By: Strama H.B. No. 2796

A BILL TO BE ENTITLED

1 AN ACT

- 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 $\frac{$200,000}{}$ [$\frac{$150,000}{}$] 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 <u>subsection</u>. The city shall contribute amounts equal to 19 percent
- of the basic hourly earnings of each member employed by the city for
- 15 <u>all periods after September 30, 2010, subject to additional amounts</u>
- 16 <u>as provided by Subdivision (3) of this subsection</u>. 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 <u>additional liabilities incurred by the police retirement system as</u>
- 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

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January 4, 2009, through September 30, 2009. The rate at which the 1 2 city shall contribute additional amounts under this subdivision is 3 equal to 0.63 percent of the basic hourly earnings of each member employed by the city for all periods after September 30, 2009, 4 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 system after each five-year period of participation by the system 9 10 in the proportionate retirement program in order to update the amount necessary to fund the additional liabilities incurred by the 11 12 system as a result of participating in the proportionate retirement program and of the consolidation of the city's public safety and 13 emergency management department with the police department on 14 January 4, 2009. The system's actuary shall perform an experience 15 study that shall be the basis for a contribution rate adjustment 16 17 under this subdivision. The effective date of the initial contribution rate adjustment under this subdivision is October 1, 18 19 Each later contribution rate adjustment under this subdivision takes effect October 1 of every fifth year after the 20 effective date of the initial contribution rate adjustment. The 21 22 system's actuary shall present to the police retirement board the experience study on which any contribution rate adjustment under 23 24 this subdivision is based not later than 45 days before the effective date of the adjustment, and the city's actuary shall have 25 26 the opportunity to review and comment on the study. An adjustment

in the additional contribution rate under this subdivision may not

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- 1 cause the percentage rate of the additional contribution rate under
- 2 Subdivision (3) of 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 <u>section</u>, the compensation to be used is wages within the meaning of
- 23 <u>Section 3401(a)</u>, <u>Internal Revenue Code of 1986</u>, <u>plus amounts</u>
- 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 or the services performed are disregarded for purposes of 2 determining compensation. In addition, any wages paid after a 3 severance from employment are not included as compensation for 4 purposes of this subsection unless the payment is for regular pay 5 as described in 26 C.F.R. Section 1.415(c)-2(e)(3)(ii) and is made 6 by the later of two and one-half months after the severance from 7 8 employment or the end of the calendar year that includes the date of severance from employment. If excess annual additions are made to 9 10 any member's account despite the efforts of the board of trustees, the amount shall be treated in accordance with 26 C.F.R. Section 11
- (c) Notwithstanding any other provision of this Act, the applicable mortality table for purposes of adjusting a benefit due to the limitations provided under Section 415(b)(2)(B) or (D), Internal Revenue Code of 1986, is the table prescribed by Revenue Ruling 2001-62.
- 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:

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1.402(g)-1(e)(2) or (3).

- 22 (2) "Eligible retirement plan" means[+
- [(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

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Code of 1986 (26 U.S.C. Section 403), [or] a qualified trust 1 described in Section 401(a) of the Internal Revenue Code of 1986 (26 2 3 U.S.C. Section 401), an annuity contract described by Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403), 4 or an eligible plan under Section 457(b) of the Internal Revenue 5 Code of 1986 (26 U.S.C. Section 457), that is maintained by a state, 6 a political subdivision of a state, or any agency or 7 8 instrumentality of a state or political subdivision of a state that agrees to separately account for amounts transferred from the plan, 9 provided that any of the vehicles described above [that] accepts 10 the distributee's eligible rollover distribution[; or 11 12 (B) an individual retirement account or individual retirement annuity, in the case of an eligible rollover 13 14 distribution to a surviving spouse]. The term includes a

distribution to a surviving spouse or to a spouse or former spouse

who is the alternate payee under a qualified domestic relations

order within the meaning of Chapter 804, Government Code. In the

case of an eligible rollover distribution to a non-spouse

beneficiary, an eligible retirement plan includes only an

individual retirement account or individual retirement annuity

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described above.

(3) "Distributee" means a member or former member, the member's or former member's surviving spouse, [ex] the member's or former member's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as prescribed by Section 804.003, Government Code, or the member's or former

member's non-spouse beneficiary.

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