

By: Strama

H.B. No. 2796

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to participation in, contributions to, and the benefits  
3 and administration of retirement systems for police officers in  
4 certain municipalities.

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

6 SECTION 1. Section 6.01(f), Chapter 452 (S.B. 738), Acts of  
7 the 72nd Legislature, Regular Session, 1991 (Article 6243n-1,  
8 Vernon's Texas Civil Statutes), is amended to read as follows:

9 (f) For purposes of this section, compensation of each  
10 noneligible member taken into account under this Act may not exceed  
11 \$200,000 [~~\$150,000~~] per calendar year, indexed pursuant to Section  
12 401(a)(17) of the Internal Revenue Code of 1986 (26 U.S.C. Section  
13 401). The \$200,000 [~~\$150,000~~] limit does not apply to an eligible  
14 member. For purposes of this subsection, an eligible member is any  
15 individual who first became a member before January 1, 1996. For  
16 purposes of this subsection, a noneligible member is any other  
17 member.

18 SECTION 2. Section 8.01(a), Chapter 452 (S.B. 738), Acts of  
19 the 72nd Legislature, Regular Session, 1991 (Article 6243n-1,  
20 Vernon's Texas Civil Statutes), is amended to read as follows:

21 (a)(1) Deposits by the members to the police retirement  
22 system shall be made at a rate of at least six percent of the basic  
23 hourly earnings of each member. Deposits required to be made by  
24 members shall be deducted from payroll. On recommendation of the

1 board, the Active--Contributory members may by a majority of those  
2 voting increase the rate of member deposits above six percent to  
3 whatever amount the board has recommended. If the deposit rate for  
4 members has been increased to a rate above six percent, the rate may  
5 be decreased if the board recommends the decrease, the board's  
6 actuary approves the decrease, and a majority of the  
7 Active--Contributory members voting on the matter approve the  
8 decrease.

9           (2) The city shall contribute amounts equal to 18  
10 percent of the basic hourly earnings of each member employed by the  
11 city for all periods on or before September 30, 2010, subject to  
12 additional amounts as provided by Subdivision (3) of this  
13 subsection. The city shall contribute amounts equal to 19 percent  
14 of the basic hourly earnings of each member employed by the city for  
15 all periods after September 30, 2010, subject to additional amounts  
16 as provided by Subdivision (3) of this subsection. The city council  
17 may also authorize the city to make additional contributions to the  
18 police retirement system in whatever amount the city council may  
19 determine. Contributions by the city shall be made each pay period.

20           (3) The city shall contribute amounts in addition to  
21 the amounts described by Subdivision (2) of this subsection as  
22 required by Section 803.101(h), Government Code, to fund the  
23 additional liabilities incurred by the police retirement system as  
24 a result of participating in the proportionate retirement program.  
25 The rate at which the city shall contribute additional amounts  
26 under this subdivision is equal to 0.25 percent of the basic hourly  
27 earnings of each member employed by the city for all periods from

1 January 4, 2009, through September 30, 2009. The rate at which the  
2 city shall contribute additional amounts under this subdivision is  
3 equal to 0.63 percent of the basic hourly earnings of each member  
4 employed by the city for all periods after September 30, 2009,  
5 subject to adjustment under Subdivision (4) of this subsection.

6 (4) The additional contribution rate under  
7 Subdivision (3) of this subsection shall increase or decrease as  
8 considered necessary by the actuary for the police retirement  
9 system after each five-year period of participation by the system  
10 in the proportionate retirement program in order to update the  
11 amount necessary to fund the additional liabilities incurred by the  
12 system as a result of participating in the proportionate retirement  
13 program and of the consolidation of the city's public safety and  
14 emergency management department with the police department on  
15 January 4, 2009. The system's actuary shall perform an experience  
16 study that shall be the basis for a contribution rate adjustment  
17 under this subdivision. The effective date of the initial  
18 contribution rate adjustment under this subdivision is October 1,  
19 2015. Each later contribution rate adjustment under this  
20 subdivision takes effect October 1 of every fifth year after the  
21 effective date of the initial contribution rate adjustment. The  
22 system's actuary shall present to the police retirement board the  
23 experience study on which any contribution rate adjustment under  
24 this subdivision is based not later than 45 days before the  
25 effective date of the adjustment, and the city's actuary shall have  
26 the opportunity to review and comment on the study. An adjustment  
27 in the additional contribution rate under this subdivision may not

1 cause the additional contribution rate under Subdivision (3) of  
2 this subsection to be less than zero.

3 SECTION 3. Section 11.01, Chapter 452 (S.B. 738), Acts of  
4 the 72nd Legislature, Regular Session, 1991 (Article 6243n-1,  
5 Vernon's Texas Civil Statutes), is amended to read as follows:

6 Sec. 11.01. LIMITATION ON PAYMENT OF BENEFITS. (a) If  
7 the amount of any benefit payment otherwise due under this Act or  
8 the total payments due under this Act and any other qualified  
9 defined benefit plan maintained by this city would exceed the  
10 limitations provided by Section 415(b) [415], Internal Revenue Code  
11 of 1986, as amended, and the regulations adopted under that  
12 section, the police retirement system shall reduce the amount of  
13 the benefit paid under this Act as required to comply with that  
14 section. If the annual additions that would otherwise be allocated  
15 under this Act, or the total annual additions under this Act and any  
16 other qualified plan maintained by the city would exceed the limits  
17 under Section 415(c), Internal Revenue Code of 1986, the annual  
18 additions under this Act shall be reduced to the extent required to  
19 comply with Section 415(c), Internal Revenue Code of 1986.

20 (b) For purposes of determining if the benefits or annual  
21 additions satisfy the limits provided by Subsection (a) of this  
22 section, the compensation to be used is wages within the meaning of  
23 Section 3401(a), Internal Revenue Code of 1986, plus amounts  
24 deferred at the election of the member that would be included in  
25 wages if not deferred under the rules of Section 402(e)(3), 125(a),  
26 132(f)(4), 457(b), 402(h)(1)(B), or 402(k), Internal Revenue Code  
27 of 1986. However, any rules that would limit the remuneration

1 included in wages based on the nature or location of the employment  
2 or the services performed are disregarded for purposes of  
3 determining compensation. In addition, any wages paid after a  
4 severance from employment are not included as compensation for  
5 purposes of this subsection unless the payment is for regular pay  
6 as described in 26 C.F.R. Section 1.415(c)-2(e)(3)(ii) and is made  
7 by the later of two and one-half months after the severance from  
8 employment or the end of the calendar year that includes the date of  
9 severance from employment. If excess annual additions are made to  
10 any member's account despite the efforts of the board of trustees,  
11 the amount shall be treated in accordance with 26 C.F.R. Section  
12 1.402(g)-1(e)(2) or (3).

13 (c) Notwithstanding any other provision of this Act, the  
14 applicable mortality table for purposes of adjusting a benefit due  
15 to the limitations provided under Section 415(b)(2)(B) or (D),  
16 Internal Revenue Code of 1986, is the table prescribed by Revenue  
17 Ruling 2001-62.

18 SECTION 4. Sections 13.01(b)(2) and (3), Chapter 452 (S.B.  
19 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article  
20 6243n-1, Vernon's Texas Civil Statutes), are amended to read as  
21 follows:

22 (2) "Eligible retirement plan" means[+  
23 [~~(A)~~] an individual retirement account described  
24 by Section 408(a) of the Internal Revenue Code of 1986 (26 U.S.C.  
25 Section 408), an individual retirement annuity described in Section  
26 408(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 408),  
27 an annuity plan described in Section 403(a) of the Internal Revenue

1 Code of 1986 (26 U.S.C. Section 403), ~~[or]~~ a qualified trust  
 2 described in Section 401(a) of the Internal Revenue Code of 1986 (26  
 3 U.S.C. Section 401), an annuity contract described by Section  
 4 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403),  
 5 or an eligible plan under Section 457(b) of the Internal Revenue  
 6 Code of 1986 (26 U.S.C. Section 457), that is maintained by a state,  
 7 a political subdivision of a state, or any agency or  
 8 instrumentality of a state or political subdivision of a state that  
 9 agrees to separately account for amounts transferred from the plan,  
 10 provided that any of the vehicles described above ~~that~~ accepts  
 11 the distributee's eligible rollover distribution~~, or~~  
 12 ~~[(B) an individual retirement account or~~  
 13 ~~individual retirement annuity, in the case of an eligible rollover~~  
 14 ~~distribution to a surviving spouse].~~ The term applies to a  
 15 distribution to a surviving spouse or to a spouse or former spouse  
 16 who is the alternate payee under a qualified domestic relations  
 17 order within the meaning of Chapter 804, Government Code. In the  
 18 case of an eligible rollover distribution to a non-spouse  
 19 beneficiary, an eligible retirement plan includes only an  
 20 individual retirement account or individual retirement annuity  
 21 described above.

22 (3) "Distributee" means a member or former member, the  
 23 member's or former member's surviving spouse, ~~[or]~~ the member's or  
 24 former member's spouse or former spouse who is the alternate payee  
 25 under a qualified domestic relations order, as prescribed by  
 26 Section 804.003, Government Code, or the member's or former  
 27 member's non-spouse beneficiary.

1 SECTION 5. This Act takes effect September 1, 2009.