

1-1 By: Strama (Senate Sponsor - Watson) H.B. No. 2796  
1-2 (In the Senate - Received from the House April 23, 2009;  
1-3 April 24, 2009, read first time and referred to Committee on State  
1-4 Affairs; May 11, 2009, reported favorably by the following vote:  
1-5 Yeas 9, Nays 0; May 11, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to participation in, contributions to, and the benefits  
1-9 and administration of retirement systems for police officers in  
1-10 certain municipalities.

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

1-12 SECTION 1. Section 6.01(f), Chapter 452 (S.B. 738), Acts of  
1-13 the 72nd Legislature, Regular Session, 1991 (Article 6243n-1,  
1-14 Vernon's Texas Civil Statutes), is amended to read as follows:

1-15 (f) For purposes of this section, compensation of each  
1-16 noneligible member taken into account under this Act may not exceed  
1-17 \$200,000 [~~\$150,000~~] per calendar year, indexed pursuant to Section  
1-18 401(a)(17) of the Internal Revenue Code of 1986 (26 U.S.C. Section  
1-19 401). The \$200,000 [~~\$150,000~~] limit does not apply to an eligible  
1-20 member. For purposes of this subsection, an eligible member is any  
1-21 individual who first became a member before January 1, 1996. For  
1-22 purposes of this subsection, a noneligible member is any other  
1-23 member.

1-24 SECTION 2. Section 8.01(a), Chapter 452 (S.B. 738), Acts of  
1-25 the 72nd Legislature, Regular Session, 1991 (Article 6243n-1,  
1-26 Vernon's Texas Civil Statutes), is amended to read as follows:

1-27 (a)(1) Deposits by the members to the police retirement  
1-28 system shall be made at a rate of at least six percent of the basic  
1-29 hourly earnings of each member. Deposits required to be made by  
1-30 members shall be deducted from payroll. On recommendation of the  
1-31 board, the Active--Contributory members may by a majority of those  
1-32 voting increase the rate of member deposits above six percent to  
1-33 whatever amount the board has recommended. If the deposit rate for  
1-34 members has been increased to a rate above six percent, the rate may  
1-35 be decreased if the board recommends the decrease, the board's  
1-36 actuary approves the decrease, and a majority of the  
1-37 Active--Contributory members voting on the matter approve the  
1-38 decrease.

1-39 (2) The city shall contribute amounts equal to 18  
1-40 percent of the basic hourly earnings of each member employed by the  
1-41 city for all periods on or before September 30, 2010, subject to  
1-42 additional amounts as provided by Subdivision (3) of this  
1-43 subsection. The city shall contribute amounts equal to 19 percent  
1-44 of the basic hourly earnings of each member employed by the city for  
1-45 all periods after September 30, 2010, subject to additional amounts  
1-46 as provided by Subdivision (3) of this subsection. The city council  
1-47 may also authorize the city to make additional contributions to the  
1-48 police retirement system in whatever amount the city council may  
1-49 determine. Contributions by the city shall be made each pay period.

1-50 (3) The city shall contribute amounts in addition to  
1-51 the amounts described by Subdivision (2) of this subsection as  
1-52 required by Section 803.101(h), Government Code, to fund the  
1-53 additional liabilities incurred by the police retirement system as  
1-54 a result of participating in the proportionate retirement program.  
1-55 The rate at which the city shall contribute additional amounts  
1-56 under this subdivision is equal to 0.25 percent of the basic hourly  
1-57 earnings of each member employed by the city for all periods from  
1-58 January 4, 2009, through September 30, 2009. The rate at which the  
1-59 city shall contribute additional amounts under this subdivision is  
1-60 equal to 0.63 percent of the basic hourly earnings of each member  
1-61 employed by the city for all periods after September 30, 2009,  
1-62 subject to adjustment under Subdivision (4) of this subsection.

1-63 (4) The additional contribution rate under  
1-64 Subdivision (3) of this subsection shall increase or decrease as

2-1 considered necessary by the actuary for the police retirement  
 2-2 system after each five-year period of participation by the system  
 2-3 in the proportionate retirement program in order to update the  
 2-4 amount necessary to fund the additional liabilities incurred by the  
 2-5 system as a result of participating in the proportionate retirement  
 2-6 program and of the consolidation of the city's public safety and  
 2-7 emergency management department with the police department on  
 2-8 January 4, 2009. The system's actuary shall perform an experience  
 2-9 study that shall be the basis for a contribution rate adjustment  
 2-10 under this subdivision. The effective date of the initial  
 2-11 contribution rate adjustment under this subdivision is October 1,  
 2-12 2015. Each later contribution rate adjustment under this  
 2-13 subdivision takes effect October 1 of every fifth year after the  
 2-14 effective date of the initial contribution rate adjustment. The  
 2-15 system's actuary shall present to the police retirement board the  
 2-16 experience study on which any contribution rate adjustment under  
 2-17 this subdivision is based not later than 45 days before the  
 2-18 effective date of the adjustment, and the city's actuary shall have  
 2-19 the opportunity to review and comment on the study. An adjustment  
 2-20 in the additional contribution rate under this subdivision may not  
 2-21 cause the additional contribution rate under Subdivision (3) of  
 2-22 this subsection to be less than zero.

2-23 SECTION 3. Section 11.01, Chapter 452 (S.B. 738), Acts of  
 2-24 the 72nd Legislature, Regular Session, 1991 (Article 6243n-1,  
 2-25 Vernon's Texas Civil Statutes), is amended to read as follows:

2-26 Sec. 11.01. LIMITATION ON PAYMENT OF BENEFITS. (a) If  
 2-27 the amount of any benefit payment otherwise due under this Act or  
 2-28 the total payments due under this Act and any other qualified  
 2-29 defined benefit plan maintained by this city would exceed the  
 2-30 limitations provided by Section 415(b) [415], Internal Revenue Code  
 2-31 of 1986, as amended, and the regulations adopted under that  
 2-32 section, the police retirement system shall reduce the amount of  
 2-33 the benefit paid under this Act as required to comply with that  
 2-34 section. If the annual additions that would otherwise be allocated  
 2-35 under this Act, or the total annual additions under this Act and any  
 2-36 other qualified plan maintained by the city would exceed the limits  
 2-37 under Section 415(c), Internal Revenue Code of 1986, the annual  
 2-38 additions under this Act shall be reduced to the extent required to  
 2-39 comply with Section 415(c), Internal Revenue Code of 1986.

2-40 (b) For purposes of determining if the benefits or annual  
 2-41 additions satisfy the limits provided by Subsection (a) of this  
 2-42 section, the compensation to be used is wages within the meaning of  
 2-43 Section 3401(a), Internal Revenue Code of 1986, plus amounts  
 2-44 deferred at the election of the member that would be included in  
 2-45 wages if not deferred under the rules of Section 402(e)(3), 125(a),  
 2-46 132(f)(4), 457(b), 402(h)(1)(B), or 402(k), Internal Revenue Code  
 2-47 of 1986. However, any rules that would limit the remuneration  
 2-48 included in wages based on the nature or location of the employment  
 2-49 or the services performed are disregarded for purposes of  
 2-50 determining compensation. In addition, any wages paid after a  
 2-51 severance from employment are not included as compensation for  
 2-52 purposes of this subsection unless the payment is for regular pay  
 2-53 as described in 26 C.F.R. Section 1.415(c)-2(e)(3)(ii) and is made  
 2-54 by the later of two and one-half months after the severance from  
 2-55 employment or the end of the calendar year that includes the date of  
 2-56 severance from employment. If excess annual additions are made to  
 2-57 any member's account despite the efforts of the board of trustees,  
 2-58 the amount shall be treated in accordance with 26 C.F.R. Section  
 2-59 1.402(g)-1(e)(2) or (3).

2-60 (c) Notwithstanding any other provision of this Act, the  
 2-61 applicable mortality table for purposes of adjusting a benefit due  
 2-62 to the limitations provided under Section 415(b)(2)(B) or (D),  
 2-63 Internal Revenue Code of 1986, is the table prescribed by Revenue  
 2-64 Ruling 2001-62.

2-65 SECTION 4. Sections 13.01(b)(2) and (3), Chapter 452 (S.B.  
 2-66 738), Acts of the 72nd Legislature, Regular Session, 1991 (Article  
 2-67 6243n-1, Vernon's Texas Civil Statutes), are amended to read as  
 2-68 follows:

2-69 (2) "Eligible retirement plan" means[+]

3-1 [~~(A)~~] an individual retirement account described  
 3-2 by Section 408(a) of the Internal Revenue Code of 1986 (26 U.S.C.  
 3-3 Section 408), an individual retirement annuity described in Section  
 3-4 408(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 408),  
 3-5 an annuity plan described in Section 403(a) of the Internal Revenue  
 3-6 Code of 1986 (26 U.S.C. Section 403), [~~or~~] a qualified trust  
 3-7 described in Section 401(a) of the Internal Revenue Code of 1986 (26  
 3-8 U.S.C. Section 401), an annuity contract described by Section  
 3-9 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403),  
 3-10 or an eligible plan under Section 457(b) of the Internal Revenue  
 3-11 Code of 1986 (26 U.S.C. Section 457), that is maintained by a state,  
 3-12 a political subdivision of a state, or any agency or  
 3-13 instrumentality of a state or political subdivision of a state that  
 3-14 agrees to separately account for amounts transferred from the plan,  
 3-15 provided that any of the vehicles described above [~~that~~] accepts  
 3-16 the distributee's eligible rollover distribution[~~, or~~

3-17 [~~(B) an individual retirement account or~~  
 3-18 ~~individual retirement annuity, in the case of an eligible rollover~~  
 3-19 ~~distribution to a surviving spouse].~~ The term applies to a  
 3-20 distribution to a surviving spouse or to a spouse or former spouse  
 3-21 who is the alternate payee under a qualified domestic relations  
 3-22 order within the meaning of Chapter 804, Government Code. In the  
 3-23 case of an eligible rollover distribution to a non-spouse  
 3-24 beneficiary, an eligible retirement plan includes only an  
 3-25 individual retirement account or individual retirement annuity  
 3-26 described above.

3-27 (3) "Distributee" means a member or former member, the  
 3-28 member's or former member's surviving spouse, [~~or~~] the member's or  
 3-29 former member's spouse or former spouse who is the alternate payee  
 3-30 under a qualified domestic relations order, as prescribed by  
 3-31 Section 804.003, Government Code, or the member's or former  
 3-32 member's non-spouse beneficiary.

3-33 SECTION 5. This Act takes effect September 1, 2009.

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