice to the administrative head
4-43 of the public retirement system at least five business days before
4-44 the date the proposed amendment takes effect.

4-45 (b) On the 90th day after the date an amendment under this
4-46 section takes effect and for each subsequent 90-day period while
4-47 the amendment is in effect, the governing body shall determine
4-48 whether the emergency continues to exist. If the governing body
4-49 does not determine by a unanimous vote that the emergency continues
4-50 to exist or if the governing body fails to vote on whether the
4-51 emergency exists as required by this subsection, the amendment
4-52 automatically expires on the date the vote is taken or on the date
4-53 the vote should have been taken, as applicable.

4-54 Sec. 5.09. AMENDMENTS INCREASING CONTRIBUTIONS BY MEMBERS.
4-55 (a) An amendment to the administrative rules that increases member
4-56 contributions must be adopted in accordance with the procedures
4-57 provided by Sections 5.07(a) through (e) of this article for
4-58 adopting an amendment governing municipal contributions.

4-59 (b) Notwithstanding any other law, an amendment made in
4-60 accordance with Subsection (a) of this section may require a
4-61 participating member to contribute an amount that exceeds 10
4-62 percent of the compensation paid to the participating member for
4-63 each payroll period.

4-64 Sec. 5.10. EMERGENCY, ROUTINE, OR STATUTORILY REQUIRED
4-65 AMENDMENTS BY BOARD. (a) Unless an amendment to the
4-66 administrative rules requires adoption in accordance with Section
4-67 5.07 or 5.09 of this article, the board of trustees may adopt
4-68 emergency or routine amendments to the administrative rules or
4-69 amendments that are required by federal or state law if the board of

5-1 trustees by unanimous vote of the members present and voting:

5-2 (1) agrees that the proposed amendment is an
5-3 emergency, routine, or statutorily required amendment; and

5-4 (2) approves the proposed amendment.

5-5 (b) An amendment adopted in accordance with this section is
5-6 an automatic agenda item for the next regular meeting of the board
5-7 of trustees and is subject to review or repeal by the board at that
5-8 meeting.

5-9 Sec. 5.11. SEMIANNUAL MEETING OF BOARD AND GOVERNING BODY.
5-10 At least once every six months, the board of trustees and the
5-11 governing body shall meet to review the performance of the
5-12 retirement fund and determine how to address the unfunded
5-13 liabilities, if any, of the public retirement system.

5-14 SECTION 2. (a) The administrative rules governing the
5-15 public retirement system of a municipality to which this Act
5-16 applies under Section 1.01, Article 6243i, Revised Statutes, as
5-17 added by this Act, in effect on May 31, 2007, shall continue in
5-18 effect on and after the effective date of this Act.

5-19 (b) The changes in law made by Sections 4.02, 4.03, 5.06,
5-20 5.07, 5.08, 5.09, and 5.10, Article 6243i, Revised Statutes, as
5-21 added by this Act, apply to a change in the administrative rules
5-22 governing a public retirement system of a municipality to which
5-23 this Act applies under Section 1.01, Article 6243i, Revised
5-24 Statutes, as added by this Act, adopted on or after the effective
5-25 date of this Act.

5-26 SECTION 3. (a) As soon as practicable after the effective
5-27 date of this Act, a new board of trustees charged with administering
5-28 the public retirement system of a municipality described by Section
5-29 1.01, Article 6243i, Revised Statutes, as added by this Act, shall
5-30 be elected or appointed in accordance with Section 5.01, Article
5-31 6243i, Revised Statutes, as added by this Act.

5-32 (b) The term of a member of the board of trustees or other
5-33 board administering the public retirement system described by
5-34 Subsection (a) of this section who is serving on the board on the
5-35 effective date of this Act expires on the date that a majority of
5-36 the new board of trustees has been elected or appointed under
5-37 Subsection (a) of this section.

5-38 SECTION 4. This Act takes effect immediately if it receives
5-39 a vote of two-thirds of all the members elected to each house, as
5-40 provided by Section 39, Article III, Texas Constitution. If this
5-41 Act does not receive the vote necessary for immediate effect, this
5-42 Act takes effect September 1, 2007.

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