

By: Naishtat

H.B. No. 3033

A BILL TO BE ENTITLED

1 AN ACT
2 relating to retirement under public retirement systems for
3 employees of certain municipalities.

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

5 SECTION 1. Section 1, 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 Sec. 1. SCOPE. (a) A retirement system is established by
9 this Act for employees of each municipality having a population of
10 more than 760,000 [~~600,000~~] and less than 860,000 [~~700,000~~]. [~~+~~
11 ~~provided, however, that once such once such pension system becomes~~
12 ~~operative in any city, any]~~

13 (b) Any right or privilege accruing to any member of a
14 retirement system established by this Act is [~~thereunder shall be~~]
15 a vested right according to the terms of this Act. [~~and the same~~
16 ~~shall not be denied or abridged thereafter through any change in~~
17 ~~population of any such city taking such city out of the population~~
18 ~~bracket as herein prescribed, and said pension system shall~~
19 ~~continue to operate and function regardless of whether or not any~~
20 ~~future population exceeds or falls below said population bracket]~~

21 (c) This Act continues to apply to a municipality described
22 by Subsection (a) and a retirement system established by this Act
23 continues to operate regardless of any change in the municipality's
24 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 by amending Subdivisions (5), (8),
4 (12), (15), (27), (30), (32), (33), (34), and (35), and adding
5 Subdivisions (18A), (18B), (23A), and (23B) to read as follows:

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

9 (5) "Agency of the municipality" means any agency or
10 instrumentality of the municipality or governmental or publicly
11 owned legal entity created by the municipality, before or after
12 ~~[subsequent to]~~ the effective date of this Act, to perform or
13 provide a public service or function and that employs at least one
14 employee to provide services or accomplish its public purpose.

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 (12) "Compensation" means, with respect to any member,
24 such member's wages, within the meaning of Section 3401(a) of the
25 code (for purposes of income tax withholding at the source) but
26 determined without regard to any rules that limit the remuneration
27 included in wages based on the nature or location of the employment

1 or the services performed (such as the exception for agricultural
2 labor in Section 3401(a)(2) of the code). Compensation in excess of
3 the dollar limit under Section 401(a)(17) of the code shall be
4 disregarded in determining the compensation of [~~\$12,500 per month~~
5 ~~for~~] any employee who first becomes a member in a year commencing
6 after 1995 [~~shall be disregarded~~]. The dollar [~~\$12,500~~] limitation
7 shall be adjusted for cost of living increases as provided under
8 Section 401(a)(17) of the code.

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

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

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

21 (18A) "Early retirement eligible member" means a
22 member of Group B that:

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

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

26 (18B) "Early retirement annuity" means an annuity that
27 is the actuarial equivalent of a current service annuity that would

1 otherwise be payable at age 65 under this Act but that is reduced
2 based on the member's actual age in years and months.

3 (23A) "Group A" means the group of members of the
4 retirement system that includes each member who:

5 (A) began membership service on or after January
6 1, 1941, and on or before December 31, 2011; or

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

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

10 (ii) ceased to be a member of the retirement
11 system;

12 (iii) received a distribution of the
13 member's accumulated deposits; and

14 (iv) reinstated all of the member's prior
15 membership service credit.

16 (23B) "Group B" means the group of members of the
17 retirement system that includes each member who:

18 (A) began membership service on or after January
19 1, 2012; or

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

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

23 (ii) ceased to be a member of the retirement
24 system;

25 (iii) received a distribution of the
26 member's accumulated deposits; and

27 (iv) has not reinstated all of the member's

1 prior membership service credit.

2 (27) "Life annuity" means a series of equal monthly
3 payments, payable after retirement for a member's life, consisting
4 of a combination of prior service pension and current service
5 annuity, or early retirement annuity, to which the member is
6 entitled.

7 (30) "Member" means any:

8 (A) regular full-time employee of an employer;
9 and

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

12 In any case of doubt regarding the eligibility of any
13 employee to become or remain a member of the retirement system, or
14 the assignment of a member to a group, the decision of the
15 retirement board is final.

16 (32) "Normal retirement age" means:

17 (A) for members of Group A:

18 (i) age 62; [~~or~~]

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

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

23 (B) for members of Group B:

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

27 (ii) 65 years of age with five years of

1 creditable service, excluding nonqualified permissive service
2 credit.

3 (33) "Normal retirement date" means:

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

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

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

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

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

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

1 ~~member's actual retirement date, based on the schedule or schedules~~
2 ~~of payments approved by the actuary and adopted by the retirement~~
3 ~~board and in effect on the member's actual retirement date.]~~

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

7 Sec. 3. ESTABLISHMENT AND APPLICABILITY. Subject to the
8 authority granted the retirement board in Section 7(d) of this Act:
9 [7]

10 (1) members who retired, and the beneficiaries of
11 members who died, prior to October 1, 2011 [1999], shall continue to
12 receive the same retirement allowances or benefits they were
13 entitled to receive prior to that date, together with any benefit
14 increase authorized under this Act;

15 (2) members of the retirement system on or before
16 December 31, 2011, shall be enrolled as members of Group A; and

17 (3) persons that first become members of the
18 retirement system on or after January 1, 2012, shall be enrolled in
19 Group B.

20 SECTION 4. Section 5, Chapter 451, Acts of the 72nd
21 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
22 Civil Statutes), is amended by amending Subsections (b), (c), and
23 (e) to read as follows:

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

26 (1) the active-contributory members group, which
27 consists of all members, other than those on authorized leave of

1 absence, who are making deposits;

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

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

11 (4) the inactive-noncontributory members group, which
12 consists of all members whose status as an employee has been
13 terminated before retirement or disability retirement but who are
14 still entitled to or who may become entitled to, or whose
15 beneficiary may become entitled to, benefits from the retirement
16 system; and

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

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

26 (e) Any person who has ceased to be a member and has received
27 a distribution of the person's accumulated deposits may have the

1 person's membership service in the original group in which the
2 membership service was earned [~~or prior service~~] reinstated if the
3 person is reemployed as a regular full-time employee [~~for a~~
4 ~~continuous period of 24 months~~] and deposits into the system[~~7~~
5 ~~within a reasonable period established by the retirement board on a~~
6 ~~uniform and nondiscriminatory basis,~~] the accumulated deposits
7 withdrawn by that person, together with an interest payment equal
8 to the amount withdrawn multiplied by an interest factor. The
9 interest factor is equal to the annually compounded interest rate
10 assumed to have been earned by the fund beginning with the month and
11 year in which the person withdrew the person's accumulated deposits
12 and ending with the month and year in which the deposit under this
13 subsection is made. The interest rate assumed to have been earned by
14 the fund for any period is equal to the interest rate credited for
15 that period to the accumulated deposits of members, divided by
16 0.75.

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

21 (c)(1) Uniformed service creditable in the retirement
22 system is any service required to be credited by the Uniformed
23 Services Employment and Reemployment Rights Act of 1994 (38 U.S.C.
24 Section 4301 et seq.), as amended, and certain federal duty service
25 in the armed forces of the United States performed before the
26 beginning of employment with the employer, other than service as a
27 student at a service academy, as a member of the reserves, or any

1 continuous active military service lasting less than 90 days. A
2 member may use uniformed service to establish creditable service
3 subject to the conditions of Subdivisions (2)-(6) of this
4 subsection.

5 (2) A member may establish uniformed creditable
6 service for an authorized leave of absence from employment for
7 military service under this subsection by making periodic payments
8 or a lump-sum payment. If the member elects to make periodic
9 payments, the member shall make, each pay period during the period
10 that the member is on authorized leave, a deposit in an amount equal
11 to the amount of the member's deposit for the last complete pay
12 period that the member was paid by the employer as a regular
13 full-time employee. If the member elects to make a lump-sum
14 payment, the member and the employer shall, not later than the fifth
15 anniversary of the date the member returns to employment with the
16 employer, make separate lump-sum payments equal to the total amount
17 of the contributions the member would have made if the member had
18 made periodic contributions. A lump-sum payment may not exceed the
19 amount required under the Uniformed Services Employment and
20 Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as
21 amended, if the member makes the contributions within the time
22 required by that Act. The employer's employer shall make
23 contributions to the retirement fund as though the member has
24 continued employment at the salary of the member for the last
25 complete pay period before the absence for military service. The
26 employer's contributions shall be made each pay period if the
27 member is making periodic payments during the period. During an

1 authorized leave of absence, the member accrues membership service
2 for the pay periods in which the member makes a deposit. Membership
3 service credit for a lump-sum payment accrues at the time of
4 payment.

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

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

20 (5) A member may not establish creditable service in
21 the retirement system for uniformed service for more than the
22 greater of the creditable service required under the Uniformed
23 Services Employment and Reemployment Rights Act of 1994 (38 U.S.C.
24 Section 4301 et seq.), as amended, or 48 months of creditable
25 service in the retirement system for uniformed service under this
26 subsection. A member is not precluded from purchasing qualified
27 military service to which the member is entitled solely because the

1 member, before beginning a leave of absence for qualified military
2 service, purchased creditable service for military service
3 performed before becoming employed by the employer.

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

8 (e-1) An active contributory member that is eligible for
9 retirement may file a written application to convert to creditable
10 service at retirement all or part of the member's sick leave accrued
11 with the employer that is eligible for conversion. The application
12 must be approved by the retirement board. The member may not convert
13 sick leave for which the member is entitled to be paid for by the
14 employer. Sick leave hours may be converted in pay period
15 increments for the purpose of increasing creditable service that is
16 used in the calculation of benefits. Sick leave hours may not be
17 used to reach retirement eligibility. Both the employer and the
18 member must make the equivalent amount of retirement contributions
19 that would have been made had the sick hours been exercised and used
20 as sick leave hours.

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

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

26 (2) in an amount that:

27 (A) for each purchase, is not less than one

1 month; and

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

4 (3) only if the member has reinstated all prior
5 membership service in:

6 (A) Groups A and B if the member was initially
7 enrolled as a member of Group A, but ceased to be a member of Group
8 A, by:

9 (i) first reinstating all prior membership
10 service in Group A;

11 (ii) next reinstating all prior membership
12 service in Group B; and

13 (iii) then purchasing the nonqualified
14 permissive creditable service;

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

17 (i) first reinstating all prior membership
18 service in Group B; and

19 (ii) then purchasing the nonqualified
20 permissive creditable service.

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

25 (f) The full actuarial cost of noncontributory creditable
26 service purchased as provided by Subsections [~~Subsection~~] (e),
27 (e-1), (e-2), and (e-3) of this section is payable by the member

1 purchasing the credit.

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

6 (a) Except as provided by Subsection (b) of this section, a
7 member who retires on or after the member's normal retirement date
8 for the group in which the member is enrolled, or a member of Group B
9 eligible for early retirement who retires, and applies in writing
10 for a retirement allowance shall receive the [a] life annuity
11 (modified cash refund) or the early retirement annuity to which the
12 member is entitled. An annuity begins [~~beginning~~] on the last day of
13 the month after the month in which the member retired. Unless
14 Section 8 of this Act applies, or the member is an early retirement
15 eligible member of Group B, a member whose employment by the
16 employer terminates before the member's normal retirement date is
17 entitled to a distribution of the member's accumulated deposits in
18 a single lump sum. On receiving that distribution, a member is not
19 entitled to any other benefit under this Act. If a member has at
20 least five years of creditable service and does not withdraw the
21 member's accumulated deposits, the member is entitled to a life
22 annuity (modified cash refund) beginning on the first day of the
23 month after the month in which the member's normal retirement date
24 occurs.

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

27 (1) (1) A member may file a written designation, which, if

1 approved by the retirement board, shall entitle the member, on
2 retirement, to receive the actuarial equivalent of the life annuity
3 in the form of one of the following options:

4 (6) Option VI. Equivalent Benefit Plan. If a member
5 requests in writing, any other form of benefit or benefits may be
6 paid either to the member or to such person or persons as the member
7 shall designate before the member's actual retirement date,
8 provided that the benefit plan requested by the member is certified
9 by the actuary for the system to be the actuarial equivalent of the
10 life annuity with guaranteed refund of the retired member's
11 accumulated deposits. If, on the death of the member and all other
12 persons entitled to receive payments under an optional benefit, the
13 member's accumulated deposits as of the member's actual retirement
14 date exceed the sum of all payments made under that optional
15 benefit, that excess shall be paid in one lump sum to the member's
16 beneficiary. A member selecting this option may elect to receive
17 (i) either a life annuity or one of the actuarially-equivalent
18 annuities described by Subdivisions (1)-(5) and (ii) a lump-sum
19 payment upon retirement. If a member requests a lump-sum payment,
20 the annuity requested by the member shall be actuarially reduced as
21 a result of the lump-sum payment. The lump-sum payment may not
22 exceed an amount equal to the total amount of 60 monthly life
23 annuity payments. Active contributory members that reach normal
24 retirement age may upon retirement elect to participate in a
25 backward deferred retirement option program ("Backward DROP") that
26 permits a minimum participation period of one month and a maximum
27 participation period of sixty months. This deferred retirement

1 option is subject to retirement board policies issued in compliance
2 with the Code. No interest will be paid on, or added to, any
3 Backward DROP payment.

4 (z) If the person designated in writing by the member under
5 Option I, Option II, or Option III, or, excluding a Joint and Last
6 Survivor Option, any retirement option that includes a Joint and
7 Survivor Option, predeceases the retired member, the reduced
8 annuity of a retired member who selected the optional lifetime
9 retirement annuity shall be increased to the standard service
10 retirement annuity that the retiree would have been entitled to
11 receive if the retired member had not selected Option I, Option II,
12 or Option III. The standard service retirement annuity shall be
13 appropriately adjusted for early retirement and for the
14 postretirement increases in retirement benefits. The increase in
15 the annuity under this subsection is payable to the retired member
16 for life and begins with the later of the monthly payment made to
17 the retired member for the month following the month in which the
18 person designated by the member dies or the month following the
19 month in which the retired member gives the system notice of the
20 designated person's death.

21 (ii) If a member dies while performing qualified military
22 service, the beneficiaries of the member are entitled to any
23 additional benefits (other than benefit accruals relating to the
24 qualified military service) that would have been provided if the
25 member had returned from the military leave of absence and then
26 terminated employment on account of death.

27 SECTION 7. Section 9, Chapter 451, Acts of the 72nd

1 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
2 Civil Statutes), is amended by amending Subsection (a) and adding
3 subsections (c) through (g) to read as follows:

4 Sec. 9. LIMITATIONS ON BENEFITS. (a) Notwithstanding any
5 other provisions of this Act, the annual benefit provided with
6 respect to any member may not exceed the benefits allowed for a
7 governmental defined benefit plan qualified under Section 401 [415]
8 of the code. The maximum benefits allowed under this section shall
9 increase each year to the extent permitted by annual cost-of-living
10 increase adjustments announced by the Secretary of the Treasury
11 under Section 415(d) of the code and the increased benefit limits
12 shall apply to members who have terminated employment, including
13 members who have commenced to receive benefits, before the
14 effective date of the adjustment.

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

20 (d) The retirement board shall suspend the retirement
21 allowance of a retired member who resumes employment with an
22 employer within the period of time prescribed by the retirement
23 board in the board's policy, or who resumes employment after
24 retirement as a regular full-time employee of an employer. The
25 retirement board shall reinstate the member's retirement allowance
26 as provided under Subsection (f).

27 (e) The retirement board shall suspend the retirement

1 allowance of a retired member who resumes employment with an
2 employer in a position that is not required to participate in
3 another retirement system maintained by an employer, and who is not
4 a regular full-time employee of an employer, if the member works
5 for, or is compensated by, an employer for more than 1508 hours in
6 any rolling 12-month period after the member resumes employment
7 with the employer. The retirement board shall reinstate the
8 member's retirement allowance as provided under Subsection (f).

9 (f) A member whose retirement allowance is suspended under
10 Subsections (d) or (e) may apply in writing for reinstatement of the
11 retirement allowance when the member retires again. The retirement
12 system shall calculate the reinstated retirement allowance based on
13 the member's total creditable service, reduced actuarially to
14 reflect the gross amount of total retirement allowance paid to the
15 member prior to suspension of the retirement allowance.

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

19 SECTION 8. Section 10, Chapter 451, Acts of the 72nd
20 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
21 Civil Statutes), is amended by amending Subsection (a) to read as
22 follows:

23 Sec. 10. METHOD OF FINANCING. (a) Each
24 active-contributory member shall make deposits to the retirement
25 system at a rate equal to eight [~~seven~~] percent of the member's base
26 compensation, pay, or salary, exclusive of overtime, incentive, or
27 terminal pay or at a higher contribution rate approved by a majority

1 vote of regular full-time employee members. Deposits shall be made
2 by payroll deduction each pay period. If a regular full-time
3 employee works at least 75 percent of a normal 40-hour work week but
4 less than the full 40 hours, the employee shall make deposits as
5 though working a normal 40-hour work week even though the rate of
6 contribution may exceed eight [~~seven~~] percent of the employee's
7 actual compensation, pay, or salary, and the employee's average
8 final compensation shall be computed on the basis of the
9 compensation, pay, or salary for a normal 40-hour work week. No
10 deposits may be made nor membership service credit received for
11 periods during which an employee's authorized normal work week is
12 less than 75 percent of a normal 40-hour work week. A person who is
13 eligible for inactive-contributory membership status and who
14 chooses to be an inactive-contributory member shall make deposits
15 to the retirement system each pay period in an amount that is equal
16 to the amount of the member's deposit for the last complete pay
17 period that the member was a regular full-time employee. The
18 regular full-time employee members may increase, by a majority vote
19 of all such members voting at an election to consider an increase in
20 contributions, each member's contributions above eight [~~seven~~]
21 percent or above the higher rate in effect and approved by majority
22 vote in whatever amount the retirement board recommends. Each
23 employer shall contribute amounts equal to eight [~~seven~~] percent of
24 the compensation, pay, or salary of each active-contributory member
25 and each inactive-contributory member employed by the employer,
26 exclusive of overtime, incentive, or terminal pay, or a higher
27 contribution rate agreed by the employer. If a regular full-time

1 employee of the employer works at least 75 percent of a normal
2 40-hour work week but less than the full 40 hours, the employer
3 shall make contributions for that employee as though that employee
4 works a normal 40-hour work week even though the rate of
5 contribution may exceed eight [~~seven~~] percent of that employee's
6 actual compensation, pay, or salary. The governing body of the city
7 may authorize the city to make additional contributions to the
8 system in whatever amount the governing body may determine. If the
9 governing body authorizes additional contributions to the system by
10 the city for city employees, the board of each other employer shall
11 [~~may~~] increase the contributions for such employer's respective
12 employees by the same percentage. Employer contributions shall be
13 made each pay period.

14 SECTION 9. Section 12, Chapter 451, Acts of the 72nd
15 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
16 Civil Statutes), is amended by amending Subsection (e) and adding
17 Subsection (d-1) to read as follows:

18 (d-1) Members of the retirement system that are enrolled in
19 Group A shall have the rights and be entitled to the benefits
20 provided under this Act for members of Group A. Members of the
21 retirement system that are enrolled in Group B shall have the rights
22 and be entitled to the benefits provided under this Act for members
23 of Group B. A member may not be a member of both Group A and Group B.

24 (e) Notwithstanding any provision of this Act to the
25 contrary that would otherwise limit a distributee's election, a
26 distributee may elect, at the time and in the manner prescribed by
27 the retirement board, to have any portion of an eligible rollover

1 distribution paid directly to an eligible retirement plan specified
2 by the distributee in a direct rollover. For purposes of this
3 subsection:

4 (1) An eligible rollover distribution is any
5 distribution of all or any portion of the balance to the credit of
6 the distributee, except that an eligible rollover distribution does
7 not include:

8 (A) any distribution that is one of a series of
9 substantially equal periodic payments (not less frequently than
10 annually) made over the life (or life expectancy) of the
11 distributee or the joint lives (or joint life expectancies) of the
12 distributee and the distributee's designated beneficiary;

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

15 (C) any distribution to the extent such
16 distribution is required under Section 401(a)(9) of the code; or

17 (D) the portion of any distribution that is not
18 includable in gross income unless the distributee directs that the
19 eligible rollover distribution be transferred directly to a
20 qualified trust that is part of a defined contribution plan that
21 agrees to separately account for the portion that is includible in
22 gross income and the portion that is not, or to an individual
23 retirement account or individual annuity) [~~(determined without~~
24 ~~regard to the exclusion for net unrealized appreciation with~~
25 ~~respect to employer securities)]~~.

26 (2) An "eligible retirement plan" is an individual
27 retirement account described in Section 408(a) of the code, an

1 individual retirement annuity described in Section 408(b) of the
2 code, an annuity plan described in Section 403(a) of the code, or a
3 qualified trust described in Section 401(a) of the code, an
4 eligible deferred compensation plan described in Section 457(b)
5 which is maintained by an eligible employer described in Section
6 457(e)(1)(A) of the code, or an annuity contract described in
7 Section 403(b) of the code, that accepts the distributee's eligible
8 rollover distribution. However, in the case of an eligible rollover
9 distribution to a designated beneficiary who is not the surviving
10 spouse, or the spouse or former spouse under a qualified domestic
11 relations order, an eligible retirement plan is an individual
12 retirement account or individual retirement annuity only.

13 (3) A "distributee" includes an employee or former
14 employee. In addition, the employee's or former employee's
15 surviving spouse or designated beneficiary and the employee's or
16 former employee's spouse or former spouse who is the alternate
17 payee under a qualified domestic relations order, as defined in
18 Section 414(p) of the code, are distributees with regard to the
19 interest of the spouse or the former spouse.

20 (4) A "direct rollover" is a payment by the retirement
21 system to the eligible retirement plan specified by the
22 distributee.

23 SECTION 10. The following laws are repealed:

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

27 (2) Subsection (g), Section 10, Chapter 451, Acts of

1 the 72nd Legislature, Regular Session, 1991 (Article 6243n,
2 Vernon's Texas Civil Statutes).

3 SECTION 11. This Act takes effect immediately if it
4 receives a vote of two-thirds of all the members elected to each
5 House, as provided by Section 39, Article III, Texas Constitution.
6 If this Act does not receive the vote necessary for immediate
7 effect, this Act takes effect October 1, 2011.