

By: Middleton

H.B. No. 3373

A BILL TO BE ENTITLED

AN ACT

relating to the police pension fund in certain municipalities.

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

SECTION 1. Sections 2.01, 2.02, and 2.03, Chapter 325 (H.B. 2259), Acts of the 75th Legislature, Regular Session, 1997 (Article 6243p, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 2.01. BOARD OF TRUSTEES. A board of trustees of the police pension fund is created, in which is vested the general administration, management, and responsibility for the proper and effective operation of the fund. ~~[The board shall be organized immediately after the members have qualified and taken the oath of office.]~~ The board has all necessary powers to discharge the board's duties, including the authority to adopt necessary rules for the administration of the fund and to correct any defect, supply any omission, and reconcile any inconsistency that may appear in this Act in a manner and to the extent that the board considers expedient for the administration of this Act for the greatest benefit of all members of the fund.

Sec. 2.02. COMPOSITION OF BOARD. (a) The board of trustees of the fund is composed of eight trustees ~~[seven members]~~ as follows:

(1) two trustees who are members of the fund elected by the members of the fund ~~[the president of the municipality's police~~

1 ~~association, to serve during the president's term of office, except~~
2 ~~as provided by Subsection (b) of this section];~~

3 (2) one trustee [~~municipal financial staff employee~~]
4 designated by the city manager, to serve at the pleasure of the city
5 manager;

6 (3) one trustee [~~legally qualified voter~~] designated
7 by the mayor, to serve a two-year term;

8 (4) two trustees who are [~~one~~] legally qualified
9 voters [~~voter~~] designated by the city council, to serve a two-year
10 term; and

11 (5) two trustees who are not active or retired [~~three~~]
12 members of the fund elected by the members of the fund, each to
13 serve a three-year term.

14 (b) To be appointed or elected a trustee under this section,
15 a person must have demonstrated financial, accounting, business,
16 investment, budgeting, real estate, or actuarial expertise [~~If the~~
17 ~~president of the municipality's police association is prevented by~~
18 ~~the constitution or bylaws of the association from serving as a~~
19 ~~member of the board of trustees or if the president is not a member~~
20 ~~of the fund, the member of the fund who holds the next highest~~
21 ~~ranking office in the association serves on the board in place of~~
22 ~~the president of the association for the term of the officer's~~
23 ~~office in the association].~~

24 (c) A trustee [~~member of the board of trustees~~] serves until
25 a successor is selected and qualified. A vacancy occurring by
26 death, resignation, or removal is filled in the same manner used to
27 fill the position being vacated. A person appointed or elected to

1 fill a position vacated by death, resignation, or removal serves
2 the remainder of the term, if any, for the position being vacated,
3 at which time the person may be reappointed or stand for election
4 for a full term.

5 Sec. 2.03. ELECTED TRUSTEES. The board shall provide by
6 rule [~~for~~] the:

- 7 (1) procedure for electing trustees described by
8 Sections 2.02(a)(1) and (5) [~~Section 2.02(a)(5)~~] of this Act; and
9 (2) terms for a trustee elected under Section
10 2.02(a)(1) of this Act.

11 SECTION 2. Sections 2.09(a), (b), and (c), Chapter 325
12 (H.B. 2259), Acts of the 75th Legislature, Regular Session, 1997
13 (Article 6243p, Vernon's Texas Civil Statutes), are amended to read
14 as follows:

15 (a) The board may purchase from an insurer authorized to do
16 business in this state one or more insurance policies that provide
17 for the reimbursement of a trustee [~~member~~], officer, or employee
18 of the board for liability imposed as damages caused by, and for
19 costs and expenses incurred by the person in defense of, an alleged
20 act, error, or omission committed in the person's capacity as
21 fiduciary of assets of the fund. The board may not purchase an
22 insurance policy that provides for the reimbursement of a trustee
23 [~~member~~], officer, or employee of the board for liability imposed
24 or costs and expenses incurred because of the trustee's [~~member's~~],
25 officer's, or employee's personal dishonesty, fraudulent breach of
26 trust, lack of good faith, intentional fraud or deception, or
27 intentional failure to act prudently. The board of trustees shall

1 use money in the fund to purchase an insurance policy under this
2 subsection.

3 (b) If an insurance policy described by Subsection (a) of
4 this section is not available, sufficient, adequate, or otherwise
5 in effect, the board may indemnify a trustee [~~member~~], officer, or
6 employee of the board for liability imposed as damages caused by,
7 and for reasonable costs and expenses incurred by the person in
8 defense of, an alleged act, error, or omission committed in the
9 person's fiduciary capacity. The board may not indemnify a trustee
10 [~~member~~], officer, or employee of the board for liability imposed
11 or costs and expenses incurred because of the trustee's [~~member's~~],
12 officer's, or employee's personal dishonesty, fraudulent breach of
13 trust, lack of good faith, intentional fraud or deception, or
14 intentional failure to act prudently.

15 (c) A decision to indemnify under this section must be made
16 by five trustees [~~a majority of the board~~]. If a proposed
17 indemnification is of a trustee [~~board member~~], the trustee
18 [~~member~~] may not vote on the matter.

19 SECTION 3. Chapter 325 (H.B. 2259), Acts of the 75th
20 Legislature, Regular Session, 1997 (Article [6243p](#), Vernon's Texas
21 Civil Statutes), is amended by adding Sections 2.10 and 2.11 to read
22 as follows:

23 Sec. 2.10. ADMINISTRATIVE REQUIREMENTS. The board of
24 trustees shall:

25 (1) review any future adjustments of benefits or
26 actuarial assumptions against the pension fund's long-term funding
27 policy goals;

1 (2) ensure that the actuarial assumptions adopted by
2 the board at any particular time are realistic, reasonable in the
3 aggregate, and reflect the best information available to the board;

4 (3) measure the performance of the fund's portfolio
5 against relevant benchmarks to ensure the board or an investment
6 manager hired under Section 2.05 of this Act is investing the assets
7 and managing the portfolio of the fund in a manner that provides the
8 best value to the fund; and

9 (4) review the fund's asset allocation on an ongoing
10 basis to determine appropriate risk levels.

11 Sec. 2.11. ACTION INCREASING AMORTIZATION PERIOD. (a)
12 Notwithstanding any other provision of this Act, the rate of the
13 municipality's contributions to the pension fund may not be reduced
14 or eliminated, a new monetary benefit payable by the pension fund
15 may not be established, and the amount of a monetary benefit from
16 the fund may not be increased, if, as a result of the particular
17 action, the time, as determined by an actuarial valuation, required
18 to amortize the unfunded actuarial liabilities of the pension fund
19 would be increased to a period that exceeds 25 years.

20 (b) If the amortization period for the unfunded actuarial
21 liabilities of the pension fund exceeds 25 years at the time an
22 action described by Subsection (a) of this section is proposed, the
23 proposal may not be adopted if, as a result of the adoption, the
24 amortization period would be increased, as determined by an
25 actuarial valuation.

26 SECTION 4. Section 3.01, Chapter 325 (H.B. 2259), Acts of
27 the 75th Legislature, Regular Session, 1997 (Article [6243p](#),

1 Vernon's Texas Civil Statutes), is amended to read as follows:

2 Sec. 3.01. TAX QUALIFICATION. (a) The legislature intends
3 that this Act be construed and administered in a manner under which
4 the pension fund's benefit plan will be a qualified plan under
5 Section 401(a), Internal Revenue Code of 1986 (26 U.S.C. Section
6 401(a)). The board may adopt rules to qualify the plan if necessary,
7 and the rules are considered part of the plan.

8 (b) Subject to Section 11.01 of this Act, the pension fund's
9 plan document that complies with the qualified plan requirements
10 under Subsection (a) of this section must govern the board's
11 interpretation and administration of membership, service credit,
12 retirement pensions, deferred vested pensions, disability
13 pensions, severance benefits, death benefits, and returns of
14 contributions under Articles 4, 5, 7, 8, 9, and 10 of this Act.

15 SECTION 5. Sections 6.01 and 6.03, Chapter 325 (H.B. 2259),
16 Acts of the 75th Legislature, Regular Session, 1997 (Article 6243p,
17 Vernon's Texas Civil Statutes), are amended to read as follows:

18 Sec. 6.01. PARTICIPATION IN FUND; WAGE DEDUCTIONS. (a)
19 Each member shall make contributions to the fund~~[, except in a time~~
20 ~~of national emergency,]~~ and, subject to modifications made in
21 accordance with this section, the municipality shall ~~[is authorized~~
22 ~~to]~~ deduct 13 ~~[a sum of not less than one percent and not more than~~
23 ~~10]~~ percent of the member's monthly wages as contributions to the
24 fund for service rendered after August 31, 2019. ~~[The board shall~~
25 ~~determine the percentage deducted from monthly wages, as provided~~
26 ~~by Section 2.01 of this Act, within the minimum and maximum~~
27 ~~deductions provided by this section or as otherwise provided by~~

1 ~~Section 11.01 of this Act.]~~

2 (b) In accordance with Section 11.01 of this Act, the board
3 may vote to reduce the percentage of wage deductions provided by
4 Subsection (a) of this section. The board may authorize the
5 reduction only if:

6 (1) the amortization period of the unfunded actuarial
7 accrued liability of the pension fund, as determined by an
8 actuarial valuation, does not exceed 20 years; and

9 (2) after taking into account the impact of the
10 reduction, the State Pension Review Board certifies that the fund's
11 unfunded actuarial accrued liability amortization period does not
12 exceed 25 years.

13 (c) If the board reduces the percentage of wage deductions
14 in the manner provided by Subsection (b) of this section, the board
15 may not again vote under that subsection to reduce the percentage of
16 wage deductions before the completion of a subsequent actuarial
17 valuation showing an unfunded actuarial accrued liability
18 amortization period that does not exceed 20 years.

19 (d) Notwithstanding any other provision of this Act, the
20 board may not:

21 (1) reduce the percentage of members' wage deductions
22 under this Act to a percentage that is less than 8.5 percent; or

23 (2) increase the percentage of members' wage
24 deductions under this Act to a percentage that is more than the
25 percentage contributed by the municipality under Section 6.03 of
26 this Act.

27 Sec. 6.03. CONTRIBUTIONS BY MUNICIPALITY; REDUCTIONS. (a)

1 The municipality~~[, acting under the advice of the actuary for the~~
2 ~~fund,]~~ shall contribute to the fund 19 percent [~~contributions~~
3 ~~expressed as a percentage]~~ of payroll or compensation for each
4 member [~~, in such amounts and at such times as are required to pay~~
5 ~~the municipality's normal cost and interest on any unfunded~~
6 ~~actuarial requirement at the rate of interest assumed in the~~
7 ~~actuarial valuation]~~. The municipality shall also include in the
8 contribution to the fund sufficient money to pay the costs of
9 administration of the fund, including the costs of periodic
10 actuarial evaluations and annual statements to the members of the
11 fund.

12 (b) Notwithstanding Section 11.01 of this Act and subject to
13 Section 2.11 of this Act, the municipality, with the approval of at
14 least six trustees, may reduce the municipality's contribution rate
15 prescribed by Subsection (a) of this section, except as otherwise
16 provided by Section 6.01(d)(2) of this Act.

17 SECTION 6. Article 6, Chapter 325 (H.B. 2259), Acts of the
18 75th Legislature, Regular Session, 1997 (Article [6243p](#), Vernon's
19 Texas Civil Statutes), is amended by adding Section 6.06 to read as
20 follows:

21 Sec. 6.06. COLLECTIVE BARGAINING. Contributions by the
22 municipality and members to the fund under this Act may not be
23 modified or otherwise altered by collective bargaining, including
24 under an agreement entered into between the municipality and a
25 representative of the members in accordance with Chapter [174](#), Local
26 Government Code.

27 SECTION 7. Section 11.01, Chapter 325 (H.B. 2259), Acts of

1 the 75th Legislature, Regular Session, 1997 (Article 6243p,
2 Vernon's Texas Civil Statutes), is amended to read as follows:

3 Sec. 11.01. MODIFICATION OF BENEFITS, MEMBERSHIP
4 QUALIFICATIONS, ELIGIBILITY REQUIREMENTS, AND CONTRIBUTIONS. (a)
5 Subject to Section 2.11 [~~Notwithstanding any other provision~~] of
6 this Act, the board, with the approval of at least five trustees
7 [~~four board members~~], may modify:

8 (1) benefits provided by this Act, except that any
9 increase in benefits is subject to Subsection (b) of this section;

10 (2) future membership qualifications;

11 (3) eligibility requirements for pensions or
12 benefits; or

13 (4) the percentage of wage deductions provided by
14 Section 6.01 of this Act, except that any increase in wage
15 deductions is subject to Subsection (b)(2) of this section.

16 (b) The [~~Notwithstanding any other provision of this Act,~~
17 ~~the~~] board, with the approval of at least six trustees [~~a majority~~
18 ~~of the members of the fund~~], may increase either of the following:

19 (1) benefits provided by this Act; or

20 (2) the percentage of wage deductions provided by
21 Section 6.01 of this Act [~~, except that, if the actuary for the fund~~
22 ~~certifies that an increase is necessary to maintain an actuarially~~
23 ~~sound plan, the board may, with the approval of at least four board~~
24 ~~members, increase the percentage of wage deductions~~].

25 (c) Notwithstanding any other provision of this Act, the
26 board, with the approval of at least five trustees [~~four board~~
27 ~~members~~], may provide for refunds, in whole or in part, with or

1 without interest, of accumulated contributions made to the fund by
2 members who leave the municipality's service before qualifying for
3 a pension.

4 (d) Actions authorized under Subsection (a) or (b) of this
5 section may not be made unless first reviewed by a qualified actuary
6 selected by at least five trustees [~~four board members~~]. To
7 qualify, an actuary who is an individual must be a Fellow of the
8 Society of Actuaries, a Fellow of the Conference of Actuaries in
9 Public Practice, or a member of the American Academy of Actuaries.
10 The basis for the actuary's approval or disapproval of a board
11 action is not subject to judicial review.

12 (e) Notwithstanding any other provision of this Act, if in
13 each of the previous eight fiscal years the actual rate of return on
14 the investment of the pension fund's assets did not equal or exceed
15 the assumed rate of return used in actuarial valuations prepared by
16 the fund, the board may not modify a benefit or contribution rate
17 under this Act in a manner that results in an increase to the fund's
18 unfunded actuarial accrued liability.

19 SECTION 8. (a) In this section, "board of trustees" and
20 "pension fund" have the meanings assigned by Section 1.04, Chapter
21 325 (H.B. 2259), Acts of the 75th Legislature, Regular Session,
22 1997 (Article [6243p](#), Vernon's Texas Civil Statutes).

23 (b) Section 2.02, Chapter 325 (H.B. 2259), Acts of the 75th
24 Legislature, Regular Session, 1997 (Article [6243p](#), Vernon's Texas
25 Civil Statutes), as amended by this Act, does not affect the
26 entitlement of a trustee serving on the board immediately before
27 the effective date of this Act to continue to serve as a trustee for

1 the remainder of the trustee's term. As the terms of trustees expire
2 or as a vacancy occurs on the board, the appropriate person or
3 persons shall appoint or elect, as applicable, a trustee to the
4 board as necessary to comply with Section 2.02, Chapter 325 (H.B.
5 2259), Acts of the 75th Legislature, Regular Session, 1997 (Article
6 [6243p](#), Vernon's Texas Civil Statutes), as amended by this Act.

7 (c) As soon as practicable after the effective date of this
8 Act, the city council of a municipality to which this Act applies
9 shall designate two persons to serve as trustees in accordance with
10 Section 2.02(a)(4), Chapter 325 (H.B. 2259), Acts of the 75th
11 Legislature, Regular Session, 1997 (Article [6243p](#), Vernon's Texas
12 Civil Statutes), as amended by this Act.

13 SECTION 9. Sections 6.01 and 6.03, Chapter 325 (H.B. 2259),
14 Acts of the 75th Legislature, Regular Session, 1997 (Article [6243p](#),
15 Vernon's Texas Civil Statutes), as amended by this Act, apply only
16 to a wage deduction or contribution made on or after the effective
17 date of this Act.

18 SECTION 10. Section 11.01(e), Chapter 325 (H.B. 2259), Acts
19 of the 75th Legislature, Regular Session, 1997 (Article [6243p](#),
20 Vernon's Texas Civil Statutes), as added by this Act, applies to an
21 actuarial valuation prepared by the pension fund before, on, or
22 after the effective date of this Act. In this section, "pension
23 fund" has the meaning assigned by Section 1.04, Chapter 325 (H.B.
24 2259), Acts of the 75th Legislature, Regular Session, 1997 (Article
25 [6243p](#), Vernon's Texas Civil Statutes).

26 SECTION 11. This Act takes effect September 1, 2019.