87R14012 TYPED

By:  Rodriguez H.B. No. 4368

A BILL TO BE ENTITLED

AN ACT

relating to the administration of certain municipal police retirement systems.

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

SECTION 1.  Section 1.02, Article 6243n-1, Revised Statutes, is amended by amending Subdivisions (2), (4), and (18) and adding Subdivisions (1-a), (2-a), (3-a), (3-b), (6-a), (6-b), (6-c), (6-d), (6-e), (10-a), (11-a), (13-a), (13-b), (13-c), (15-a), (15-b), (15-c), (15-d), (15-e), (17-a), (18-a), (18-b), (19-a), (19-b), (23-a), (29-a), and (29-b) to read as follows:

(1-a)  "Actuarial accrued liability" means the portion of the actuarial present value of projected benefits of the system attributed to past periods of member service based on the cost method used in the risk sharing valuation study prepared under Section 8.03 or 8.04 of this Act, as applicable.

(2)  "Actuarial equivalent" means any benefit of equal present value to a standard benefit when computed as specified by this Act, based on the actuarial assumptions adopted by the board for such purpose.

(2-a)  "Actuarial value of assets" means the value of the system's investments as calculated using the asset smoothing method used in the risk sharing valuation study prepared under Section 8.03 or 8.04 of this Act, as applicable.

(3-a)  "Amortization period" means the time period necessary to fully pay a liability layer, or when referring to the amortization period of the system as a whole, the number of years incorporated in a weighted average amortization factor for all components combined, including the legacy liability.

(3-b)  "Amortization rate" means, for a given calendar year, the percent equal to the ratio of (A) divided by (B) where:

(A)  is equal to the sum of the scheduled amortization payments required to pay off the then-existing liability layers, less the city legacy contribution amount for such calendar year, as determined in the risk sharing valuation prepared under Section 8.03 or 8.04 of this Act, as applicable; and

(B)  is equal to the projected pensionable payroll for the same calendar year.

(4)  "Average final compensation" means the monthly average of basic hourly earnings of a member during, as applicable:

(A)  if the member has 120 months or more of service during which the member made contributions to the system or the predecessor system, the 36 months for a Group A member, or 60 months for a Group B member, which yielded the highest average during the last 120 months of membership service during which the member contributed to the system or the predecessor system;

(B)  if the member has less than 120 months of membership service during which the member contributed to the system or the predecessor system, but has at least 36 months of membership service for a Group A member, or 60 months of membership service for a Group B member, during which the member made contributions to the system or the predecessor system, the average of the 36 months, or 60 months, as applicable, which yielded the highest average; or

(C)  if the member does not have 36 months of membership service for a Group A member, or 60 months of membership service for a Group B member, during which the member contributed to the system or the predecessor system, the average of the member's months of membership service during which the member made contributions to the system or the predecessor system.

(6-a)  "City contribution rate" means, for a given calendar year, a percent equal to the sum of the employer normal cost rate and the amortization rate, as adjusted under Section 8.05 or 8.06 of this Act, if applicable.

(6-b)  "City legacy contribution amount" means, for each calendar year, a predetermined payment amount expressed in dollars in accordance with a payment schedule amortizing the legacy liability for the calendar year ending December 31, 2020 using the level percent of payroll method and the amortization period and payoff year that is included in the initial risk sharing valuation study under Section 8.03 of this Act.

(6-c)  "Corridor" means the range of city contribution rates that are:

(A)  equal to or greater than the minimum city contribution rate; and

(B)  equal to or less than the maximum city contribution rate.

(6-d)  "Corridor margin" means five percentage points.

(6-e)  "Corridor midpoint" means the projected city contribution rate specified for each calendar year for 30 years as provided in the initial risk sharing valuation study under Section 8.03 of this Act, and as may be adjusted in accordance with Section 8.04(b)(4) of this Act in connection with a subsequent risk sharing valuation study or Section 8.04(c) of this Act, and in each case rounded to the nearest hundredths decimal place.

(10-a)  "Employer normal cost rate" means, for a given calendar year, the normal cost rate minus the applicable member contribution rate determined under Section 8.01 of this Act.

(11-a)  "Estimated city contribution rate" means, for a given calendar year, the city contribution rate that would be required to maintain an amortization period for the system as a whole of no more than 30 years as determined by the system's actuary in a risk sharing valuation study under Section 8.03 or 8.04 of this Act, as applicable, and prior to any adjustment to such rate under Section 8.05 or 8.06 of this Act, as applicable.

(13-a)  "Funded ratio" means the ratio of the actuarial value of assets divided by the actuarial accrued liability.

(13-b)  "Group A member" means a member who:

(A)  first became a member of the system on or before December 31, 2021 and has remained in continuous employment with the city or the system through December 31, 2021; or

(B)  returned to full-time employment on or after January 1, 2022, and:

(i)  was previously a member of the System prior to January 1, 2022; and

(ii)  either:

(a)  did not withdraw the member's accumulated deposits from the police retirement system; or

(b)  received a distribution of the member's accumulated deposits, but has reinstated all of the member's prior membership service credit.

(13-c)  "Group B member" means a member who:

(A)  first became a member of the system on or after January 1, 2022; or

(B)  returned to full-time employment on or after January 1, 2022, and:

(i)  was previously a Group A member;

(ii)  received a distribution of the member's accumulated deposits; and

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

(15-a)  "Legacy liability" means the unfunded actuarial accrued liability determined as of December 31, 2020, and for each subsequent calendar year, adjusted as follows:

(A)  reduced by the city legacy contribution amount for such year allocated to the amortization of the legacy liability; and

(B)  adjusted by the assumed rate of return adopted by the board for such year.

(15-b)  "Level percent of payroll method" means the amortization method that defines the amount of the liability layer recognized each calendar year as a level percent of pensionable payroll until the amount of the liability layer remaining is reduced to zero.

(15-c)  "Liability gain layer" means a liability layer that decreases the unfunded actuarial accrued liability.

(15-d)  "Liability layer" means:

(A)  the legacy liability established in the initial risk sharing valuation study under Section 8.03 of this Act; or

(B)  for calendar years after December 31, 2020, the amount that the system's unfunded actuarial accrued liability increases or decreases, as applicable, due to the unanticipated change for such calendar year as determined in each subsequent risk sharing valuation study prepared under Section 8.04 of this Act.

(15-e)  "Liability loss layer" means a liability layer that increases the unfunded actuarial accrued liability. For purposes of this Act, the legacy liability is a liability loss layer.

(17-a)  "Maximum city contribution rate" means, for a given calendar year, the rate equal to the corridor midpoint plus the corridor margin.

(18)  "Member" means any police officer or employee of the police retirement system included in the system under this Act and approved for membership by the police retirement board. Each member shall be a Group A member or a Group B member, as applicable. In any case of doubt regarding the eligibility of an employee to become or remain a member of the system, the decision of the police retirement board shall be final.

(18-a)  "Minimum city contribution rate" means, for a given calendar year, the rate equal to the corridor midpoint minus the corridor margin.

(18-b)  "Normal cost rate" means, for a given calendar year, the salary weighted average of the individual normal cost rates determined for the current active member population, plus the assumed administrative expenses determined in the most recent actuarial experience study.

(19-a)  "Payoff year" means the year a liability layer is fully amortized under the amortization period. A payoff year may not be extended or accelerated for a period that is less than one month.

(19-b)  "Pensionable payroll" means the aggregate basic hourly earnings of all members in active service for a calendar year or pay period, as applicable.

(23-a)  "Projected pensionable payroll" means the estimated pensionable payroll for the calendar year beginning 12 months after the date of the risk sharing valuation study prepared under Section 8.03 or 8.04 of this Act, at the time of calculation by:

(A)  projecting the prior calendar year's pensionable payroll forward two years using the current payroll growth rate assumption adopted by the board; and

(B)  adjusting, if necessary, for changes in population or other known factors, provided those factors would have a material impact on the calculation, as determined by the board.

(29-a)  "Unfunded actuarial accrued liability" means the difference between the actuarial accrued liability and the actuarial value of assets.

(29-b)  "Unanticipated change" means, with respect to the unfunded actuarial accrued liability in each subsequent risk sharing valuation study prepared under Section 8.04 of this Act, the difference between:

(A)  the remaining balance of all then-existing liability layers as of the date of the risk sharing valuation study; and

(B)  the actual unfunded actuarial accrued liability as of the date of the risk sharing valuation study.

SECTION 2.  Section 3.10, Article 6243n-1, Revised Statutes, is amended to read as follows:

Sec. 3.10.  INVESTMENT MANAGERS. The police retirement board may hire an investment manager or investment managers who shall have full authority to invest the assets and manage any portion of the portfolio of the system, as specified by the manager's [~~employment~~] contract.

SECTION 3.  Section 4.01, Article 6243n-1, Revised Statutes, is amended by amending Subsections (c) and (e) to read as follows:

(c)  Any person who becomes an employee of the city or the system, if eligible for membership, shall become a member as a condition of employment and shall make the required deposits commencing with the first pay period following a probationary period of six continuous months from date of employment, if applicable, or eligibility, if later.

(e)(1)  Membership in the police retirement system shall consist of the following groups:

(A)  Active--Contributory: the member who is in a status which allows payroll contributions to the police retirement system (working a normal work week, holding a full-time position, and, if applicable, having completed a continuous period of six months of service initially, to attain membership).

(B)  Active--Noncontributory: the member whose current employment status does not allow contributions to the system (working less than a normal work week or on a leave of absence under Subsection (f)(6)(A) of this section) and on return to working a normal work week, the member will again be given creditable service, with contributions resumed at time of status change.

(C)  Inactive--Contributory: the member who is on a uniformed service leave of absence under Subsection (f)(6)(B) of this section, who is allowed to make deposits to the system during the member's absence.

(D)  Vested--Noncontributory: the terminated member who, being vested, leaves the member's accumulated deposits in the system.

(E)  Retired: the member who is receiving a service or disability retirement annuity.

(2)  It shall be the duty of the police retirement board to determine the membership group to which each police officer or employee of the system who becomes a member of the police retirement system properly belongs.

SECTION 4.  Section 5.03, Article 6243n-1, Revised Statutes, is amended by amending Subsection (a) to read as follows:

(a)  An eligible member or eligible surviving spouse may establish creditable service for probationary service performed as provided under this section according to the following conditions, limitations, and restrictions:

(1)  Probationary service creditable in the system is any probationary service following the member's commission date or the member's first date of employment with the system for which the member does not have creditable service.

(2)  An eligible member or eligible surviving spouse may establish creditable service under this section by contributing to the system a single payment equal to the contribution the member would have made to the system for that service at the time the service was performed and an interest charge based on the contribution amount to be repaid times an interest factor. The interest factor is eight percent per year for the period that begins with the beginning of the month and year at the end of the probationary period for which creditable service is being established to the beginning of the month and year payment is made to the system for the purpose of establishing said service.

(3)  After the eligible member or eligible surviving spouse makes the deposit required by Subdivision (2) of this subsection, the system shall grant the member one month of creditable service for each month of probationary service established under this section.

SECTION 5.  Section 5.04(a), Article 6243n-1, Revised Statutes, is amended to read as follows:

(a)  Pursuant to irrevocable action taken by the city council on February 12, 1998, police [~~This section does not take effect unless the city council authorizes the city to begin making contributions to the police retirement system in accordance with Section 8.01(a) of this Act for police cadets during their employment as cadets while members of a cadet class. Police~~] cadets whose cadet class begins after April 1, 1998, [~~the city council makes the authorization~~] shall make deposits to the police retirement system in accordance with Section 8.01(a) of this Act, and those cadets shall be members of the police retirement system and shall receive creditable service for employment as cadets while members of a cadet class, notwithstanding Sections 1.02(7), (18), and (21) of this Act.

SECTION 6.  Section 6.01, Article 6243n-1, Revised Statutes, is amended by amending Subsections (a), (d), and (f) and adding Subsections (a-1), (a-2), (c-1), and (c-2) to read as follows:

(a)  On retirement after having reached the member's normal retirement date, members entitled thereto shall receive a service retirement benefit in the form of a life annuity (modified cash refund). Each monthly payment of the life annuity (modified cash refund) shall be equal to one-twelfth of:

(1)  for a Group A member, the product of 3.2 [~~2.88~~] percent of a member's average final compensation multiplied by the number of months of creditable service; or

(2)  for a Group B member, the product of 2.5 percent of a member's average final compensation multiplied by the number of months of creditable service.

(a-1)  The retirement benefit percent specified by this section to calculate the amount of the monthly payment of the life annuity (modified cash refund) may be changed [~~after 1997~~] if:

(1)  the change is approved by the board's actuary;

(2)  the change is adopted by the board as a board rule;

(3)  [~~the change applies to all present members, all retired members, and all who become members after the effective date of the change in the retirement benefit percent;~~]

[~~(4)~~]  a member's vested interest as of the last day of the month immediately preceding the effective date of the change in the retirement benefit percent is not reduced; and

(4) ~~[(5)]~~ a retirement annuity being paid by the police retirement system to members or to the surviving spouses or beneficiaries of members who retired before the effective date of the change in the retirement benefit percent is changed as prescribed by Subsection (d)(6) of this section, except that a reduction in annuities may not cause the member's, surviving spouse's, or beneficiary's annuity payment to be reduced below the base retirement amount calculated under this Act.

(a-2)  A change to the retirement benefit percentage under this section:

(1)  may be applied to different groups of members or may apply to all members, or

(2)  may be applied to all creditable service of a member or only to creditable service of a member acquired during a specified period.

(c-1)  In lieu of the annual adjustment for a given calendar year, before January 1 of such year, the board may authorize an additional benefit payment be paid in a single lump-sum to retirees or the surviving spouse or beneficiaries of members who became entitled to benefits on or before December 31 of the preceding year. The additional benefit payment shall be paid on or before January 1 of the succeeding calendar year.

(c-2)  An annual adjustment granted under Subsection (c) or an additional benefit payment granted under Subsection (c-1), as applicable, may be applied to different groups of members or may apply to all members.

(d)  In determining whether to authorize the payment and the amount of any annual adjustment or additional benefit payment, the board shall be governed by the following conditions, considerations, limitations, and restrictions:

(1)  Any and all determinations to authorize the payment of any amount must be based on the ability of the system to pay such an amount and shall not be based upon the individual needs of any particular retired members, surviving spouses, or beneficiaries.

(2)  Prior to the board's authorizing the payment of an annual adjustment or additional benefit payment, the actuary must approve and recommend such an adjustment or payment to the board and certify in writing to the board that based on the sound application of actuarial assumptions and methods consistent with sound actuarial principles and standards, it is demonstrable that the system has and will continue to have the ability to pay such an amount out of its realized income after all other obligations of the system have been paid.

(3)  The amount of the adjustment payment to the retirement benefit for each retired member, surviving spouse, or beneficiary shall be increased or decreased by an amount, not to exceed six percent, determined by the board and the actuary based on the consumer price index, actuarial experience of the system, investment experience of the system, and cost-of-living increases granted in the past. Such increases shall be prorated for a member who retired during the year in the ratio that the number of the member's completed months after the member's retirement in that year bears to 12. The cost-of-living increase presented for approval by the board must be approved by the system's actuary.

(4)  The board shall have the authority and the duty, at any and all times and without notice to anyone, to decrease the amount of the adjustment payment as much as is necessary to protect the continuity of the police retirement system and to protect the corpus of the system should the ability of the system to continue to pay the adjustment be threatened by a change in the economic situation of the United States, the State of Texas, the city, or the system itself such as would dictate that a prudent trustee should authorize such a decrease; provided that if the threatened change should prove not to have had the predicted harmful effect on the system, then the board shall have the authority to reinstate the payment of all or any portion of the amount of the previously decreased adjustment payments. If at any time the actuary in the actuary's discretion shall deem the continuity of the system to be threatened by whatever cause, the actuary shall have the power and authority to order the board to make no further adjustment payments and the board shall have the power and authority to see to it that no further adjustment payments are made unless and until the actuary shall order either that the same adjustment payments which were discontinued by the actuary's order be reinstated retroactively, or that the adjustment payments (of the same amount as those which were discontinued) be reinstated prospectively from the date of the actuary's order to reinstate or the actuary may recommend to the board that the adjustment payments be decreased by whatever amount the actuary may deem to be sufficient to protect the continuity of the system. The board shall not have the power or authority to authorize or permit the payment of any adjustment payments in excess of that recommended by the actuary.

(5)  Provided that the adjustment payments, if any, shall be in addition to the benefits to which a retired member, surviving spouse, or beneficiary is otherwise entitled under this Act, and in no event shall a reduction in the adjustment payments cause the retired member's, surviving spouse's, or beneficiary's benefits to be reduced below the actual base retirement amount calculated under the provisions of this Act.

(6)  If a change to the retirement benefit percentage under Subsection (a) applies to retired members and beneficiaries, service [~~Service~~] and disability retirement annuities and survivor benefits being paid by the police retirement system to members or to the surviving spouses or beneficiaries of members who retire before the effective date of any change in the retirement benefit percent under this section [~~that occurs after 1995~~] shall be changed beginning with the first payment due after the effective date of the change in the retirement benefit percent. The amount of the change for a member or the surviving spouse or beneficiary of the member is equal to a percentage multiplied by the annuity payment otherwise due. The percentage is equal to the new retirement benefit percentage divided by the retirement benefit percent in effect immediately before the effective date of the new retirement benefit percent, minus one, and multiplied by 100.

(f)  For purposes of this section, compensation of each noneligible member taken into account under this Act may not exceed the maximum amount allowed under [~~$200,000 per calendar year, indexed pursuant to~~] Section 401(a)(17) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). The Section 401(a)(17) [~~$200,000~~] limit described above does not apply to an eligible member. For purposes of this subsection, an eligible member is any individual who first became a member before January 1, 1996. For purposes of this subsection, a noneligible member is any other member.

SECTION 7.  Section 6.02, Article 6243n-1, Revised Statutes, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (b-1) to read as follows:

(a)  A Group A [~~Any~~] member shall be eligible for service retirement if the member has attained the age of 55 years and completed at least 20 years of creditable service with the city, or has completed 23 years of creditable service, excluding any military service established under Section 5.02 of this Act.

(a-1)  A Group B member shall be eligible for service retirement if the member has attained the age of 50 years and completed at least 25 years of creditable service with the city, excluding any military service established under Section 5.02 of this Act.

(b)  Except as provided by Subsection (c) of this section, the age and length-of-service requirements for service retirement may be changed if the change:

(1)  is approved by the board's actuary;

(2)  is adopted by the board as a board rule; and

(3)  [~~applies to all persons who are members on the effective date of the change and all persons who become members after the effective date of the change; and~~]

[~~(4)~~]  does not increase the requirements for a person who already is eligible for service retirement on the effective date of the change.

(b-1)  A change to the age and length-of-service requirements under Subsection (b) may be applied to different groups of members or may apply to all members.

SECTION 8.  Section 6.04, Article 6243n-1, Revised Statutes, is amended by amending Subsection (b) to read as follows:

(b)  If a member who has attained age 72 (or such later age as required under Section 401(a)(9) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401)) [~~70-1/2~~] separates or has separated from service without applying for retirement or a refund of accumulated deposits, the police retirement system shall attempt to send to that member a written notice as soon as practicable after the later of the date the member attains such age [~~70-1/2~~] or the date the member separates from service. The written notice must advise the member of the requirement under Section 401(a)(9) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401) to retire and begin receiving a monthly retirement benefit. If, before the 91st day after the date the police retirement system sends the notice, the member has not filed an application for retirement or a refund, the member is considered to have retired on the last day of the third month following the later of the two dates specified by this subsection. If applicable, the retirement option shall be determined in accordance with the member's written selection of optional benefit and designation of beneficiary under Section 6.06(a)(1) of this Act. Otherwise, the member shall receive the life annuity under Section 6.01 of this Act.

SECTION 9.  Section 7.02, Article 6243n-1, Revised Statutes, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a)  On award of disability retirement benefits, the member shall receive a disability retirement benefit computed in the same manner that a service retirement benefit would be computed at the member's normal retirement date, based on average final compensation and creditable service at date of disability retirement without reduction for early retirement. If the disability is a direct or proximate result of the performance of the member's employment duties with the system or the city, then the disability retirement benefit will be subject to a minimum benefit based on:

(1)  average final compensation at date of disability retirement;

(2)  the applicable retirement benefit percentage under Section 6.01; and

(3)  the following years of creditable service:

(A)  for a Group A member, 20 years of creditable service; or

(B)  for a Group B member, 25 years of creditable service.

(a-1)  The options allowed under this section are life annuity or its actuarial equivalent payable in the form described as Option I, Option II, Option III, Option IV, or Option V in Section 6.03 of this Act. The disability benefits paid to the member will be paid from Fund No. 1 until the amount received equals the member's accumulated deposits; thereafter the benefits will be paid from Fund No. 2.

SECTION 10.  Article VIII, Article 6243n-1, Revised Statutes, is amended by amending Section 8.01 and adding Sections 8.02, 8.03, 8.04, 8.05, 8.06, 8.07, and 8.08 to read as follows:

Sec. 8.01.  MEMBER CONTRIBUTIONS [~~METHOD OF FINANCING~~]. (a)[~~(1)~~] For pay periods beginning prior to January 1, 2022, deposits [~~Deposits~~] by the members to the police retirement system shall be made at a rate of at least 13 percent of the basic hourly earnings of each member. For pay periods beginning on or after January 1, 2022, deposits by the members to the police retirement system shall be made at a rate of at least 15 percent of the basic hourly earnings of each member. Deposits required to be made by members shall be deducted from payroll each pay period.

(b)  On recommendation of the board, the Active--Contributory members may by a majority of those voting increase the rate of member deposits above the applicable [~~13~~] percent set forth above to whatever amount the board has recommended. If the deposit rate for members has been increased to a rate above 15 [~~13~~] percent, the rate may be decreased if the board recommends the decrease, the board's actuary approves the decrease, and a majority of the Active-Contributory members voting on the matter approve the decrease.

Sec. 8.02.  CITY CONTRIBUTIONS. (a)[~~(2) The city shall contribute amounts equal to 18 percent of the basic hourly earnings of each member employed by the city for all periods on or before September 30, 2010, subject to additional amounts as provided by Subdivision (3) of this subsection. The city shall contribute amounts equal to 19 percent of the basic hourly earnings of each member employed by the city for all periods after September 30, 2010, and before October 1, 2011, subject to additional amounts as provided by Subdivision (3) of this subsection. The city shall contribute amounts equal to 20 percent of the basic hourly earnings of each member employed by the city for all periods after September 30, 2011, and before October 1, 2012, subject to additional amounts as provided by Subdivision (3) of this subsection.~~] The city shall contribute amounts equal to 21 percent of the basic hourly earnings of each member employed by the city for all pay periods beginning after September 30, 2012, and before January 1, 2022, subject to additional amounts as provided by Section 8.07 of this Act [~~Subdivision (3) of this subsection~~]. For all pay periods beginning on or after January 1, 2022, the city shall make contributions to the police retirement system in accordance with Subsections (b) and (c) and Sections 8.03, 8.04, 8.05, and 8.06 of this Act, as applicable, and subject to additional amounts as provided by Section 8.07 of this Act. The city council may also authorize the city to make additional contributions to the police retirement system in whatever amount the city council may determine. Contributions by the city shall be made each pay period.

(b)  For each pay period that begins on or after January 1, 2022, and on or before December 31, 2022, the city shall contribute an amount equal to the sum of:

(1)  the city contribution rate, as determined in the initial risk sharing valuation study conducted under Section 8.03 of this Act, multiplied by the pensionable payroll for the applicable pay period; and

(2)  one twenty-sixth of the city legacy contribution amount for the 2022 calendar year, as determined in the initial risk sharing valuation study conducted under Section 8.03 of this Act.

(c)  For each pay period that begins on or after January 1, 2023, the city shall contribute an amount equal to the sum of:

(1)  the city contribution rate for the applicable calendar year, as determined in a subsequent risk sharing valuation study conducted under Section 8.04 of this Act and adjusted under Section 8.05 or 8.06 of this Act, as applicable, multiplied by the pensionable payroll for the applicable pay period; and

(2)  one twenty-sixth of the city legacy contribution amount for the applicable calendar year, as determined in the initial risk sharing valuation study conducted under Section 8.03 of this Act.

Sec. 8.03.  INITIAL RISK SHARING VALUATION STUDY. (a) The police retirement system shall cause its actuary to prepare an initial risk sharing valuation study that is dated as of December 31, 2020, in accordance with this section.

(b)  The initial risk sharing valuation study must:

(1)  except as otherwise provided by this section, be prepared in accordance with Section 8.04 of this Act;

(2)  project the corridor midpoint for the next 30 calendar years beginning with the calendar year that begins on January 1, 2022; and

(3)  include a schedule of city legacy contribution amounts for 30 calendar years beginning with the calendar year that begins on January 1, 2022.

Sec. 8.04.  SUBSEQUENT RISK SHARING VALUATION STUDIES. (a) For each calendar year beginning after December 31, 2020, the police retirement system shall cause its actuary to prepare a risk sharing valuation study in accordance with this section and actuarial standards of practice.

(b)  Each risk sharing valuation study must:

(1)  be dated as of the last day of the calendar year for which the study is required to be prepared;

(2)  calculate the unfunded actuarial accrued liability of the system as of such date, including the liability layer, if any, associated with the most recently completed calendar year;

(3)  calculate the estimated city contribution rate for the following calendar year;

(4)  determine whether any increase to the corridor midpoint is to be made for any change in the estimated city contribution rate due to the covered payroll of the system growing at a rate different than that assumed in the most recently completed risk sharing valuation;

(5)  determine the city contribution rate for the following calendar year, taking into account any adjustments required under Section 8.05 or 8.06, as applicable; and

(6)  be based on the assumptions and methods adopted by the board that are consistent with actuarial standards of practice and the following principles:

(A)  closed layered amortization of liability layers to ensure that the amortization period for each liability layer begins 12 months after the date of the risk sharing valuation study in which the liability layer is first recognized;

(B)  each liability layer is assigned an amortization period;

(C)  each liability loss layer will be amortized over a period of 30 years from the first day of the calendar year beginning 12 months after the date of the risk sharing valuation study in which the liability loss layer is first recognized, except that the legacy liability must be amortized over a 30-year period beginning January 1, 2022;

(D)  each liability gain layer will be amortized over:

(i)  a period equal to the remaining amortization period on the largest remaining liability loss layer and the two layers must be treated as one layer such that if the payoff year of the liability loss layer is accelerated or extended, the payoff year of the liability gain layer is also accelerated or extended; or

(ii)  if there is no liability loss layer, a period of 30 years from the first day of the calendar year beginning 12 months after the date of the risk sharing valuation study in which the liability gain layer is first recognized;

(E)  liability layers, including the legacy liability, will be funded according to the level percent of payroll method;

(F)  payroll for purposes of determining the corridor midpoint, city contribution rate, and city legacy contribution amount must be projected using the annual payroll growth rate assumption adopted by the board; and

(G)  the city contribution rate will be calculated each calendar year without inclusion of the legacy liability.

(c)  The city and the board may agree on a written transition plan for resetting the corridor midpoint (other than an adjustment to the corridor midpoint in accordance with Subsection (b)(4) above):

(1)  if at any time the funded ratio of the system is equal to or greater than 100 percent; or

(2)  for any calendar year after the payoff year of the legacy liability.

(d)  Notwithstanding as otherwise provided in Subsection (b)(6) above, the board may adopt through rule actuarial principles other than those set forth in Subsections (b)(6)(A)-(G), provided that such actuarial principles are consistent with actuarial standards of practice, are approved by the system's actuary, and do not operate to change the city legacy contribution amount.

Sec. 8.05.  ADJUSTMENT TO CITY CONTRIBUTION RATE IF LOWER THAN CORRIDOR MIDPOINT. (a) This section governs the determination of the city contribution rate applicable in a calendar year under Section 8.04(b)(5) of this Act if the estimated city contribution rate determined under Section 8.04(b)(3) of this Act is lower than the corridor midpoint.

(b)  If the estimated city contribution rate is lower than the corridor midpoint and the funded ratio is less than 90 percent, the city contribution rate for the applicable year equals the corridor midpoint.

(c)  If the estimated city contribution rate is lower than the corridor midpoint and the funded ratio is equal to or greater than 90 percent and the city contribution rate is:

(1)  equal to or greater than the minimum city contribution rate, the estimated city contribution rate is the city contribution rate for the calendar year; or

(2)  less than the minimum city contribution rate for the corresponding calendar year, the city contribution rate for the calendar year equals the minimum city contribution rate.

(d)  If the funded ratio is equal to or greater than 100 percent:

(1)  all existing liability layers, including the legacy liability, are considered fully amortized and paid; and

(2)  the city legacy contribution amount may no longer be included in the city contribution under Section 8.02 of this Act.

Sec. 8.06.  ADJUSTMENT TO CITY CONTRIBUTION RATE IF EQUAL TO OR GREATER THAN CORRIDOR MIDPOINT. (a) This section governs the determination of the city contribution rate applicable in a calendar year under Section 8.04(b)(5) of this Act if the estimated city contribution rate determined under Section 8.04(b)(3) of this Act is equal to or greater than the corridor midpoint.

(b)  If the estimated city contribution rate is equal to or greater than the corridor midpoint and:

(1)  less than or equal to the maximum city contribution rate for the corresponding calendar year, the estimated city contribution rate is the city contribution rate; or

(2)  greater than the maximum city contribution rate for the corresponding calendar year, the city contribution rate is the maximum city contribution rate, and the city and the board shall enter into discussions to determine additional funding solutions.

Sec 8.07. ADDITIONAL CITY CONTRIBUTIONS FOR PROPORTIONATE RETIREMENT PROGRAM PARTICIPATION. [~~(3)~~](a) The city shall contribute amounts in addition to the amounts described by Section 8.02 of this Act [~~Subdivision (2) of this subsection~~] as required by Section 803.101(h), Government Code, to fund the additional liabilities incurred by the police retirement system as a result of participating in the proportionate retirement program. The rate at which the city shall contribute additional amounts under this subdivision is equal to 0.737 percent of the basic hourly earnings of each member employed by the city for all periods on and after October 1, 2020, subject to adjustment under Subsection (b). [~~The rate at which the city shall contribute additional amounts under this subdivision is equal to 0.25 percent of the basic hourly earnings of each member employed by the city for all periods from January 4, 2009, through September 30, 2009. The rate at which the city shall contribute additional amounts under this subdivision is equal to 0.63 percent of the basic hourly earnings of each member employed by the city for all periods after September 30, 2009, subject to adjustment under Subdivision (4) of this subsection.~~]

(b) [~~(4)~~]  The additional contribution rate under Subsection (a) [~~Subdivision (3) of this subsection~~] shall increase or decrease as considered necessary by the actuary for the police retirement system after each five-year period of participation by the system in the proportionate retirement program in order to update the amount necessary to fund the additional liabilities incurred by the system as a result of participating in the proportionate retirement program and of the consolidation of the city's public safety and emergency management department with the police department on January 4, 2009. The system's actuary shall perform an experience study that shall be the basis for a contribution rate adjustment under this subsection [~~subdivision~~]. The effective date of the initial contribution rate adjustment under this subsection [~~subdivision~~] is October 1, 2015. Each later contribution rate adjustment under this subsection [~~subdivision~~] takes effect October 1 of every fifth year after the effective date of the initial contribution rate adjustment. The system's actuary shall present to the police retirement board the experience study on which any contribution rate adjustment under this subsection [~~subdivision~~] is based not later than 45 days before the effective date of the adjustment, and the city's actuary shall have the opportunity to review and comment on the study. An adjustment in the additional contribution rate under this subsection [~~subdivision~~] may not cause the additional contribution rate under Subsection (a) [~~Subdivision (3) of this subsection~~] to be less than zero.

Sec. 8.08.  GENERAL FINANCING PROVISIONS. (a) [~~(b)~~] Any change of the rates of deposit and the rates of contribution shall be published when approved by the board.

(b) [~~(c)~~]  Contributions by the city shall be paid to the system after appropriation by the city council.

(c) [~~(d)~~]  Expenses involved in administration and operation of the police retirement system shall be paid from the assets of the police retirement system subject to approval by the board. Such expenses shall include actuarial valuations of the system no less frequently than on a biennial basis, annual audits and/or actuarial studies, preparation of annual reports, and staff assistance. Additional consulting may be authorized by the board and paid for from the assets of the police retirement system as deemed necessary from time to time by the board.

(d) [~~(e)~~]  Expenses incurred from investment advice, counsel, and management shall be paid from the assets of the police retirement system.

(e) [~~(f)~~]  The city shall make the police officer contributions to the system required by Section 8.02 of this Act [~~Subsection (a) of this section~~]. The system shall make the administrative staff's contributions to the system. Member contributions will be made by a reduction in their monetary compensation. Contributions made shall be treated as employer contributions in accordance with Section 414(h)(2), Internal Revenue Code (26 U.S.C. Section 414(h)(2)), for the purpose of determining tax treatment of the amounts under the federal Internal Revenue Code. These contributions are not includible in the gross income of the member until such time as they are distributed or made available to the member. Member contributions made as provided by this subsection shall be deposited to the individual account of each affected member and shall be treated as compensation of members for all other purposes of this Act and for the purpose of determining contributions to the federal Old-Age, Survivors, and Disability Insurance System (Social Security). The provisions of this subsection shall remain in effect as long as the plan covering members is a qualified retirement plan under Section 401(a), Internal Revenue Code (26 U.S.C. Section 401(a)), and its related trust is tax exempt under Section 501(a), Internal Revenue Code (26 U.S.C. Section 501(a)).

(f) [~~(g)~~]  If the police retirement system is terminated, further contributions may not be made by the city or the system, and further deposits may not be made by the members for service after the date of termination. Members do not accrue any additional benefits after the date of termination. The benefit accrued by each member on the termination of the plan or the complete discontinuance of contributions under the plan and the benefit of any affected member on the partial termination of the plan, to the extent funded, become nonforfeitable notwithstanding the length of a member's service. The benefit accrued by a member also becomes nonforfeitable, if not already nonforfeitable, at the normal retirement date.

(g) [~~(h)~~]  A forfeiture from a member terminating employment and withdrawing the member's accumulated deposits may not be applied to increase the benefit that any other member would receive from the system. The actuary shall anticipate the effect of forfeitures in determining the costs under the system.

(h) [~~(i)~~]  The assets of the police retirement system shall be held in trust for the exclusive benefit of the members and their beneficiaries. The corpus or income may not be used for or diverted to a purpose other than the exclusive benefit of members or their beneficiaries, whether by operation or natural termination of the system, by power of revocation or amendment, by the happening of a contingency, by collateral arrangement, or by other means.

SECTION 11.  Section 13.02, Article 6243n-1, Revised Statutes, is amended to read as follows:

Sec. 13.02.  MANDATORY DISTRIBUTIONS PROHIBITED. A member or former member who has separated from service may not be required to receive an eligible rollover distribution, as defined in Section 13.01(b)(1) of this Act, without the member's consent unless the member or former member is:

(1)  at least 72 [~~70-1/2~~] years of age; or

(2)  a later age, as required under Section 401(a)(9) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401).

SECTION 12.  The following sections of law are repealed:

(1)  Section 5.04(b), Article 6243n-1, Revised Statutes; and

(2)  Section 7.02(b), Article 6243n-1, Revised Statutes.

SECTION 13.  Except as otherwise provided by this Act, this Act takes effect September 1, 2021.