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H.B. No. 3033

A BILL TO BE ENTITLED

AN ACT

relating to retirement under public retirement systems for employees of certain municipalities.

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

SECTION 1. Section 1, Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. SCOPE. (a) A retirement system is established by this Act for employees of each municipality having a population of more than 760,000 [~~600,000~~] and less than 860,000.

(b) ~~Any [700,000; provided, however, that once such pension system becomes operative in any city, any]~~ right or privilege accruing to any member of a retirement system established by this Act is [~~thereunder shall be~~] a vested right according to the terms of this Act [~~and the same shall not be denied or abridged thereafter through any change in population of any such city taking such city out of the population bracket as herein prescribed, and said pension system shall continue to operate and function regardless of whether or not any future population exceeds or falls below said population bracket~~].

(c) This Act continues to apply to a municipality described by Subsection (a) and a retirement system established by this Act continues to operate regardless of any change in the municipality's population.

1           SECTION 2. Section 2, Chapter 451, Acts of the 72nd  
2 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas  
3 Civil Statutes), is amended to read as follows:

4           Sec. 2. DEFINITIONS. The following words and phrases have  
5 the meanings assigned by this section unless a different meaning is  
6 plainly required by the context:

7           (1) "Accumulated deposits" means the amount standing  
8 to the credit of a member derived from the deposits required to be  
9 made by the member to the retirement system improved annually by  
10 interest credited at a rate determined by the retirement board from  
11 time to time upon the advice of the retirement board's actuary and  
12 credited as of December 31 to amounts standing to the credit of the  
13 member on January 1 of the same calendar year.

14           (2) "Actual retirement date" means the last day of the  
15 month during which a member retires.

16           (3) "Actuarial equivalent" means any benefit of equal  
17 present value when computed on the basis of actuarial tables  
18 adopted by the retirement board from time to time upon the advice of  
19 the retirement board's actuary. The actuarial tables adopted for  
20 this purpose shall be tables that are acceptable to the Internal  
21 Revenue Service and be clearly identified by resolution adopted by  
22 the retirement board.

23           (4) "Actuary" means the technical advisor of the  
24 retirement board regarding the operations which are based on  
25 mortality, service, and compensation experience.

26           (5) "Agency of the municipality" means any agency or  
27 instrumentality of the municipality or governmental or publicly

1 owned legal entity created by the municipality, before or after  
2 ~~[subsequent to]~~ the effective date of this Act, to perform or  
3 provide a public service or function and that employs at least one  
4 employee to provide services or accomplish its public purpose.

5 (6) "Approved medical leave of absence" means any  
6 absence authorized in writing by the member's employer for the  
7 purpose of enabling the member to obtain medical care or treatment  
8 or to recover from any sickness or injury.

9 (7) "Authorized leave of absence" means military leave  
10 of absence, including a period of not more than 90 days after the  
11 date of release from active military duty, or any other leave of  
12 absence during which a member is otherwise authorized by law to  
13 continue making contributions to the system. The term does not  
14 include an approved medical leave of absence.

15 (8) "Average final compensation" means the average  
16 monthly compensation, as defined and limited by Subdivision (12) of  
17 this section, less overtime, incentive, and terminal pay, plus, (i)  
18 amounts picked up by the employer pursuant to Section 10(e) of this  
19 Act, and (ii) amounts that would be included in wages but for an  
20 election under Sections 125(d), 132(f)(4), 402(e)(3),  
21 402(h)(1)(B), 402(k), or 457(b) of the code, [not otherwise  
22 included in the member's taxable income by reason of either an  
23 election under a "cafeteria" plan as described in Section 125 of the  
24 code or deferrals under a plan of deferred compensation within the  
25 scope of Section 457 of the code, to the extent not in excess of  
26 \$12,500 for persons who first become members after 1995 that is  
27 earned by a member] during, as applicable:

1 (A) if the member has 120 months or more of  
2 membership service, the 36 months of membership service which  
3 yielded the highest average during the last 120 months of  
4 membership service;

5 (B) if the member has less than 120 months of  
6 membership service, but has at least 36 months of membership  
7 service, then the average during the 36 months which yield the  
8 highest average; or

9 (C) if the member does not have 36 months of  
10 membership service, then the average during the member's months of  
11 membership service.

12 The term does not include annual compensation in excess  
13 of the dollar limit under Section 401(a)(17) of the code for any  
14 employee who first becomes a member in a year commencing after 1995  
15 and that compensation shall be disregarded in determining average  
16 final compensation. Any reduction for overtime, incentive, and  
17 terminal pay shall not cause a member's compensation to be less than  
18 the limit under Section 401(a)(17) of the code to the extent that  
19 the compensation has already been reduced in accordance with  
20 Subdivision (12). The dollar limitation shall be adjusted for cost  
21 of living increases as provided under Section 401(a)(17) of the  
22 code.

23 (9) "Beneficiary" means the member's designated  
24 beneficiary. If there is no effective beneficiary designation on  
25 the date of the member's death, or if the designated beneficiary  
26 predeceases the member (or dies as a result of the same event that  
27 caused the member's death and does not survive the member by 48

1 hours), the member's spouse or, if the member does not have a  
2 spouse, the member's estate shall be the beneficiary.

3 (10) "Board" means the boards of directors of an  
4 employer that is not a municipality as described in Section 1 of  
5 this Act.

6 (11) "Code" means the United States Internal Revenue  
7 Code of 1986 (26 U.S.C. Section 1 et seq.) and its successors.

8 (12) "Compensation" means, with respect to any member,  
9 such member's wages, within the meaning of Section 3401(a) of the  
10 code (for purposes of income tax withholding at the source) but  
11 determined without regard to any rules that limit the remuneration  
12 included in wages based on the nature or location of the employment  
13 or the services performed (such as the exception for agricultural  
14 labor in Section 3401(a)(2) of the code). Compensation in excess of  
15 the dollar limit under Section 401(a)(17) of the code shall be  
16 disregarded in determining the compensation of [~~\$12,500 per month~~  
17 ~~for~~] any employee who first becomes a member in a year commencing  
18 after 1995 [~~shall be disregarded~~]. The dollar [~~\$12,500~~] limitation  
19 shall be adjusted for cost of living increases as provided under  
20 Section 401(a)(17) of the code.

21 (13) "Consumer price index" means the Consumer Price  
22 Index for Urban Wage Earners and Clerical Workers (United States  
23 City Average, All Items) published monthly by the Bureau of Labor  
24 Statistics, United States Department of Labor, or its successor in  
25 function.

26 (14) "Creditable service" means the total of prior  
27 service, membership service, redeemed service, and service

1 purchased under Section 6 of this Act.

2 (15) "Current service annuity" means a series of equal  
3 monthly payments payable for the member's life after retirement for  
4 creditable [~~membership~~] service from funds of the retirement system  
5 equal to:

6 (A) for Group A members, one-twelfth of the  
7 product of 3.0 [~~2.7~~] percent [~~or a higher percentage established by~~  
8 ~~the retirement board under Section 10(g) of this Act~~] of a member's  
9 average final compensation multiplied by the number of months of  
10 creditable [~~membership~~] service; and

11 (B) for Group B members, one-twelfth of the  
12 product of 2.5 percent of a member's average final compensation  
13 multiplied by the number of months of creditable service.

14 (16) "Deposits" means the amounts required to be paid  
15 by members in accordance with the provisions of this Act.

16 (17) "Designated beneficiary" means any person,  
17 trust, or estate properly designated on a form provided by the  
18 retirement system by a member to receive benefits from the system in  
19 the event of the member's death. If the member is married, an  
20 individual other than the member's spouse may be the designated  
21 beneficiary only if the spouse consents to such designation in the  
22 form and manner prescribed by the retirement board.

23 (18) "Disability retirement" means the termination of  
24 employment of a member because of disability with a disability  
25 retirement allowance as provided in Section 8 of this Act.

26 (18A) "Early retirement eligible member" means a  
27 member of Group B that:

1           (A) is at least 55 years of age; and

2           (B) has at least 10 years of creditable service,  
3 excluding nonqualified permissive service credit.

4           (18B) "Early retirement annuity" means an annuity that  
5 is the actuarial equivalent of a current service annuity that would  
6 otherwise be payable at age 65 under this Act but that is reduced  
7 based on the member's actual age in years and months.

8           (19) "Employer" means the municipality described in  
9 Section 1 of this Act, the retirement board, or an agency of the  
10 municipality.

11           (20) "Fund" means the trust fund containing the  
12 aggregate of the assets of Fund No. 1 and Fund No. 2.

13           (21) "Fund No. 1" means the fund in which shall be kept  
14 all accumulated deposits of members who have not withdrawn from the  
15 system.

16           (22) "Fund No. 2" means the fund in which shall be kept  
17 all money contributed by the city on behalf of city employees, by an  
18 agency of the municipality on behalf of the agency's employees, and  
19 by the retirement board on behalf of retirement board employees,  
20 interest earned thereon, and all accumulations and earnings of the  
21 system.

22           (23) "Governing body" means the city council of the  
23 municipality described in Section 1 and its successors as  
24 constituted from time to time.

25           (23A) "Group A" means the group of members of the  
26 retirement system that includes each member who:

27           (A) began membership service on or after January

1 1, 1941, and on or before December 31, 2011; or

2 (B) returned to full-time employment on or after  
3 January 1, 2012, and:

4 (i) was previously a member of Group A;

5 (ii) ceased to be a member of the retirement  
6 system;

7 (iii) received a distribution of the  
8 member's accumulated deposits; and

9 (iv) reinstated all of the member's prior  
10 membership service credit.

11 (23B) "Group B" means the group of members of the  
12 retirement system that includes each member who:

13 (A) began membership service on or after January  
14 1, 2012; or

15 (B) returned to full-time employment on or after  
16 January 1, 2012, and:

17 (i) was previously a member of Group A;

18 (ii) ceased to be a member of the retirement  
19 system;

20 (iii) received a distribution of the  
21 member's accumulated deposits; and

22 (iv) has not reinstated all of the member's  
23 prior membership service credit.

24 (25) "Investment consultant" means the person or  
25 entity that monitors the investment performance of the system and  
26 provides such other services as requested by the retirement board.

27 (26) "Investment manager" means the persons or



1 entities that have the power to manage, acquire, or dispose of  
2 assets of the fund on behalf of the retirement system and that  
3 acknowledge fiduciary responsibility to the system in writing. An  
4 investment manager must be a person, firm, or corporation  
5 registered as an investment adviser under the Investment Advisers  
6 Act of 1940, a bank, or an insurance company qualified to manage,  
7 acquire or dispose of assets under the laws of more than one state  
8 including this state that meets the requirements of Section  
9 802.204, Government Code.

10 (27) "Life annuity" means a series of equal monthly  
11 payments, payable after retirement for a member's life, consisting  
12 of a combination of prior service pension and current service  
13 annuity, or early retirement annuity, to which the member is  
14 entitled.

15 (28) "Life annuity (modified cash refund)" means a  
16 life annuity providing that, in the event of death of the retired  
17 member before that member has received payments under the life  
18 annuity totaling the amount of that member's accumulated deposits  
19 at the date of retirement, the excess of such accumulated deposits  
20 over the payments made shall be paid in one lump sum to the member's  
21 designated beneficiary.

22 (29) "Malfeasance" means willful misconduct or the  
23 knowingly improper performance of any act, duty, or responsibility  
24 under this Act, including non-performance, that interrupts,  
25 interferes with, or attempts to interfere with the administration,  
26 operation, and management of the retirement system or any person's  
27 duties under this Act.

1 (30) "Member" means any:

2 (A) regular full-time employee of an employer;  
3 and

4 (B) former regular full-time employee who has not  
5 withdrawn the member's accumulated deposits from the system.

6 In any case of doubt regarding the eligibility of any  
7 employee to become or remain a member of the retirement system, or  
8 the assignment of a member to a group, the decision of the  
9 retirement board is final.

10 (31) "Membership service" means the period of time on  
11 or after January 1, 1941, during which a person is or was employed  
12 as a regular full-time employee or is or was on an authorized leave  
13 of absence and who is eligible for participation in the system and  
14 pays into and keeps on deposit the amounts of money prescribed to be  
15 paid by the member into the system. The term includes redeemed  
16 membership service.

17 (32) "Normal retirement age" means:

18 (A) for members of Group A:

19 (i) age 62;

20 (ii) [~~B~~] 55 years of age with 20 years of  
21 creditable service; or

22 (iii) [~~C~~] 23 years of creditable service,  
23 regardless of years of age; and

24 (B) for members of Group B:

25 (i) 62 years of age with 30 years of  
26 creditable service, excluding nonqualified permissive service  
27 credit; or

1                    (ii) 65 years of age with five years of  
2 creditable service, excluding nonqualified permissive service  
3 credit.

4                    (33) "Normal retirement date" means:

5                    (A) for members of Group A, the earlier of the  
6 date a member attains a normal retirement age or the date on which  
7 the member has completed 23 years of creditable service; and

8                    (B) for members of Group B, the date the members  
9 reaches normal retirement age under Subdivision (32)(B) [~~or a~~  
10 lesser number of years of creditable service established by the  
11 retirement board under Section 10(g) of this Act].

12                    (34) "Prior service" means membership service as an  
13 employee of the city rendered:

14                    (A) by a person prior to January 1, 1941, for  
15 which a pension credit is allowable under prior law governing the  
16 retirement system of that city; and

17                    (B) for a person after January 1, 1941, includes  
18 redeemed membership [~~prior~~] service.

19                    (35) "Prior service pension" means a series of equal  
20 monthly payments payable from funds of the retirement system for a  
21 member's life after retirement for prior service equal to  
22 one-twelfth of the product of 3.0 [~~2.7~~] percent [~~or a greater~~  
23 ~~percentage established by the retirement board under Section 10(g)~~  
24 ~~of this Act]~~ of the member's average monthly earnings during a  
25 period of five years preceding January 1, 1941, multiplied by the  
26 number of months of prior service. [~~On retirement at an age other~~  
27 ~~than normal retirement age, the monthly prior service pension~~

1 ~~herein prescribed shall be the actuarial equivalent thereof at the~~  
2 ~~member's actual retirement date, based on the schedule or schedules~~  
3 ~~of payments approved by the actuary and adopted by the retirement~~  
4 ~~board and in effect on the member's actual retirement date.]~~

5 (36) "Qualified domestic relations order" has the  
6 meaning assigned by Section 804.001, Government Code, and its  
7 subsequent amendments.

8 (37) "Redeemed membership service" means membership  
9 service reinstated in accordance with Section 5(e) of this Act.

10 (38) "Redeemed prior service" means prior service  
11 reinstated in accordance with Section 5(e) of this Act.

12 (39) "Regular full-time employee" means an individual  
13 who is employed by the municipality, an agency of the municipality,  
14 or the retirement board who is not a commissioned civil service  
15 police officer or fire fighter, a fire or police cadet employed  
16 under civil service procedures, the mayor, or a member of the  
17 governing body; who serves in a position that is classified in the  
18 annual budget of an employer for employment for the full calendar  
19 year; and who works or is budgeted for 30 hours or more in a normal  
20 40-hour work week. The term does not include an individual whose  
21 position is classified as seasonal or temporary by the employer,  
22 even if the individual works 30 hours or more in a normal 40-hour  
23 work week in which the individual is employed.

24 (40) "Retired member" means a person who because of  
25 creditable service or age is qualified to receive and who has  
26 retired and is eligible to continue receiving a retirement  
27 allowance as provided by this Act.

1           (41) "Retirement" means the termination of employment  
2 of a member after the member becomes entitled to receive a  
3 retirement allowance in accordance with the provisions of this Act.

4           (42) "Retirement allowance" means the life annuity  
5 (modified cash refund) to which a member may be entitled under this  
6 Act, including annuities payable on disability retirement.

7           (43) "Retirement board" means the board of trustees of  
8 the retirement and pensioning system herein created for the purpose  
9 of administering the retirement system.

10           (44) "Retirement system," "retirement and pensioning  
11 system," "pension system," or "system" means the retirement and  
12 pensioning system created by this Act for a municipality governed  
13 by this Act or a retirement system established under this Act.

14           (45) "Year of creditable service" means a 12-month  
15 period of creditable service determined in accordance with uniform  
16 and nondiscriminatory rules established by the retirement board.

17           SECTION 3. Section 3, Chapter 451, Acts of the 72nd  
18 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas  
19 Civil Statutes), is amended to read as follows:

20           Sec. 3. ESTABLISHMENT AND APPLICABILITY. Subject to the  
21 authority granted the retirement board in Section 7(d) of this Act:

22           (1) [~~7~~] members who retired, and the beneficiaries of  
23 members who died, prior to October 1, 2011 [~~1999~~], shall continue to  
24 receive the same retirement allowances or benefits they were  
25 entitled to receive prior to that date, together with any benefit  
26 increase authorized under this Act;

27           (2) members of the retirement system on or before

1 December 31, 2011, shall be enrolled as members of Group A; and  
2 (3) persons that first become members of the  
3 retirement system on or after January 1, 2012, shall be enrolled in  
4 Group B.

5 SECTION 4. Sections 5(b), (c), and (e), Chapter 451, Acts of  
6 the 72nd Legislature, Regular Session, 1991 (Article 6243n,  
7 Vernon's Texas Civil Statutes), are amended to read as follows:

8 (b) Membership in the retirement system consists of Groups A  
9 and B, each of which consists of the following groups:

10 (1) the active-contributory members group, which  
11 consists of all members, other than those on authorized leave of  
12 absence, who are making deposits;

13 (2) the active-noncontributory members group, which  
14 consists of all employees on approved medical leave of absence and  
15 all employees of an employer, other than inactive-contributory  
16 members, who have been active-contributory members but who are no  
17 longer so because they are not regular full-time employees;

18 (3) the inactive-contributory members group, which  
19 consists of all members who are on an authorized leave of absence  
20 and who continue to make deposits into the retirement system during  
21 their absence;

22 (4) the inactive-noncontributory members group, which  
23 consists of all members whose status as an employee has been  
24 terminated before retirement or disability retirement but who are  
25 still entitled to or who may become entitled to, or whose  
26 beneficiary may become entitled to, benefits from the retirement  
27 system; and

1           (5) the retired members group, which consists of all  
2 members who have retired and who are receiving or who are entitled  
3 to receive a retirement allowance.

4           (c) A member [~~An active-noncontributory member~~] becomes an  
5 active-contributory member immediately on resuming employment as a  
6 regular full-time employee or on returning from an approved medical  
7 leave of absence, as applicable. A member who resumes regular  
8 full-time employment is assigned to the group for which the member  
9 is qualified under Subdivisions (23A) and (23B), Section 2.

10           (e) Any person who has ceased to be a member and has received  
11 a distribution of the person's accumulated deposits may have the  
12 person's membership service in the original group in which the  
13 membership service was earned [~~or prior service~~] reinstated if the  
14 person is reemployed as a regular full-time employee [~~for a~~  
15 ~~continuous period of 24 months~~] and deposits into the system[~~7~~  
16 ~~within a reasonable period established by the retirement board on a~~  
17 ~~uniform and nondiscriminatory basis,~~] the accumulated deposits  
18 withdrawn by that person, together with an interest payment equal  
19 to the amount withdrawn multiplied by an interest factor. The  
20 interest factor is equal to the annually compounded interest rate  
21 assumed to have been earned by the fund beginning with the month and  
22 year in which the person withdrew the person's accumulated deposits  
23 and ending with the month and year in which the deposit under this  
24 subsection is made. The interest rate assumed to have been earned by  
25 the fund for any period is equal to the interest rate credited for  
26 that period to the accumulated deposits of members, divided by  
27 0.75.

1           SECTION 5. Section 6, Chapter 451, Acts of the 72nd  
2 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas  
3 Civil Statutes), is amended by amending Subsections (c) and (f) and  
4 adding Subsections (e-1) through (e-3) to read as follows:

5           (c)(1) Uniformed service creditable in the retirement  
6 system is any service required to be credited by the Uniformed  
7 Services Employment and Reemployment Rights Act of 1994 (38 U.S.C.  
8 Section 4301 et seq.), as amended, and certain federal duty service  
9 in the armed forces of the United States performed before the  
10 beginning of employment with the employer, other than service as a  
11 student at a service academy, as a member of the reserves, or any  
12 continuous active military service lasting less than 90 days. A  
13 member may use uniformed service to establish creditable service  
14 subject to the conditions of Subdivisions (2)-(6) of this  
15 subsection.

16           (2) A member may establish uniformed creditable  
17 service for an authorized leave of absence from employment for  
18 military service under this subsection by making periodic payments  
19 or a lump-sum payment. If the member elects to make periodic  
20 payments, the member shall make, each pay period during the period  
21 that the member is on authorized leave, a deposit in an amount equal  
22 to the amount of the member's deposit for the last complete pay  
23 period that the member was paid by the employer as a regular  
24 full-time employee. If the member elects to make a lump-sum  
25 payment, the member and the employer shall, not later than the fifth  
26 anniversary of the date the member returns to employment with the  
27 employer, make separate lump-sum payments equal to the total amount



1 of the contributions the member would have made if the member had  
2 made periodic contributions. A lump-sum payment may not exceed the  
3 amount required under the Uniformed Services Employment and  
4 Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as  
5 amended, if the member makes the contributions within the time  
6 required by that Act. The employee's employer shall make  
7 contributions to the retirement fund as though the member has  
8 continued employment at the salary of the member for the last  
9 complete pay period before the absence for military service. The  
10 employer's contributions shall be made each pay period if the  
11 member is making periodic payments during the period. During an  
12 authorized leave of absence, the member accrues membership service  
13 for the pay periods in which the member makes a deposit. Membership  
14 service credit for a lump-sum payment accrues at the time of  
15 payment.

16 (3) A member may establish uniformed creditable  
17 service for active federal duty service in the armed forces of the  
18 United States, other than service as a student at a service academy,  
19 as a member of the reserves, or any continuous active military  
20 service lasting less than 90 days, performed before the first day of  
21 employment of the member's most recent membership in the retirement  
22 system or its predecessor system. To establish creditable service  
23 under this subdivision, the member must contribute a lump-sum  
24 payment equal to 25 percent of the estimated cost of the retirement  
25 benefits the member will be entitled to receive. The retirement  
26 board will determine the required contribution based on a procedure  
27 recommended by the actuary and approved by the retirement board.

1           (4) A member is not eligible to establish uniformed  
2 service credit unless the member was released from active military  
3 duty under conditions other than dishonorable.

4           (5) A member may not establish creditable service in  
5 the retirement system for uniformed service for more than the  
6 greater of the creditable service required under the Uniformed  
7 Services Employment and Reemployment Rights Act of 1994 (38 U.S.C.  
8 Section 4301 et seq.), as amended, or 48 months of creditable  
9 service in the retirement system for uniformed service under this  
10 subsection. A member is not precluded from purchasing qualified  
11 military service to which the member is entitled solely because the  
12 member, before beginning a leave of absence for qualified military  
13 service, purchased creditable service for military service  
14 performed before becoming employed by the employer.

15           (6) After the member makes the deposit required by  
16 this subsection, the retirement system shall grant the member one  
17 month of creditable service for each month of creditable uniformed  
18 service established under this subsection.

19           (e-1) An active contributory member that is eligible for  
20 retirement may file a written application to convert to creditable  
21 service at retirement all or part of the member's sick leave accrued  
22 with the employer that is eligible for conversion. The application  
23 must be approved by the retirement board. The member may not convert  
24 sick leave for which the member is entitled to be paid for by the  
25 employer. Sick leave hours may be converted in pay period  
26 increments for the purpose of increasing creditable service that is  
27 used in the calculation of benefits. Sick leave hours may not be

1 used to reach retirement eligibility. Both the employer and the  
2 member must make the equivalent amount of retirement contributions  
3 that would have been made had the sick hours been exercised and used  
4 as sick leave hours.

5 (e-2) Nonqualified permissive creditable service may be  
6 purchased only as provided by this subsection. A member may  
7 purchase nonqualified permissive creditable service:

8 (1) only to the extent permitted under both this  
9 subsection and Section 415(n) of the code;

10 (2) in an amount that:

11 (A) for each purchase, is not less than one  
12 month; and

13 (B) when all amounts purchased under this  
14 subsection are combined, not more than sixty months;

15 (3) only if the member has reinstated all prior  
16 membership service in:

17 (A) Groups A and B if the member was initially  
18 enrolled as a member of Group A, but ceased to be a member of Group  
19 A, by:

20 (i) first reinstating all prior membership  
21 service in Group A;

22 (ii) next reinstating all prior membership  
23 service in Group B; and

24 (iii) then purchasing the nonqualified  
25 permissive creditable service;

26 (B) Group B, if the member was initially enrolled  
27 as a member of Group B, by:

1                   (i) first reinstating all prior membership  
2 service in Group B; and

3                   (ii) then purchasing the nonqualified  
4 permissive creditable service.

5           (e-3) Nonqualified permissive creditable service purchased  
6 by members of Group B is not included in the creditable service  
7 required to qualify a member for normal or early retirement  
8 eligibility.

9           (f) The full actuarial cost of noncontributory creditable  
10 service purchased as provided by Subsections [~~Subsection~~] (e),  
11 (e-1), (e-2), and (e-3) of this section is payable by the member  
12 purchasing the credit.

13           SECTION 6. Section 7, Chapter 451, Acts of the 72nd  
14 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas  
15 Civil Statutes), is amended by amending Subsections (a), (l), and  
16 (z) and adding Subsections (a-1) and (ii) to read as follows:

17           (a) Except as provided by Subsection (b) of this section, a  
18 member who retires on or after the member's normal retirement date  
19 for the group in which the member is enrolled, or a member of Group B  
20 eligible for early retirement who retires, and applies in writing  
21 for a retirement allowance shall receive the [~~a~~] life annuity  
22 (modified cash refund) or the early retirement annuity to which the  
23 member is entitled. An annuity begins [~~beginning~~] on the last day of  
24 the month after the month in which the member retired. Unless  
25 Section 8 of this Act applies, or the member is an early retirement  
26 eligible member of Group B, a member whose employment by the  
27 employer terminates before the member's normal retirement date is

1 entitled to a distribution of the member's accumulated deposits in  
2 a single lump sum. On receiving that distribution, a member is not  
3 entitled to any other benefit under this Act. If a member has at  
4 least five years of creditable service and does not withdraw the  
5 member's accumulated deposits, the member is entitled to a life  
6 annuity (modified cash refund) beginning on the first day of the  
7 month after the month in which the member's normal retirement date  
8 occurs.

9 (a-1) If not already nonforfeitable, a member's retirement  
10 benefit becomes nonforfeitable at normal retirement age.

11 (1) A member may file a written designation, which, if  
12 approved by the retirement board, shall entitle the member, on  
13 retirement, to receive the actuarial equivalent of the life annuity  
14 in the form of one of the following options:

15 (1) Option I. 100 Percent Joint and Survivor Annuity.  
16 This option is a reduced monthly annuity payable to the member but  
17 with the provision that on the member's death the annuity shall be  
18 continued throughout the life of and be paid to such person as the  
19 member shall designate before the member's actual retirement date.

20 (2) Option II. 50 Percent Joint and Survivor Annuity.  
21 This option is a reduced monthly annuity payable to the member but  
22 with the provision that on the member's death one-half of the  
23 annuity shall be continued throughout the life of and be paid to  
24 such person as the member shall designate before the member's  
25 actual retirement date.

26 (3) Option III. 66-2/3 Percent Joint and Survivor  
27 Annuity. This option is a reduced monthly annuity payable to the

1 member but with the provision that on the member's death two-thirds  
2 of the annuity shall be continued throughout the life of and be paid  
3 to such person as the member shall designate before the member's  
4 actual retirement date.

5 (4) Option IV. Joint and 66-2/3 Percent Last Survivor  
6 Annuity. This option is a reduced monthly annuity payable to the  
7 member but with the provision that two-thirds of the annuity to  
8 which the member would be entitled shall be continued throughout  
9 the life of and be paid to the survivor after the death of either the  
10 member or such person as the member shall designate before the  
11 member's actual retirement date.

12 (5) Option V. 15-Year Certain and Life Annuity. This  
13 option is a reduced annuity payable to the member for life. In the  
14 event of the member's death before 180 monthly payments have been  
15 made, the remainder of the 180 payments shall be paid to the  
16 member's beneficiary or, if there is no beneficiary, to the member's  
17 estate.

18 (6) Option VI. Equivalent Benefit Plan. If a member  
19 requests in writing, any other form of benefit or benefits may be  
20 paid either to the member or to such person or persons as the member  
21 shall designate before the member's actual retirement date,  
22 provided that the benefit plan requested by the member is certified  
23 by the actuary for the system to be the actuarial equivalent of the  
24 life annuity with guaranteed refund of the retired member's  
25 accumulated deposits. If, on the death of the member and all other  
26 persons entitled to receive payments under an optional benefit, the  
27 member's accumulated deposits as of the member's actual retirement

1 date exceed the sum of all payments made under that optional  
2 benefit, that excess shall be paid in one lump sum to the member's  
3 beneficiary. A member selecting this option may elect to receive  
4 (i) either a life annuity or one of the actuarially equivalent  
5 annuities described by Subdivisions (1)-(5) and (ii) a lump-sum  
6 payment upon retirement. If a member requests a lump-sum payment,  
7 the annuity requested by the member shall be actuarially reduced as  
8 a result of the lump-sum payment. The lump-sum payment may not  
9 exceed an amount equal to the total amount of 60 monthly life  
10 annuity payments. Active contributory members that reach normal  
11 retirement age may upon retirement elect to participate in a  
12 backward deferred retirement option program ("Backward DROP") that  
13 permits a minimum participation period of one month and a maximum  
14 participation period of sixty months. This deferred retirement  
15 option is subject to retirement board policies issued in compliance  
16 with the code. No interest will be paid on, or added to, any  
17 Backward DROP payment.

18 (z) If the person designated in writing by the member under  
19 Option I, Option II, or Option III, or, excluding a Joint and Last  
20 Survivor Option, any retirement option that includes a Joint and  
21 Survivor Option, predeceases the retired member, the reduced  
22 annuity of a retired member who selected the optional lifetime  
23 retirement annuity shall be increased to the standard service  
24 retirement annuity that the retiree would have been entitled to  
25 receive if the retired member had not selected Option I, Option II,  
26 or Option III. The standard service retirement annuity shall be  
27 appropriately adjusted for early retirement and for the

1 postretirement increases in retirement benefits. The increase in  
2 the annuity under this subsection is payable to the retired member  
3 for life and begins with the later of the monthly payment made to  
4 the retired member for the month following the month in which the  
5 person designated by the member dies or the month following the  
6 month in which the retired member gives the system notice of the  
7 designated person's death.

8 (ii) If a member dies while performing qualified military  
9 service, the beneficiaries of the member are entitled to any  
10 additional benefits (other than benefit accruals relating to the  
11 qualified military service) that would have been provided if the  
12 member had returned from the military leave of absence and then  
13 terminated employment on account of death.

14 SECTION 7. Section 9, Chapter 451, Acts of the 72nd  
15 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas  
16 Civil Statutes), is amended by amending Subsection (a) and adding  
17 Subsections (c) through (g) to read as follows:

18 (a) Notwithstanding any other provisions of this Act, the  
19 annual benefit provided with respect to any member may not exceed  
20 the benefits allowed for a governmental defined benefit plan  
21 qualified under Section 401 [415] of the code. The maximum benefits  
22 allowed under this section shall increase each year to the extent  
23 permitted by annual cost-of-living increase adjustments announced  
24 by the Secretary of the Treasury under Section 415(d) of the code,  
25 and the increased benefit limits shall apply to members who have  
26 terminated employment, including members who have commenced to  
27 receive benefits, before the effective date of the adjustment.



1       (c) A member who retires after reaching normal retirement  
2 age and continues or resumes employment with an employer in a  
3 position that is required to participate in another retirement  
4 system maintained by the employer continues to be eligible to  
5 receive the retirement allowance provided under this Act.

6       (d) The retirement board shall suspend the retirement  
7 allowance of a retired member who resumes employment with an  
8 employer within the period of time prescribed by the retirement  
9 board in the board's policy, or who resumes employment after  
10 retirement as a regular full-time employee of an employer. The  
11 retirement board shall reinstate the member's retirement allowance  
12 as provided under Subsection (f).

13       (e) The retirement board shall suspend the retirement  
14 allowance of a retired member who resumes employment with an  
15 employer in a position that is not required to participate in  
16 another retirement system maintained by an employer, and who is not  
17 a regular full-time employee of an employer, if the member works  
18 for, or is compensated by, an employer for more than 1,508 hours in  
19 any rolling 12-month period after the member resumes employment  
20 with the employer. The retirement board shall reinstate the  
21 member's retirement allowance as provided under Subsection (f).

22       (f) A member whose retirement allowance is suspended under  
23 Subsections (d) or (e) may apply in writing for reinstatement of the  
24 retirement allowance when the member retires again. The retirement  
25 system shall calculate the reinstated retirement allowance based on  
26 the member's total creditable service, reduced actuarially to  
27 reflect the gross amount of total retirement allowance paid to the

1 member prior to suspension of the retirement allowance.

2 (g) The retirement system and the employer shall adopt and  
3 amend procedures for the exchange of information in order to  
4 implement the provisions of this section.

5 SECTION 8. Section 10(a), Chapter 451, Acts of the 72nd  
6 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas  
7 Civil Statutes), is amended to read as follows:

8 (a) Each active-contributory member shall make deposits to  
9 the retirement system at a rate equal to eight [~~seven~~] percent of  
10 the member's base compensation, pay, or salary, exclusive of  
11 overtime, incentive, or terminal pay or at a higher contribution  
12 rate approved by a majority vote of regular full-time employee  
13 members. Deposits shall be made by payroll deduction each pay  
14 period. If a regular full-time employee works at least 75 percent of  
15 a normal 40-hour work week but less than the full 40 hours, the  
16 employee shall make deposits as though working a normal 40-hour  
17 work week even though the rate of contribution may exceed eight  
18 [~~seven~~] percent of the employee's actual compensation, pay, or  
19 salary, and the employee's average final compensation shall be  
20 computed on the basis of the compensation, pay, or salary for a  
21 normal 40-hour work week. No deposits may be made nor membership  
22 service credit received for periods during which an employee's  
23 authorized normal work week is less than 75 percent of a normal  
24 40-hour work week. A person who is eligible for  
25 inactive-contributory membership status and who chooses to be an  
26 inactive-contributory member shall make deposits to the retirement  
27 system each pay period in an amount that is equal to the amount of

1 the member's deposit for the last complete pay period that the  
2 member was a regular full-time employee. The regular full-time  
3 employee members may increase, by a majority vote of all such  
4 members voting at an election to consider an increase in  
5 contributions, each member's contributions above eight [~~seven~~]  
6 percent or above the higher rate in effect and approved by majority  
7 vote in whatever amount the retirement board recommends. Each  
8 employer shall contribute amounts equal to eight [~~seven~~] percent of  
9 the compensation, pay, or salary of each active-contributory member  
10 and each inactive-contributory member employed by the employer,  
11 exclusive of overtime, incentive, or terminal pay, or a higher  
12 contribution rate agreed by the employer. If a regular full-time  
13 employee of the employer works at least 75 percent of a normal  
14 40-hour work week but less than the full 40 hours, the employer  
15 shall make contributions for that employee as though that employee  
16 works a normal 40-hour work week even though the rate of  
17 contribution may exceed eight [~~seven~~] percent of that employee's  
18 actual compensation, pay, or salary. The governing body of the city  
19 may authorize the city to make additional contributions to the  
20 system in whatever amount the governing body may determine. If the  
21 governing body authorizes additional contributions to the system by  
22 the city for city employees, the board of each other employer shall  
23 [~~may~~] increase the contributions for such employer's respective  
24 employees by the same percentage. Employer contributions shall be  
25 made each pay period.

26 SECTION 9. Section 12, Chapter 451, Acts of the 72nd  
27 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas

1 Civil Statutes), is amended by adding Subsection (d-1) and amending  
2 Subsection (e) to read as follows:

3 (d-1) Members of the retirement system that are enrolled in  
4 Group A shall have the rights and be entitled to the benefits  
5 provided under this Act for members of Group A. Members of the  
6 retirement system that are enrolled in Group B shall have the rights  
7 and be entitled to the benefits provided under this Act for members  
8 of Group B. A member may not be a member of both Group A and Group B.

9 (e) Notwithstanding any provision of this Act to the  
10 contrary that would otherwise limit a distributee's election, a  
11 distributee may elect, at the time and in the manner prescribed by  
12 the retirement board, to have any portion of an eligible rollover  
13 distribution paid directly to an eligible retirement plan specified  
14 by the distributee in a direct rollover. For purposes of this  
15 subsection:

16 (1) An eligible rollover distribution is any  
17 distribution of all or any portion of the balance to the credit of  
18 the distributee, except that an eligible rollover distribution does  
19 not include:

20 (A) any distribution that is one of a series of  
21 substantially equal periodic payments (not less frequently than  
22 annually) made over the life (or life expectancy) of the  
23 distributee or the joint lives (or joint life expectancies) of the  
24 distributee and the distributee's designated beneficiary;

25 (B) any series of payments for a specified period  
26 of ten years or more;

27 (C) any distribution to the extent such

1 distribution is required under Section 401(a)(9) of the code; or

2 (D) the portion of any distribution that is not  
3 includable in gross income unless the distributee directs that the  
4 eligible rollover distribution be transferred directly to a  
5 qualified trust that is part of a defined contribution plan that  
6 agrees to separately account for the portion that is includable in  
7 gross income and the portion that is not, or to an individual  
8 retirement account or individual annuity [~~determined without~~  
9 ~~regard to the exclusion for net unrealized appreciation with~~  
10 ~~respect to employer securities)].~~

11 (2) An "eligible retirement plan" is an individual  
12 retirement account described in Section 408(a) of the code, an  
13 individual retirement annuity described in Section 408(b) of the  
14 code, an annuity plan described in Section 403(a) of the code, or a  
15 qualified trust described in Section 401(a) of the code, an  
16 eligible deferred compensation plan described in Section 457(b)  
17 which is maintained by an eligible employer described in Section  
18 457(e)(1)(A) of the code, or an annuity contract described in  
19 Section 403(b) of the code, that accepts the distributee's eligible  
20 rollover distribution. However, in the case of an eligible rollover  
21 distribution to a designated beneficiary who is not the surviving  
22 spouse, or the spouse or former spouse under a qualified domestic  
23 relations order, an eligible retirement plan is an individual  
24 retirement account or individual retirement annuity only.

25 (3) A "distributee" includes an employee or former  
26 employee. In addition, the employee's or former employee's  
27 surviving spouse or designated beneficiary and the employee's or

1 former employee's spouse or former spouse who is the alternate  
2 payee under a qualified domestic relations order, as defined in  
3 Section 414(p) of the code, are distributees with regard to the  
4 interest of the spouse or the former spouse.

5 (4) A "direct rollover" is a payment by the retirement  
6 system to the eligible retirement plan specified by the  
7 distributee.

8 SECTION 10. The following laws are repealed:

9 (1) Subsection (p), Section 9, Chapter 451, Acts of  
10 the 72nd Legislature, Regular Session, 1991 (Article 6243n,  
11 Vernon's Texas Civil Statutes); and

12 (2) Subsection (g), Section 10, Chapter 451, Acts of  
13 the 72nd Legislature, Regular Session, 1991 (Article 6243n,  
14 Vernon's Texas Civil Statutes).

15 SECTION 11. This Act takes effect immediately if it  
16 receives a vote of two-thirds of all the members elected to each  
17 house, as provided by Section 39, Article III, Texas Constitution.  
18 If this Act does not receive the vote necessary for immediate  
19 effect, this Act takes effect October 1, 2011.