

Amend the proposed Floor Amendment No. 1 to CSSB 2190 (85R22538) as follows:

(1) In the recital to SECTION 1.01 of the bill (page 1, lines 6 and 7), between "(3)," and "(13-a)", insert "(12),".

(2) In SECTION 1.01 of the bill, immediately following added Section 1(11-a), Article 6243e.2(1), Revised Statutes (page 4, between lines 11 and 12), insert the following:

(12) "Fund," except as provided by Sections 1C and 1D of this article or unless the context requires otherwise, means a firefighters' relief and retirement fund established under this article.

(3) In SECTION 1.01 of the bill, in added Section 1(15-b), Article 6243e.2(1), Revised Statutes (page 6, line 28), between "service" and "in", insert ", including all firefighters participating in an alternative retirement plan established under Section 1C of this article,".

(4) In SECTION 1.01 of the bill, strike amended Section 1(16), Article 6243e.2(1), Revised Statutes (page 7, line 26, through page 8, line 4), and substitute the following:

(16) "Salary" means wages as defined by Section 3401(a) of the code, [the amounts includable in gross income of a member] plus any amount not includable in gross income under Section 104(a)(1), Section 125, Section 132(f), Section 402(g)(2) [402(e)(3) or (h)], Section 457 [403(b)], or Section 414(h)(2) [414(h)] of the code, except that with respect to amounts earned on or after the year 2017 effective date, salary excludes overtime pay received by a firefighter or the amount by which the salary earned by a firefighter on the basis of the firefighter's appointed position exceeds the salary of the firefighter's highest tested rank.

(5) In the recital to SECTION 1.02 of the bill (page 9, line 16), strike "and 1D" and substitute "1D, and 1E".

(6) In SECTION 1.02 of the bill, strike added Section 1C, Article 6243e.2(1), Revised Statutes (page 10, lines 19 through 22), and substitute the following:

Sec. 1C. ALTERNATIVE RETIREMENT PLANS. (a) In this section, "fund" means the retirement, disability, or death benefit

plan established under this article for firefighters other than an alternative retirement plan established under this section.

(b) Notwithstanding any other law, including Section 13G of this article, and except as provided by Subsection (e) of this section, the board and the municipality may enter into a written agreement to offer an alternative retirement plan or plans, including cash balance retirement plans, if both parties consider it appropriate.

(c) Notwithstanding any other law, including Section 13G of this article, and except as provided by Subsection (e) of this section, if, on or after September 1, 2021, the funded ratio of the fund is less than 65 percent as determined in a final risk sharing valuation study prepared under Section 13B of this article without making any adjustments under Section 13E or 13F of this article, or if, on or after September 1, 2021, the funded ratio of the fund is less than 65 percent as determined in a revised and restated risk sharing valuation study prepared under Section 13B(a)(7) of this article, the board and the municipality shall, as soon as practicable but not later than the 60th day after the date the determination is made:

(1) enter into a written agreement to establish, as an alternative retirement plan under this section, a cash balance retirement plan that complies with Section 1D of this article; and

(2) require each firefighter hired by the municipality on or after the date the cash balance retirement plan is established to participate in the cash balance retirement plan established under this subsection instead of participating in the fund, provided the firefighter would have otherwise been eligible to participate in the fund.

(d) Notwithstanding any other law, including Section 13G of this article, and except as provided by Subsection (e) of this section, if, on or after September 1, 2021, the board and the municipality fail to establish a cash balance retirement plan within the time prescribed by Subsection (c) of this section, the municipality shall by ordinance:

(1) unilaterally establish, as an alternative retirement plan, a cash balance retirement plan that complies with

Section 1D of this article; and

(2) require each firefighter hired by the municipality on or after the date the cash balance retirement plan is established to participate in the cash balance retirement plan established under this subsection instead of participating in the fund, provided the firefighter would have otherwise been eligible to participate in the fund.

(e) If the municipality fails to deliver the proceeds of the pension obligation bonds described by Section 9B(j)(1), Article 6243g-4, Revised Statutes, within the time prescribed by that subdivision, notwithstanding the funded ratio of the fund:

(1) the board and the municipality may not establish a cash balance retirement plan under Subsection (c) of this section; and

(2) the municipality may not establish a cash balance retirement plan under Subsection (d) of this section.

Sec. 1D. REQUIREMENTS FOR CERTAIN CASH BALANCE RETIREMENT PLANS. (a) In this section:

(1) "Cash balance retirement plan" means a cash balance retirement plan established by written agreement under Section 1C(c) of this article or by ordinance under Section 1C(d) of this article.

(2) "Fund" has the meaning assigned by Section 1C of this article.

(3) "Interest" means the interest earned as the result of returns on investments, which may not exceed a percentage rate equal to the cash balance retirement plan's most recent five fiscal years' smoothed rate of return.

(4) "Participant" means a firefighter who participates in a cash balance retirement plan.

(b) The written agreement or ordinance establishing a cash balance retirement plan must:

(1) provide for the administration of the cash balance retirement plan;

(2) provide for a closed amortization period not to exceed 15 years from the date an actuarial gain or loss is realized;

(3) require that municipal and participant

contributions be credited to an account maintained for the benefit of the participant;

(4) provide for the crediting of interest to the participant's account;

(5) include a vesting schedule;

(6) include benefit options, including options for participants who separate from service prior to retirement;

(7) provide for death and disability benefits;

(8) allow a participant who is eligible to retire under the plan to elect to:

(A) receive a monthly annuity payable for the life of the participant in an amount actuarially determined on the date of the participant's retirement based on the participant's accumulated account balance annuitized in accordance with the actuarial assumptions and actuarial methods established in the written agreement or ordinance establishing the plan, except that the discount rate applied may not exceed the fund's assumed rate of return in the most recent risk sharing valuation study;

(B) receive a single lump-sum payment of the participant's accumulated account balance; or

(C) receive a single, partial lump-sum payment from the participant's accumulated account balance and a monthly annuity payable for life in an amount determined in accordance with Paragraph (A) of this subdivision based on the participant's account balance after receiving the partial lump-sum payment; and

(9) include any other provision determined necessary by the board and the municipality if the plan is established under Section 1C(c) of this article or by the municipality if the plan is established under Section 1C(d) of this article.

(c) The written agreement or ordinance establishing a cash balance retirement plan must address whether firefighters who were employed by the municipality before the date the cash balance retirement plan was established and who resumed employment with the municipality on or after the date the cash balance retirement plan was established are required to participate in the fund or in the cash balance retirement plan.

(d) Notwithstanding any other law, including Section 13 of

this article, a firefighter who participates in a cash balance retirement plan:

(1) except as provided by Subsection (c) of this section, is not eligible to be a member of and may not participate in the fund; and

(2) may not accrue years of participation or establish service credit in the fund during the period the firefighter is participating in the cash balance retirement plan.

(e) The combined municipal contribution for the cash balance retirement plan and the fund may not:

(1) exceed the municipal contribution for the fund calculated as if all participants in the cash balance retirement plan were members of the fund; or

(2) be less than the required normal cost contribution for the fund calculated as if all participants of the cash balance retirement plan were members of the fund.

(7) In SECTION 1.02 of the bill, in added Section 1D, Article 6243e.2(1), Revised Statutes (page 10, line 23), strike "1D" and substitute "1E".

(8) In SECTION 2.03 of the bill, in added Section 2(16-b), Article 6243g-4, Revised Statutes (page 54, line 9), strike "paid to active members during an applicable fiscal year" and substitute ", in an applicable fiscal year, paid to all:

(A) active members; and

(B) if applicable, participants in any alternative retirement plan established under Section 2B of this article, including a cash balance retirement plan established under that section".

(9) In SECTION 2.03 of the bill, in amended Section 2(17), Article 6243g-4, Revised Statutes (page 54, line 12), immediately following the period, insert "In this context, the term does not include an alternative retirement plan established under Section 2B of this article.".

(10) In SECTION 2.03 of the bill, in added Section 2(17-e), Article 6243g-4, Revised Statutes (page 55, line 8), strike "member" and substitute "employee".

(11) In the recital to SECTION 2.04 of the bill (page 56,

line 24), strike "and 2C" and substitute "2C, and 2D".

(12) In SECTION 2.04 of the bill, strike added Section 2B, Article 6243g-4, Revised Statutes (page 56, line 30, through page 57, line 3), and substitute the following:

Sec. 2B. ALTERNATIVE RETIREMENT PLANS. (a)
Notwithstanding any other law, including Section 9F of this article, and except as provided by Subsection (b) of this section, the board and the city may enter into a written agreement under Section 27 of this article to offer an alternative retirement plan or plans, including cash balance retirement plans, if both parties consider it appropriate.

(b) Notwithstanding any other law, including Section 9F of this article, and except as provided by Subsection (d) of this section, if, on or after September 1, 2021, the funded ratio of the pension system is less than 65 percent as determined in a final risk sharing valuation study prepared under Section 9A of this article without making any adjustments under Section 9D or 9E of this article, or if, on or after September 1, 2021, the funded ratio of the pension system is less than 65 percent as determined in a revised and restated risk sharing valuation study prepared under Section 9A(a)(7) of this article, the board and the city shall, as soon as practicable but not later than the 60th day after the date the determination is made:

(1) enter into a written agreement under Section 27 of this article to establish, as an alternative retirement plan under this section, a cash balance retirement plan that complies with Section 2C of this article; and

(2) require each employee hired by the city on or after the date the cash balance retirement plan is established to participate in the cash balance retirement plan established under this subsection instead of participating in the pension system, provided the employee would have otherwise been eligible to participate in the pension system.

(c) Notwithstanding any other law, including Section 9F of this article, and except as provided by Subsection (d) of this section, if, on or after September 1, 2021, the board and the city fail to establish a cash balance retirement plan within the time

prescribed by Subsection (b) of this section, the city shall by ordinance:

(1) unilaterally establish, as an alternative retirement plan, a cash balance retirement plan that complies with Section 2C of this article; and

(2) require each employee hired by the city on or after the date the cash balance retirement plan is established to participate in the cash balance retirement plan established under this subsection instead of participating in the pension system, provided the employee would have otherwise been eligible to participate in the pension system.

(d) If the city fails to deliver the proceeds of the pension obligation bonds described by Section 9B(j)(1) of this article within the time prescribed by that subdivision, notwithstanding the funded ratio of the pension system:

(1) the board and the city may not establish a cash balance retirement plan under Subsection (b) of this section; and

(2) the city may not establish a cash balance retirement plan under Subsection (c) of this section.

Sec. 2C. REQUIREMENTS FOR CERTAIN CASH BALANCE RETIREMENT PLANS. (a) In this section:

(1) "Cash balance retirement plan" means a cash balance retirement plan established by written agreement under Section 2B(b) of this article or by ordinance under Section 2B(c) of this article.

(2) "Interest" means the interest earned as the result of returns on investments, which may not exceed a percentage rate equal to the cash balance retirement plan's most recent five fiscal years' smoothed rate of return.

(3) "Participant" means an employee who participates in a cash balance retirement plan.

(b) The written agreement or ordinance establishing a cash balance retirement plan must:

(1) provide for the administration of the cash balance retirement plan;

(2) provide for a closed amortization period not to exceed 15 years from the date an actuarial gain or loss is realized;

(3) require that city and participant contributions be credited to an account maintained for the benefit of the participant;

(4) provide for the crediting of interest to the participant's account;

(5) include a vesting schedule;

(6) include benefit options, including options for participants who separate from service prior to retirement;

(7) provide for death and disability benefits;

(8) allow a participant who is eligible to retire under the plan to elect to:

(A) receive a monthly annuity payable for the life of the participant in an amount actuarially determined on the date of the participant's retirement based on the participant's accumulated account balance annuitized in accordance with the actuarial assumptions and actuarial methods established in the written agreement or ordinance establishing the plan, except that the discount rate applied may not exceed the pension system's assumed rate of return in the most recent risk sharing valuation study;

(B) receive a single lump-sum payment of the participant's accumulated account balance; or

(C) receive a single, partial lump-sum payment from the participant's accumulated account balance and a monthly annuity payable for life in an amount determined in accordance with Paragraph (A) of this subdivision based on the participant's account balance after receiving the partial lump-sum payment; and

(9) include any other provision determined necessary by the board and the city if the plan is established under Section 2B(b) of this article or by the city if the plan is established under Section 2B(c) of this article.

(c) The written agreement or ordinance establishing a cash balance retirement plan must address whether employees who were employed by the city before the date the cash balance retirement plan was established and who resumed employment with the city on or after the date the cash balance retirement plan was established are required to participate in the pension system or in the cash balance

retirement plan.

(d) Notwithstanding any other law, including Sections 2(1), 11, and 12 of this article, an employee who participates in a cash balance retirement plan:

(1) except as provided by Subsection (c) of this section, is not eligible to be an active member of and may not participate in the pension system; and

(2) may not accrue years of service or establish service credit in the pension system during the period the employee is participating in the cash balance retirement plan.

(e) The combined city contribution for the cash balance retirement plan and the pension system may not:

(1) exceed the city contribution for the pension system calculated as if all participants in the cash balance retirement plan were active members of the pension system; or

(2) be less than the required normal cost contribution for the pension system calculated as if all participants in the cash balance retirement plan were active members of the pension system.

(13) In SECTION 2.04 of the bill, in added Section 2C, Article 6243g-4, Revised Statutes (page 57, line 4), strike "2C" and substitute "2D".

(14) In the recital to SECTION 3.01 of the bill (page 128, line 11), between "(7)," and "(14)", insert "(11),".

(15) In SECTION 3.01 of the bill, immediately following amended Section 1(7), Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes) (page 131, between lines 21 and 22), insert the following:

(11) "Employee" means any person, including an elected official during the official's service to the city, who is eligible to be a member of the pension system or to participate in an alternative retirement plan established under this Act and:

(A) who holds a municipal position or a position with the pension system;

(B) whose name appears on a regular full-time payroll of a city or of the pension fund; and

(C) who is paid a regular salary for services.

(16) In SECTION 3.01 of the bill, in amended Section 1(18), Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes) (page 134, line 17), immediately following the period, insert "In this context, the term does not include a cash balance retirement plan established under Section 1C of this Act.".

(17) In SECTION 3.01 of the bill, in added Section 1(18-b), Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes) (page 134, line 21), strike "paid to all members in a fiscal year" and substitute ", in an applicable fiscal year, paid to all:

(A) members; and

(B) if applicable, participants in any alternative retirement plan established under Section 1C of this Act, including a cash balance retirement plan established under that section".

(18) In the recital to SECTION 3.02 of the bill (page 136, line 30), strike "and 1D" and substitute "1D, and 1E".

(19) In SECTION 3.02 of the bill, strike added Section 1C, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes) (page 138, lines 1 through 5), and substitute the following:

Sec. 1C. ALTERNATIVE RETIREMENT PLANS. (a) Notwithstanding any other law, including Section 8H of this Act, and except as provided by Subsection (b) of this section, the pension board and the city may enter into a written agreement under Section 3(n) of this Act to offer an alternative retirement plan or plans, including cash balance retirement plans, if both parties consider it appropriate.

(b) Notwithstanding any other law, including Section 8H of this Act, and except as provided by Subsection (d) of this section, if, on or after September 1, 2027, the funded ratio of the pension system is less than 60 percent as determined in a final risk sharing valuation study prepared under Section 8B of this Act without making any adjustments under Section 8E or 8F of this Act, or if, on or after September 1, 2027, the funded ratio of the pension system is less than 60 percent as determined in a revised and restated risk

sharing valuation study prepared under Section 8B(a)(8) of this Act, the pension board and the city shall, as soon as practicable but not later than the 60th day after the date the determination is made:

(1) enter into a written agreement under Section 3(n) of this Act to establish, as an alternative retirement plan under this section, a cash balance retirement plan that complies with Section 1D of this Act; and

(2) require each employee hired by the city on or after the date the cash balance retirement plan is established to participate in the cash balance retirement plan established under this subsection instead of participating in the pension system, provided the employee would have otherwise been eligible to participate in the pension system.

(c) Notwithstanding any other law, including Section 8H of this Act, and except as provided by Subsection (d) of this section, if, on or after September 1, 2027, the pension board and the city fail to establish a cash balance retirement plan within the time prescribed by Subsection (b) of this section, the city shall by ordinance:

(1) unilaterally establish, as an alternative retirement plan, a cash balance retirement plan that complies with Section 1D of this Act; and

(2) require each employee hired by the city on or after the date the cash balance retirement plan is established to participate in the cash balance retirement plan established under this subsection instead of participating in the pension system, provided the employee would have otherwise been eligible to participate in the pension system.

(d) If the city fails to deliver the proceeds of the pension obligation bonds described by Section 8C(j)(1) of this Act within the time prescribed by that subdivision, notwithstanding the funded ratio of the pension system:

(1) the pension board and the city may not establish a cash balance retirement plan under Subsection (b) of this section; and

(2) the city may not establish a cash balance

retirement plan under Subsection (c) of this section.

Sec. 1D. REQUIREMENTS FOR CERTAIN CASH BALANCE RETIREMENT PLANS. (a) In this section:

(1) "Cash balance retirement plan" means a cash balance retirement plan established by written agreement under Section 1C(b) or by ordinance under Section 1C(c) of this Act.

(2) "Interest" means the interest earned as the result of returns on investments, which may not exceed a percentage rate equal to the cash balance retirement plan's most recent five fiscal years' smoothed rate of return.

(3) "Participant" means an employee who participates in a cash balance retirement plan.

(b) The written agreement or ordinance establishing a cash balance retirement plan must:

(1) provide for the administration of the cash balance retirement plan;

(2) provide for a closed amortization period not to exceed 15 years from the date an actuarial gain or loss is realized;

(3) require that city and participant contributions be credited to an account maintained for the benefit of the participant;

(4) provide for the crediting of interest to the participant's account;

(5) include a vesting schedule;

(6) include benefit options, including options for participants who separate from service prior to retirement;

(7) provide for death and disability benefits;

(8) allow a participant who is eligible to retire under the plan to elect to:

(A) receive a monthly annuity payable for the life of the participant in an amount actuarially determined on the date of the participant's retirement based on the participant's accumulated account balance annuitized in accordance with the actuarial assumptions and actuarial methods established in the written agreement or ordinance establishing the plan, except that the discount rate applied may not exceed the pension system's assumed rate of return in the most recent risk sharing valuation

study;

(B) receive a single lump-sum payment of the participant's accumulated account balance; or

(C) receive a single, partial lump-sum payment from the participant's accumulated account balance and a monthly annuity payable for life in an amount determined in accordance with Paragraph (A) of this subdivision based on the participant's account balance after receiving the partial lump-sum payment; and

(9) include any other provision determined necessary by the pension board and the city if the plan is established under Section 1C(b) of this Act or by the city if the plan is established under Section 1C(c) of this Act.

(c) The written agreement or ordinance establishing a cash balance retirement plan must address whether employees who were employed by the city before the date the cash balance retirement plan was established and who resumed employment with the city on or after the date the cash balance retirement plan was established are required to participate in the pension system or in the cash balance retirement plan.

(d) Notwithstanding any other law, including Section 5 of this Act, an employee who participates in a cash balance retirement plan:

(1) except as provided by Subsection (c) of this section, is not eligible to be a member of and may not participate in the pension system; and

(2) may not earn credited service in the pension system during the period the employee is participating in the cash balance retirement plan.

(e) The combined city contribution for the cash balance retirement plan and the pension system may not:

(1) exceed the city contribution for the pension system calculated as if all participants in the cash balance retirement plan were active members of the pension system; or

(2) be less than the required normal cost contribution for the pension system calculated as if all participants in the cash balance retirement plan were active members of the pension system.

(20) In SECTION 3.02 of the bill, in added Section 1D,

Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes) (page 138, line 6), strike "1D" and substitute "1E".