

1-1 By: Watson S.B. No. 1536
1-2 (In the Senate - Filed March 10, 2011; March 22, 2011, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 26, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 26, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1536 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to retirement under public retirement systems for
1-11 employees of certain municipalities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 1, Chapter 451, Acts of the 72nd
1-14 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
1-15 Civil Statutes), is amended to read as follows:

1-16 Sec. 1. SCOPE. (a) A retirement system is established by
1-17 this Act for employees of each municipality having a population of
1-18 more than 760,000 [~~600,000~~] and less than 860,000.

1-19 (b) ~~Any [700,000; provided, however, that once such pension~~
1-20 ~~system becomes operative in any city, any] right or privilege~~
1-21 ~~accruing to any member of a retirement system established by this~~
1-22 ~~Act is [thereunder shall be] a vested right according to the terms~~
1-23 ~~of this Act [and the same shall not be denied or abridged thereafter~~
1-24 ~~through any change in population of any such city taking such city~~
1-25 ~~out of the population bracket as herein prescribed, and said~~
1-26 ~~pension system shall continue to operate and function regardless of~~
1-27 ~~whether or not any future population exceeds or falls below said~~
1-28 ~~population bracket].~~

1-29 (c) This Act continues to apply to a municipality described
1-30 by Subsection (a) and a retirement system established by this Act
1-31 continues to operate regardless of any change in the municipality's
1-32 population.

1-33 SECTION 2. Section 2, Chapter 451, Acts of the 72nd
1-34 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
1-35 Civil Statutes), is amended to read as follows:

1-36 Sec. 2. DEFINITIONS. The following words and phrases have
1-37 the meanings assigned by this section unless a different meaning is
1-38 plainly required by the context:

1-39 (1) "Accumulated deposits" means the amount standing
1-40 to the credit of a member derived from the deposits required to be
1-41 made by the member to the retirement system improved annually by
1-42 interest credited at a rate determined by the retirement board from
1-43 time to time upon the advice of the retirement board's actuary and
1-44 credited as of December 31 to amounts standing to the credit of the
1-45 member on January 1 of the same calendar year.

1-46 (2) "Actual retirement date" means the last day of the
1-47 month during which a member retires.

1-48 (3) "Actuarial equivalent" means any benefit of equal
1-49 present value when computed on the basis of actuarial tables
1-50 adopted by the retirement board from time to time upon the advice of
1-51 the retirement board's actuary. The actuarial tables adopted for
1-52 this purpose shall be tables that are acceptable to the Internal
1-53 Revenue Service and be clearly identified by resolution adopted by
1-54 the retirement board.

1-55 (4) "Actuary" means the technical advisor of the
1-56 retirement board regarding the operations which are based on
1-57 mortality, service, and compensation experience.

1-58 (5) "Agency of the municipality" means any agency or
1-59 instrumentality of the municipality or governmental or publicly
1-60 owned legal entity created by the municipality, before or after
1-61 ~~[subsequent to]~~ the effective date of this Act, to perform or
1-62 provide a public service or function and that employs at least one
1-63 employee to provide services or accomplish its public purpose.

2-1 (6) "Approved medical leave of absence" means any
 2-2 absence authorized in writing by the member's employer for the
 2-3 purpose of enabling the member to obtain medical care or treatment
 2-4 or to recover from any sickness or injury.

2-5 (7) "Authorized leave of absence" means military leave
 2-6 of absence, including a period of not more than 90 days after the
 2-7 date of release from active military duty, or any other leave of
 2-8 absence during which a member is otherwise authorized by law to
 2-9 continue making contributions to the system. The term does not
 2-10 include an approved medical leave of absence.

2-11 (8) "Average final compensation" means the average
 2-12 monthly compensation, as defined and limited by Subdivision (12) of
 2-13 this section, less overtime, incentive, and terminal pay, plus, (i)
 2-14 amounts picked up by the employer pursuant to Section 10(e) of this
 2-15 Act, and (ii) amounts that would be included in wages but for an
 2-16 election under Section 125(d), 132(f)(4), 402(e)(3), 402(h)(1)(B),
 2-17 402(k), or 457(b) of the code, [not otherwise included in the
 2-18 member's taxable income by reason of either an election under a
 2-19 "cafeteria" plan as described in Section 125 of the code or
 2-20 deferrals under a plan of deferred compensation within the scope of
 2-21 Section 457 of the code, to the extent not in excess of \$12,500 for
 2-22 persons who first become members after 1995 that is earned by a
 2-23 member] during, as applicable:

2-24 (A) if the member has 120 months or more of
 2-25 membership service, the 36 months of membership service which
 2-26 yielded the highest average during the last 120 months of
 2-27 membership service;

2-28 (B) if the member has less than 120 months of
 2-29 membership service, but has at least 36 months of membership
 2-30 service, then the average during the 36 months which yield the
 2-31 highest average; or

2-32 (C) if the member does not have 36 months of
 2-33 membership service, then the average during the member's months of
 2-34 membership service.

2-35 The term does not include annual compensation in excess
 2-36 of the dollar limit under Section 401(a)(17) of the code for any
 2-37 employee who first becomes a member in a year commencing after 1995,
 2-38 and that compensation shall be disregarded in determining average
 2-39 final compensation. Any reduction for overtime, incentive, and
 2-40 terminal pay shall not cause a member's compensation to be less than
 2-41 the limit under Section 401(a)(17) of the code to the extent that
 2-42 the compensation has already been reduced in accordance with
 2-43 Subdivision (12). The dollar limitation shall be adjusted for cost
 2-44 of living increases as provided under Section 401(a)(17) of the
 2-45 code.

2-46 (9) "Beneficiary" means the member's designated
 2-47 beneficiary. If there is no effective beneficiary designation on
 2-48 the date of the member's death, or if the designated beneficiary
 2-49 predeceases the member (or dies as a result of the same event that
 2-50 caused the member's death and does not survive the member by 48
 2-51 hours), the member's spouse or, if the member does not have a
 2-52 spouse, the member's estate shall be the beneficiary.

2-53 (10) "Board" means the boards of directors of an
 2-54 employer that is not a municipality as described in Section 1 of
 2-55 this Act.

2-56 (11) "Code" means the United States Internal Revenue
 2-57 Code of 1986 (26 U.S.C. Section 1 et seq.) and its successors.

2-58 (12) "Compensation" means, with respect to any member,
 2-59 such member's wages, within the meaning of Section 3401(a) of the
 2-60 code (for purposes of income tax withholding at the source) but
 2-61 determined without regard to any rules that limit the remuneration
 2-62 included in wages based on the nature or location of the employment
 2-63 or the services performed (such as the exception for agricultural
 2-64 labor in Section 3401(a)(2) of the code). Compensation in excess of
 2-65 the dollar limit under Section 401(a)(17) of the code shall be
 2-66 disregarded in determining the compensation of [\$12,500 per month
 2-67 for] any employee who first becomes a member in a year commencing
 2-68 after 1995 [shall be disregarded]. The dollar [\$12,500] limitation
 2-69 shall be adjusted for cost of living increases as provided under

3-1 Section 401(a)(17) of the code.
 3-2 (13) "Consumer price index" means the Consumer Price
 3-3 Index for Urban Wage Earners and Clerical Workers (United States
 3-4 City Average, All Items) published monthly by the Bureau of Labor
 3-5 Statistics, United States Department of Labor, or its successor in
 3-6 function.
 3-7 (14) "Creditable service" means the total of prior
 3-8 service, membership service, redeemed service, and service
 3-9 purchased under Section 6 of this Act.
 3-10 (15) "Current service annuity" means a series of equal
 3-11 monthly payments payable for the member's life after retirement for
 3-12 creditable [membership] service from funds of the retirement system
 3-13 equal to:
 3-14 (A) for Group A members, one-twelfth of the
 3-15 product of 3.0 [2.7] percent [or a higher percentage established by
 3-16 the retirement board under Section 10(g) of this Act] of a member's
 3-17 average final compensation multiplied by the number of months of
 3-18 creditable [membership] service; and
 3-19 (B) for Group B members, one-twelfth of the
 3-20 product of 2.5 percent of a member's average final compensation
 3-21 multiplied by the number of months of creditable service.
 3-22 (16) "Deposits" means the amounts required to be paid
 3-23 by members in accordance with the provisions of this Act.
 3-24 (17) "Designated beneficiary" means any person,
 3-25 trust, or estate properly designated on a form provided by the
 3-26 retirement system by a member to receive benefits from the system in
 3-27 the event of the member's death. If the member is married, an
 3-28 individual other than the member's spouse may be the designated
 3-29 beneficiary only if the spouse consents to such designation in the
 3-30 form and manner prescribed by the retirement board.
 3-31 (18) "Disability retirement" means the termination of
 3-32 employment of a member because of disability with a disability
 3-33 retirement allowance as provided in Section 8 of this Act.
 3-34 (18A) "Early retirement annuity" means an annuity that
 3-35 is the actuarial equivalent of a current service annuity that would
 3-36 otherwise be payable at age 65 under this Act but that is reduced
 3-37 based on the member's actual age in years and months.
 3-38 (18B) "Early retirement eligible member" means a
 3-39 member of Group B that:
 3-40 (A) is at least 55 years of age; and
 3-41 (B) has at least 10 years of creditable service,
 3-42 excluding nonqualified permissive service credit.
 3-43 (19) "Employer" means the municipality described in
 3-44 Section 1 of this Act, the retirement board, or an agency of the
 3-45 municipality.
 3-46 (20) "Fund" means the trust fund containing the
 3-47 aggregate of the assets of Fund No. 1 and Fund No. 2.
 3-48 (21) "Fund No. 1" means the fund in which shall be kept
 3-49 all accumulated deposits of members who have not withdrawn from the
 3-50 system.
 3-51 (22) "Fund No. 2" means the fund in which shall be kept
 3-52 all money contributed by the city on behalf of city employees, by an
 3-53 agency of the municipality on behalf of the agency's employees, and
 3-54 by the retirement board on behalf of retirement board employees,
 3-55 interest earned thereon, and all accumulations and earnings of the
 3-56 system.
 3-57 (23) "Governing body" means the city council of the
 3-58 municipality described in Section 1 and its successors as
 3-59 constituted from time to time.
 3-60 (23A) "Group A" means the group of members of the
 3-61 retirement system that includes each member who:
 3-62 (A) began membership service on or after January
 3-63 1, 1941, and on or before December 31, 2011; or
 3-64 (B) returned to full-time employment on or after
 3-65 January 1, 2012, and:
 3-66 (i) was previously a member of Group A;
 3-67 (ii) ceased to be a member of the retirement
 3-68 system;
 3-69 (iii) received a distribution of the

4-1 member's accumulated deposits; and
 4-2 (iv) reinstated all of the member's prior
 4-3 membership service credit.
 4-4 (23B) "Group B" means the group of members of the
 4-5 retirement system that includes each member who:
 4-6 (A) began membership service on or after January
 4-7 1, 2012; or
 4-8 (B) returned to full-time employment on or after
 4-9 January 1, 2012, and:
 4-10 (i) was previously a member of Group A;
 4-11 (ii) ceased to be a member of the retirement
 4-12 system;
 4-13 (iii) received a distribution of the
 4-14 member's accumulated deposits; and
 4-15 (iv) has not reinstated all of the member's
 4-16 prior membership service credit.
 4-17 (25) "Investment consultant" means the person or
 4-18 entity that monitors the investment performance of the system and
 4-19 provides such other services as requested by the retirement board.
 4-20 (26) "Investment manager" means the persons or
 4-21 entities that have the power to manage, acquire, or dispose of
 4-22 assets of the fund on behalf of the retirement system and that
 4-23 acknowledge fiduciary responsibility to the system in writing. An
 4-24 investment manager must be a person, firm, or corporation
 4-25 registered as an investment adviser under the Investment Advisers
 4-26 Act of 1940, a bank, or an insurance company qualified to manage,
 4-27 acquire or dispose of assets under the laws of more than one state
 4-28 including this state that meets the requirements of Section
 4-29 802.204, Government Code.
 4-30 (27) "Life annuity" means a series of equal monthly
 4-31 payments, payable after retirement for a member's life, consisting
 4-32 of a combination of prior service pension and current service
 4-33 annuity, or early retirement annuity, to which the member is
 4-34 entitled.
 4-35 (28) "Life annuity (modified cash refund)" means a
 4-36 life annuity providing that, in the event of death of the retired
 4-37 member before that member has received payments under the life
 4-38 annuity totaling the amount of that member's accumulated deposits
 4-39 at the date of retirement, the excess of such accumulated deposits
 4-40 over the payments made shall be paid in one lump sum to the member's
 4-41 designated beneficiary.
 4-42 (29) "Malfeasance" means willful misconduct or the
 4-43 knowingly improper performance of any act, duty, or responsibility
 4-44 under this Act, including non-performance, that interrupts,
 4-45 interferes with, or attempts to interfere with the administration,
 4-46 operation, and management of the retirement system or any person's
 4-47 duties under this Act.
 4-48 (30) "Member" means any:
 4-49 (A) regular full-time employee of an employer;
 4-50 and
 4-51 (B) former regular full-time employee who has not
 4-52 withdrawn the member's accumulated deposits from the system.
 4-53 In any case of doubt regarding the eligibility of any
 4-54 employee to become or remain a member of the retirement system, or
 4-55 the assignment of a member to a group, the decision of the
 4-56 retirement board is final.
 4-57 (31) "Membership service" means the period of time on
 4-58 or after January 1, 1941, during which a person is or was employed
 4-59 as a regular full-time employee or is or was on an authorized leave
 4-60 of absence and who is eligible for participation in the system and
 4-61 pays into and keeps on deposit the amounts of money prescribed to be
 4-62 paid by the member into the system. The term includes redeemed
 4-63 membership service.
 4-64 (32) "Normal retirement age" means:
 4-65 (A) for members of Group A:
 4-66 (i) age 62;
 4-67 (ii) [~~B~~] 55 years of age with 20 years of
 4-68 creditable service; or
 4-69 (iii) [~~C~~] 23 years of creditable service,

5-1 regardless of years of age; and
 5-2 (B) for members of Group B:
 5-3 (i) 62 years of age with 30 years of
 5-4 creditable service, excluding nonqualified permissive service
 5-5 credit; or

5-6 (ii) 65 years of age with five years of
 5-7 creditable service, excluding nonqualified permissive service
 5-8 credit.

5-9 (33) "Normal retirement date" means:

5-10 (A) for members of Group A, the earlier of the
 5-11 date a member attains a normal retirement age or the date on which
 5-12 the member has completed 23 years of creditable service; and

5-13 (B) for members of Group B, the date the member
 5-14 reaches normal retirement age under Subdivision (32)(B) of this
 5-15 section [or a lesser number of years of creditable service
 5-16 established by the retirement board under Section 10(g) of this
 5-17 Act].

5-18 (34) "Prior service" means membership service as an
 5-19 employee of the city:

5-20 (A) rendered by a person prior to January 1,
 5-21 1941, for which a pension credit is allowable under prior law
 5-22 governing the retirement system of that city; and

5-23 (B) which for a person after January 1, 1941,
 5-24 includes redeemed membership [prior] service.

5-25 (35) "Prior service pension" means a series of equal
 5-26 monthly payments payable from funds of the retirement system for a
 5-27 member's life after retirement for prior service equal to
 5-28 one-twelfth of the product of 3.0 [~~2.7~~] percent [~~or a greater~~
 5-29 ~~percentage established by the retirement board under Section 10(g)~~
 5-30 ~~of this Act]~~ of the member's average monthly earnings during a
 5-31 period of five years preceding January 1, 1941, multiplied by the
 5-32 number of months of prior service. [~~On retirement at an age other~~
 5-33 ~~than normal retirement age, the monthly prior service pension~~
 5-34 ~~herein prescribed shall be the actuarial equivalent thereof at the~~
 5-35 ~~member's actual retirement date, based on the schedule or schedules~~
 5-36 ~~of payments approved by the actuary and adopted by the retirement~~
 5-37 ~~board and in effect on the member's actual retirement date.]~~

5-38 (36) "Qualified domestic relations order" has the
 5-39 meaning assigned by Section 804.001, Government Code, and its
 5-40 subsequent amendments.

5-41 (37) "Redeemed membership service" means membership
 5-42 service reinstated in accordance with Section 5(e) of this Act.

5-43 (38) "Redeemed prior service" means prior service
 5-44 reinstated in accordance with Section 5(e) of this Act.

5-45 (39) "Regular full-time employee" means an individual
 5-46 who is employed by the municipality, an agency of the municipality,
 5-47 or the retirement board who is not a commissioned civil service
 5-48 police officer or fire fighter, a fire or police cadet employed
 5-49 under civil service procedures, the mayor, or a member of the
 5-50 governing body; who serves in a position that is classified in the
 5-51 annual budget of an employer for employment for the full calendar
 5-52 year; and who works or is budgeted for 30 hours or more in a normal
 5-53 40-hour work week. The term does not include an individual whose
 5-54 position is classified as seasonal or temporary by the employer,
 5-55 even if the individual works 30 hours or more in a normal 40-hour
 5-56 work week in which the individual is employed.

5-57 (40) "Retired member" means a person who because of
 5-58 creditable service or age is qualified to receive and who has
 5-59 retired and is eligible to continue receiving a retirement
 5-60 allowance as provided by this Act.

5-61 (41) "Retirement" means the termination of employment
 5-62 of a member after the member becomes entitled to receive a
 5-63 retirement allowance in accordance with the provisions of this Act.

5-64 (42) "Retirement allowance" means the life annuity
 5-65 (modified cash refund) to which a member may be entitled under this
 5-66 Act, including annuities payable on disability retirement.

5-67 (43) "Retirement board" means the board of trustees of
 5-68 the retirement and pensioning system herein created for the purpose
 5-69 of administering the retirement system.

6-1 (44) "Retirement system," "retirement and pensioning
6-2 system," "pension system," or "system" means the retirement and
6-3 pensioning system created by this Act for a municipality governed
6-4 by this Act or a retirement system established under this Act.

6-5 (45) "Year of creditable service" means a 12-month
6-6 period of creditable service determined in accordance with uniform
6-7 and nondiscriminatory rules established by the retirement board.

6-8 SECTION 3. Section 3, Chapter 451, Acts of the 72nd
6-9 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
6-10 Civil Statutes), is amended to read as follows:

6-11 Sec. 3. ESTABLISHMENT AND APPLICABILITY. Subject to the
6-12 authority granted the retirement board in Section 7(d) of this
6-13 Act:[7]

6-14 (1) members who retired, and the beneficiaries of
6-15 members who died, prior to October 1, 2011 [~~1999~~], shall continue to
6-16 receive the same retirement allowances or benefits they were
6-17 entitled to receive prior to that date, together with any benefit
6-18 increase authorized under this Act;

6-19 (2) members of the retirement system on or before
6-20 December 31, 2011, shall be enrolled as members of Group A; and

6-21 (3) persons that first become members of the
6-22 retirement system on or after January 1, 2012, shall be enrolled in
6-23 Group B.

6-24 SECTION 4. Subsections (b), (c), and (e), Section 5,
6-25 Chapter 451, Acts of the 72nd Legislature, Regular Session, 1991
6-26 (Article 6243n, Vernon's Texas Civil Statutes), are amended to read
6-27 as follows:

6-28 (b) Membership in the retirement system consists of Groups A
6-29 and B, each of which consists of the following groups:

6-30 (1) the active-contributory members group, which
6-31 consists of all members, other than those on authorized leave of
6-32 absence, who are making deposits;

6-33 (2) the active-noncontributory members group, which
6-34 consists of all employees on approved medical leave of absence and
6-35 all employees of an employer, other than inactive-contributory
6-36 members, who have been active-contributory members but who are no
6-37 longer so because they are not regular full-time employees;

6-38 (3) the inactive-contributory members group, which
6-39 consists of all members who are on an authorized leave of absence
6-40 and who continue to make deposits into the retirement system during
6-41 their absence;

6-42 (4) the inactive-noncontributory members group, which
6-43 consists of all members whose status as an employee has been
6-44 terminated before retirement or disability retirement but who are
6-45 still entitled to or who may become entitled to, or whose
6-46 beneficiary may become entitled to, benefits from the retirement
6-47 system; and

6-48 (5) the retired members group, which consists of all
6-49 members who have retired and who are receiving or who are entitled
6-50 to receive a retirement allowance.

6-51 (c) A [~~An active-noncontributory~~] member becomes an
6-52 active-contributory member immediately on resuming employment as a
6-53 regular full-time employee or on returning from an approved medical
6-54 leave of absence, as applicable. A member who resumes regular
6-55 full-time employment is assigned to the group for which the member
6-56 is qualified under Subdivisions (23A) and (23B), Section 2 of this
6-57 Act.

6-58 (e) Any person who has ceased to be a member and has received
6-59 a distribution of the person's accumulated deposits may have the
6-60 person's membership service in the original group in which the
6-61 membership service was earned [~~or prior service~~] reinstated if the
6-62 person is reemployed as a regular full-time employee [~~for a~~
6-63 ~~continuous period of 24 months~~] and deposits into the system~~[7~~
6-64 ~~within a reasonable period established by the retirement board on a~~
6-65 ~~uniform and nondiscriminatory basis,~~] the accumulated deposits
6-66 withdrawn by that person, together with an interest payment equal
6-67 to the amount withdrawn multiplied by an interest factor. The
6-68 interest factor is equal to the annually compounded interest rate
6-69 assumed to have been earned by the fund beginning with the month and

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

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

7-11 (c)(1) Uniformed service creditable in the retirement
7-12 system is any service required to be credited by the Uniformed
7-13 Services Employment and Reemployment Rights Act of 1994 (38 U.S.C.
7-14 Section 4301 et seq.), as amended, and certain federal duty service
7-15 in the armed forces of the United States performed before the
7-16 beginning of employment with the employer, other than service as a
7-17 student at a service academy, as a member of the reserves, or any
7-18 continuous active military service lasting less than 90 days. A
7-19 member may use uniformed service to establish creditable service
7-20 subject to the conditions of Subdivisions (2)-(6) of this
7-21 subsection.

7-22 (2) A member may establish uniformed creditable
7-23 service for an authorized leave of absence from employment for
7-24 military service under this subsection by making periodic payments
7-25 or a lump-sum payment. If the member elects to make periodic
7-26 payments, the member shall make, each pay period during the period
7-27 that the member is on authorized leave, a deposit in an amount equal
7-28 to the amount of the member's deposit for the last complete pay
7-29 period that the member was paid by the employer as a regular
7-30 full-time employee. If the member elects to make a lump-sum
7-31 payment, the member and the employer shall, not later than the fifth
7-32 anniversary of the date the member returns to employment with the
7-33 employer, make separate lump-sum payments equal to the total amount
7-34 of the contributions the member would have made if the member had
7-35 made periodic contributions. A lump-sum payment may not exceed the
7-36 amount required under the Uniformed Services Employment and
7-37 Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as
7-38 amended, if the member makes the contributions within the time
7-39 required by that Act. The employer's employer shall make
7-40 contributions to the retirement fund as though the member has
7-41 continued employment at the salary of the member for the last
7-42 complete pay period before the absence for military service. The
7-43 employer's contributions shall be made each pay period if the
7-44 member is making periodic payments during the period. During an
7-45 authorized leave of absence, the member accrues membership service
7-46 for the pay periods in which the member makes a deposit. Membership
7-47 service credit for a lump-sum payment accrues at the time of
7-48 payment.

7-49 (3) A member may establish uniformed creditable
7-50 service for active federal duty service in the armed forces of the
7-51 United States, other than service as a student at a service academy,
7-52 as a member of the reserves, or any continuous active military
7-53 service lasting less than 90 days, performed before the first day of
7-54 employment of the member's most recent membership in the retirement
7-55 system or its predecessor system. To establish creditable service
7-56 under this subdivision, the member must contribute a lump-sum
7-57 payment equal to 25 percent of the estimated cost of the retirement
7-58 benefits the member will be entitled to receive. The retirement
7-59 board will determine the required contribution based on a procedure
7-60 recommended by the actuary and approved by the retirement board.

7-61 (4) A member is not eligible to establish uniformed
7-62 service credit unless the member was released from active military
7-63 duty under conditions other than dishonorable.

7-64 (5) A member may not establish creditable service in
7-65 the retirement system for uniformed service for more than the
7-66 greater of the creditable service required under the Uniformed
7-67 Services Employment and Reemployment Rights Act of 1994 (38 U.S.C.
7-68 Section 4301 et seq.), as amended, or 48 months of creditable
7-69 service in the retirement system for uniformed service under this

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

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

8-10 (e-1) An active contributory member that is eligible for
 8-11 retirement may file a written application to convert to creditable
 8-12 service at retirement all or part of the member's sick leave accrued
 8-13 with the employer that is eligible for conversion. The application
 8-14 must be approved by the retirement board. The member may not
 8-15 convert sick leave for which the member is entitled to be paid by
 8-16 the employer. Sick leave hours may be converted in pay period
 8-17 increments for the purpose of increasing creditable service that is
 8-18 used in the calculation of benefits. Sick leave hours may not be
 8-19 used to reach retirement eligibility. Both the employer and the
 8-20 member must make the equivalent amount of retirement contributions
 8-21 that would have been made had the sick hours been exercised and used
 8-22 as sick leave hours.

8-23 (e-2) Nonqualified permissive creditable service may be
 8-24 purchased only as provided by this subsection. A member may
 8-25 purchase nonqualified permissive creditable service:

8-26 (1) only to the extent permitted under both this
 8-27 subsection and Section 415(n) of the code;

8-28 (2) in an amount that:

8-29 (A) for each purchase, is not less than one
 8-30 month; and

8-31 (B) when all amounts purchased under this
 8-32 subsection are combined, is not more than 60 months; and

8-33 (3) only if the member has reinstated all prior
 8-34 membership service in:

8-35 (A) Groups A and B if the member was initially
 8-36 enrolled as a member of Group A, but ceased to be a member of Group
 8-37 A, by:

8-38 (i) first reinstating all prior membership
 8-39 service in Group A;

8-40 (ii) next reinstating all prior membership
 8-41 service in Group B; and

8-42 (iii) then purchasing the nonqualified
 8-43 permissive creditable service; or

8-44 (B) Group B, if the member was initially enrolled
 8-45 as a member of Group B, by:

8-46 (i) first reinstating all prior membership
 8-47 service in Group B; and

8-48 (ii) then purchasing the nonqualified
 8-49 permissive creditable service.

8-50 (e-3) Nonqualified permissive creditable service purchased
 8-51 by members of Group B is not included in the creditable service
 8-52 required to qualify a member for normal or early retirement
 8-53 eligibility.

8-54 (f) The full actuarial cost of noncontributory creditable
 8-55 service purchased as provided by Subsections [~~Subsection~~] (e),
 8-56 (e-1), (e-2), and (e-3) of this section is payable by the member
 8-57 purchasing the credit.

8-58 SECTION 6. Section 7, Chapter 451, Acts of the 72nd
 8-59 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
 8-60 Civil Statutes), is amended by amending Subsections (a), (l), and
 8-61 (z), and adding Subsections (a-1) and (ii) to read as follows:

8-62 (a) Except as provided by Subsection (b) of this section, a
 8-63 member who retires on or after the member's normal retirement date
 8-64 for the group in which the member is enrolled, or a member of Group B
 8-65 eligible for early retirement who retires, and applies in writing
 8-66 for a retirement allowance shall receive the [a] life annuity
 8-67 (modified cash refund) or the early retirement annuity to which the
 8-68 member is entitled. An annuity begins [~~beginning~~] on the last day
 8-69 of the month after the month in which the member retired. Unless

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

9-12 (a-1) If not already nonforfeitable, a member's retirement
 9-13 benefit becomes nonforfeitable at normal retirement age.

9-14 (1) A member may file a written designation, which, if
 9-15 approved by the retirement board, shall entitle the member, on
 9-16 retirement, to receive the actuarial equivalent of the life annuity
 9-17 in the form of one of the following options:

9-18 (1) Option I. 100 Percent Joint and Survivor Annuity.
 9-19 This option is a reduced monthly annuity payable to the member but
 9-20 with the provision that on the member's death the annuity shall be
 9-21 continued throughout the life of and be paid to such person as the
 9-22 member shall designate before the member's actual retirement date.

9-23 (2) Option II. 50 Percent Joint and Survivor Annuity.
 9-24 This option is a reduced monthly annuity payable to the member but
 9-25 with the provision that on the member's death one-half of the
 9-26 annuity shall be continued throughout the life of and be paid to
 9-27 such person as the member shall designate before the member's
 9-28 actual retirement date.

9-29 (3) Option III. 66-2/3 Percent Joint and Survivor
 9-30 Annuity. This option is a reduced monthly annuity payable to the
 9-31 member but with the provision that on the member's death two-thirds
 9-32 of the annuity shall be continued throughout the life of and be paid
 9-33 to such person as the member shall designate before the member's
 9-34 actual retirement date.

9-35 (4) Option IV. Joint and 66-2/3 Percent Last Survivor
 9-36 Annuity. This option is a reduced monthly annuity payable to the
 9-37 member but with the provision that two-thirds of the annuity to
 9-38 which the member would be entitled shall be continued throughout
 9-39 the life of and be paid to the survivor after the death of either the
 9-40 member or such person as the member shall designate before the
 9-41 member's actual retirement date.

9-42 (5) Option V. 15-Year Certain and Life Annuity. This
 9-43 option is a reduced annuity payable to the member for life. In the
 9-44 event of the member's death before 180 monthly payments have been
 9-45 made, the remainder of the 180 payments shall be paid to the
 9-46 member's beneficiary or, if there is no beneficiary, to the member's
 9-47 estate.

9-48 (6) Option VI. Equivalent Benefit Plan. If a member
 9-49 requests in writing, any other form of benefit or benefits may be
 9-50 paid either to the member or to such person or persons as the member
 9-51 shall designate before the member's actual retirement date,
 9-52 provided that the benefit plan requested by the member is certified
 9-53 by the actuary for the system to be the actuarial equivalent of the
 9-54 life annuity with guaranteed refund of the retired member's
 9-55 accumulated deposits. If, on the death of the member and all other
 9-56 persons entitled to receive payments under an optional benefit, the
 9-57 member's accumulated deposits as of the member's actual retirement
 9-58 date exceed the sum of all payments made under that optional
 9-59 benefit, that excess shall be paid in one lump sum to the member's
 9-60 beneficiary. A member selecting this option may elect to receive
 9-61 (i) either a life annuity or one of the actuarially equivalent
 9-62 annuities described by Subdivisions (1)-(5) and (ii) a lump-sum
 9-63 payment upon retirement. If a member requests a lump-sum payment,
 9-64 the annuity requested by the member shall be actuarially reduced as
 9-65 a result of the lump-sum payment. The lump-sum payment may not
 9-66 exceed an amount equal to the total amount of 60 monthly life
 9-67 annuity payments. Active contributory members that reach normal
 9-68 retirement age may upon-retirement elect to participate in a
 9-69 backward deferred retirement option program ("backward DROP") that

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

10-6 (z) If the person designated in writing by the member under
 10-7 Option I, Option II, or Option III, or, excluding a joint and last
 10-8 survivor option, any retirement option that includes a joint and
 10-9 survivor option, predeceases the retired member, the reduced
 10-10 annuity of a retired member who selected the optional lifetime
 10-11 retirement annuity shall be increased to the standard service
 10-12 retirement annuity that the retiree would have been entitled to
 10-13 receive if the retired member had not selected Option I, Option II,
 10-14 or Option III. The standard service retirement annuity shall be
 10-15 appropriately adjusted for early retirement and for the
 10-16 postretirement increases in retirement benefits. The increase in
 10-17 the annuity under this subsection is payable to the retired member
 10-18 for life and begins with the later of the monthly payment made to
 10-19 the retired member for the month following the month in which the
 10-20 person designated by the member dies or the month following the
 10-21 month in which the retired member gives the system notice of the
 10-22 designated person's death.

10-23 (ii) If a member dies while performing qualified military
 10-24 service, the beneficiaries of the member are entitled to any
 10-25 additional benefits, other than benefit accruals relating to the
 10-26 qualified military service, that would have been provided if the
 10-27 member had returned from the military leave of absence and then
 10-28 terminated employment on account of death.

10-29 SECTION 7. Section 9, Chapter 451, Acts of the 72nd
 10-30 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
 10-31 Civil Statutes), is amended by amending Subsection (a) and adding
 10-32 Subsections (c) through (g) to read as follows:

10-33 (a) Notwithstanding any other provisions of this Act, the
 10-34 annual benefit provided with respect to any member may not exceed
 10-35 the benefits allowed for a government-defined benefit plan
 10-36 qualified under Section 401 [415] of the code. The maximum benefits
 10-37 allowed under this section shall increase each year to the extent
 10-38 permitted by annual cost of living increase adjustments announced
 10-39 by the United States secretary of the treasury under Section 415(d)
 10-40 of the code and the increased benefit limits shall apply to members
 10-41 who have terminated employment, including members who have
 10-42 commenced to receive benefits, before the effective date of the
 10-43 adjustment.

10-44 (c) A member who retires after reaching normal retirement
 10-45 age and continues or resumes employment with an employer in a
 10-46 position that is required to participate in another retirement
 10-47 system maintained by the employer continues to be eligible to
 10-48 receive the retirement allowance provided under this Act.

10-49 (d) The retirement board shall suspend the retirement
 10-50 allowance of a retired member who resumes employment with an
 10-51 employer within the period of time prescribed by the retirement
 10-52 board in the board's policy, or who resumes employment after
 10-53 retirement as a regular full-time employee of an employer. The
 10-54 retirement board shall reinstate the member's retirement allowance
 10-55 as provided under Subsection (f) of this section.

10-56 (e) The retirement board shall suspend the retirement
 10-57 allowance of a retired member who resumes employment with an
 10-58 employer in a position that is not required to participate in
 10-59 another retirement system maintained by an employer, and who is not
 10-60 a regular full-time employee of an employer, if the member works
 10-61 for, or is compensated by, an employer for more than 1,508 hours in
 10-62 any rolling 12-month period after the member resumes employment
 10-63 with the employer. The retirement board shall reinstate the
 10-64 member's retirement allowance as provided under Subsection (f) of
 10-65 this section.

10-66 (f) A member whose retirement allowance is suspended under
 10-67 Subsection (d) or (e) of this section may apply in writing for
 10-68 reinstatement of the retirement allowance when the member retires
 10-69 again. The retirement system shall calculate the reinstated

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

11-5 (g) The retirement system and the employer shall adopt and
 11-6 amend procedures for the exchange of information in order to
 11-7 implement the provisions of this section.

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

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

11-56 SECTION 9. Section 12, Chapter 451, Acts of the 72nd
 11-57 Legislature, Regular Session, 1991 (Article 6243n, Vernon's Texas
 11-58 Civil Statutes), is amended by adding Subsection (d-1) and amending
 11-59 Subsection (e) to read as follows:

11-60 (d-1) Members of the retirement system that are enrolled in
 11-61 Group A shall have the rights and be entitled to the benefits
 11-62 provided under this Act for members of Group A. Members of the
 11-63 retirement system that are enrolled in Group B shall have the rights
 11-64 and be entitled to the benefits provided under this Act for members
 11-65 of Group B. A member may not be a member of both Group A and Group B.

11-66 (e) Notwithstanding any provision of this Act to the
 11-67 contrary that would otherwise limit a distributee's election, a
 11-68 distributee may elect, at the time and in the manner prescribed by
 11-69 the retirement board, to have any portion of an eligible rollover

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

12-4 (1) An eligible rollover distribution is any
12-5 distribution of all or any portion of the balance to the credit of
12-6 the distributee, except that an eligible rollover distribution does
12-7 not include:

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

12-13 (B) any series of payments for a specified period
12-14 of ten years or more;

12-15 (C) any distribution to the extent such
12-16 distribution is required under Section 401(a)(9) of the code; or

12-17 (D) the portion of any distribution that is not
12-18 includable in gross income unless the distributee directs that the
12-19 eligible rollover distribution be transferred directly to a
12-20 qualified trust that is part of a defined contribution plan that
12-21 agrees to separately account for the portion that is includable in
12-22 gross income and the portion that is not, or to an individual
12-23 retirement account or individual annuity [~~determined without~~
12-24 ~~regard to the exclusion for net unrealized appreciation with~~
12-25 ~~respect to employer securities)].~~

12-26 (2) An "eligible retirement plan" is an individual
12-27 retirement account described in Section 408(a) of the code, an
12-28 individual retirement annuity described in Section 408(b) of the
12-29 code, an annuity plan described in Section 403(a) of the code, [~~or~~]
12-30 a qualified trust described in Section 401(a) of the code, an
12-31 eligible deferred compensation plan described in Section 457(b) of
12-32 the code that is maintained by an eligible employer described in
12-33 Section 457(e)(1)(A) of the code, or an annuity contract described
12-34 in Section 403(b) of the code, that accepts the distributee's
12-35 eligible rollover distribution. However, in the case of an
12-36 eligible rollover distribution to a designated beneficiary who is
12-37 not the surviving spouse, or the spouse or former spouse under a
12-38 qualified domestic relations order, an eligible retirement plan is
12-39 an individual retirement account or individual retirement annuity
12-40 only.

12-41 (3) A "distributee" includes an employee or former
12-42 employee. In addition, the employee's or former employee's
12-43 surviving spouse or designated beneficiary and the employee's or
12-44 former employee's spouse or former spouse who is the alternate
12-45 payee under a qualified domestic relations order, as defined in
12-46 Section 414(p) of the code, are distributees with regard to the
12-47 interest of the spouse or the former spouse.

12-48 (4) A "direct rollover" is a payment by the retirement
12-49 system to the eligible retirement plan specified by the
12-50 distributee.

12-51 SECTION 10. The following laws are repealed:

12-52 (1) Subsection (p), Section 9, Chapter 451, Acts of
12-53 the 72nd Legislature, Regular Session, 1991 (Article 6243n,
12-54 Vernon's Texas Civil Statutes); and

12-55 (2) Subsection (g), Section 10, Chapter 451, Acts of
12-56 the 72nd Legislature, Regular Session, 1991 (Article 6243n,
12-57 Vernon's Texas Civil Statutes).

12-58 SECTION 11. This Act takes effect immediately if it
12-59 receives a vote of two-thirds of all the members elected to each
12-60 house, as provided by Section 39, Article III, Texas Constitution.
12-61 If this Act does not receive the vote necessary for immediate
12-62 effect, this Act takes effect October 1, 2011.

12-63 * * * * *