

SENATE AMENDMENTS

2nd Printing

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H.B. No. 3033

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 purchased under Section 6 of this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (A) began membership service on or after January

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (30) "Member" means any:

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

3 and

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

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

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

17 (32) "Normal retirement age" means:

18 (A) for members of Group A:

19 (i) age 62;

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

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

24 (B) for members of Group B:

25 (i) 62 years of age with 30 years of

26 creditable service, excluding nonqualified permissive service

27 credit; or

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

4 (33) "Normal retirement date" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (2) in an amount that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 member prior to suspension of the retirement allowance.

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

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

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

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

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

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

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

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

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

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

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

27 (C) any distribution to the extent such

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

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

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

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

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

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

8 SECTION 10. The following laws are repealed:

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

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

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

By: Watson

H.B. No. 3033

Substitute the following for H.B. No. 3033

By: Kendrey Ellis

ADOPTED
C.S. H.B. NO. 3033
MAY 24 2011
Atty. Gen. Paul
Secretary of the Senate

A BILL TO BE ENTITLED

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AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

27 (5) "Agency of the municipality" means any agency or

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

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

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

18 (8) "Average final compensation" means the average
19 monthly compensation, as defined and limited by Subdivision (12)
20 of this section, less overtime, incentive, and terminal pay,
21 plus, (i) amounts picked up by the employer pursuant to Section
22 10(e) of this Act, and (ii) amounts that would be included in
23 wages but for an election under Section 125(d), 132(f)(4),
24 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the code, [not
25 ~~otherwise included in the member's taxable income by reason of~~
26 ~~either an election under a "cafeteria" plan as described in~~
27 ~~Section 125 of the code or deferrals under a plan of deferred~~

1 ~~compensation within the scope of Section 457 of the code, to the~~
2 ~~extent not in excess of \$12,500 for persons who first become~~
3 ~~members after 1995 that is earned by a member]~~ during, as
4 applicable:

5 (A) if the member has 120 months or more of
6 membership service, the 36 months of membership service which
7 yielded the highest average during the last 120 months of
8 membership service;

9 (B) if the member has less than 120 months of
10 membership service, but has at least 36 months of membership
11 service, then the average during the 36 months which yield the
12 highest average; or

13 (C) if the member does not have 36 months of
14 membership service, then the average during the member's months
15 of membership service.

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

27 (9) "Beneficiary" means the member's designated

1 beneficiary. If there is no effective beneficiary designation
2 on the date of the member's death, or if the designated
3 beneficiary predeceases the member (or dies as a result of the
4 same event that caused the member's death and does not survive
5 the member by 48 hours), the member's spouse or, if the member
6 does not have a spouse, the member's estate shall be the
7 beneficiary.

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

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

13 (12) "Compensation" means, with respect to any
14 member, such member's wages, within the meaning of Section
15 3401(a) of the code (for purposes of income tax withholding at
16 the source) but determined without regard to any rules that
17 limit the remuneration included in wages based on the nature or
18 location of the employment or the services performed (such as
19 the exception for agricultural labor in Section 3401(a)(2) of
20 the code). Compensation in excess of the dollar limit under
21 Section 401(a)(17) of the code shall be disregarded in
22 determining the compensation of [~~\$12,500 per month for~~] any
23 employee who first becomes a member in a year commencing after
24 1995 [~~shall be disregarded~~]. The dollar [~~\$12,500~~] limitation
25 shall be adjusted for cost of living increases as provided under
26 Section 401(a)(17) of the code.

27 (13) "Consumer price index" means the Consumer Price

1 Index for Urban Wage Earners and Clerical Workers (United States
2 City Average, All Items) published monthly by the Bureau of
3 Labor Statistics, United States Department of Labor, or its
4 successor in function.

5 (14) "Creditable service" means the total of prior
6 service, membership service, redeemed service, and service
7 purchased under Section 6 of this Act.

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

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

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

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

22 (17) "Designated beneficiary" means any person,
23 trust, or estate properly designated on a form provided by the
24 retirement system by a member to receive benefits from the
25 system in the event of the member's death. If the member is
26 married, an individual other than the member's spouse may be the
27 designated beneficiary only if the spouse consents to such

1 designation in the form and manner prescribed by the retirement
2 board.

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

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

11 (18B) "Early retirement eligible member" means a
12 member of Group B that:

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

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

16 (19) "Employer" means the municipality described in
17 Section 1 of this Act, the retirement board, or an agency of the
18 municipality.

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

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

24 (22) "Fund No. 2" means the fund in which shall be
25 kept all money contributed by the city on behalf of city
26 employees, by an agency of the municipality on behalf of the
27 agency's employees, and by the retirement board on behalf of

1 retirement board employees, interest earned thereon, and all
2 accumulations and earnings of the system.

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

6 (23A) "Group A" means the group of members of the
7 retirement system that includes each member who:

8 (A) began membership service on or after January
9 1, 1941, and on or before December 31, 2011; or

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

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

13 (ii) ceased to be a member of the
14 retirement system;

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

17 (iv) reinstated all of the member's prior
18 membership service credit.

19 (23B) "Group B" means the group of members of the
20 retirement system that includes each member who:

21 (A) began membership service on or after January
22 1, 2012; or

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

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

26 (ii) ceased to be a member of the
27 retirement system;

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

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

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

9 (26) "Investment manager" means the persons or
10 entities that have the power to manage, acquire, or dispose of
11 assets of the fund on behalf of the retirement system and that
12 acknowledge fiduciary responsibility to the system in writing.
13 An investment manager must be a person, firm, or corporation
14 registered as an investment adviser under the Investment
15 Advisers Act of 1940, a bank, or an insurance company qualified
16 to manage, acquire or dispose of assets under the laws of more
17 than one state including this state that meets the requirements
18 of Section 802.204, Government Code.

19 (27) "Life annuity" means a series of equal monthly
20 payments, payable after retirement for a member's life,
21 consisting of a combination of prior service pension and current
22 service annuity, or early retirement annuity, to which the
23 member is entitled.

24 (28) "Life annuity (modified cash refund)" means a
25 life annuity providing that, in the event of death of the
26 retired member before that member has received payments under
27 the life annuity totaling the amount of that member's

1 accumulated deposits at the date of retirement, the excess of
2 such accumulated deposits over the payments made shall be paid
3 in one lump sum to the member's designated beneficiary.

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

10 (30) "Member" means any:

11 (A) regular full-time employee of an employer;
12 and

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

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

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

26 (32) "Normal retirement age" means:

27 (A) for members of Group A:

1 (i) age 62;
2 (ii) [~~B~~] 55 years of age with 20 years of
3 creditable service; or
4 (iii) [~~E~~] 23 years of creditable service,
5 regardless of years of age; and

6 (B) for members of Group B:

7 (i) 62 years of age with 30 years of
8 creditable service, excluding nonqualified permissive service
9 credit; or

10 (ii) 65 years of age with five years of
11 creditable service, excluding nonqualified permissive service
12 credit.

13 (33) "Normal retirement date" means:

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

18 (B) for members of Group B, the date the member
19 reaches normal retirement age under Subdivision (32)(B) of this
20 section [or a lesser number of years of creditable service
21 established by the retirement board under Section 10(g) of this
22 Act].

23 (34) "Prior service" means membership service as an
24 employee of the city:

25 (A) rendered by a person prior to January 1,
26 1941, for which a pension credit is allowable under prior law
27 governing the retirement system of that city; and

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

3 (35) "Prior service pension" means a series of equal
4 monthly payments payable from funds of the retirement system for
5 a member's life after retirement for prior service equal to one-
6 twelfth of the product of 3.0 [~~2.7~~] percent [~~or a greater~~
7 ~~percentage established by the retirement board under Section~~
8 ~~10(g) of this Act]~~ of the member's average monthly earnings
9 during a period of five years preceding January 1, 1941,
10 multiplied by the number of months of prior service. [~~On~~
11 ~~retirement at an age other than normal retirement age, the~~
12 ~~monthly prior service pension herein prescribed shall be the~~
13 ~~actuarial equivalent thereof at the member's actual retirement~~
14 ~~date, based on the schedule or schedules of payments approved by~~
15 ~~the actuary and adopted by the retirement board and in effect on~~
16 ~~the member's actual retirement date.]~~

17 (36) "Qualified domestic relations order" has the
18 meaning assigned by Section 804.001, Government Code, and its
19 subsequent amendments.

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

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

24 (39) "Regular full-time employee" means an individual
25 who is employed by the municipality, an agency of the
26 municipality, or the retirement board who is not a commissioned
27 civil service police officer or fire fighter, a fire or police

1 cadet employed under civil service procedures, the mayor, or a
2 member of the governing body; who serves in a position that is
3 classified in the annual budget of an employer for employment
4 for the full calendar year; and who works or is budgeted for 30
5 hours or more in a normal 40-hour work week. The term does not
6 include an individual whose position is classified as seasonal
7 or temporary by the employer, even if the individual works 30
8 hours or more in a normal 40-hour work week in which the
9 individual is employed.

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

14 (41) "Retirement" means the termination of employment
15 of a member after the member becomes entitled to receive a
16 retirement allowance in accordance with the provisions of this
17 Act.

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

21 (43) "Retirement board" means the board of trustees
22 of the retirement and pensioning system herein created for the
23 purpose of administering the retirement system.

24 (44) "Retirement system," "retirement and pensioning
25 system," "pension system," or "system" means the retirement and
26 pensioning system created by this Act for a municipality
27 governed by this Act or a retirement system established under

1 this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the member is qualified under Subdivisions (23A) and (23B),
2 Section 2 of this Act.

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

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

26 (c)(1) Uniformed service creditable in the retirement
27 system is any service required to be credited by the Uniformed

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

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

1 the time required by that Act. The employee's employer shall
2 make contributions to the retirement fund as though the member
3 has continued employment at the salary of the member for the
4 last complete pay period before the absence for military
5 service. The employer's contributions shall be made each pay
6 period if the member is making periodic payments during the
7 period. During an authorized leave of absence, the member
8 accrues membership service for the pay periods in which the
9 member makes a deposit. Membership service credit for a lump-
10 sum payment accrues at the time of payment.

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

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

27 (5) A member may not establish creditable service in

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

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

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

1 been made had the sick hours been exercised and used as sick
2 leave hours.

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

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

8 (2) in an amount that:

9 (A) for each purchase, is not less than one
10 month; and

11 (B) when all amounts purchased under this
12 subsection are combined, is not more than 60 months; and

13 (3) only if the member has reinstated all prior
14 membership service in:

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

18 (i) first reinstating all prior membership
19 service in Group A;

20 (ii) next reinstating all prior membership
21 service in Group B; and

22 (iii) then purchasing the nonqualified
23 permissive creditable service; or

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

26 (i) first reinstating all prior membership
27 service in Group B; and

1 (ii) then purchasing the nonqualified
2 permissive creditable service.

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

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

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

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

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

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

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

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

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

27 (3) Option III. 66-2/3 Percent Joint and Survivor

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

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

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

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

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

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

1 Option I, Option II, or Option III. The standard service
2 retirement annuity shall be appropriately adjusted for early
3 retirement and for the postretirement increases in retirement
4 benefits. The increase in the annuity under this subsection is
5 payable to the retired member for life and begins with the later
6 of the monthly payment made to the retired member for the month
7 following the month in which the person designated by the member
8 dies or the month following the month in which the retired
9 member gives the system notice of the designated person's death.

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

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

20 (a) Notwithstanding any other provisions of this Act, the
21 annual benefit provided with respect to any member may not
22 exceed the benefits allowed for a governmental defined benefit
23 plan qualified under Section 401 [415] of the code. The maximum
24 benefits allowed under this section shall increase each year to
25 the extent permitted by annual cost of living increase
26 adjustments announced by the United States secretary of the
27 treasury under Section 415(d) of the code and the increased

1 benefit limits shall apply to members who have terminated
2 employment, including members who have commenced to receive
3 benefits, before the effective date of the adjustment.

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

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

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

26 (f) A member whose retirement allowance is suspended under
27 Subsection (d) or (e) of this section may apply in writing for

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

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

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

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

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

1 system by the city for city employees, the board of each other
2 employer shall [~~may~~] increase the contributions for such
3 employer's respective employees by the same percentage.
4 Employer contributions shall be made each pay period.

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

9 (d-1) Members of the retirement system that are enrolled
10 in Group A shall have the rights and be entitled to the benefits
11 provided under this Act for members of Group A. Members of the
12 retirement system that are enrolled in Group B shall have the
13 rights and be entitled to the benefits provided under this Act
14 for members of Group B. A member may not be a member of both
15 Group A and Group B.

16 (e) Notwithstanding any provision of this Act to the
17 contrary that would otherwise limit a distributee's election, a
18 distributee may elect, at the time and in the manner prescribed
19 by the retirement board, to have any portion of an eligible
20 rollover distribution paid directly to an eligible retirement
21 plan specified by the distributee in a direct rollover. For
22 purposes of this subsection:

23 (1) An eligible rollover distribution is any
24 distribution of all or any portion of the balance to the credit
25 of the distributee, except that an eligible rollover
26 distribution does not include:

27 (A) any distribution that is one of a series of

line 25 ^{one}
457(e)(1)(A)

the

1 substantially equal periodic payments (not less frequently than
2 annually) made over the life (or life expectancy) of the
3 distributee or the joint lives (or joint life expectancies) of
4 the distributee and the distributee's designated beneficiary;

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

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

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

18 (2) An "eligible retirement plan" is an individual
19 retirement account described in Section 408(a) of the code, an
20 individual retirement annuity described in Section 408(b) of the
21 code, an annuity plan described in Section 403(a) of the code,
22 [~~or~~] a qualified trust described in Section 401(a) of the code,
23 an eligible deferred compensation plan described in Section
24 457(b) of the code which is maintained by an eligible employer
25 described in Section 457(e)(1)(A) of the code, or an annuity
26 contract described in Section 403(b) of the code, that accepts
27 the distributee's eligible rollover distribution. However, in

1 the case of an eligible rollover distribution to a designated
2 beneficiary who is not the surviving spouse, or the spouse or
3 former spouse under a qualified domestic relations order, an
4 eligible retirement plan is an individual retirement account or
5 individual retirement annuity only.

6 (3) A "distributee" includes an employee or former
7 employee. In addition, the employee's or former employee's
8 surviving spouse or designated beneficiary and the employee's or
9 former employee's spouse or former spouse who is the alternate
10 payee under a qualified domestic relations order, as defined in
11 Section 414(p) of the code, are distributees with regard to the
12 interest of the spouse or the former spouse.

13 (4) A "direct rollover" is a payment by the
14 retirement system to the eligible retirement plan specified by
15 the distributee.

16 SECTION 10. The following laws are repealed:

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

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

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

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 24, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB3033 by Naishtat (Relating to retirement under public retirement systems for employees of certain municipalities.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The provisions of the bill would only affect the City of Austin. The Texas Municipal Retirement System (TMRS) reported the City of Austin has its own pension system; therefore, no fiscal impact.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, SD, KJG, AG, TP, DH

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 12, 2011

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB3033 by Naishtat (Relating to retirement under public retirement systems for employees of certain municipalities.), **Committee Report 2nd House, Substituted**

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Source Agencies:

LBB Staff: JOB, KJG, AG, TP, DH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 5, 2011

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB3033 by Naishtat (Relating to retirement under public retirement systems for employees of certain municipalities.), **As Engrossed**

No fiscal implication to the State is anticipated.

The provisions of the bill would only affect the City of Austin. The Texas Municipal Retirement System (TMRS) reported the City of Austin has its own pension system; therefore, no fiscal impact.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, KJG, AG, TP, DH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 8, 2011

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions, Investments & Financial Services

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB3033 by Naishtat (Relating to retirement under public retirement systems for employees of certain municipalities.), **As Introduced**

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Source Agencies:

LBB Staff: JOB, AG, TP, DH

LEGISLATIVE BUDGET BOARD

Austin, Texas

ACTUARIAL IMPACT STATEMENT

82ND LEGISLATIVE REGULAR SESSION

April 11, 2011

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions, Investments & Financial Services

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB3033 by Naishtat (Relating to retirement under public retirement systems for employees of certain municipalities.), **As Introduced**

In response to your request for an Actuarial Impact Statement on HB 3033 (relating to retirement under public retirement systems for employees of certain municipalities) the Pension Review Board has determined the following:

ACTUARIAL EFFECTS:

HB 3033, if enacted, would decrease the normal cost of the City of Austin Employees Retirement System (COASERS) by 5.14% of payroll, from 16.31% of payroll to 11.17% of payroll. The proposal would change the amortization period of the COAERS, calculated as of December 31, 2010, from a period of infinity to 34 years. HB 3033 would increase the unfunded actuarial accrued liability (UAAL) by \$149 million, from \$748 million to \$897 million. This increase in the UAAL would be offset by the decrease in the normal cost of the COAERS. Currently, total contributions to the COAERS are 22% of payroll (14% from the city and 8% from the employees). The current normal cost rate of 16.31% of payroll leaves a total of 5.69% of payroll available to amortize the UAAL. At this current rate and UAAL, the funding period is infinite. Under the proposal, the normal cost rate would be 11.17% of payroll, leaving 10.83% of payroll to amortize the new UAAL (which would be higher than under the current structure). The additional contributions available to pay off the UAAL would be sufficient enough to lower the amortization period from infinity to 34 years, thus improving the actuarial condition of the COAERS.

(A Glossary of Actuarial Terms is provided at the end of this impact statement)

SYNOPSIS OF PROVISIONS:

HB 3033, to be effective immediately if receiving required votes or if not, October 1, 2011, would provide the following changes:

- ☐ Establishes a new tier of benefits for employees in classification Group B, which would include members who join the COAERS on or after January 1, 2012 and members, who return to full-time employment on or after January 1, 2012, which have received a distribution for service earned prior to January 1, 2012, but have not re-established such credit service with the COAERS.
- ☐ Makes several changes to state statute to bring statute into compliance with federal law and current practices of the COAERS.

FINDINGS AND CONCLUSIONS:

HB 3033 proposes to establish a new tier of benefits for the COAERS. Under the proposal, members who join the COAERS on or after January 1, 2012 and members, who return to

full-time employment on or after January 1, 2012, which have received a distribution for service earned prior to January 1, 2012, but have not re-established such credit service with the COAERS, will be included in the Group B classification. The table below shows the benefits established in the new tier by comparing the benefits of Group A and Group B:

Benefit Description	Group A	Group B
Benefit Multiplier	3.0%	2.5%
Normal Retirement Eligibility	Age 62, age 55 with 20 years of service, any age with 23 years of service	Age 65 with 5 years of service, age 62 with 30 years of service
Early Retirement Eligibility	Not Applicable	Age 55 and 10 years of service
Early Retirement Benefit	Not Applicable	Accrued benefit actuarially reduced from Normal Retirement Age
Nonqualified Permissive Service Purchase	Purchased service is used for eligibility and benefit calculation	Purchased service is only used for benefit calculation and is not used for eligibility

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METHODOLOGY AND STANDARDS:

The actuarial analysis utilizes a methodology referred to in the analysis as “replacement life normal cost”, otherwise known as the “ultimate entry age normal cost” method. This methodology determines the normal cost for all current active employees under the benefit structure that applies to new hires. For active employees, the Present Value of Future Benefits (PVFB) will include a lower Present Value of Future Normal Costs (PVFNC), though the total PVFB is still the same. Since the PVFB is equal to the PVFNC plus the Actuarial Accrued Liability (AAL), a lowering of the PVFNC will require an increase in the AAL to keep the PVFB the same. The increase in the AAL leads to the overall increase in the UAAL as mentioned previously.

The analysis relies on the participant data, financial information, benefit structure and actuarial assumptions and methods used in the December 31, 2010 actuarial valuation of the COAERS. According to the actuarial analysis, the retirement rates for Group B employees at first eligibility for normal retirement are set equal to twice the current rates of retirement at those ages with the exception of age 65 where Group B employees rates are set to 50% if the member is eligible for normal retirement. For Group B employees eligible for early retirement but not normal retirement, a 2% retirement rate is used if the employee has less than 20 years of service and a 10% retirement rate is used for employees eligible for early retirement with 20 or more years of service. The analysis assumes no further changes are made and cautions that the combined economic impact of several proposals can exceed the effect of each proposal considered individually. According to the PRB actuary, the actuarial assumptions, methods and procedures appear to be reasonable. All actuarial projections have a degree of uncertainty because they are based on the probability of occurrence of future contingent events. Accordingly, actual results will be different from the results

contained in the analysis to the extent actual future experience varies from the experience implied by the assumptions.

SOURCES:

Actuarial Analysis by Actuarial Analysis by Lewis Ward, Consultant, and Joseph P. Newton, Actuary, Gabriel Roeder Smith & Company, March 29, 2011.

Actuarial Review by Dan Moore, Actuary, Pension Review Board, April 11, 2011.

GLOSSARY OF ACTUARIAL TERMS:

Normal Cost-- the current cost as a percentage of payroll that is necessary to pre-fund pension benefits adequately during the course of an employee's career.

Unfunded Liability-- the amount of total liabilities that are not covered by the total assets of a retirement system. Both liabilities and assets are measured on an actuarial basis using certain assumptions including average annual salary increases, the investment return of the retirement fund, and the demographics of retirement system members.

Amortization Period-- the number of years required to pay-off the unfunded liability. Public retirement systems have found that amortization periods ranging from 20 to 40 years are acceptable. State law prohibits changes in TRS, ERS, or JRS II benefits or state contribution rates if the result is an amortization period exceeding 30.9 years.

Source Agencies: 338 Pension Review Board

LBB Staff: JOB, WM