

1-1 By: Naishtat, Rodriguez, Dukes H.B. No. 3033
1-2 (Senate Sponsor - Watson)
1-3 (In the Senate - Received from the House May 4, 2011;
1-4 May 5, 2011, read first time and referred to Committee on State
1-5 Affairs; May 13, 2011, reported adversely, with favorable
1-6 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-7 May 13, 2011, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 3033 By: Ellis

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to retirement under public retirement systems for
1-12 employees of certain municipalities.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 1, Chapter 451, Acts of the 72nd
1-15 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
1-16 Civil Statutes), is amended to read as follows:

1-17 Sec. 1. SCOPE. (a) A retirement system is established by
1-18 this Act for employees of each municipality having a population of
1-19 more than 760,000 [600,000] and less than 860,000.

1-20 (b) ~~Any [700,000; provided, however, that once such pension~~
1-21 ~~system becomes operative in any city, any] right or privilege~~
1-22 ~~accruing to any member of a retirement system established by this~~
1-23 ~~Act is [thereunder shall be] a vested right according to the terms~~
1-24 ~~of this Act [and the same shall not be denied or abridged thereafter~~
1-25 ~~through any change in population of any such city taking such city~~
1-26 ~~out of the population bracket as herein prescribed, and said~~
1-27 ~~pension system shall continue to operate and function regardless of~~
1-28 ~~whether or not any future population exceeds or falls below said~~
1-29 ~~population bracket].~~

1-30 (c) This Act continues to apply to a municipality described
1-31 by Subsection (a) and a retirement system established by this Act
1-32 continues to operate regardless of any change in the municipality's
1-33 population.

1-34 SECTION 2. Section 2, Chapter 451, Acts of the 72nd
1-35 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
1-36 Civil Statutes), is amended to read as follows:

1-37 Sec. 2. DEFINITIONS. The following words and phrases have
1-38 the meanings assigned by this section unless a different meaning is
1-39 plainly required by the context:

1-40 (1) "Accumulated deposits" means the amount standing
1-41 to the credit of a member derived from the deposits required to be
1-42 made by the member to the retirement system improved annually by
1-43 interest credited at a rate determined by the retirement board from
1-44 time to time upon the advice of the retirement board's actuary and
1-45 credited as of December 31 to amounts standing to the credit of the
1-46 member on January 1 of the same calendar year.

1-47 (2) "Actual retirement date" means the last day of the
1-48 month during which a member retires.

1-49 (3) "Actuarial equivalent" means any benefit of equal
1-50 present value when computed on the basis of actuarial tables
1-51 adopted by the retirement board from time to time upon the advice of
1-52 the retirement board's actuary. The actuarial tables adopted for
1-53 this purpose shall be tables that are acceptable to the Internal
1-54 Revenue Service and be clearly identified by resolution adopted by
1-55 the retirement board.

1-56 (4) "Actuary" means the technical advisor of the
1-57 retirement board regarding the operations which are based on
1-58 mortality, service, and compensation experience.

1-59 (5) "Agency of the municipality" means any agency or
1-60 instrumentality of the municipality or governmental or publicly
1-61 owned legal entity created by the municipality, before or after
1-62 ~~[subsequent to]~~ the effective date of this Act, to perform or
1-63 provide a public service or function and that employs at least one

2-1 employee to provide services or accomplish its public purpose.

2-2 (6) "Approved medical leave of absence" means any
2-3 absence authorized in writing by the member's employer for the
2-4 purpose of enabling the member to obtain medical care or treatment
2-5 or to recover from any sickness or injury.

2-6 (7) "Authorized leave of absence" means military leave
2-7 of absence, including a period of not more than 90 days after the
2-8 date of release from active military duty, or any other leave of
2-9 absence during which a member is otherwise authorized by law to
2-10 continue making contributions to the system. The term does not
2-11 include an approved medical leave of absence.

2-12 (8) "Average final compensation" means the average
2-13 monthly compensation, as defined and limited by Subdivision (12) of
2-14 this section, less overtime, incentive, and terminal pay, plus, (i)
2-15 amounts picked up by the employer pursuant to Section 10(e) of this
2-16 Act, and (ii) amounts that would be included in wages but for an
2-17 election under Section 125(d), 132(f)(4), 402(e)(3), 402(h)(1)(B),
2-18 402(k), or 457(b) of the code, [not otherwise included in the
2-19 member's taxable income by reason of either an election under a
2-20 "cafeteria" plan as described in Section 125 of the code or
2-21 deferrals under a plan of deferred compensation within the scope of
2-22 Section 457 of the code, to the extent not in excess of \$12,500 for
2-23 persons who first become members after 1995 that is earned by a
2-24 member] during, as applicable:

2-25 (A) if the member has 120 months or more of
2-26 membership service, the 36 months of membership service which
2-27 yielded the highest average during the last 120 months of
2-28 membership service;

2-29 (B) if the member has less than 120 months of
2-30 membership service, but has at least 36 months of membership
2-31 service, then the average during the 36 months which yield the
2-32 highest average; or

2-33 (C) if the member does not have 36 months of
2-34 membership service, then the average during the member's months of
2-35 membership service.

2-36 The term does not include annual compensation in excess
2-37 of the dollar limit under Section 401(a)(17) of the code for any
2-38 employee who first becomes a member in a year commencing after 1995,
2-39 and that compensation shall be disregarded in determining average
2-40 final compensation. Any reduction for overtime, incentive, and
2-41 terminal pay shall not cause a member's compensation to be less than
2-42 the limit under Section 401(a)(17) of the code to the extent that
2-43 the compensation has already been reduced in accordance with
2-44 Subdivision (12). The dollar limitation shall be adjusted for cost
2-45 of living increases as provided under Section 401(a)(17) of the
2-46 code.

2-47 (9) "Beneficiary" means the member's designated
2-48 beneficiary. If there is no effective beneficiary designation on
2-49 the date of the member's death, or if the designated beneficiary
2-50 predeceases the member (or dies as a result of the same event that
2-51 caused the member's death and does not survive the member by 48
2-52 hours), the member's spouse or, if the member does not have a
2-53 spouse, the member's estate shall be the beneficiary.

2-54 (10) "Board" means the boards of directors of an
2-55 employer that is not a municipality as described in Section 1 of
2-56 this Act.

2-57 (11) "Code" means the United States Internal Revenue
2-58 Code of 1986 (26 U.S.C. Section 1 et seq.) and its successors.

2-59 (12) "Compensation" means, with respect to any member,
2-60 such member's wages, within the meaning of Section 3401(a) of the
2-61 code (for purposes of income tax withholding at the source) but
2-62 determined without regard to any rules that limit the remuneration
2-63 included in wages based on the nature or location of the employment
2-64 or the services performed (such as the exception for agricultural
2-65 labor in Section 3401(a)(2) of the code). Compensation in excess of
2-66 the dollar limit under Section 401(a)(17) of the code shall be
2-67 disregarded in determining the compensation of [\$12,500 per month
2-68 for] any employee who first becomes a member in a year commencing
2-69 after 1995 [shall be disregarded]. The dollar [\$12,500] limitation

3-1 shall be adjusted for cost of living increases as provided under
 3-2 Section 401(a)(17) of the code.

3-3 (13) "Consumer price index" means the Consumer Price
 3-4 Index for Urban Wage Earners and Clerical Workers (United States
 3-5 City Average, All Items) published monthly by the Bureau of Labor
 3-6 Statistics, United States Department of Labor, or its successor in
 3-7 function.

3-8 (14) "Creditable service" means the total of prior
 3-9 service, membership service, redeemed service, and service
 3-10 purchased under Section 6 of this Act.

3-11 (15) "Current service annuity" means a series of equal
 3-12 monthly payments payable for the member's life after retirement for
 3-13 creditable [membership] service from funds of the retirement system
 3-14 equal to:

3-15 (A) for Group A members, one-twelfth of the
 3-16 product of 3.0 [2.7] percent [or a higher percentage established by
 3-17 the retirement board under Section 10(g) of this Act] of a member's
 3-18 average final compensation multiplied by the number of months of
 3-19 creditable [membership] service; and

3-20 (B) for Group B members, one-twelfth of the
 3-21 product of 2.5 percent of a member's average final compensation
 3-22 multiplied by the number of months of creditable service.

3-23 (16) "Deposits" means the amounts required to be paid
 3-24 by members in accordance with the provisions of this Act.

3-25 (17) "Designated beneficiary" means any person,
 3-26 trust, or estate properly designated on a form provided by the
 3-27 retirement system by a member to receive benefits from the system in
 3-28 the event of the member's death. If the member is married, an
 3-29 individual other than the member's spouse may be the designated
 3-30 beneficiary only if the spouse consents to such designation in the
 3-31 form and manner prescribed by the retirement board.

3-32 (18) "Disability retirement" means the termination of
 3-33 employment of a member because of disability with a disability
 3-34 retirement allowance as provided in Section 8 of this Act.

3-35 (18A) "Early retirement annuity" means an annuity that
 3-36 is the actuarial equivalent of a current service annuity that would
 3-37 otherwise be payable at age 65 under this Act but that is reduced
 3-38 based on the member's actual age in years and months.

3-39 (18B) "Early retirement eligible member" means a
 3-40 member of Group B that:

3-41 (A) is at least 55 years of age; and
 3-42 (B) has at least 10 years of creditable service,
 3-43 excluding nonqualified permissive service credit.

3-44 (19) "Employer" means the municipality described in
 3-45 Section 1 of this Act, the retirement board, or an agency of the
 3-46 municipality.

3-47 (20) "Fund" means the trust fund containing the
 3-48 aggregate of the assets of Fund No. 1 and Fund No. 2.

3-49 (21) "Fund No. 1" means the fund in which shall be kept
 3-50 all accumulated deposits of members who have not withdrawn from the
 3-51 system.

3-52 (22) "Fund No. 2" means the fund in which shall be kept
 3-53 all money contributed by the city on behalf of city employees, by an
 3-54 agency of the municipality on behalf of the agency's employees, and
 3-55 by the retirement board on behalf of retirement board employees,
 3-56 interest earned thereon, and all accumulations and earnings of the
 3-57 system.

3-58 (23) "Governing body" means the city council of the
 3-59 municipality described in Section 1 and its successors as
 3-60 constituted from time to time.

3-61 (23A) "Group A" means the group of members of the
 3-62 retirement system that includes each member who:

3-63 (A) began membership service on or after January
 3-64 1, 1941, and on or before December 31, 2011; or
 3-65 (B) returned to full-time employment on or after
 3-66 January 1, 2012, and:

3-67 (i) was previously a member of Group A;
 3-68 (ii) ceased to be a member of the retirement
 3-69 system;

4-1 (iii) received a distribution of the
4-2 member's accumulated deposits; and

4-3 (iv) reinstated all of the member's prior
4-4 membership service credit.

4-5 (23B) "Group B" means the group of members of the
4-6 retirement system that includes each member who:

4-7 (A) began membership service on or after January
4-8 1, 2012; or

4-9 (B) returned to full-time employment on or after
4-10 January 1, 2012, and:

4-11 (i) was previously a member of Group A;

4-12 (ii) ceased to be a member of the retirement
4-13 system;

4-14 (iii) received a distribution of the
4-15 member's accumulated deposits; and

4-16 (iv) has not reinstated all of the member's
4-17 prior membership service credit.

4-18 (25) "Investment consultant" means the person or
4-19 entity that monitors the investment performance of the system and
4-20 provides such other services as requested by the retirement board.

4-21 (26) "Investment manager" means the persons or
4-22 entities that have the power to manage, acquire, or dispose of
4-23 assets of the fund on behalf of the retirement system and that
4-24 acknowledge fiduciary responsibility to the system in writing. An
4-25 investment manager must be a person, firm, or corporation
4-26 registered as an investment adviser under the Investment Advisers
4-27 Act of 1940, a bank, or an insurance company qualified to manage,
4-28 acquire or dispose of assets under the laws of more than one state
4-29 including this state that meets the requirements of Section
4-30 802.204, Government Code.

4-31 (27) "Life annuity" means a series of equal monthly
4-32 payments, payable after retirement for a member's life, consisting
4-33 of a combination of prior service pension and current service
4-34 annuity, or early retirement annuity, to which the member is
4-35 entitled.

4-36 (28) "Life annuity (modified cash refund)" means a
4-37 life annuity providing that, in the event of death of the retired
4-38 member before that member has received payments under the life
4-39 annuity totaling the amount of that member's accumulated deposits
4-40 at the date of retirement, the excess of such accumulated deposits
4-41 over the payments made shall be paid in one lump sum to the member's
4-42 designated beneficiary.

4-43 (29) "Malfeasance" means willful misconduct or the
4-44 knowingly improper performance of any act, duty, or responsibility
4-45 under this Act, including non-performance, that interrupts,
4-46 interferes with, or attempts to interfere with the administration,
4-47 operation, and management of the retirement system or any person's
4-48 duties under this Act.

4-49 (30) "Member" means any:

4-50 (A) regular full-time employee of an employer;
4-51 and

4-52 (B) former regular full-time employee who has not
4-53 withdrawn the member's accumulated deposits from the system.

4-54 In any case of doubt regarding the eligibility of any
4-55 employee to become or remain a member of the retirement system, or
4-56 the assignment of a member to a group, the decision of the
4-57 retirement board is final.

4-58 (31) "Membership service" means the period of time on
4-59 or after January 1, 1941, during which a person is or was employed
4-60 as a regular full-time employee or is or was on an authorized leave
4-61 of absence and who is eligible for participation in the system and
4-62 pays into and keeps on deposit the amounts of money prescribed to be
4-63 paid by the member into the system. The term includes redeemed
4-64 membership service.

4-65 (32) "Normal retirement age" means:

4-66 (A) for members of Group A:

4-67 (i) age 62;

4-68 (ii) [~~B~~] 55 years of age with 20 years of
4-69 creditable service; or

- 5-1 (iii) [~~(C)~~] 23 years of creditable service,
5-2 regardless of years of age; and
5-3 (B) for members of Group B:
5-4 (i) 62 years of age with 30 years of
5-5 creditable service, excluding nonqualified permissive service
5-6 credit; or
5-7 (ii) 65 years of age with five years of
5-8 creditable service, excluding nonqualified permissive service
5-9 credit.
- 5-10 (33) "Normal retirement date" means:
5-11 (A) for members of Group A, the earlier of the
5-12 date a member attains a normal retirement age or the date on which
5-13 the member has completed 23 years of creditable service; and
5-14 (B) for members of Group B, the date the member
5-15 reaches normal retirement age under Subdivision (32)(B) of this
5-16 section [or a lesser number of years of creditable service
5-17 established by the retirement board under Section 10(g) of this
5-18 Act].
- 5-19 (34) "Prior service" means membership service as an
5-20 employee of the city:
5-21 (A) rendered by a person prior to January 1,
5-22 1941, for which a pension credit is allowable under prior law
5-23 governing the retirement system of that city; and
5-24 (B) which for a person after January 1, 1941,
5-25 includes redeemed membership [prior] service.
- 5-26 (35) "Prior service pension" means a series of equal
5-27 monthly payments payable from funds of the retirement system for a
5-28 member's life after retirement for prior service equal to
5-29 one-twelfth of the product of 3.0 [2.7] percent [or a greater
5-30 percentage established by the retirement board under Section 10(g)
5-31 of this Act] of the member's average monthly earnings during a
5-32 period of five years preceding January 1, 1941, multiplied by the
5-33 number of months of prior service. [~~On retirement at an age other~~
5-34 ~~than normal retirement age, the monthly prior service pension~~
5-35 ~~herein prescribed shall be the actuarial equivalent thereof at the~~
5-36 ~~member's actual retirement date, based on the schedule or schedules~~
5-37 ~~of payments approved by the actuary and adopted by the retirement~~
5-38 ~~board and in effect on the member's actual retirement date.]~~
- 5-39 (36) "Qualified domestic relations order" has the
5-40 meaning assigned by Section 804.001, Government Code, and its
5-41 subsequent amendments.
- 5-42 (37) "Redeemed membership service" means membership
5-43 service reinstated in accordance with Section 5(e) of this Act.
- 5-44 (38) "Redeemed prior service" means prior service
5-45 reinstated in accordance with Section 5(e) of this Act.
- 5-46 (39) "Regular full-time employee" means an individual
5-47 who is employed by the municipality, an agency of the municipality,
5-48 or the retirement board who is not a commissioned civil service
5-49 police officer or fire fighter, a fire or police cadet employed
5-50 under civil service procedures, the mayor, or a member of the
5-51 governing body; who serves in a position that is classified in the
5-52 annual budget of an employer for employment for the full calendar
5-53 year; and who works or is budgeted for 30 hours or more in a normal
5-54 40-hour work week. The term does not include an individual whose
5-55 position is classified as seasonal or temporary by the employer,
5-56 even if the individual works 30 hours or more in a normal 40-hour
5-57 work week in which the individual is employed.
- 5-58 (40) "Retired member" means a person who because of
5-59 creditable service or age is qualified to receive and who has
5-60 retired and is eligible to continue receiving a retirement
5-61 allowance as provided by this Act.
- 5-62 (41) "Retirement" means the termination of employment
5-63 of a member after the member becomes entitled to receive a
5-64 retirement allowance in accordance with the provisions of this Act.
- 5-65 (42) "Retirement allowance" means the life annuity
5-66 (modified cash refund) to which a member may be entitled under this
5-67 Act, including annuities payable on disability retirement.
- 5-68 (43) "Retirement board" means the board of trustees of
5-69 the retirement and pensioning system herein created for the purpose

6-1 of administering the retirement system.

6-2 (44) "Retirement system," "retirement and pensioning
6-3 system," "pension system," or "system" means the retirement and
6-4 pensioning system created by this Act for a municipality governed
6-5 by this Act or a retirement system established under this Act.

6-6 (45) "Year of creditable service" means a 12-month
6-7 period of creditable service determined in accordance with uniform
6-8 and nondiscriminatory rules established by the retirement board.

6-9 SECTION 3. Section 3, Chapter 451, Acts of the 72nd
6-10 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
6-11 Civil Statutes), is amended to read as follows:

6-12 Sec. 3. ESTABLISHMENT AND APPLICABILITY. Subject to the
6-13 authority granted the retirement board in Section 7(d) of this
6-14 Act:[7]

6-15 (1) members who retired, and the beneficiaries of
6-16 members who died, prior to October 1, 2011 [~~1999~~], shall continue to
6-17 receive the same retirement allowances or benefits they were
6-18 entitled to receive prior to that date, together with any benefit
6-19 increase authorized under this Act;

6-20 (2) members of the retirement system on or before
6-21 December 31, 2011, shall be enrolled as members of Group A; and

6-22 (3) persons that first become members of the
6-23 retirement system on or after January 1, 2012, shall be enrolled in
6-24 Group B.

6-25 SECTION 4. Subsections (b), (c), and (e), Section 5,
6-26 Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991
6-27 (Article 6243n, Vernon's Texas Civil Statutes), are amended to read
6-28 as follows:

6-29 (b) Membership in the retirement system consists of Groups A
6-30 and B, each of which consists of the following groups:

6-31 (1) the active-contributory members group, which
6-32 consists of all members, other than those on authorized leave of
6-33 absence, who are making deposits;

6-34 (2) the active-noncontributory members group, which
6-35 consists of all employees on approved medical leave of absence and
6-36 all employees of an employer, other than inactive-contributory
6-37 members, who have been active-contributory members but who are no
6-38 longer so because they are not regular full-time employees;

6-39 (3) the inactive-contributory members group, which
6-40 consists of all members who are on an authorized leave of absence
6-41 and who continue to make deposits into the retirement system during
6-42 their absence;

6-43 (4) the inactive-noncontributory members group, which
6-44 consists of all members whose status as an employee has been
6-45 terminated before retirement or disability retirement but who are
6-46 still entitled to or who may become entitled to, or whose
6-47 beneficiary may become entitled to, benefits from the retirement
6-48 system; and

6-49 (5) the retired members group, which consists of all
6-50 members who have retired and who are receiving or who are entitled
6-51 to receive a retirement allowance.

6-52 (c) A [~~An active-noncontributory~~] member becomes an
6-53 active-contributory member immediately on resuming employment as a
6-54 regular full-time employee or on returning from an approved medical
6-55 leave of absence, as applicable. A member who resumes regular
6-56 full-time employment is assigned to the group for which the member
6-57 is qualified under Subdivisions (23A) and (23B), Section 2 of this
6-58 Act.

6-59 (e) Any person who has ceased to be a member and has received
6-60 a distribution of the person's accumulated deposits may have the
6-61 person's membership service in the original group in which the
6-62 membership service was earned [~~or prior service~~] reinstated if the
6-63 person is reemployed as a regular full-time employee [~~for a~~
6-64 ~~continuous period of 24 months~~] and deposits into the system~~[7~~
6-65 ~~within a reasonable period established by the retirement board on a~~
6-66 ~~uniform and nondiscriminatory basis,~~] the accumulated deposits
6-67 withdrawn by that person, together with an interest payment equal
6-68 to the amount withdrawn multiplied by an interest factor. The
6-69 interest factor is equal to the annually compounded interest rate

7-1 assumed to have been earned by the fund beginning with the month and
7-2 year in which the person withdrew the person's accumulated deposits
7-3 and ending with the month and year in which the deposit under this
7-4 subsection is made. The interest rate assumed to have been earned
7-5 by the fund for any period is equal to the interest rate credited
7-6 for that period to the accumulated deposits of members, divided by
7-7 0.75.

7-8 SECTION 5. Section 6, Chapter 451, Acts of the 72nd
7-9 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
7-10 Civil Statutes), is amended by amending Subsections (c) and (f) and
7-11 adding Subsections (e-1), (e-2), and (e-3) to read as follows:

7-12 (c)(1) Uniformed service creditable in the retirement
7-13 system is any service required to be credited by the Uniformed
7-14 Services Employment and Reemployment Rights Act of 1994 (38 U.S.C.
7-15 Section 4301 et seq.), as amended, and certain federal duty service
7-16 in the armed forces of the United States performed before the
7-17 beginning of employment with the employer, other than service as a
7-18 student at a service academy, as a member of the reserves, or any
7-19 continuous active military service lasting less than 90 days. A
7-20 member may use uniformed service to establish creditable service
7-21 subject to the conditions of Subdivisions (2)-(6) of this
7-22 subsection.

7-23 (2) A member may establish uniformed creditable
7-24 service for an authorized leave of absence from employment for
7-25 military service under this subsection by making periodic payments
7-26 or a lump-sum payment. If the member elects to make periodic
7-27 payments, the member shall make, each pay period during the period
7-28 that the member is on authorized leave, a deposit in an amount equal
7-29 to the amount of the member's deposit for the last complete pay
7-30 period that the member was paid by the employer as a regular
7-31 full-time employee. If the member elects to make a lump-sum
7-32 payment, the member and the employer shall, not later than the fifth
7-33 anniversary of the date the member returns to employment with the
7-34 employer, make separate lump-sum payments equal to the total amount
7-35 of the contributions the member would have made if the member had
7-36 made periodic contributions. A lump-sum payment may not exceed the
7-37 amount required under the Uniformed Services Employment and
7-38 Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as
7-39 amended, if the member makes the contributions within the time
7-40 required by that Act. The employer's employer shall make
7-41 contributions to the retirement fund as though the member has
7-42 continued employment at the salary of the member for the last
7-43 complete pay period before the absence for military service. The
7-44 employer's contributions shall be made each pay period if the
7-45 member is making periodic payments during the period. During an
7-46 authorized leave of absence, the member accrues membership service
7-47 for the pay periods in which the member makes a deposit. Membership
7-48 service credit for a lump-sum payment accrues at the time of
7-49 payment.

7-50 (3) A member may establish uniformed creditable
7-51 service for active federal duty service in the armed forces of the
7-52 United States, other than service as a student at a service academy,
7-53 as a member of the reserves, or any continuous active military
7-54 service lasting less than 90 days, performed before the first day of
7-55 employment of the member's most recent membership in the retirement
7-56 system or its predecessor system. To establish creditable service
7-57 under this subdivision, the member must contribute a lump-sum
7-58 payment equal to 25 percent of the estimated cost of the retirement
7-59 benefits the member will be entitled to receive. The retirement
7-60 board will determine the required contribution based on a procedure
7-61 recommended by the actuary and approved by the retirement board.

7-62 (4) A member is not eligible to establish uniformed
7-63 service credit unless the member was released from active military
7-64 duty under conditions other than dishonorable.

7-65 (5) A member may not establish creditable service in
7-66 the retirement system for uniformed service for more than the
7-67 greater of the creditable service required under the Uniformed
7-68 Services Employment and Reemployment Rights Act of 1994 (38 U.S.C.
7-69 Section 4301 et seq.), as amended, or 48 months of creditable

8-1 service in the retirement system for uniformed service under this
 8-2 subsection. A member is not precluded from purchasing qualified
 8-3 military service to which the member is entitled solely because the
 8-4 member, before beginning a leave of absence for qualified military
 8-5 service, purchased creditable service for military service
 8-6 performed before becoming employed by the employer.

8-7 (6) After the member makes the deposit required by
 8-8 this subsection, the retirement system shall grant the member one
 8-9 month of creditable service for each month of creditable uniformed
 8-10 service established under this subsection.

8-11 (e-1) An active contributory member that is eligible for
 8-12 retirement may file a written application to convert to creditable
 8-13 service at retirement all or part of the member's sick leave accrued
 8-14 with the employer that is eligible for conversion. The application
 8-15 must be approved by the retirement board. The member may not
 8-16 convert sick leave for which the member is entitled to be paid by
 8-17 the employer. Sick leave hours may be converted in pay period
 8-18 increments for the purpose of increasing creditable service that is
 8-19 used in the calculation of benefits. Sick leave hours may not be
 8-20 used to reach retirement eligibility. Both the employer and the
 8-21 member must make the equivalent amount of retirement contributions
 8-22 that would have been made had the sick hours been exercised and used
 8-23 as sick leave hours.

8-24 (e-2) Nonqualified permissive creditable service may be
 8-25 purchased only as provided by this subsection. A member may
 8-26 purchase nonqualified permissive creditable service:

8-27 (1) only to the extent permitted under both this
 8-28 subsection and Section 415(n) of the code;

8-29 (2) in an amount that:

8-30 (A) for each purchase, is not less than one
 8-31 month; and

8-32 (B) when all amounts purchased under this
 8-33 subsection are combined, is not more than 60 months; and

8-34 (3) only if the member has reinstated all prior
 8-35 membership service in:

8-36 (A) Groups A and B if the member was initially
 8-37 enrolled as a member of Group A, but ceased to be a member of Group
 8-38 A, by:

8-39 (i) first reinstating all prior membership
 8-40 service in Group A;

8-41 (ii) next reinstating all prior membership
 8-42 service in Group B; and

8-43 (iii) then purchasing the nonqualified
 8-44 permissive creditable service; or

8-45 (B) Group B, if the member was initially enrolled
 8-46 as a member of Group B, by:

8-47 (i) first reinstating all prior membership
 8-48 service in Group B; and

8-49 (ii) then purchasing the nonqualified
 8-50 permissive creditable service.

8-51 (e-3) Nonqualified permissive creditable service purchased
 8-52 by members of Group B is not included in the creditable service
 8-53 required to qualify a member for normal or early retirement
 8-54 eligibility.

8-55 (f) The full actuarial cost of noncontributory creditable
 8-56 service purchased as provided by Subsections ~~Subsection~~ (e),
 8-57 (e-1), (e-2), and (e-3) of this section is payable by the member
 8-58 purchasing the credit.

8-59 SECTION 6. Section 7, Chapter 451, Acts of the 72nd
 8-60 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
 8-61 Civil Statutes), is amended by amending Subsections (a), (l), and
 8-62 (z), and adding Subsections (a-1) and (ii) to read as follows:

8-63 (a) Except as provided by Subsection (b) of this section, a
 8-64 member who retires on or after the member's normal retirement date
 8-65 for the group in which the member is enrolled, or a member of Group B
 8-66 eligible for early retirement who retires, and applies in writing
 8-67 for a retirement allowance shall receive the [a] life annuity
 8-68 (modified cash refund) or the early retirement annuity to which the
 8-69 member is entitled. An annuity begins [beginning] on the last day

9-1 of the month after the month in which the member retired. Unless
 9-2 Section 8 of this Act applies, or the member is an early retirement
 9-3 eligible member of Group B, a member whose employment by the
 9-4 employer terminates before the member's normal retirement date is
 9-5 entitled to a distribution of the member's accumulated deposits in
 9-6 a single lump sum. On receiving that distribution, a member is not
 9-7 entitled to any other benefit under this Act. If a member has at
 9-8 least five years of creditable service and does not withdraw the
 9-9 member's accumulated deposits, the member is entitled to a life
 9-10 annuity (modified cash refund) beginning on the first day of the
 9-11 month after the month in which the member's normal retirement date
 9-12 occurs.

9-13 (a-1) If not already nonforfeitable, a member's retirement
 9-14 benefit becomes nonforfeitable at normal retirement age.

9-15 (1) A member may file a written designation, which, if
 9-16 approved by the retirement board, shall entitle the member, on
 9-17 retirement, to receive the actuarial equivalent of the life annuity
 9-18 in the form of one of the following options:

9-19 (1) Option I. 100 Percent Joint and Survivor Annuity.
 9-20 This option is a reduced monthly annuity payable to the member but
 9-21 with the provision that on the member's death the annuity shall be
 9-22 continued throughout the life of and be paid to such person as the
 9-23 member shall designate before the member's actual retirement date.

9-24 (2) Option II. 50 Percent Joint and Survivor Annuity.
 9-25 This option is a reduced monthly annuity payable to the member but
 9-26 with the provision that on the member's death one-half of the
 9-27 annuity shall be continued throughout the life of and be paid to
 9-28 such person as the member shall designate before the member's
 9-29 actual retirement date.

9-30 (3) Option III. 66-2/3 Percent Joint and Survivor
 9-31 Annuity. This option is a reduced monthly annuity payable to the
 9-32 member but with the provision that on the member's death two-thirds
 9-33 of the annuity shall be continued throughout the life of and be paid
 9-34 to such person as the member shall designate before the member's
 9-35 actual retirement date.

9-36 (4) Option IV. Joint and 66-2/3 Percent Last Survivor
 9-37 Annuity. This option is a reduced monthly annuity payable to the
 9-38 member but with the provision that two-thirds of the annuity to
 9-39 which the member would be entitled shall be continued throughout
 9-40 the life of and be paid to the survivor after the death of either the
 9-41 member or such person as the member shall designate before the
 9-42 member's actual retirement date.

9-43 (5) Option V. 15-Year Certain and Life Annuity. This
 9-44 option is a reduced annuity payable to the member for life. In the
 9-45 event of the member's death before 180 monthly payments have been
 9-46 made, the remainder of the 180 payments shall be paid to the
 9-47 member's beneficiary or, if there is no beneficiary, to the member's
 9-48 estate.

9-49 (6) Option VI. Equivalent Benefit Plan. If a member
 9-50 requests in writing, any other form of benefit or benefits may be
 9-51 paid either to the member or to such person or persons as the member
 9-52 shall designate before the member's actual retirement date,
 9-53 provided that the benefit plan requested by the member is certified
 9-54 by the actuary for the system to be the actuarial equivalent of the
 9-55 life annuity with guaranteed refund of the retired member's
 9-56 accumulated deposits. If, on the death of the member and all other
 9-57 persons entitled to receive payments under an optional benefit, the
 9-58 member's accumulated deposits as of the member's actual retirement
 9-59 date exceed the sum of all payments made under that optional
 9-60 benefit, that excess shall be paid in one lump sum to the member's
 9-61 beneficiary. A member selecting this option may elect to receive
 9-62 (i) either a life annuity or one of the actuarially-equivalent
 9-63 annuities described by Subdivisions (1)-(5) and (ii) a lump-sum
 9-64 payment upon retirement. If a member requests a lump-sum payment,
 9-65 the annuity requested by the member shall be actuarially reduced as
 9-66 a result of the lump-sum payment. The lump-sum payment may not
 9-67 exceed an amount equal to the total amount of 60 monthly life
 9-68 annuity payments. Active contributory members that reach normal
 9-69 retirement age may upon retirement elect to participate in a

10-1 backward deferred retirement option program ("backward DROP") that
 10-2 permits a minimum participation period of one month and a maximum
 10-3 participation period of 60 months. This deferred retirement option
 10-4 is subject to retirement board policies issued in compliance with
 10-5 the code. No interest will be paid on, or added to, any backward
 10-6 DROP payment.

10-7 (z) If the person designated in writing by the member under
 10-8 Option I, Option II, or Option III, or, excluding a joint and last
 10-9 survivor option, any retirement option that includes a joint and
 10-10 survivor option, predeceases the retired member, the reduced
 10-11 annuity of a retired member who selected the optional lifetime
 10-12 retirement annuity shall be increased to the standard service
 10-13 retirement annuity that the retiree would have been entitled to
 10-14 receive if the retired member had not selected Option I, Option II,
 10-15 or Option III. The standard service retirement annuity shall be
 10-16 appropriately adjusted for early retirement and for the
 10-17 postretirement increases in retirement benefits. The increase in
 10-18 the annuity under this subsection is payable to the retired member
 10-19 for life and begins with the later of the monthly payment made to
 10-20 the retired member for the month following the month in which the
 10-21 person designated by the member dies or the month following the
 10-22 month in which the retired member gives the system notice of the
 10-23 designated person's death.

10-24 (ii) If a member dies while performing qualified military
 10-25 service, the beneficiaries of the member are entitled to any
 10-26 additional benefits, other than benefit accruals relating to the
 10-27 qualified military service, that would have been provided if the
 10-28 member had returned from the military leave of absence and then
 10-29 terminated employment on account of death.

10-30 SECTION 7. Section 9, Chapter 451, Acts of the 72nd
 10-31 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
 10-32 Civil Statutes), is amended by amending Subsection (a) and adding
 10-33 Subsections (c) through (g) to read as follows:

10-34 (a) Notwithstanding any other provisions of this Act, the
 10-35 annual benefit provided with respect to any member may not exceed
 10-36 the benefits allowed for a governmental defined benefit plan
 10-37 qualified under Section 401 [415] of the code. The maximum benefits
 10-38 allowed under this section shall increase each year to the extent
 10-39 permitted by annual cost of living increase adjustments announced
 10-40 by the United States secretary of the treasury under Section 415(d)
 10-41 of the code and the increased benefit limits shall apply to members
 10-42 who have terminated employment, including members who have
 10-43 commenced to receive benefits, before the effective date of the
 10-44 adjustment.

10-45 (c) A member who retires after reaching normal retirement
 10-46 age and continues or resumes employment with an employer in a
 10-47 position that is required to participate in another retirement
 10-48 system maintained by the employer continues to be eligible to
 10-49 receive the retirement allowance provided under this Act.

10-50 (d) The retirement board shall suspend the retirement
 10-51 allowance of a retired member who resumes employment with an
 10-52 employer within the period of time prescribed by the retirement
 10-53 board in the board's policy, or who resumes employment after
 10-54 retirement as a regular full-time employee of an employer. The
 10-55 retirement board shall reinstate the member's retirement allowance
 10-56 as provided under Subsection (f) of this section.

10-57 (e) The retirement board shall suspend the retirement
 10-58 allowance of a retired member who resumes employment with an
 10-59 employer in a position that is not required to participate in
 10-60 another retirement system maintained by an employer, and who is not
 10-61 a regular full-time employee of an employer, if the member works
 10-62 for, or is compensated by, an employer for more than 1,508 hours in
 10-63 any rolling 12-month period after the member resumes employment
 10-64 with the employer. The retirement board shall reinstate the
 10-65 member's retirement allowance as provided under Subsection (f) of
 10-66 this section.

10-67 (f) A member whose retirement allowance is suspended under
 10-68 Subsection (d) or (e) of this section may apply in writing for
 10-69 reinstatement of the retirement allowance when the member retires

11-1 again. The retirement system shall calculate the reinstated
 11-2 retirement allowance based on the member's total creditable
 11-3 service, reduced actuarially to reflect the gross amount of total
 11-4 retirement allowance paid to the member prior to suspension of the
 11-5 retirement allowance.

11-6 (g) The retirement system and the employer shall adopt and
 11-7 amend procedures for the exchange of information in order to
 11-8 implement the provisions of this section.

11-9 SECTION 8. Subsection (a), Section 10, Chapter 451, Acts of
 11-10 the 72nd Legislature, Regular Session, 1991 (Article 6243n,
 11-11 Vernon's Texas Civil Statutes), is amended to read as follows:

11-12 (a) Each active-contributory member shall make deposits to
 11-13 the retirement system at a rate equal to eight [~~seven~~] percent of
 11-14 the member's base compensation, pay, or salary, exclusive of
 11-15 overtime, incentive, or terminal pay or at a higher contribution
 11-16 rate approved by a majority vote of regular full-time employee
 11-17 members. Deposits shall be made by payroll deduction each pay
 11-18 period. If a regular full-time employee works at least 75 percent
 11-19 of a normal 40-hour work week but less than the full 40 hours, the
 11-20 employee shall make deposits as though working a normal 40-hour
 11-21 work week even though the rate of contribution may exceed eight
 11-22 [~~seven~~] percent of the employee's actual compensation, pay, or
 11-23 salary, and the employee's average final compensation shall be
 11-24 computed on the basis of the compensation, pay, or salary for a
 11-25 normal 40-hour work week. No deposits may be made nor membership
 11-26 service credit received for periods during which an employee's
 11-27 authorized normal work week is less than 75 percent of a normal
 11-28 40-hour work week. A person who is eligible for
 11-29 inactive-contributory membership status and who chooses to be an
 11-30 inactive-contributory member shall make deposits to the retirement
 11-31 system each pay period in an amount that is equal to the amount of
 11-32 the member's deposit for the last complete pay period that the
 11-33 member was a regular full-time employee. The regular full-time
 11-34 employee members may increase, by a majority vote of all such
 11-35 members voting at an election to consider an increase in
 11-36 contributions, each member's contributions above eight [~~seven~~]
 11-37 percent or above the higher rate in effect and approved by majority
 11-38 vote in whatever amount the retirement board recommends. Each
 11-39 employer shall contribute amounts equal to eight [~~seven~~] percent of
 11-40 the compensation, pay, or salary of each active-contributory member
 11-41 and each inactive-contributory member employed by the employer,
 11-42 exclusive of overtime, incentive, or terminal pay, or a higher
 11-43 contribution rate agreed by the employer. If a regular full-time
 11-44 employee of the employer works at least 75 percent of a normal
 11-45 40-hour work week but less than the full 40 hours, the employer
 11-46 shall make contributions for that employee as though that employee
 11-47 works a normal 40-hour work week even though the rate of
 11-48 contribution may exceed eight [~~seven~~] percent of that employee's
 11-49 actual compensation, pay, or salary. The governing body of the city
 11-50 may authorize the city to make additional contributions to the
 11-51 system in whatever amount the governing body may determine. If the
 11-52 governing body authorizes additional contributions to the system by
 11-53 the city for city employees, the board of each other employer shall
 11-54 [~~may~~] increase the contributions for such employer's respective
 11-55 employees by the same percentage. Employer contributions shall be
 11-56 made each pay period.

11-57 SECTION 9. Section 12, Chapter 451, Acts of the 72nd
 11-58 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
 11-59 Civil Statutes), is amended by adding Subsection (d-1) and amending
 11-60 Subsection (e) to read as follows:

11-61 (d-1) Members of the retirement system that are enrolled in
 11-62 Group A shall have the rights and be entitled to the benefits
 11-63 provided under this Act for members of Group A. Members of the
 11-64 retirement system that are enrolled in Group B shall have the rights
 11-65 and be entitled to the benefits provided under this Act for members
 11-66 of Group B. A member may not be a member of both Group A and Group B.

11-67 (e) Notwithstanding any provision of this Act to the
 11-68 contrary that would otherwise limit a distributee's election, a
 11-69 distributee may elect, at the time and in the manner prescribed by

12-1 the retirement board, to have any portion of an eligible rollover
12-2 distribution paid directly to an eligible retirement plan specified
12-3 by the distributee in a direct rollover. For purposes of this
12-4 subsection:

12-5 (1) An eligible rollover distribution is any
12-6 distribution of all or any portion of the balance to the credit of
12-7 the distributee, except that an eligible rollover distribution does
12-8 not include:

12-9 (A) any distribution that is one of a series of
12-10 substantially equal periodic payments (not less frequently than
12-11 annually) made over the life (or life expectancy) of the
12-12 distributee or the joint lives (or joint life expectancies) of the
12-13 distributee and the distributee's designated beneficiary;

12-14 (B) any series of payments for a specified period
12-15 of ten years or more;

12-16 (C) any distribution to the extent such
12-17 distribution is required under Section 401(a)(9) of the code; or

12-18 (D) the portion of any distribution that is not
12-19 includable in gross income unless the distributee directs that the
12-20 eligible rollover distribution be transferred directly to a
12-21 qualified trust that is part of a defined contribution plan that
12-22 agrees to separately account for the portion that is includable in
12-23 gross income and the portion that is not, or to an individual
12-24 retirement account or individual annuity [~~determined without~~
12-25 ~~regard to the exclusion for net unrealized appreciation with~~
12-26 ~~respect to employer securities)].~~

12-27 (2) An "eligible retirement plan" is an individual
12-28 retirement account described in Section 408(a) of the code, an
12-29 individual retirement annuity described in Section 408(b) of the
12-30 code, an annuity plan described in Section 403(a) of the code, [~~or~~]
12-31 a qualified trust described in Section 401(a) of the code, an
12-32 eligible deferred compensation plan described in Section 457(b) of
12-33 the code which is maintained by an eligible employer described in
12-34 Section 457(e)(1)(A) of the code, or an annuity contract described
12-35 in Section 403(b) of the code, that accepts the distributee's
12-36 eligible rollover distribution. However, in the case of an
12-37 eligible rollover distribution to a designated beneficiary who is
12-38 not the surviving spouse, or the spouse or former spouse under a
12-39 qualified domestic relations order, an eligible retirement plan is
12-40 an individual retirement account or individual retirement annuity
12-41 only.

12-42 (3) A "distributee" includes an employee or former
12-43 employee. In addition, the employee's or former employee's
12-44 surviving spouse or designated beneficiary and the employee's or
12-45 former employee's spouse or former spouse who is the alternate
12-46 payee under a qualified domestic relations order, as defined in
12-47 Section 414(p) of the code, are distributees with regard to the
12-48 interest of the spouse or the former spouse.

12-49 (4) A "direct rollover" is a payment by the retirement
12-50 system to the eligible retirement plan specified by the
12-51 distributee.

12-52 SECTION 10. The following laws are repealed:

12-53 (1) Subsection (p), Section 9, Chapter 451, Acts of
12-54 the 72nd Legislature, Regular Session, 1991 (Article 6243n,
12-55 Vernon's Texas Civil Statutes); and

12-56 (2) Subsection (g), Section 10, Chapter 451, Acts of
12-57 the 72nd Legislature, Regular Session, 1991 (Article 6243n,
12-58 Vernon's Texas Civil Statutes).

12-59 SECTION 11. This Act takes effect immediately if it
12-60 receives a vote of two-thirds of all the members elected to each
12-61 house, as provided by Section 39, Article III, Texas Constitution.
12-62 If this Act does not receive the vote necessary for immediate
12-63 effect, this Act takes effect October 1, 2011.

12-64 * * * * *